VOLUME II of III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to York County

J. Mark Hayes II, Circuit Court Judge

MARQUIS JAERIS SANTONI ROBINSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000785

APPENDIX

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Q. And so within hours after the offense?
A. Right.
Q. The lineup that was shown to him, how many photos were in that lineup?
A. I believe there were six photos in that lineup.
Q. Were the photos marked in any way?
A. No.
Q. Anything to identify --
A. No.
Q. Any additional information about the people in the photos provided to the victim?
A. No.
Q. And when you gave him the lineup, showed him the lineup, did you - what did you say to him?
A. I read him the sheet. There's a cover sheet that we have we usually print to show lineups. I'm not sure what it says verbatim but it tells - the part that we read to the victim says that the photo lineup was produced and it may or may not include the person responsible for the crime and something to that effect.

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

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

A. Yes, I do.
Q. And what is it?
A. This is the lineup that I showed to Mr. Crane.
Q. And how do you recognize it?
A. It's got my signature here.
Q. And looking at that form that you read to him, what did you advise him of the pictures?
A. The viewer portion of it? You want me to just read that part? It says, "You will be asked to look at a group of photographs. The fact that photos are shown to you should not influence your judgement in any way. You should not conclude nor guess that the photographs contain the picture of the person who committed the crime. You do not have to identify anyone. It is just as important to free innocent persons from suspicion as it is to identify guilty parties. Keep in mind that hair styles, beards and mustaches are easily changed. Please do not indicate to other witnesses that you have or have not made an identification."
Q. And that's what you read to him?
A. Yes.
Q. At that point was there anyone else in the room?
A. Mrs. Crane. Amanda.
Q. Amanda Crane?
A. Correct.

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

A. No, she did not.

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

A. Yes he was.

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

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

Q. And how long did it take him?

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

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

A. No.

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

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

Q. And you said Mrs. Crane was present?

A. Yes, she was.

Q. Did you show her a photo lineup?

A. No, I did not.

Q. Why not?

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

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

CROSS EXAMINATION - IN CAMERA

DETECTIVE TOSHIA SMITH BY MS. BURRIS:

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

A. Yes.

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

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

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

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

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

A. No, I don't.

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

A. I do not. No.

Q. You never asked?

A. Asked Mr. Crane if he was --

Q. Or a nurse.

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

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

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

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

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

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

A. Correct.

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

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

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

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

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

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

A. I did not. Detective Stokes did.

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

A. I did.

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

A. The process?

Q. Yeah.

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

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

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

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

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

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

A. Correct.

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

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

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

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

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

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

Q. You said it might be the lighting?

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

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

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

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

A. But yes, that's --

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

A. Correct.

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

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

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

Crane, did you ask him – did you do an investigation?

A. What type of an investigation?

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

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

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

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

Q. If he would be able to do what?

A. Identify the person that attacked him.

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

A. I don't remember exactly how much time it took him. It took him a few minutes. It didn't take him long.

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

photos?

A. Yes, he did.

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

A. I did not.

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

A. I did not.

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

A. I did not.

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

A. I did not.

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

A. I did not.

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

A. No, I did not.

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

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

Q. But you are assuming that, right?

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

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

A. Correct. Officer Glenn and Officer Stivendar was on — they were both on scene.

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

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

Q. Never asked --

A. I'm sorry.

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

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

included from what I have here on the photo lineup.

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

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

Q. Was he emotional?

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

Q. As in crying?

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

Q. Were his eyes open the whole time?

A. Yes.

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

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

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

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

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

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

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

A. What do you mean?

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

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

Q. About what?

A. About the crime that had occurred.

Q. You were in training during that time?

A. I was.

Q. And Detective Stokes was training you?

A. He was.

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

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

Q. How long had you actually been in training?

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

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

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

Q. Estimate.

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

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

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

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

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

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

A. Right.

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

SOLICITOR SHELTON: Objection, Your Honor.

A. I don't know.

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

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

Q. So you do not know.

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

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

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

Q. Now you just mentioned — Just a couple more questions.

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

A. Correct.

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

A. About the incident.

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

A. Correct.

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

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

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

gave a statement in regards to Maquis Robinson?

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

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

A. He answered questions.

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

THE COURT: Mr. Smith.

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

CROSS EXAMINATION - IN CAMERA

DETECTIVE TOSHIA SMITH BY MR. SMITH:

Q. Sargent Smith, ---

A. Yes, sir.

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

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

Q. So you arrived on the scene?

A. Correct.

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

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

and we were both at home. But I arrived — I was right behind him.

Q. And then at some point you went back to the police department before going to the hospital ; is that correct?

A. Correct.

Q. But you did not engage in the preparation of this photographic lineup?

A. No, I did not.

Q. But did — Was it requested of you that you show a lineup to one of the individuals or how did the division of labor go about it at the hospital?

A. When we got to the hospital, Detective Stokes went to meet with Mr. Jordan and I took the lineup and met with Mr. Crane.

Q. And at that point, was it your understanding that you were suppose to show it to Mr. Crane or to Mr. Crane and Mrs. Crane or what were you suppose to do at that point?

A. Like I said, when I got there Mr. Crane was pretty adamant about Mrs. Crane not being involved. I do believe that I had two lineups with me. They were the same but I had two of them, one for Mrs. Crane and one for Mr. Crane.

Q. Okay. So no lineup was shown to Mrs. Crane; is that right?

A. No.

Q. Neither by you nor by Detective Stokes in your

presence?
A. Right.
Q. And you indicated that you did not have any discussion with Mr. Crane or Mrs. Crane concerning the events. You were basically just there to show the lineup?
A. Correct.
Q. And at that point, how many suspects were you looking for?
A. Just the one - Well, we had two suspects at the time. We knew that there were two people but we only had one identified.
Q. Did you receive information from the responding officers that there were three suspects?
A. No, I did not.
MR. SMITH: No further questions, Your Honor.
THE COURT: Redirect?
SOLICITOR SHELTON: Nothing, Your Honor.
THE COURT: All right. You may step down. Thank you.
OFFICER SMITH: Thank you, Your Honor.
(WITNESS LEAVING WITNESS STAND.)
THE COURT: Call your next witness.
SOLICITOR SHELTON: Your Honor, the State would call Ernest Jordan.
THE COURT: Please come up and place your hand on this Bible and raise your right hand.

(WHEREUPON: ERNEST JORDAN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION - IN CAMERA

ERNEST JORDAN BY SOLICITOR SHELTON:

Q. State your name for the record, please.

A. Ernest Jordan.

Q. And Mr. Jordan, where do you live?

A. Lancaster, South Carolina.

Q. And where do you work?

A. Five Star Customs.

Q. Who is the owner of that business?

A. I am.

Q. And were you working there back in June of 2011, specifically on June 8th of 2011?

A. Yes, ma'am.

Q. Did you own the business then?

A. Yes, ma'am.

Q. And on June 8th of 2011 were you the victim of a crime?

A. Yes, ma'am.

Q. Was that a kidnaping, armed robbery and attempted murder?

A. Yes, ma'am.

Q. And law enforcement responded?

A. Yes, ma'am.
Q. Uniform officers?
A. Yes, ma'am.
Q. Did you speak with them?
A. Yes, ma'am.
Q. Did you tell them who you believed one of the suspects to be?
A. Yes, ma'am.
Q. And who was that?
A. Maquis Robinson.
Q. And how did you know his name?
A. Because he'd be at the shop all the time.
Q. How long had you known him?
A. About four or five years.
Q. So years, you had known him for a while?
A. Yes, ma'am.
Q. Had he ever worked for you?
A. No. He used to come around the shop and help out every now and again.
Q. So when you say help out, he didn't work for you as an employee?
A. No, ma'am
Q. He would just do jobs for you?
A. Yeah. You know, like somebody just come your shop and just hang around. Like, man help me do this or something

like that there.

Q. And so you would see him a good bit?

A. Yes, ma'am.

Q. And the person who committed the crime that you knew as Maquis Robinson was his face covered during the --

A. No, ma'am.

Q. So you were able to get a good look at him?

A. Yes, ma'am.

Q. How close were you to him?

A. Face to face.

Q. What were the lights like in your shop?

A. Bright.

Q. Were you drunk at the time?

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

Q. Were you high at the time?

A. No, ma'am.

Q. Do you feel like you were able to get a good look at him?

A. Yes, ma'am.

Q. So the name you gave to law enforcement was Maquis Robinson?

A. Yes, ma'am.

Q. At the hospital, did you meet with anyone else from law enforcement that showed you a lineup?

A. Detective Stokes.

Q. And where were you when you met with Detective Stokes?
A. In the hospital bed.
Q. And he brought a lineup in and showed it to you?
A. Well, no. That day he just came and just came and just asked me questions.
Q. He didn't show you a lineup that day?
A. No, ma'am. I think he did. I think he showed me a lineup but I think that was on a later date when he showed me the lineup.
Q. I'm going to show you what's been marked as State's Exhibit Number Thirty-seven.
A. Yes, ma'am.
Q. Do you recognize that exhibit?
A. Yes, ma'am.
Q. What is it?
A. A photo lineup.
Q. Is that the photo lineup that Detective Stokes showed to you?
A. Yes, ma'am.
Q. And is there a date and time on that photo lineup?
A. Yes, ma'am.
Q. When is that?
A. 6-9-11 at 12:30 a.m..
Q. And so would that be later on after the crime had occurred?

A. Yes, ma'am.
Q. Does that help refresh your memory as to when he showed you the lineup?
A. Yes, ma'am. I was just thinking about the statement.
Q. And for Maquis Robinson, Detective Stokes showed you the lineup?
A. Yes, ma'am.
Q. Did he do anything or say to you to indicate who you should pick out of that lineup?
A. No, ma'am.
Q. Did he point out anybody?
A. No, ma'am.
Q. Did he show you like one picture and then show you some other pictures?
A. No, ma'am.
Q. Did he — Was there anyone else in the room?
A. My wife.
Q. Did she do anything to influence your decision?
A. No, ma'am.
Q. Did she point out to you anything?
A. No, ma'am.
Q. Did Detective Stokes have you read that form or did he read that form to you before showing you the lineup?
A. He read it to me.
Q. So were you advised that the suspect may or may not be

in the lineup?

A. Yes, ma'am.

Q. And were you able to pick someone out of that lineup?

A. Yes, ma'am.

Q. You can look at it.

(WITNESS REVIEWING EXHIBIT.)

Q. Which picture did you pick out?

A. The first picture.

Q. And who is in that picture?

A. Maquis Robinson.

Q. Did you do anything to indicate that that was the picture you selected?

A. Yeah. I initialed it.

Q. And are those your initials on there?

A. Yes, ma'am.

Q. What made you pick out that photo?

A. Well, I mean like, soon as I seen it I knew who it was.

Q. And you're sure that's who was part of — who came into your shop on June 8TH as part of the crime that was committed against you?

A. Yes, ma'am.

SOLICITOR SHELTON: Thank you. Please answer any questions the defense has for you.

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor. May it please the court.

THE COURT: Yes, ma'am.

CROSS EXAMINATION - IN CAMERA

ERNEST JORDAN BY MS. BURRIS:

Q. Mr. Jordan, now when Detective Stokes did actually come to Piedmont Medical Center and showed you the photographic lineup, State's Exhibit Thirty-seven, he read you the photographic lineup instruction.

What did he do? Did he show it to you or did he read you the lineup, photographic lineup instructions?

A. He came in and told me he had some photographs to show me. Read me the paper and then asked me can I identify anybody on there.

Q. When you say paper, you mean the photographic lineup instruction?

A. Yes, ma'am.

Q. And did you actually sign the photographic lineup instruction before or after?

A. I think it was — I ain't sure. I think it was before though.

Q. And did he in any way indicate that the person who actually - you had an encounter with was in this photograph ---

A. No, ma'am.

Q. --- lineup?
A. No, ma'am.
Q. Now you were the one who actually called 9-1-1. Right?
A. Yes, ma'am.
Q. Okay. So you called 9-1-1 and you told them?
A. I'd just been shot.
Q. You had just been shot?
A. Yeah.
Q. Okay. And you told them?
A. You say I told them?
Q. What else did you tell them? Yes, sir.
A. I said send paramedics. I told them to send paramedics. I think I'm fixing to die. That's what I told them.
Q. Send paramedics and you think you're going to die. Okay. And then you told them what else?
A. I don't remember now.
Q. What else did they ask you? Do you remember?
A. Did I know who did it.
Q. Did you know who did it?
A. Yeah.
Q. And you told them?
A. Maquis Robinson.
Q. And you told them for sure I know Maquis Robinson did

it?

A. Yes, ma'am. Exactly. Yes, ma'am.

Q. And you are one hundred percent sure and certain that Maquis Robinson was there at your place and you had had an encounter with Maquis Robinson?

A. I'm a thousand percent sure.

Q. And that's what you told 9-1-1?

A. Yes, ma'am.

Q. Okay. One thousand percent sure. All right. Now, you had testified that Maquis Robinson hangs around your shop all the time. When was the last time you actually saw Maquis Robinson?

A. About three to four days before that happened.

Q. Three to four days before that happened?

A. Yes, ma'am.

Q. And did you all have any - Was there any confrontation or issues of contention?

A. No. Something about a tire. His cousin had called about a tire. Something about the wrong size on a tire or something.

Q. A tire?

A. Yes, ma'am.

Q. Okay. On a vehicle or something?

A. Yes, ma'am. That's the last time I talked to him.

Q. Okay. And so on that particular night, you were at

your shop.
A. Yes, ma'am.
Q. It was around ten p.m.?
A. Yes, ma'am.
Q. And you were doing what?
A. We was fixin to paint a car.
Q. About to paint a car. You and Jared Crane?
A. Yes, ma'am.
Q. Okay. And how was the lighting in the room?
A. It was bright because you know when you paint you've got to have real bright lights up in shop.
Q. So sort of fluorescent lights?
A. Yes, ma'am.
Q. So it was fluorescent lights?
A. Yes, ma'am.
Q. That's what you're referring to as bright. Right?
A. Yes, ma'am.
Q. Now when the individual actually came into the room in which you were about to paint — You were prepping a car, a vehicle for painting?
A. Yes, ma'am.
Q. Okay. So when the individual came into the room, what were you doing?
A. Actually I was coming out the bathroom when I heard the bay door come up, slam up, so I kind of ran up to the

front. I was like who is this, you know. So I turned around and I came back out. I said let me go back here and see what's going on. By the time I came back out around, I had a gun in my face.

Q. Okay. So by the time you turned around – You heard the bay door go up?

A. Yes, ma'am.

Q. And you had your back turned?

A. No. I was coming out the bathroom.

Q. You were coming out the bathroom?

A. Yes, ma'am.

Q. Okay.

A. So I head the bay door come up. It slammed so hard so I kind of like ran up front. Ran up front so then I said naw, Jared back there let me go see what's going on. So I turned back around and started back walking towards the bay door and that's when I seen the gun in my face.

Q. Okay. So you were walking back towards the bay door where the person is actually coming through?

A. Yes, ma'am.

Q. Okay. And when the person had - The individual had the gun to your face or your head, which one?

A. To my head.

Q. To your head. I assume within arm's length ---

A. Yes, ma'am.

Q. --- away from you. Right?
A. Yes, ma'am.
Q. When did you actually first notice who the person was?
A. I noticed as soon as he walked in. I kind of greeted him with a smile. I thought he was playing.
Q. Once the person got up on you, was anything blocking your view at that time other than the alleged gun?
A. No. He had his little shirt right there, you know what I'm saying, soon as he walked in. It was like his shirt like pulled right there at his nose.
Q. So you didn't see all of the physical characteristics of who you are claiming to be Maquis Robinson. You didn't see all the physical characteristics. You saw a tee shirt pulled up over the mouth and the nose?
A. Yeah soon as he walked in but soon as he walked in it just fell down.
Q. Okay. The tee shirt fell down?
A. Yes, ma'am.
Q. Okay. How soon after the incident happened did you call 9-1-1?
A. Right after I stumbled back in.
Q. Stumbled back into?
A. The shop.
Q. The shop.
A. Yes, ma'am.

Q. Did the 9-1-1 dispatcher --

SOLICITOR SHELTON: Objection, Your Honor. I - for a lineup I'm not sure what all the 9-1-1 questions --

THE COURT: Well, this is cross but let's - I'll let you go into it but keep in mind this is the *Neil versus Biggers* to determine whether or not the photo lineup was suggestive and whether or not it was not suggestive. Whether or not - Well in any event, whether or not this witness's identification, if he does make an identification of Mr. Robinson in court, if whether that's reliable. I mean I know - I'll allow you some breath, but keep in mind that's the issue.

MS. BURRIS: Okay. I was just going to ask him in regards to physical characteristics that he gave to 9-1-1.

THE COURT: Okay. Fine.

BY MS. BURRIS:

Q. So did the 9-1-1 dispatcher ask you about physical characteristics of the person that you suspected was there in the shop who had attacked you, allegedly attacked you?

A. Yes, ma'am.

Q. Okay. And what physical did you give them?

A. I done forgot what all I told them that night that night about the description. I think I just really remember telling them it was a light skinned dude you know.

Q. Light skinned dude?

A. Yes, ma'am.
Q. What else you told them?
A. I done forgot.
Q. Did they — okay. Did they ask you what he was wearing or anything like that?
A. Yes, ma'am.
Q. And you told them what the suspect was wearing?
A. Yes, ma'am.
Q. Asked you about his hair, age, height?
A. I don't think they asked me all that.
Q. Okay. Asked you whether or not he had any distinguishing features?
A. No, ma'am.
Q. Now, when you were in the hospital when they first took you into the hospital room, did they give you any medications?
A. No, ma'am.
Q. They just took you in, wiped the blood off, bandaged you?
A. They just took me in the room and the doctor just rushed back and checked my face, checked the face and then they came back in and started cleaning me up.
Q. I'm sorry. They came back?
A. They came in and they checked my face and then once the doctors left out, the nurses came in and started

cleaning me up.

Q. Was your eye swollen at all?

A. Yes, ma'am.

Q. Which one, right or left?

A. My right.

Q. Your right eye?

A. Yes, ma'am.

Q. You got a really good look at the photographic lineup?

A. Yes, ma'am.

Q. Did you put it up to your face?

A. Yes, ma'am.

Q. Did you have any kind of - Did you have any kind of reaction when Detective Stokes showed you the photographic lineup, like emotional reactions or anything like that?

A. Yeah. I kinda did because I couldn't believe he did it, you know.

Q. What was your emotional reaction?

A. I done forgot what you know I did now.

Q. And you are one hundred percent sure that Maquis Robinson is the person that actually came into your shop ---

A. Yes, ma'am.

Q. --- on June 8th, 2011?

A. Yes, ma'am.

MS. BURRIS: Thank you. I have no further questions.

THE COURT: Mr. Smith.

MR. SMITH: I don't have any questions with regard to this lineup. I don't know if they're going to go into the other one.

SOLICITOR SHELTON: Yes, sir, Your Honor.

THE COURT: Okay.

REDIRECT EXAMINATION - IN CAMERA

ERNEST JORDAN BY SOLICITOR SHELTON

Q. Mr. Jordan, going back, the night at the hospital you were shown a lineup of Maquis Robinson.

A. Yes, ma'am.

Q. And that was the only lineup you were shown that night?

A. Yes, ma'am.

Q. Were you later shown another lineup?

A. Yes, ma'am.

Q. And who showed you that lineup?

A. Detective Stokes.

Q. Do you remember where you were?

A. Yeah. I was on my way to the beach and Detective Stokes told me to meet him somewhere and I met him at Bojangles parking lot.

Q. Okay. And did you have anyone with you?

A. Yeah, my wife.

Q. And you met with Detective Stokes at the Bojangles parking lot. Where at?

A. In Lancaster, South Carolina.

Q. In Lancaster. And he at that point had a lineup with Dantonyo Heath as a suspect in that lineup?

A. Yes, ma'am.

Q. And in showing you that lineup, did he say anything to you or do anything, point to anyone, do anything to influence who you selected?

A. No, ma'am.

Q. Was there anything marking or identifying the pictures?

A. No, ma'am.

Q. Did he give you any additional information about each person in the pictures other than just to give you the pictures?

A. No, ma'am.

Q. Did your wife do or say anything to you to point out who it was?

A. No, ma'am.

Q. And going back to the night in question, June 8th, you testified that you and Maquis Robinson were face to face and that he is the one that assaulted you. How close were you to Dantonyo Heath?

A. We was face to face too.

Q. And where was that when you all were face to face?
A. Like - Actually like when they came in and they had the gun on me, I seen somebody else run in and bend down beside the jeep and I knew who it was when I see it, so by the time when the whole ordeal started, when the whole ordeal started, like after I had been chocked where I couldn't hardly breath so he actually gave me some water.
Q. Dantonyo Heath gave you some water?
A. Yes, ma'am.
Q. How long had you known Mr. Heath?
A. He had been at the shop probably about three or four times.
Q. So you had seen him a few times before?
A. Yes, ma'am.
Q. Did you know his name?
A. I just know they called him Yodi.
Q. And did you hear someone all him Yodi that night?
A. Yes, ma'am.
Q. And who did you hear call him Yodi that night?
A. Maquis Robinson.
Q. When Detective Stokes was showing you the photos, did he show you individual photos ahead of time?
A. No, ma'am.
Q. And did he tell you that Dantonyo — that the suspect was one of the pictures?

A. No, ma'am.
Q. Let me show you what's been marked for identification State's Exhibit Number Thirty-nine.
(WITNESS REVIEWING EXHIBIT.)
Q. Do you recognize that?
A. Yes, ma'am.
Q. And what is it?
A. A photo lineup.
Q. And is that the lineup that Detective Stokes showed to you?
A. Yes, ma'am.
Q. Is the person that you picked out on that lineup, is that still your identification?
A. Yes, ma'am.
Q. And which picture is that?
A. The last one.
Q. And who is that in that picture?
A. Dantonyo Heath.
Q. And did you do anything to mark or identify that picture as the second person?
A. Yes, ma'am. I circled and initialed.
Q. And is that your initials?
A. Yes, ma'am.
Q. And all your previous testimony is this still the same, the lighting at the store, it was well lit and ---

A. Yes, ma'am.

Q. --- you've already testified how close you were to Mr. Heath.

A. Yes, ma'am.

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

THE COURT: Ms. Burris.

MS. BURRIS: I have no questions at this time, Your Honor.

THE COURT: Mr. Smith.

CROSS EXAMINATION - IN CAMERA

ERNEST JORDAN BY MR. SMITH:

Q. Mr. Jordan, you indicated that when Detective Stokes said he wanted to meet you at Bojangles when you were on the way to the beach, that you knew he had a lineup with Dantonyo Heath in it as a suspect; is that right?

A. No. I didn't know he had a lineup with him in it but he just told me he had some lineups for me to look at.

Q. He had some lineups?

A. Yes, sir.

Q. Okay. How many different lineups did he end up showing you?

A. He just showed me a lineup with six different pictures in it.

Q. Okay.

Q. It might a been twelve. No, it was six. It was six cause it was six different pictures in it. Yeah.

Q. Okay. And you talked about with the prior lineup that you saw at the hospital that the way Detective Stokes began was he read you a form, a sort of coversheet on that lineup. Did he do that as well with the lineup with Mr. Heath in it?

A. Yes, ma'am – I mean, yes, sir.

Q. And did you sign that form just like you signed the form with Mr. Robinson in it?

A. I don't think I did. I think I just initialed the lineup on the page.

Q. Now you said that you had seen Mr. Heath I believe three to four times at your shop; is that right?

A. Yes, sir.

Q. Would he come up on his own or would he come with someone?

A. With Maquis.

Q. He would come with Mr. Robinson when he came?

A. Yes, sir.

Q. And did you ever do work for him or what was the nature of your conversation when he was there?

A. He would just come up there with him. Suppose to be doing some work on this Cadillac, on the Cadillac but we never did.

Q. Okay. And the Cadillac, was that his or whose vehicle was that?

A. It was his.

Q. And he never worked for you or you didn't go to school with him or know him from the past or anything like that?

A. No, sir.

Q. And you indicated that as soon as you saw the second individual come in and duck down behind the jeep that you knew that to be Dantonyo Heath. Is that your testimony?

A. Yes, sir.

Q. On the form - I'm sorry. You also described a call you made to 9-1-1 when you returned and in that call you told them that you believed it was Mr. Robinson who had just assaulted you and robbed you; is that right?

A. Yes, sir.

Q. But you didn't name Mr. Heath did you?

A. No. I just told them it was some guy named Yodi.

Q. Okay. And did you give descriptions of him?

A. Yes, sir.

Q. What descriptions did you give?

A. I told her he was about 6'2", dark skin.

Q. And that was it?

A. I done forgot what else I told them at the time. I think I remember telling them what kind of clothes and stuff he had on.

Q. And did you mention a third suspect?

A. I thought there was.

Q. Did you give a description for him?

A. No, sir.

MR. SMITH: No further questions.

SOLICITOR SHELTON: Just one, Your Honor.

REDIRECT EXAMINATION - IN CAMERA

ERNEST JORDAN BY SOLICITOR SHELTON:

Q. The third suspect, where did you think you saw a third person?

A. No where. I just thought it might a been a get away. Somebody driving the car.

Q. So you didn't actually see a third person inside the shop?

A. No.

Q. You never had any contact with a third person?

A. No, ma'am.

THE COURT: Ms. Burris.

MS. BURRIS: Yes, sir.

RECROSS EXAMINATION - IN CAMERA

ERNEST JORDAN BY MS. BURRIS:

Q. Mr. Jordan, at one point you actually end up outside of the shop with two of the alleged suspects. Correct?

A. Yes, ma'am.

Q. Okay. And so you did tell the initial responding

officer that you thought there was a third person involved. Right?

A. Yes.

Q. But you ended up outside of the shop along with the alleged suspects and you knew there wasn't a third suspect. Right?

A. I told them I thought somebody was driving the get away car.

Q. What you're alleging as the get away car, you had the opportunity to see that car. Right?

A. Yeah.

Q. And it wasn't running was it?

A. I don't know. It was parked up on top the hill.

Q. On top of the hill where?

A. Like right there at the title loan place it was parked up on top of the hill.

Q. Okay. So the shop, Five Star Customs, is actually located beside title loan?

A. No. The shop is actually located beside the payday loan.

Q. Payday loan.

A. And the next parking lot over is the title loan and they was actually parked on top of the hill up there.

Q. And what made you say a third suspect?

A. Because I thought they had a get away driver.

Q. That's just in your mind. Right?

A. Yeah, that's just in my mind.

MS. BURRIS: No further questions.

THE COURT: Mr. Smith?

MR. SMITH: No.

THE COURT: You may step down. Thank you, Mr. Jordan, you can go back and have a seat.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Call your next witness.

SOLICITOR SHELTON: Jared Crane.

(WHEREUPON: JARED CRANE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MADAME CLERK: Thank you. You may have a seat.

DIRECT EXAMINATION - IN CAMERA

JARED CRANE BY SOLICITOR SHELTON:

Q. State your name for the record please?

A. Jared Crane.

Q. And Mr. Crane, where do you live?

A. Lancaster, South Carolina.

Q. And back on June 8th, 2011 where were you - where were you working?

A. Five Star Customs.

Q. Is that the only job you had back then?

A. Yes, ma'am.

Q. And were you working there in 2011? Were you there

that night?
A. Yes, ma'am.
Q. And were you the victim of a crime that night?
A. I was.
Q. That attempted murder, armed robbery, kidnapping?
A. Yes, ma'am.
Q. At some point that evening, did you have an opportunity to meet with Detective Smith at the hospital?
A. Yes, ma'am.
Q. And as part of that meeting, did she how you a lineup?
A. She did.
Q. And in showing you that lineup, how did she show it to you?
A. She read me a — I mean, just the basics of what I needed to do. I mean, if there was somebody — if I didn't see — I just didn't need to guess about it. I needed to be one hundred percent for sure.
Q. And did she show you one picture at a time?
A. No, ma'am. They were all six pictures on one sheet.
Q. Did she do or say anything to you to influence your decision?
A. No, ma'am.
Q. Did she point to anybody?
A. No, ma'am.
Q. Were the pictures marked in any way?

A. No, ma'am.
Q. Did she provide you any identifying information of each person in the picture to go with the pictures?
A. No, ma'am.
Q. Was there anyone else present with you?
A. My wife.
Q. Did your wife do or say anything to influence?
A. No, ma'am. She sat in the corner — or in the side of the room.
Q. And the photo lineup was to determine if the suspect Maquis Robinson was in that lineup; is that correct?
A. Yes, ma'am.
Q. The evening — earlier that evening, did you have an opportunity to see Maquis Robinson?
A. I don't remember if it was earlier that evening —
Q. By that I mean earlier than the lineup. During the crime, did you see —
A. Oh, yes, ma'am. Yes, ma'am.
Q. How close were you to him at any point in time during that?
A. Four to eight feet, five to eight feet from him.
Q. Did you ever get any closer than that?
A. Oh, yeah I got closer to him but that's the first time I saw him.
Q. Okay.

A. That's when he come through the door.
Q. What was the closest you ever got to him?
A. Face to face.
Q. And was that in the bathroom?
A. Yes, ma'am.
Q. When you were being tied up?
A. Yes, ma'am.
Q. And how long had you --
A. Well, no. He wasn't tying me up.
Q. He was not but you were being tied up?
A. Yes, ma'am.
Q. How long had you known Maquis Robinson?
A. A few weeks. I'd see him around for a few weeks. I'd seen him maybe four times in over those - those weeks. I actually sat down and had a conversation with him about teaching him how to paint airbrush.
Q. So you had seen him a few times ---
A. Yes, ma'am.
Q. --- over the course of a few weeks?
A. Yes.
Q. And during the evening of the 8th, was his face covered when you saw him?
A. Yeah. When he first come through the door, he did have his shirt pulled over his nose like that.
(WITNESS DEMONSTRATED.)

Q. But then at some point were you able to see his face?
A. Yes, ma'am.
Q. And how was the lighting in the shop?
A. The lighting was perfect. A lot better than any normal building like that, I would think.
Q. I want to show you what's been marked for identification as State's Exhibit Number Thirty-eight.
(WITNESS REVIEWING EXHIBIT.)
Q. Do you recognize that?
A. Yes, ma'am.
Q. And how do you recognize it?
A. Because it's the lineup I was given and that's my signature. That's my printed name and that's my signature.
Q. And looking at that lineup, which photo were you able to select?
A. Top left corner.
Q. And what made you pick that one?
A. Because I know him. Because I know that's who did it and that's who I'd seen time and time again.
Q. And who is that?
A. Maquis Robinson.
Q. And is that photo a fair photo of him? Does that look like him?
A. Yes, ma'am. That's a fair photo.
Q. Has it been altered in any way from looking at it

then from when you knew him then, was the photo changed and altered in any way to influence --

A. No. That's exactly what he looked like when it happened.

Q. You were able to pick out Maquis Robinson from that lineup?

A. Yes.

Q. A little bit later were you shown a second lineup?

A. Yes, I was.

Q. And that was the lineup for Dantonyo Heath?

A. It was.

Q. And Detective Stokes showed you that lineup; is that correct?

A. Yes, ma'am, he did.

Q. Were you able to identify --

A. I was not.

Q. And during the commission of the robbery and attempted murder, was Mr. Heath's face covered?

A. It was.

Q. What was it covered with?

A. It was covered with a black bandana for a - for most of the part but I did pull it off.

Q. And you - did you know Dantonyo Heath? Had you seen him before?

A. No, ma'am.

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

MS. BURRIS: Thank you, Your Honor.

CROSS EXAMINATION - IN CAMERA

JARED CRANE BY MS. BURRIS:

Q. Mr. Crane, how are you?

A. I'm all right.

Q. Now, you mentioned that you'd actually seen Maquis Robinson a few times. Right?

A. Yes, ma'am.

Q. Okay. And you also testified you'd see him time and time again. Right?

A. Yes, ma'am.

Q. Okay. And you also mentioned that you've known him - you've seen him a few times and you've known him for a few weeks?

A. Yes, ma'am.

Q. And you allege that Maquis Robinson came within five to eight feet to you?

A. In the beginning.

Q. In the beginning?

A. Yes, ma'am. That's when the roll up door that's when it first started happening; that's when he come through the door.

Q. Okay. And so when who you are alleging is Maquis

Robinson comes through the roll up door, you were where?
A. I was standing in front of a Dodge Durango in the center of the hood painting it and it was in the center of the bay. He come by. He come running by it.
Q. Okay. So he actually ran past you?
A. Well, I wouldn't say full speed run. Jogging. Sprinting.
Q. Okay. So the person who actually came through the bay doors sprinted past you and you were actually in front of the vehicle that you were preparing to paint?
A. Yeah. Well, I was actually in the process of painting it.
Q. So you were in the process of painting?
A. Yes, ma'am.
Q. Okay. Did you actually have like your brush in your hand or the wand?
A. No. I had a paint gun in my hand. Yes, ma'am.
Q. Okay. Paint gun in your hand.
A. Yes, ma'am.
Q. Okay. So you had a paint gun in your hand.
A. Uh-huh.
Q. Did you have a mask on or anything?
A. No.
Q. Paint gun in your hand, it was after ten o'clock at night?

A. Yes, ma'am.
Q. Okay. And all you see is a person come sprinting past you – basically jogging?
A. No. I seen Maquis Robinson come past me.
Q. Now, in regards to the photographic lineup which is State's Exhibit Thirty-eight, do you know any of these other persons ---
A. No, I don't.
Q. --- in here?
A. I sure don't.
Q. Never seen them before?
A. Never seen them.
Q. The only person you've ever seen was Maquis Robinson. Right?
A. Yes.
Q. You heard - You heard someone say Maquis Robinson prior to actually seeing the photographic lineup at Piedmont Medical Center didn't you?
A. No, not that I recall.
Q. But you knew, you made your own independent judgment from this photographic lineup being shown to you by the detective and you said, it's Maquis Robinson?
A. I knew it was Maquis Robinson because he told me what his name was. When I first started working at his shop he told me who he was.

Q. So how long had you been at the shop?
A. I'd been working for Neal for a while, maybe two months. Well when was this, in June? Yeah, for about two months.
Q. So you had actually been working for two months?
A. Uh-huh.
Q. Okay. So you're saying Maquis Robinson told you his name?
A. Yes, ma'am. He introduced hisself to me because I was the painter. I was Neal's painter and he was - he described hisself to me as being some sort of a painter, wanting to paint, wanting to learn how to airbrush.
Q. And you paint – you were there everyday, correct? Monday through Friday?
A. Yes, ma'am. Well, Monday through Saturday.
Q. Monday through Saturday. Hours were?
A. Nine o'clock in the morning-ish to - it was supposed to be six o'clock but sometimes things happen. That particular day where I was doing my painting, they had cars in it that were having wheels put on it so I had to wait to paint so that's why I was there later.
Q. Okay. And you had seen Maquis Robinson a few times. Correct?
A. I'd seen him, yeah, about four times before that. Like I said, I actually sat and had about a forty-five

minute conversation with him talking to him about airbrushing his wheels, some custom wheels that he had. He wanted Sonic the Hedge Hog or something — a sonic hedge hog airbrushed on his wheels.

Q. Mr. Crane, had you seen him four times or a few times?

A. Three to four times.

Q. Three to four times?

A. Uh-huh. I don't know, I mean, what a few constitutes as.

Q. About two.

A. Okay. Well I thought that would be a couple but yeah, I'd seen him about three or four times.

Q. Okay. So you'd seen him three to four times prior to this night or what you're alleging happened?

A. Yes, ma'am.

Q. Now, you indicated in your previous testimony, you were at the hospital. Right?

A. Uh-huh.

Q. And when you were at the hospital, Detective Tashia Smith came into the hospital room?

A. Yes, ma'am.

Q. Were you under medications?

A. No. I hadn't had any medications.

Q. You'd been bruised pretty badly. Right?

A. Uh-huh. My nose was broke.

Q. Your nose was broken?
A. Uh-huh.
Q. Okay.
THE COURT: You need to say yes or no.
A. Yes, ma'am.
Q. Okay. So your nose was broken. Were your eyes swollen at all?
A. Not at that time they hadn't started swelling.
Q. Okay. And the doctors had not given you anything to alleviate the pain you were experiencing?
A. No. Not at that time. I don't even think I had seen a doctor at that time yet. I think the nurses --
Q. The nurse.
A. Yeah, and she told me she couldn't give me anything. The doctor would have to do that.
Q. Okay. When was the last time you actually saw Maquis Robinson prior to the alleged incident?
A. I can't honestly answer that question. Maybe two days. Maybe three days. Maybe — I mean, it was really — real close. I mean, it was - it wasn't two weeks. I mean, it was really close to the night that that happened.
Q. Okay. So you had seen him about two weeks prior to?
A. No. I said less than that.
Q. Less than two weeks?
A. Yeah.

Q. Okay.
A. Less than that. A few days.
Q. A few days prior to the alleged incident?
A. Yes, ma'am.
Q. Okay. Now, when you saw the person come through the door and you were painting, were you able to see the physical conditions of the person as in - I'm sorry, the physical characteristics of the person?
A. Yes, ma'am.
Q. Did any officer ever ask you to describe the suspect prior to the photographic lineup?
A. I believe so but I'm not a hundred percent sure because I think they wanted — I think they were trying to get a description to look for the person. I mean, to try to apprehend suspects.
Q. Okay. They were trying to get --
A. I mean, I guess just a description of who they needed to start looking for.
Q. Okay. And were you able to give that to them?
A. I — I mean, yes. Yeah.
Q. And that particular night you testified previously you were five to eight feet away from the person who you're --
A. That was when he first come through the door. That's how far away from him I was.
Q. Okay. And then the individual actually jogged past

you. Right?

A. Yes.

Q. Okay. Was anything blocking your view on that particular night on June the 8th?

A. No, ma'am.

Q. How good is your sight?

A. My sight is very good.

Q. Do you wear corrective lens or anything?

A. Nope. I have 20/20 vision.

Q. Who called 9-1-1?

A. Neal.

Q. Did you all talk about the case prior to him calling 9-1-1? Did you all talk about who it was?

A. Are you talking about actually that night that it happened?

Q. Yes, sir.

A. No. Because I had took my wife and put her in the ceiling and when I heard Neal on the phone coming back in, that's when I come back out. So no we didn't talk about it. When he was on the phone with 9 - when he was on the phone with 9-1-1, she was still in the ceiling and I went back outside because I could hear the sirens for the cars coming.

Q. Okay. Did you and Neal actually talk about the incident prior to being taken to the hospital? How were

you taken to the hospital? By EMS?

A. Yes.

Q. Or did your wife take you?

A. No. We took - actually a detective took us.

Q. The detective took you to the hospital?

A. Yes, ma'am.

Q. Placed you in his vehicle?

A. Yes, ma'am. And then took us to the hospital.

Q. Okay. And took you to the hospital. And did you and Neal talk about the incident?

A. Me and Neal wasn't together.

Q. At all?

A. No.

Q. You all were actually in separate cars, detective cars?

A. I don't know how he got there. I just - I didn't - after Neal was on the couch talking on the phone, I went outside. I didn't see Neal again until we were at the hospital and he was out of his room.

Q. Now, was there any investigation done in regards to the physical characteristics? In other words, did you speak to any of the detectives or the police officers and give them any identifying physical characteristics of who you had an encounter with?

A. Yes, ma'am. That night I spoke with three — a few

officers. I mean, because you know, it was kind of hectic so I had a lot of different officers talking to me.

Q. Prior to going to the hospital?

A. Yes, ma'am. Prior to leaving and going to the hospital.

Q. Okay. Do you remember what you told them?

A. Yeah. I told them what kind of - what shirts they had on. That one was - I mean, I didn't - I knew Maquis so I told them Maquis. I told them what he had on and I told them the other one was a taller dark skinned male, all black clothes. A pair of neon Nike tennis shoes and I mean, I gave a brief description of his face because like I say, I pulled the bandana off while we were fighting so I mean I didn't know him so. I mean, I didn't know him personally. Hadn't never seen him before so that's all I could give them.

Q. And just a couple of additional questions. When you were lying in the hospital, Detective Smith was there and she read you the photographic lineup instructions?

A. Uh-huh.

THE COURT: Let's try to say yes or no.

A. Yes, ma'am.

Q. And when she gave you the - read, or did you read this yourself?

A. I read it myself. I read everything myself.

Q. Okay. So you read through the photographic lineup instructions?

A. Yes, ma'am.

Q. And then you looked at the photographic lineup?

A. Yes, ma'am.

Q. And not time did she not indicate that the person is actually in this photographic lineup?

A. Not one time. She handed it to me and stepped back.

Q. And you actually placed your initials here?

A. I sure did.

Q. And you also circled here?

A. Yes, I did.

Q. And did she ask you to give her - While she was there, Detective Smith, did she ask you to give her a description of the person who you were alleging was there?

A. No, ma'am. Not that I remember because I had already given that description to so many people I think she knew that but not to my recollection. No, ma'am.

Q. And then Detective Stokes actually came into the hospital room. Correct?

A. I do, I remember. Yes, I think he did.

Q. Okay. While Detective Smith was in there?

A. Yes, I think he did. And that's as we were leaving. As we were leaving out of --

Q. As you were leaving out of the hospital?

A. Well as we were getting finished up.

Q. Because you didn't stay overnight?

A. No, ma'am.

Q. Okay. And he came in to supervise Detective Tashia Smith and did he talk to you about the incident?

A. I don't remember but I don't think so that night. I know I don't think he had - he asked - I believe he asked her if she had already done what she was suppose to do with the lineup and everything and if I had picked someone out and I believe that was it.

Q. He asked you whether or not you had picked someone out already. And you can testify under oath that you are one hundred percent sure that the person who came jogging past you as you were - you had the paint brush I think you said in your hand or paint ---

A. Paint gun in my hand.

Q. --- paint gun in your hand is Maquis Robinson?

A. Yes, ma'am. I'm a million percent sure that's who that was.

Q. One million percent sure.

MS. BURRIS: Your Honor, I have no further questions at this time.

THE COURT: Mr. Smith.

CROSS EXAMINATION - IN CAMERA

JARED CRANE BY MR. SMITH:

Q. Mr. Crane, with regards to the second lineup that you were shown, ---

A. Yes, sir.

Q. --- before seeing that lineup had you been shown any other pictures or anything concerning Mr. Heath or had any contact with my client, Dantonyo Heath?

A. Other than that night, no, sir.

Q. And that night, how many suspects did you tell the officers there were?

A. How many did I tell the officers? Two.

Q. Two.

MR. SMITH: Your Honor, just so I'm certain, I'm assuming there will be no in-court I.D. made by this witness of my client.

SOLICITOR SHELTON: That is true, Your Honor.

MR. SMITH: Okay. No further questions.

THE COURT: There hasn't been any in-court identification of anybody yet, but go ahead.

THE COURT: Are these into evidence.?

SOLICITOR SHELTON: Just for identification at this point.

THE COURT: The reason I'm hesitating, I've got State's Exhibits Thirty-seven, Thirty-eight and Thirty-nine. I only recall Thirty-seven being offered into evidence to begin with. Thirty-eight and Thirty-nine also

marked into evidence?

MADAME COURT REPORTER: Marked for ID, Judge.

SOLICITOR SHELTON: Marked for identification.

THE COURT: Marked for identification?

MADAME COURT REPORTER: Yes, sir.

SOLICITOR SHELTON: And they were marked before we started to save time. And Your Honor, do you want me to have the witnesses I.D. them in pretrial?

THE COURT: I don't want anything. I've got to rule on what is presented. So I - The whole purpose of a *Neal versus Biggers* case is to determine the reliability of in-court identification of the suspect. What else can I say.

SOLICITOR SHELTON: I had not intended to have them I.D. at pretrial but I can.

REDIRECT EXAMINATION - IN CAMERA

JARED CRANE BY SOLICITOR SHELTON:

Q. Do you see Mr. Maquis Robinson in the courtroom?

A. Yes, I do.

Q. And where is he?

A. In the purple shirt.

Q. And is that the same person who you identified in the lineup as the same person who you've testified committed the crimes against you on June 8th of 2011?

A. Yes, ma'am, it is.

Q. Thank you.

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

THE COURT: Ms. Burris?

RECROSS EXAMINATION - IN CAMERA

JARED CRANE BY MS. BURRIS:

Q. And again, Maquis Robinson was the only person that you actually knew in the photographic lineup. Correct?

A. Yes, ma'am.

Q. And Maquis Robinson never had any direct contact with you Did he?

A. Yeah.

Q. That night.

A. Yeah. I mean, he spoke to me. I mean --

Q. Okay. So he spoke to you?

A. Well yeah. We had direct contact that night with both of them.

Q. That's what you mean by direct contact, spoke to you?

A. Yeah. Not spoke to me as in friendly. Ordered me, I mean, stuff to do.

Q. When the person that you're alleging is Maquis Robinson, were you – basically how far away were you from him?

A. As far as from here to that white box right there.

Q. The white box here?

A. Yes, ma'am. This box right here. That's five yards?

Q. Five yards?

A. Yeah.

Q. Thank you, Mr. Crane.

MS. BURRIS: No further questions.

MR. SMITH: No questions.

MR. CRANE: That it?

SOLICITOR SHELTON: No further questions of this witness, Your Honor.

THE COURT: You can step down and have a seat back out there.

(WITNESS LEAVING WITNESS STAND.)

SOLICITOR SHELTON: I'd like to recall Ernest Jordan.

THE COURT: Mr. Jordan, please come back up here. You're still under oath. You'll have to tell the truth.

REDIRECT EXAMINATION - IN CAMERA

ERNEST JORDAN BY SOLICITOR SHELTON:

Q. Mr. Jordan, do you see Marquis Robinson in the courtroom today?

A. Yes, ma'am.

Q. And where is he?

A. Right there with the purple shirt.

Q. And do you see Dantonyo Heath in the courtroom today?

A. Yes, ma'am.

Q. And where is he?

A. Right there with that black suit with the blue shirt.

Q. And in reference to Marquis Robinson, is that the same person who you identified in the lineup shown to you by Detective Stokes in the hospital?

A. Yes, ma'am.

Q. And is that the same person who on June 8th committed the crimes of armed robbery and attempted murder and kidnapping against you?

A. Yes, ma'am.

Q. And Dantonyo Heath is that the same person who you picked out of the lineup that was shown to you by Detective Stokes a day or so after the alleged crimes?

A. Yes, ma'am.

Q. And is that the same person who was involved in the offenses committed against you on June 8th?

A. Yes, ma'am.

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

THE COURT: Ms. Burris?

MS. BURRIS: No, sir, Your Honor.

THE COURT: Mr. Smith?

MR. SMITH: No questions.

THE COURT: You can step down. Thank you.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Call your next witness.

SOLICITOR SHELTON: On the lineup, Your Honor, that

would be all of our witnesses.

THE COURT: All right. Well, I find that first as to the photo lineup, I have viewed therein - I think they were made Court's Exhibits rather than just for I.D. if I am going to consider them.

SOLICITOR SHELTON: Yes, sir, Your Honor.

THE COURT: I need them to be made part of the record.

(WHEREUPON: COURT'S EXHIBIT TWO, THREE AND FOUR, IDENTIFIED AND MARKED, RECEIVED INTO THE RECORD.)

SOLICITOR SHELTON: Your Honor, I'm going to hand up what's been marked as Court's Exhibit Number Two which is for identification State's Exhibit Number's Thirty-seven; Court's Exhibit Number Three, for identification State's Exhibit Number Thirty-eight; and Court's Exhibit Number Four for identification State's Exhibit Number Thirty-nine.

THE COURT: Thirty-seven and Thirty-nine are the photo lineups shown to Mr. Jordan?

SOLICITOR SHELTON: I'm sorry, Your Honor.

THE COURT: Thirty-seven and Thirty-nine are the photo lineups shown to Mr. Jordan?

SOLICITOR SHELTON: Yes, sir.

THE COURT: And Thirty-eight was a photo lineup shown to Mr. Crane?

SOLICITOR SHELTON: I believe so, Your Honor. Just let me check on those so I'm not telling you something

that's not true.

(PAUSE.)

SOLICITOR SHELTON: Thirty-seven and Thirty-nine should be the lineups show to Mr. Jordan; Thirty-eight is the lineup to Mr. Crane.

THE COURT: All right as to Thirty-seven and Thirty-nine, Thirty-seven is the purported identification of Mr. Robinson. Thirty-nine the purported identification of Mr. Heath. I find that as to these two photo lineups which were shown to Mr. Jordan that the photo of the alleged defendant does not stand out from the others. The size of the photos are similar, facial characteristics, haircuts are similar. They're all black males.

I'm not too good at telling ages but there is nothing to distinguish there being a vast difference in age. I will note, although I don't believe it makes a difference, that in the bottom left hand corner of Number Thirty-seven, the African American, appears to be an African American with similar hair, he is a much lighter skinned individual than the other five. But I find that overall as to Mr. Robinson and as to Mr. Heath and their photo lineups, that their photo did not stand out from the others. That the individuals, with the exception of the one — the exception I made are similar in appearances, age, and best I can tell age and physical characteristics.

The photo lineups do not identify Mr. Robinson or Mr. Heath. There is nothing that indicates in any way who the person viewing the lineup should pick. There's nothing emanating from law enforcement that expressly or implicitly suggests to Mr. Jordan who he should have picked out, or, whether or not the alleged subject of the investigation, or the person that perpetrated the crime, is even in the lineup so I find that the lineups are not suggestive.

I find that the identification by Mr. Jordan from the lineups, and of Mr. Robinson here in the courtroom, and of Mr. Heath here in the courtroom is reliable. I find that he, Mr. Jordan, had an opportunity to view each of the defendants at the time of the crime, that he was paying attention. Based on his testimony it was very clear that he was very attentive to what was going on. That he was certain as to his identity of each at the photo lineup, and as to each here in the courtroom, that the identification particularly asked of Mr. Robinson took place very soon after the event, and as to Mr. Heath, no later than twenty-four hours. That it took place on the following — Well I take it back. It was less than forty-eight hours but still the proximity of time is very close.

I find also that the lighting conditions were very good. That the defendants, Mr. Robinson and Mr. Heath, were both known to Mr. Jordan, and I find that his in-court

identification is reliable not tainted by any out of court identification. And again the photo lineups are not suggestive so I find that the identification is admissible and is reliable.

As to Mr. Crane's identification of Mr. Robinson, again we have the same situation. We have again interesting observation, we have the same six individuals including Mr. Robinson who is in both top left hand corners. I do not find that to be significant. As to Mr. Heath, he is in the bottom right hand corner on the one Mr. Jordan I.D. him from. In the photo I.D. - photo lineup shown to Mr. Crane, while it is the same other five individuals, their pictures, at least three of their pictures had been shifted around, and the individual I referenced in the left hand corner earlier is now in the middle of the left.

Again I find that is no significance and I do not find that the photo lineup given to Mr. Crane was suggestive. The pictures are of competent size in competition. The subjects are similar in appearance. As I said earlier, as best I can tell to be similar age and have the same physical characteristics, particularly hair. The photos in the lineup do not identify Mr. Robinson. There is nothing to indicate that any of the individuals have any type record and there's nothing to indicate that law enforcement

expressly and implicitly suggested to Mr. Crane which photo was of the defendant, Mr. Robinson, or that Mr. Robinson's photo was even located within the six individuals.

I find that Mr. Crane's opportunity to view Mr. Robinson's alleged, the defendant, Mr. Robinson, at the time of the crime was face to face. That he knew prior to this time Mr. Robinson. He had had at least one lengthy conversation with him. That Mr. Crane's degree of attention was heightened. That he with the level certainty at the confrontation was clear and firm. That there had not been a significant lapse of time between the crime and the identification. This is some two to three or perhaps four at the outside hours afterwards at the hospital.

I find that during the event the defendants and the - the defendant Robinson was within close proximity, very close proximity, to Mr. Crane and, therefore, I find as I did with Mr. Jordan's identification of both Robinson and Heath, that Mr. Crane's eye witness identification, in court identification is reliable and will be admissible so that's that on that.

Now, it's almost twelve o'clock. I've got the jury coming back at one. Do we have other issues that we need to address before we take our lunch break?

SOLICITOR SHELTON: Your Honor, I don't know that we need to address it before break but I know that Ms. Burris

says that she has several and there are some things that I would like to put on the record at some point in time but it does need to be before the jury is sworn.

THE COURT: I want everybody to have a chance to — I want to be to start as close to one as we can. If we end up having a fifteen minute lunch break, we have a fifteen minute lunch break, but I'd like to get as much done as we can between now and one o'clock and it's ten till twelve 2, so what needs to be done before the jury is sworn, let's do it now.

Mr. Smith, you're standing.

MR. SMITH: I am, Your Honor. At the last trial there was another identification of my client. Now it did not involve a photo lineup being shown but I still think it would be covered under *Neal v. Biggers*, that being Mrs. Crane. I can wait and do it before she testifies but.

SOLICITOR SHELTON: There is a witness who could potentially do an in-court - Well, she will do an in-court identification if the court allows it. She was not shown a lineup before. No law enforcement involvement with her other than she gave a statement but as far as identification no law enforcement involvement that she would do an in-court identification. She is here and can testify.

THE COURT: Well, I need to determine what needs to be

determined based on whether an in-court identification is reliable. I don't know. Is she suppose to testify this afternoon?

SOLICITOR SHELTON: She is here so either this afternoon or tomorrow.

THE COURT: All right. Let me put that on my list.

All right. Ms. Burris, what else do you have before we swear the jury?

MS. BURRIS: Your Honor, I just have just again, it's in regards to Mr. Ernest Jordan's prior conviction. Also the previously discussed on yesterday in regards to what prior convictions will be able to be used against Maquis Robinson.

THE COURT: What's Mr. Jordan's?

MS. BURRIS: Mr. Jordan has receiving stolen goods, which I believe is a crime of dishonesty.

THE COURT: When?

MS. BURRIS: That was actually in...

SOLICITOR SHELTON: 2009, Your Honor.

MS. BURRIS: In 2009.

THE COURT: I find he can be impeached with that.

MS. BURRIS: Okay. I will be able to use that for impeachment purposes. And he also has a, and I think this also is the same issue that we have for Mr. Robinson which is actually a possession of crack cocaine, and we were kind

of going through that on yesterday as to whether or not possession of crack cocaine, whether or not it can be used for impeachment value. And his possession of crack cocaine was --

SOLICITOR SHELTON: I believe in 2004, Your Honor.

MS. BURRIS: Now, if Your Honor would like - well, I'll just leave it like that. With possession of crack cocaine, and a conviction was actually in 2003.

THE COURT: All right, go ahead.

MS. BURRIS: This was in regards to the possession. I think we had the same issue in regards to Maquis Robinson. Now we did discuss that and I did actually find a case. I believe Ms. Shelton was referring to the *Mueller* case in regards to whether or not, and I'm referring now to Maquis Robinson's prior convictions, whether or not there were two prior convictions that were actually on the probation sheet and she indicated that he was at that time within the ten year time frame and time limit.

THE COURT: Well, let's – let me help you on this. I do not find, unless you can show me something that will convince me otherwise, that indecent exposure, possession of a pistol, assault and battery of a high and aggravated nature, failure to stop, any involve dishonesty.

SOLICITOR SHELTON: Yes, Your Honor. I would agree that they are not in and of themselves dishonest, but under

the first part of the rule, I would think that if we have to go through the test, then it's not just crimes of dishonesty that can be used for impeachment because then there would be two parts to the rule.

THE COURT: Well I'm looking right now just whether or not we agree that those are dishonest or not dishonest.

SOLICITOR SHELTON: I would agree that they do not fall under the dishonesty rule. Yes, sir.

THE COURT: All right. How about possession of crack? That's for your witness and the defendant.

SOLICITOR SHELTON: I think the courts are pretty clear on that that possession of crack by itself is not approbative to truthfulness.

MS. BURRIS: I agree, Your Honor. I think that - I mean, of course that possession of crack is classified as a - depends on what offense. So I guess my question is whether or not --

THE COURT: Well, I think as to a witness, evidence of a witness other than the accused has been convicted of a crime, then it goes into punishment by death or imprisonment for one year.

SOLICITOR SHELTON: Your Honor, I think under the rule for the state's witness the charge would come in because I don't think that you have to go into the five prong test for state witnesses so I think it does come in.

THE COURT: I agree, so - but can use that.

MS. BURRIS: Okay. So we're referring to the receiving stolen goods and possession of crack cocaine?

SOLICITOR SHELTON: Yes.

THE COURT: Yes.

MS. BURRIS: Okay. Thank you, Your Honor.

Now, if I may continue, Your Honor. In regards to *State versus Mueller*, which basically talks about the witness' prior conviction for purposes of impeachment, it -

THE COURT: Can I have a copy?

MS. BURRIS: Sure. I think I passed one up but I have another one, Your Honor.

THE COURT: So far the only cases I have is *State versus Crowe* and *State versus Samuels*.

MS. BURRIS: Okay. Sure. Here you go, Your Honor.

SOLICITOR SHELTON: We do not have a copy either.

MS. BURRIS: I have another copy for you.

(CASES RECEIVED UP BY THE COURT.)

MS. BURRIS: In regards to *State v. Mueller*, it talks about the witnesses' prior conviction for purposes --

THE COURT: We're not talking about - Let's kind of keep it in perspective. We're not talking about so much a witness now. We're talking about the defendant. It's a different rule.

MS. BURRIS: Right, but we're talking about whether or

not probation is considered --

THE COURT: Let's don't get to that first. Let me just - I don't know. I've got to make under Rule 609(a), I've got to determine whether the approbative value admitting the evidence outweighs his prejudicial as to the accused. I think that - to determines whether or not the underlying offenses involved dishonesty. If they don't involve dishonesty then they're more prejudicial than approbative.

SOLICITOR SHELTON: Your Honor, if I could disagree. The rule has to exist for a reason and the test that you have to outweigh the prejudicial value versus - the prejudicial effect versus the approbative value has to exist for a reason. If the lawmakers only expected us to keep out crimes involving dishonesty, then there would be no reason to have that part of the rule. There has been a five part test that the courts would --

THE COURT: All right. Do you want to hand me up the five point test?

SOLICITOR SHELTON: Yes, sir.

THE COURT: I'm looking at *State versus Black*.

SOLICITOR SHELTON: I have *State versus Bryant*.

THE COURT: I'm looking at the annotations. It says "a critical issue on approbative value of conviction, a rule of thumb is the convictions that rest on dishonest

conduct relate to credibility whereas crimes of violence generally do not." So coupled with that is that for it to have some bearing as to believability of a witness the underlying events or involve dishonesty, that is they're not discredible witnesses simply because they committed an offense. And I understand your argument. And by the way, the Legislature doesn't pass these rules. They have to affirm them under the ABA, the rules are a problem for the court.

SOLICITOR SHELTON: Yes, sir.

THE COURT: Something about the legislature would not have done something when the legislature didn't do it.

SOLICITOR SHELTON: Yes, sir. I meant to say our lawmakers including before. Your Honor, but --

THE COURT: Firearm violations are not generally approbative to truthfulness. That's *Bryant*.

SOLICITOR SHELTON: Yes, sir. The rule that *Bryant* promulgates in considering under 609(a)(1), and I'm reading from *Bryant* on page 4, bottom of the first column, top of the second column, "when considering whether to admit prior convictions, a trial judge should consider the following factors: the impeachment value of the prior crime; the point in time of the conviction; the similarity of the past crime and charged crime; the importance of the defendant's testimony and then centrality of the credibility issues."

So I think under 609(a)(1) it would not just be crimes of dishonesty. The impeachment value of the prior crime would be factored in but those other factors should be considered as well and impeachment doesn't necessarily just mean dishonesty but other reasons why the person might be more inclined to tell the truth or not tell the truth such as --

THE COURT: Such as?

SOLICITOR SHELTON: Such as a disregard for the law or a disregard for social morals in general.

THE COURT: That would include everything. Nothing would be excluded under that argument.

SOLICITOR SHELTON: That's where the other factors would come in.

THE COURT: Well, but why go to the other factors if what you say is true that if you commit a crime, you're just - that ought to be able to establish your lack of credibility so --

SOLICITOR SHELTON: I'm not saying that it would. I'm not saying that it would. I'm saying the degree of that which should be a factor and then the degree of the other four elements should be factored in.

THE COURT: Well, as to Mr. Robinson, I have looked at that, looked at the annotations and I'm looking at this case, and as to indecent exposure - incidently the pistol

charge as I see it on the NCIC is for possessing a pistol when he was under twenty-one which has already been ruled unconstitutional and which is not even against the law at the present time.

SOLICITOR SHELTON: Yes, sir.

THE COURT: We'd be awful stretched to say he was impeached because he committed an unconstitutional crime.

SOLICITOR SHELTON: I didn't think about — I knew it was a person pivoted. I didn't look into to see under which approbative --

THE COURT: Well, you handed it up to me and I found it.

SOLICITOR SHELTON: Yes, sir.

THE COURT: AHAN, failure to stop, I find that they have no impeachment value. Indecent exposure, pistol charge, assault and battery of a high and aggravated nature and failure to stop have no impeachment value so I don't need to go to the other prongs. If they have no impeachment value, they have no impeachment value.

Same as to the crack cocaine. Let me look a little bit more. I want to look at one other case as to crack cocaine, but the case of *Aleksey* and again I'm looking at the annotations. I don't have the whole case yet.

MS. BURRIS: Your Honor, we also have to look at the remoteness in time.

THE COURT: Well, I've already ruled in your way on the other one. And remoteness in time, I thought - crack was from when? That's 2009, isn't it?

SOLICITOR SHELTON: No, sir. For Mr. Robinson it is much older. His probation ended in 2009. Yes, sir.

THE COURT: And I — subject because it's gonna be a while before Mr. Robinson, if he does take the stand, takes the stand, in the 2000 case of *State versus Majors*, appears that it held that it was based on the problems with drugs, trafficking and the addictive nature of drugs, the court in 1990 in *Major* found because of the war on drugs, mere possession of cocaine is a crime of moral turpitude.

However, the *Aleksey* case which post-dates that, it's a 2000 case, indicates that narcotics violations are generally not indicative of truthfulness and we're dealing with narcotics versus crack cocaine, so the state of the law, and I'll let the state research it further, the state of the law as I see it is based on *Aleksey*, A-l-e-k-s-e-y, 2000, which is adverse to the state's position and would not allow the use of crack conviction or a finding *Aleksey* would say that there is no impeachment value in narcotics convictions, and unless the state can show me something different, I'm going to rely on that.

SOLICITOR SHELTON: No, sir. I think that that would be true under the second prong of 609, 609(2).

THE COURT: I'm not looking at 609(2). I'm look just where you told me to. I'm looking at the five factors and I'm at level one. It says the impeachment value of the prior crime. So my first jump is to whether it has any If it had zero impeachment value, then I don't go any further.

SOLICITOR SHELTON: The way I look at the test, Your Honor, is that it's a balancing test, so you would balance all five factors against each other to see if one weighs out more than the other as letting the evidence in but we accept the court's ruling.

THE COURT: Well, I know you have to. You don't have a choice. And I agree it's a balancing, but when you start off and it is zero on the importance, the impeachment value, then there's nothing to raise above zero. I'm not going to argue with you anymore. That's my ruling. All right.

What else do we have before we have our fifty-five minute lunch break?

Anything else, Ms. Burris in any way? I'm not pushing you. I'm just saying we've got the jury and we're going to start this trial sometime this year.

MS. BURRIS: And I think it may be something that we can handle since we've handled the prior convictions and the exclusion of the photos of the crime scene, Your Honor, it's our position that there are lots of crime scene

photographs although are cumulative --

THE COURT: All right. Let's do this. While we take a break for lunch, if the state will show Ms. Burris and Mr. Smith those photos it intends to introduce.

SOLICITOR SHELTON: It can probably be done very quickly. There's only one photo that I intend to introduce of the knife which I think is the only one she is concerned about and I intended to have Mr. Crane identify it as his knife just so there's not a question to the jury in case one of the defense brings up who had a knife. I wanted to account for it but if they are not going to bring it up, I can take it out completely.

MS. BURRIS: We have no reason to ask you to bring up the fact in regards to the knife that is there at the crime scene. We definitely will not bring it up so --

THE COURT: Well, let's back up.

Which photos do you want to put in?

MS. BURRIS: Yeah, the crime scenhe

Now look at those and tell me, Ms. Burris and Mr. Smith, which of those, if any, you object to and why and then I'll look at them.

MS. BURRIS: Okay. And Your Honor, also in regard --

THE COURT: Would you do what I asked first?

MS. BURRIS: Yes, sir.

(PAUSE.)

MS. BURRIS: I'm not sure what the state is alleging in this at all.

SOLICITOR SHELTON: That's a bullet hole.

MS. BURRIS: There are like three pictures taken of bullets, individual pictures taken of bullets. I'm sure there is a better photo that actually have all of or most of the bullets displayed on it.

THE COURT: Well let's do it this way. Regardless of what you're sure of, tell me which ones you object to.

MS. BURRIS: I'm objecting to State's Exhibit Thirty, Thirty-one and Thirty-two all coming in.

THE COURT: All right.

MS. BURRIS: And its my understanding that the state will not introduce State's Exhibit forty-eight which is actually a picture of the knife as long as we don't mention it.

SOLICITOR SHELTON: That is true as long as both Mr. Smith and Ms. Burris agree to not elude to the fact that the state has not accounted for evidence collected at the scene, then I don't have to introduce it.

MR. SMITH: Your Honor, I've got DNA in the case so cross of the crime scene expert when all is done I don't want to say that I wouldn't bring up an exhibit number so I'm not comfortable saying we wouldn't do that.

MS. BURRIS: And as to State's Exhibit Thirty-four,

there's a photograph of a tee shirt?

SOLICITOR SHELTON: Again, Your Honor, Mr. Crane's tee shirt is covered in blood and the DNA in it.

MS. BURRIS: Okay. All right. So the only objections that I have, Your Honor, is to again as previously stated State's Exhibit Thirty, Thirty-one, Thirty-two as to all of them coming in. I think again it's cumulative. I'm sorry.

May I approach, Your Honor?

THE COURT: Yes, ma'am. All right. These are photos that have I think they call them cones, Ten, Nine and Eight, showing unspent cartridges with live rounds. At least it looks like to me on what appears to be Ten, one numbered Thirty-two and Thirty appear to be on a tile type floor. Nine, I tell what's that on but it's different.

And your objection is what?

MS. BURRIS: They are accumulative. That I think they're showing --

THE COURT: I disagree. They are not accumulative. They show - Ten shows two bullets it looks like. Eight shows a bullet which is obviously in a different location because of where it is positioned on the floor. Nine shows a different bullet because it's on a completely different background so I overrule your objection and allow the state to introduce it.

MS. BURRIS: And Your Honor, I apologize, just in --

SOLICITOR SHELTON: Your Honor, if she has State's Exhibit Eleven, I pulled that from my exhibits. I mean, it's still with the pictures because - but you ruled on State's Exhibit Eleven yesterday and I don't intend to present that to the jury.

MS. BURRIS: You have.

In regards to State's Exhibit Sixteen and Seventeen, which are actually two pictures — may I approach, Your Honor — of Mr. Crane.

I think that only one picture is necessary to establish the essential element as to bodily injured.

SOLICITOR SHELTON: I would have to actually look at them but I do think one is a profile view which shows his ear. I'd have to look at them to see.

THE COURT: You're right. Number Seventeen shows nose, the eye and the ear; whereas — it's a profile showing the left side. And number Sixteen is a face on showing the nose, the eye, and you can't really see the ear.

SOLICITOR SHELTON: I wanted them for two specific injuries.

THE COURT: I overrule the objection. I think that to the approbative value of showing the degree of injury and we have to keep in mind that under the current law there are lesser included's of attempted murder which have to do

with the degree of injury to someone. It's very convoluted in my opinion but it's still there. So I'm going to over the objection allow both of these, Sixteen and Seventeen, into evidence.

SOLICITOR SHELTON: And again just for the record, Your Honor, I substantially cut the number of photos that I intend to introduce in the case.

MS. BURRIS: Your Honor, I think yesterday we did briefly and I did indicate to the court that it's just not anything we need to address pretrial unless it becomes an issue. I did actually subpoena the financial records of Mr. Ernest Neal Jordan. I had him served personally with a subpoena for his financial records and also had his tax preparer, I also sent a subpoena. That is not an issue at this time but should it ever become an issue I would like to address it at the appropriate time.

THE COURT: All right. That's a good way to do it.

MS. BURRIS: And just housekeeping matters, Your Honor. Not anything for Your Honor to rule on. I have one witness actually traveling from Walterboro, South Carolina and I have another witness who is scheduled back at work tomorrow. These are essential witnesses and what I communicated to them last night and also this morning is that one of them actually has a small child so she needed to get back to Walterboro in sufficient time, and then the

other one, I spoke with her supervisor. She said she would be in in the morning so I just wanted to let the court know about that.

SOLICITOR SHELTON: I think that's it.

THE COURT: Mr. Smith, anything before we take our forty-five minute lunch.

MR. SMITH: No, Your Honor.

THE COURT: All right. We'll break until one o'clock. I know that's – we've already had the jury here, had to let them go but it'll be a crack and a coke lunch.

(COURT IN LUNCH RECESS AT 12:16 P.M..)

(COURT BACK IN SESSION AT 01:03 P.M..)

THE COURT: Thank you, you may take your seats.

The State ready?

SOLICITOR SHELTON: The State's ready, Your Honor.

THE COURT: Ms. Burris?

MS. BURRIS: Yes, sir, I am, Your Honor. On our witness list we had one witness listed Kayla Higgs, she is no longer going to testify, if it is okay, is she allowed to come back in the courtroom?

THE COURT: If she's not gonna testify sure.

MS. BURRIS: Okay. And one other thing. The solicitor and I discussed that we wanted to put the negotiations of the plea on the record.

THE COURT: Sure.

SOLICITOR SHELTON: Your Honor, I knew that there were things that we could take up after - I don't necessarily that has to take place right now. I think we could get started. That was one of the things that I --

MS. BURRIS: It shouldn't take that long, but...

THE COURT: All right. Well let's do it.

MS. BURRIS: Okay. In regards to the negotiations, the plea negotiations, Your Honor, I was speaking with Ms. Shelton back and forth in regards to plea negotiations and after I spoke with my client on Friday here at the York County Detention Center, I went to Ms. Shelton's office and indicated - we were talking about the plea offers and the question that she posed to me was, will your client take at least ten?

And so I went on Saturday again to the York County Detention Center and talked to him about it further and then was able to - Heather also spoke with him on Sunday and then we did get Mr. Robinson to indicate that he would accept ten. And then so I sent an email to Ms. Shelton asking can I take the ten back to my client and then she said, well the conversation that I had with Mr. Harry Dest was that the plea negotiations - or I could end up somewhere at fifteen so the plea negotiations are a range of ten to fifteen.

THE COURT: You lost me. How did Harry Dest get into

this equation?

MS. BURRIS: Because he happened to be going past the office as she and I were speaking and I think he was also assisting Mr. Smith.

And so then when I emailed her back on Sunday evening, I said okay, Mr. Maquis Robinson will take ten and then she emailed me back on yesterday, because she indicated she didn't actually get my email on Sunday, and she emailed me back yesterday and she says I'll need to talk, you know, with my victims and with Betty to see if we where if we could get something worked out and I then went to her office on yesterday morning and she said, well it's not ten anymore; it's fifteen.

But the original offer - and she did express to me as to the charges that we were going to agree to at whatever number or sentence we decide, would have been the ABHAN, conspiracy and strong arm, however we didn't further discuss the charges but we did the time and when I took the ten back to him he says I'll accept that, it was Sunday, and then she came back and says okay, well I spoke with them and now it's fifteen.

So I just wanted to put that on the record to make sure. I personally feel like the plea negotiations were extremely unfair. It was unfair to me. I feel like it was unfair to Maquis Robinson because the moment that I get him

to accept what she says, will your client take at least ten, I get him to say yes finally on Sunday around noon, and then she says, okay, well now I've spoken with them and they're not agreeing with the ten, it's fifteen, so I just wanted to put that on the record.

THE COURT: Anything you have to add to that?

SOLICITOR SHELTON: Yes, sir, Your Honor, I do.

Your Honor, I'm going to ask to have - I have some email exchanges between Ms. Burris and I with plea negotiations. There are several. I'm going to have them all stapled together and marked as a Court's Exhibit if there's no objection to that, Number Five.

THE COURT: That'll be fine.

(WHEREUPON: COURT'S EXHIBIT NUMBER FIVE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

THE COURT: Her turn.

MS. BURRIS: Yes, sir.

(COURT'S EXHIBITS NUMBER FIVE RECEIVED UP BY THE COURT.)

SOLICITOR SHELTON: And Your Honor, if you would observe those.

The plea negotiations, Ms. Burris and I discussed this on Monday were a little odd as you can tell from the emails. The one on top is the latest email from this past weekend, but if you go through them, the latest email with

an actual offer was in May. At that time, I said my offer was twenty. Where the ten came into play, and if you read through all the emails it's pretty clear where the ten comes into play and how I had always presented that ten, was Ms. Burris was coming back to me with counteroffers of two years or four years and asking me for parolable time. And because I didn't want to continue to argue about things that I knew that I would never even talk with the victims about, I threw ten out there as what I call a legitimate counteroffer to start - to start negotiations. That unless she could get him willing and to a point to where he would agree to do ten, no parole years, then we weren't negotiating because I would not talk to my victims about what their feelings and thoughts were on plea negotiations. I felt that anything below that, he was not serious about pleading to these charges.

So that is where the ten came in and where it has always been and as you can see by that email that is on the top, she emailed me and asked me if he would take ten. I responded and said, after discussions with Mr. Dest, plea negotiations were somewhere between ten and fifteen, meaning ten would be the lowest that I would discuss with the victims; fifteen being the lowest that we'd gotten to during the previous trial. And if you read that email, I say that honestly I don't know that I will go any lower

than fifteen, and that is before she convinced him to take the ten.

So I think it's clear from that email that my offer was never ten. That I was trying to encourage reasonable negotiations.

THE COURT: The sentence that Ms. Shelton is eluding is, fifteen is the lowest I went last time. I honestly don't know if I will go any lower this time.

MS. BURRIS: Which email were you referring to, Your Honor?

THE COURT: Okay. It's on July 20th, 2013 at 2:14 p.m., Shelton, Misti wrote apparently to you and says --

MS. BURRIS: Well --

THE COURT: Let me finish, please.

"Fifteen was the lowest I went the last time and I honestly don't know if I will go any lower this time. Also keep in mind that if we're able to work something out, one of the bosses would have to approve an offer being made on the eve of trial."

And then you come back, "conversation with Maquis - I'm sorry. That's where it started. Then you come back, "I may be working through something, however if I ever get him to agree to ten, I do not want to come back to you and respond, right now we're at fifteen." That's 2-06 and you came back 2-14 p.m..

Go ahead, Ms. Burris.

MS. BURRIS: Yes, sir. Thank you, Your Honor.

On Sunday, July the 21st at 12:19 p.m., I said "these are my conversations with Maquis Robinson" - because I actually was retained on this case on February 2012 and I remember specifically I was actually in the courtroom and Ms. Shelton was actually working on another case and I expressed to her that I needed number one, the discovery, and then number two, we wanted to start - we started actually talking about plea negotiations then, and we actually began to talk about the number ten. And I agreed with her that I was going back and forth as far as trying to encourage him to come up, I was negotiating with her but she also --

THE COURT: I don't want to go into this. Just make whatever you want a part of the record. I'm not going to try to negotiate. It looks to me at best she has indicated, Ms. Shelton has, that they would not go lower than fifteen and I don't see anywhere where anybody approached a ten.

MS. BURRIS: Well she had me to take back to my client ten.

THE COURT: Where is that?

MS. BURRIS: She'll actually admit on the record that she had me to go back to him would he at least take ten.

SOLICITOR SHELTON: No. What our conversations were which is why I always memorialized it by email were I did not consider a reasonable counteroffer until he said he would take ten and I would take ten back to my victims.

But I never offered ten because I had always said I had not discussed it with the victims and I had not discussed that with law enforcement. And the very latest email from me was the one from the 20th which was after she said - asked about the ten - where I said I don't know that I will go that low. That has always been my position.

But from the earlier emails, I was quite clear in saying that I don't even consider us negotiating until he says he will take ten. That's where the ten came in. I should have never done that. I should just stuck with the twenty and said this is my offer; you make me my counteroffer. But I was trying to give her a goal to even start negotiations and I should not have done that.

THE COURT: All right. And at 2:06, your email to her indicates, quote right now we are at fifteen years according to your communication with Harry Dest. However you stated to me he has not said he would do ten, therefore I take ten back to my victims. But my communication with Maquis is being where you said ten. And then she responded saying, "I told Harry we could end up somewhere in the range of ten to fifteen" and then you come back saying

"well, he'll take ten."

MS. BURRIS: Right, so if she was not going to offer ten, she should not have had me take the ten back to my client.

THE COURT: Well, --

MS. BURRIS: And she admitted to me I negotiated a little backwards but that's not fair to my client when I try to communicate the appropriate things to him. It's just unfair to him when I'm trying to do the right thing in communicating to him as to what the assistant solicitor sharing with me in regards to plea negotiations.

SOLICITOR SHELTON: Your Honor, if you will flip the page to the May 8th email. I think in that page I think it's pretty clear where I was in my plea negotiations.

THE COURT: I see on April 29th --

SOLICITOR SHELTON: It may be behind that. I'm sorry.

THE COURT: Ms. Burris says, "okay, sounds like we may have some agreement here can I at the least take back to him ten parolable?: And then the response appears to be a little further with the time. That was at 10:06. Five minutes later we get a "no" which is an n. with one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, perhaps thirteen zeros and an exclamation at the end, which is in response to, "can I take back to him ten?" Obviously that was a no at that time and then you said

"okay I will let him know." She was currently at twenty, no parole. And you said, "okay I will let him know."

Then the next ones come over the weekend it looks like and it looks like it was no assurance from the solicitor that ten is anything that she's offering. She says "I told Harry" - We're getting third parties in situations that are gonna be difficult to begin with - but "I told Harry we could end up somewhere in the range of ten to fifteen, being the lowest number I would discuss with my victims being ten. Fifteen was the lowest I went the last time and I honestly don't know if I'll go any lower this time"

SOLICITOR SHELTON: And Your Honor, just to clarify for the record, I did discuss ten with my victims and with law enforcement on Monday. I didn't receive the response from Ms. Burris until Monday morning. I didn't see it on my phone over the weekend, that Sunday, but I did discuss ten with my victims and with law enforcement and with Ms. Miller. Everyone was in agreement that they did not believe that that was an appropriate offer.

I was okayed by Ms. Miller to offer fifteen should he want to plead even on the eve of trial which we don't always like to do but I was given permission to extend that offer as the case was being called to trial. And where Mr. Dest got involved is he was talking with Mr. Heath, negotiating for Mr. Heath.

THE COURT: Well as they say, there's many slips between a cup and a lip. Is fifteen on the table now because I don't want to be in the situation now where we're arguing an hour from now ---

SOLICITOR SHELTON: No, sir.

THE COURT: --- where Ms. Shelton said she'd take fifteen and now he says he'll take fifteen and now she says she won't.

SOLICITOR SHELTON: No, sir. Fifteen is the lowest.

THE COURT: Is there anything on the table?

SOLICITOR SHELTON: No, sir.

THE COURT: Okay.

MS. BURRIS: It was actually a couple hours ago but I assume it's probably off the table as of now.

THE COURT: I got It. Well it is. That's why I want to make it clear.

Mr. Smith, do you have anything?

MR. SMITH: I do not, Your Honor.

THE COURT: Bring in the jury.

(JURY REENTERS COURTROOM AT 01:18 P.M..)

THE COURT: Now that you're comfortably seated, if you'll stand the clerk will administer the oath.

MADAME CLERK: If you'll please raise your right hand.

(WHEREUPON: PETIT JURY SWORN.)

THE COURT: All right, you can be seated.

I've appointed Mr. Taylor as the foreperson of the jury and he will be the liaison between the jury and myself, preside over the jury's deliberations and ultimately sign the jury's unanimous verdict.

I'm going to chat with you just a minute and then the attorneys for each of the defendants and the state have a right to come before you and make what we call opening statements.

The attorneys are not witnesses so what they're doing is not testifying and they're not trying to convince you of anything at this time. You haven't heard the evidence or the law so you are not in a position to make any kind of decision as I talked to you about yesterday. They will simply be at this time giving you an overview or outline of the trial. They will tell you more of what the issues are and what they expect to develop during the trial, but they're not arguing their case and they're not giving testimony.

To each of each charges, each of these defendants, Mr. Robinson and Mr. Heath, has entered pleas of not guilty. Their plea of not guilty places on the state the burden of proving their guilty as to each offense, and as to each element of each offense, beyond a reasonable doubt before you as the trial jury in this case could convict either, or both, as to one or more or all of the indictments, that is

they would have to prove as to an indictment, as to any indictment, that defendant's guilt as to the charge beyond a reasonable doubt before you could convict him to that charge.

I have several jobs in this case. One of mine is that I am the logistics person. I make sure we take breaks, people are sitting in the right place. I try to make sure only one person speaks at a time. The mechanical part of the trial.

I also rule on questions of admissibility of evidence. Now, the reason we didn't start until one today is we had some evidentiary matters that I took up this morning, and yesterday afternoon quite frankly, so that I would not have to stop the trial once we got started to take up these issues as we went along. We got them out of the way up front and we can move quicker so that's why we are running a little later today. We've been in here working on issues dealing with this trial.

But I rule on questions of admissibility of evidence and once I have ruled on admissibility of evidence whether it can come in for your consideration or not, that ruling is binding on the parties and on the you as the trial jury.

My third job is that I am the sole judge of the law in this case. You must take, accept and apply the law as I charge it. And this is true even if you might think the

law is different or even if you think I charged the law in error. Your oath requires you to take, accept and apply the law as I charge it.

You are not to infer from anything I say or do at any time during this trial as being an indication or an opinion of my own facts. Our law does not allow a trial judge to formulate or express to a jury any opinion on the facts. It is solely your job as the trial jury in this case to examine the evidence and give to the evidence the effect, the value, the weight, and the truth you believe the evidence should have.

In doing this you may believe on witness as opposed to several; several witnesses as opposed to one. You may believe all, part or none of a witness's testimony. Use your common sense. Your sense of logic. Your sense of reasoning. Use your experiences in life as you analyze the evidence. As judges of the facts, you necessarily must judge the credibility, believability of the witnesses who testify.

In assessing credibility, use the things I've already talked about. Use the things that you find in your day to day life as indicating the truthfulness in an individual and you can use certain evaluators. How a witness acts on the stand, their demeanor. Are they hesitant or straightforward in responding to questions. Look at the

consistencies or inconsistencies in a witness's testimony when compared to other testimony or testimony at an earlier time. Consider the opportunity a witness had to know those things about which the witness testified and also consider any bias or prejudice. Whether a witness would wish to help or hurt one side or the other. All of these things you consider to determine the true facts apply the law and you'll be in a position to render a verdict that speaks the truth.

I remind you of my admonitions yesterday about not making up your mind, not discussing the case, not letting anyone outside the courtroom discuss the case, not accessing any news coverage, not accessing any research in any way either electronic or otherwise.

You do not need to take notes. Just please pay attention. If you can't see or hear give me a voice raising gesture or a nudging gesture and I'll try to correct whatever the problem is. It's not fair to ask you to resolve this case and not give you a full opportunity to see and hear those things which is important for you to see and hear.

We take breaks about every hour and a half. I find that is a good break time. But if anybody needs a break at any time, simply raise your right hand and with no questions asked, we'll take a break. We want to move the

case along, but if someone needs a break we'll take it and I extend that to counsel and to Mr. Heath and Mr. Robinson. Again, we'd like to move the case along at a good pace but if you need a break, we'll take it.

Ms. Shelton.

I'm sorry. Mr. Newkirk.

SOLICITOR NEWKIRK: May it please the court.

Good afternoon, ladies and gentlemen of the jury. I want to thank you for your upcoming service this week. And I want to take my opportunity to talk to you and focus on one day in particular, Wednesday, June 8th, 2011.

It's certainly not a day that I remember, but on Wednesday, June 8th, 2011, there are at least three people that absolutely remember where they were. Jared Crane, Amanda Crane and Neal Jordan.

Now on this particular day, Jared Crane, who is a painter by trade, an automobile painter, was working at his place of employment, Five Star Customs, off of Cherry Road in Rock Hill. He was doing a little overtime work. It was kind of late in the evening, around ten o'clock. Jared is working on a car; has a pressurized paint gun in his hand.

Now, as he is working, his boss, Neal Jordan, is doing other administrative work in the building. He is the owner of the establishment. Jared is painting; Neal is doing the administrative work.

Now around ten o'clock, two men walk into the building. One wearing a bandana on his face and one holding a gun. Jared doesn't initially notice — he sees the two men walk in but doesn't initially notice why they are there or what they are doing. Mr. Jordan comes out of the office and has a gun pointed at his face.

Now, initially he smiles. Kind of runs around the store, thinking this may be a joke; some kind of a game because he recognizes the man that's holding the gun. But I can assure you on this particular night, no joke, no game.

Now, at some point the man that's holding the gun, he is in this courtroom today as well and his name is Maquis Robinson, they begin to fight. Once Mr. Jordan realizes this is not a joke, he enters the fight for his life with a man with a gun.

Now, Jared who, hard working guy, kind of realizes something is wrong. He hears a scuffle. He puts his paint gun down, walks around the store and sees the two men fighting. But before he has an opportunity to really register the information do I go and help; do I call for help, side swiped. Hit in the side of the head by another man. The man wearing the bandana. That man is also in this courtroom. The defendant, Dantonyo Heath.

Now, Jared like anybody loses his balance and he is

also in a fight for his life and he is repeatedly hit, choked almost to the point of unconsciousness.

Once Mr. Jordan and Mr. Crane, Jared and Neal, have been roundly subdued and beaten, they're taken into the bathroom of the shop where the two men demand money. Well, Mr. Jordan doesn't have any money. Not with him anyway. He tells them, I've got some money in the truck, we'll have to go out there to get it. So Jared is bound and kept in the back, bloody from the altercation he just had.

Now while all of this is going on, Jared's wife, Amanda, had gone to the store to get him something to eat. He was working late, didn't have a chance to have dinner, so she had gone to the store to get him something to eat and she has now returned to Five Star Customs. She's trying to reach her husband. He doesn't answer. Trying to get a hold of him. He's sitting in the bathroom with his hands tied.

She - Simultaneously the defendants are coming out of the store to take Mr. Jordan to his truck for the money. Well, she has a brief encounter with one of them and then decides to go into the store to find her husband. Obviously there's something wrong. Well, she finds him. She calls out to him and they are able to meet and he tells her — well, he puts her up in the ceiling tile in the bathroom. Smashes the ceiling tile and places his wife to

hide because he doesn't know what's going to happen. He doesn't want her to be involved so he hides her in the ceiling tile and they wait, you know, for me anyway what I would imagine would be a very scary state, the waiting.

Well at some point, Mr. Jordan returns. Neal, the owner of the shop, comes back and they're able to call the police. Help is on the way. Now that is how they remember June the 8th of 2011.

There are going to be some evidence and some testimony that you're going to hear over the next couple days and when that has concluded, we are going to come back up, the state, and we're going to ask you to weigh heavily on it and we're going to ask you to go back in the jury room and return a verdict of guilty against Mr. Maquis Robinson, the man with the gun, and Mr. Dantonyo Heath, the man with the bandana on his face. And we're going to ask that you make June the 8th of 2011 a day that they will never forget.

Thank you.

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor. May it please the court.

THE COURT: Yes, ma'am.

MS. BURRIS: Opposing counsel and members of the jury.

There is always more to the story than what the covers shows. There's always more within the substance of the

book than what the cover reflects.

I had the honor and privilege of serving as an assistant solicitor back from 2003 to 2006. I enjoyed this privilege. At the end of 2006 I had the honor of transitioning as a defense attorney, at the end of 2006, representing those who are accused of committing crimes. Sure, I often get the question as to why are you representing the defense? Why are you representing the defense? My answer is, there is always, always more to the story than what you see.

I enjoy investigating cases. I enjoy working through the layers to get to the truth. I enjoy working through the trenches to uncover everything to get to the truth of the matter. I am a strong advocate seeking justice.

About two weeks ago I was at the Galleria Mall in Rock Hill, South Carolina. I'm from Rock Hill, South Carolina. And I was having a conversation with a young lady in the Galleria Mall. And we began to talk about Knowledge Park and the development of the textile quarter and we were having that conversation and we were very close. She was sitting here and I was sitting there and we were talking about DiGeorgio leaving Winthrop University and how I'd miss him because he had a great vision and plan for the City of Rock Hill, and as I'm talking to her she asks me, do you know who you are talking to? And I said, sure

Catherine. And I began to say to her yeah I remember your mom and I remember when you were growing up and I often see your mom at the school. She has a younger daughter who also goes to school and who is in school with my daughter and she looked at me and said, no. I'm Tonya. And I said wow. You look just like Catherine. That's what I said to her. And literally we were having a conversation, almost side by side just having a conversation and she said, no, I'm Tonya. But they had the exact same physical features. Looked exactly the same.

Have you ever been to a store or anywhere in public, at a gas station, and you think you see somebody you know and you go up to them and you tap them and you say, Woo. How embarrassing. You know why? Because you thought you knew them. So then you had the wrong person. Have you ever thought that you had the right person but you didn't? I thought you were somebody else even though you were very close to that person.

I ask you, now, while growing up I'm sure you've gotten into scuffles and fights with siblings, cousins. I bet we have. I have a younger sister. Fifteen years a part. So we've gotten into scuffles and fights and rightfully so because I'm the older sibling.

Now, there are times that we had some scuffles and fights my parents raised some serious issues and concerns

and rightfully so. They didn't know. They just kind of walked in on it and the scuffles and fights of course again raised some serious concerns as to what was really going on but again, I'm the older sister.

Now, I have the honor and privilege of representing Maquis Robinson. I am representing Maquis Robinson on some serious charges of attempted murder, armed robbery, criminal conspiracy, kidnapping, and possession of a weapon during the commission of a violent crime. I have the honor and privilege.

Ladies and gentlemen, it is true we do not live in a black and white world. It's gray. Now the state has an obligation to each of you to prove beyond a reasonable doubt each element of the offenses as charged. Beyond a reasonable doubt. In life, that's true. There are systems that are fraught with many contradictions but one thing I strongly believe in is that we have a very strong American jury system. And I believe in the democratic power of each juror.

As we go through this trial, you must find beyond a reasonable doubt that the state has proven every element of each offense as charged as to Maquis Robinson.

Now, as we go through the trial, you are all what I call judges of the facts. You are clothed with a robe of — you're the judges of the facts. You have on a robe and

you're simply judges of the facts.

Your Honor is the judge of the law. He's clothed with that robe and you all have on a black robe and you're judges of the fact.

As we go through the trial, I would ask that you assess the testimonial evidence. Assess the evidence and ask yourself, can the state prove to you beyond a reasonable doubt that Maquis Robinson was at Five Star Customs operated by Mr. Neal Jordan?

Can the state prove to each one of you beyond a reasonable doubt that Maquis Robinson attempted to murder Ernest Jordan?

Can the state prove to each of you beyond a reasonable doubt that Maquis Robinson robbed Ernest Jordan?

Can the state prove to you beyond a reasonable doubt that Maquis Robinson kidnapped Ernest Jordan?

What does reasonable doubt mean? Doubt that would cause a reasonable person to hesitate to act. You may be familiar with civil cases where the standard of proof is more likely than not a preponderance of evidence because you are dealing with money. Money.

Here, this is a criminal case. The standard of proof is a lot higher. Distinctively higher because of course you are dealing with people, lives, freedoms, privileges.

So again, I'm going to charge you to be an umpire of

the facts, the evidentiary facts of this case, and assess and weigh the credibility of the witnesses.

What did Ernest Jordan say when he called 9-1-1 to the Rock Hill Police Department? What description is given to the Rock Hill Police Department when 9-1-1 is called?

How many persons did Jared Crane say was at the alleged crime scene?

What, if any, forensic or DNA evidence does the state have to present against Maquis Robinson?

Does Ernest Jordan tell you that he had — that he was robbed and $7,000 was taken from him or $10,000 was taken from him? Not a lot of persons carry seven to ten thousand dollars on their person.

If time, opportunity, the gun, and Maquis Robinson were at Five Star Customs, what kind of injury, or if the charge of attempted murder, time, opportunity, Maquis Robinson, Five Star Customs, Ernest Jordan - Ernest Jordan is in court today - What type of injuries did Ernest Jordan have?

There is an old Wendy's commercial and that Wendy's commercial during my time of growing up says, where's the beef. I remember that commercial. I enjoyed watching TV and I enjoyed watching those commercials, where's the beef, where's the beef? So you ask yourself as we go through out this trial, where's the evidence. You deserve that.

Where's the evidence?

What I say is not evidence. What the assistant solicitor states is not evidence, but what you hear presented to you and they are able to prove to you beyond a reasonable doubt, reasonable doubt is any doubt that will cause a reasonable mind to hesitate to act, reasonable doubt and beyond a reasonable doubt.

At the end of the trial, I'm going to come back before you for what they call a closing argument. I am confident that you are going to find that Maquis Robinson should not be sitting in between Heather and I.

I want to thank you for your jury service. I want to thank you for your time this week. And I ask that you seek the truth. Thank you for staying in the trenches. Thank you for accessing the credibility of the witnesses. Thank you for your time. Thank you for your service.

Thank you.

THE COURT: Mr. Smith.

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

THE COURT: Yes, sir.

MR. SMITH: With liberty and justice for ... all.

Now many of you as you heard that, you went ahead and filled in that last word all before I said it. Why, because the mind is an amazing thing. Some of you probably rolled through and thought now justice for all oh and

that's a movie I've heard about that. Oh wait, did that come from the constitution? And some of you said that's the pledge of allegiance. That's the end of it and we have to say it in school all the time.

You see, the mind has an ability to fill in gaps for me to do that and to operate like that. But that doesn't mean that the prosecution should just get to fill in gaps for things that aren't there. And it's not just words that the mind fills in. For instance, you make assumptions about people.

You know I'm a lawyer. You might not want to admit it but you probably make assumptions about me just from hearing that I'm a lawyer and they may not all be good assumptions. That may be based on an experience that you had with an attorney somewhere, or something somebody has told you about attorneys, or something you've heard about some other lawyer somewhere, or maybe what you've seen on one of those TV shows. But your mind fills in information that may or may not be true. That's not what this courtroom is for.

You may assume we are defense attorneys so what you're going to do is you're going to stand up when we talk about things that are good for your client, Dantonyo Heath, and then you won't want to talk about something that might be against him.

I'm going to surprise you. Okay. Something they didn't mention that they've got is a video and that video is startling. You are going to see it. And you would think well hold on, they're saying that video shows your client, Mr. Heath, beating Jared Crane. You're going to tell us to look away from it or ignore it. No, I'm going to tell you to look at that video over and over and over again as many times as you need to, to determine what the people there really would have known, really would have seen, and what you would expect to be found at that scene.

Not just filming another bad video. That must mean so and so. Take the time to look at the evidence.

Another example. My wife may come in here. You may see her in here and she might do a gesture something like this.

(ATTORNEY SMITH DEMONSTRATED.)

MR. SMITH: You might automatically think that's the wife of a lawyer. She's saying you're talking too much already. Could be. Or maybe it's a signal to me, wrap it up, speak louder. What was she really doing? Just this.

(ATTORNEY SMITH DEMONSTRATED.)

MR. SMITH: What if her hand just has a cramp? Your mind makes an assumption, makes a lead, fills in a gap. Well you say that's pretty innocent, that doesn't cause a problem. Well sometimes it may.

When we were just married we went to an auction, Blowing Rock, North Carolina. Blowing Rock is up through the mountains for those of you who don't know. It was in the summertime. It was a little bit warm but not all the places up there have air conditioning. We're at the auction. I don't remember what's up there. A vase or something that we neither needed or could afford. All of a sudden I see an auctioneer look over toward my wife and take her bid. I saw her move but I wasn't sure. I didn't understand what was going on. A little bit later other people were bidding and I look at her and she does this again.

(ATTORNEY SMITH DEMONSTRATED.)

MR. SMITH: He takes her again. I turned and said what are you doing? What do you mean? Why are you bidding? She said, I didn't bid. It was just a wave. She said there was a bug. No, no, no, you've got to understand now in a certain situation a gesture is something that you do is going to be perceived by somebody else based on what they've seen in the past. The auctioneer makes a false assumption. Thankfully we didn't win the vase or I would have had it here to show you. Somebody else bid but he makes an assumption. That is not what you are to do in a courtroom. You need actual proof beyond a reasonable doubt for every item of evidence they offer.

And I will submit to you what the prosecutors will bring in their case, be it from video or be it from testimony or be it from photographs, anything that they have that links Dantonyo Heath to that crime, there's going to be a gap. There's going to be a leak. There's going to be something that you need to fill in. There's going to be some sort of problem with it that they're just going to hope that you just sort of overlook and fill it in with something and say that's okay. No.

In a courtroom you don't just jump to an assumption and justice for ... all. Or for anyone who comes before the court, another answer. For everyone who comes through these doors, another answer. You're role as a juror is to wait and see and judge real evidence because the only reason Dantonyo Heath got included in this case at all is because he knew Mr. Robinson. So back in June a couple of years ago when somebody sees Mr. Robinson and sees someone else, they make an assumption. They make a leap. That's the leap that you won't make because you will see there is a gap in every piece of evidence. And that's why? Because Dantonyo Heath is not guilty.

THE COURT: All right. You may call your first witness.

SOLICITOR SHELTON: Your Honor, the state would call Ernest Neal Jordan.

MS. BURRIS: Your Honor, may we approach?

THE COURT: Yes.

MS. BURRIS: Thank you.

(BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF THE JURY AT 01:52 P.M..)

THE COURT: All right, we'll take a short break. We'll take a refresher break before we do this first witness, so if you'll follow the bailiff to the jury room we'll send for you when we can.

(JURY EXITS COURTROOM AT 01:53 P.M..)

THE COURT: We'll be at ease for about ten minutes.

SOLICITOR SHELTON: Thank you, Your Honor.

THE COURT: Take about a ten minute break.

(COURT IN RECESS AT 01:53 P.M..)

(COURT BACK IN SESSION AT 02:07 P.M..)

THE COURT: Thank you. Take your seats.

(WHEREUPON: COURT'S EXHIBIT NUMBERS SIX AND SEVEN RECEIVED INTO THE RECORD.)

(DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH REENTER COURTROOM.)

THE COURT: The defendants and counsel are present. Bring in the jury.

SOLICITOR SHELTON: Your Honor, may we approach?

THE COURT: Yes, ma'am.

(BENCH CONFERENCE OFF THE RECORD AT 02:08 P.M..)

(JURY REENTERS COURTROOM AT 02:09 P.M..)

THE COURT: Call your witness.

SOLICITOR SHELTON: The State would call Ernest Neal Jordan.

THE COURT: Put your left on this Bible and raise your right one. You might want to take that chewing gum out somehow.

(WITNESS DISPOSED OF GUM.)

(WHEREUPON: ERNEST NEAL JORDAN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MADAME CLERK: Thank you. You can have a seat.

being first duly sworn, testified as follows:

DIRECT EXAMINATION

ERNEST JORDAN BY SOLICITOR SHELTON:

Q. State your name for the record, please.

A. Ernest Jordan.

Q. And Mr. Jordan, where do you live?

A. Lancaster, South Carolina.

Q. Where do you work?

A. Five Star Customs.

Q. Is that your business?

A. Yes, ma'am.

Q. Where is that business located?

A. 1257 Cherry Road, Rock Hill.

Q. What county is that in?

A. York.

Q. And were you working at that business on January 8th of 2011?

A. Yes, ma'am.

Q. Did you own the business at that time?

A. Yes, ma'am.

Q. Did anything unusual happen that day, that evening?

A. Yes, ma'am.

Q. Tell the jury what happened on the evening of June 8th, 2011.

A. We was robbed, kidnapPed.

Q. Let's start from the beginning of the story. You were --

A. Start from the beginning?

Q. Yes. What happened from the beginning of what happened that was unusual? You were working.

A. Okay. I was in the shop. Me and Jared was in the shop kind of late that night. We was fixing to paint a car. We had to have it to a customer the next day so we was in there working. Amanda left out to go to the store to get Jared something to eat, so as she left out, I went into the bathroom and when I went into the bathroom, I kind of heard the bay door come slammin up like bump.

Q. Okay. I'm going to stop you. Who was Amanda?

A. Jared Crane's wife.

Q. Okay. So she was not there but you and Jared that were there?

A. Yes, ma'am.

Q. Okay.

A. So as I was coming out the bath - so as I was coming out the bathroom, I heard the bay door slam up so - I mean, it slammed up so hard I kind of ran up front a little bit and then I turned around. I was like, hold on, Jared's back here let me see what's going on. So I turned around to come back around and I seen a gun pointed at my face. And then I seen another individual run down and duck behind a Jeep so, you know, when I seen them come in, he kind of had his shirt like over his face like this right here.

(WITNESS DEMONSTRATED.)

Q. I'm going to stop you right there. When you said when you saw him come in with his shirt over his face, who was that, that you saw come in with his shirt over their face?

A. Maquis Robinson.

Q. And who had the gun?

A. Maquis Robinson.

Q. And the other person that you said ran by, where did they go?

A. He kind of ducked down behind the truck just looking at me and then he was ducked down right beside the Jeep.

Q. And what did Mr. Robinson do next?

A. Put the gun to my head. Told me to go in the bathroom so I was like, "What that mean, go in the bathroom for what?" He was like, "man go in the bathroom. Go in the bathroom." I said, "man, I ain't going in no bathroom. What you want me to go in the bathroom for?"

So he grabbed me by my shirt and started pulling me towards the bathroom and as he pulled me to the bathroom, he got — started to shut the door. I go for the gun and the gun went off and I said, "damn you just shot me." And then we started tussling over the gun. I had one hand on the gun and he had his arm around my neck. I broke the clip out the gun and I was trying to bring it back around and it went off, the gun fell and from there he just had me in a choke hold, we was tusslin.

Q. And when you say tussling, what does that mean, tussling?

A. He had me from behind in a choke hold trying to choke me telling me to go to sleep.

Q. So tussling means fighting?

A. Yes, ma'am.

Q. Now when you say you got shot, where do you think you got shot at?

A. Right here across the face.

(WITNESS INDICATED TO HIS FACE.)

Q. The bullet grazed you?
A. Yes, ma'am.
Q. You think the bullet grazed you across your face?
A. Yes, ma'am.
Q. Where was Jared when all this was going on?
A. When he first came in Jared was over there in front of that Jeep fixing to paint that truck.
Q. What about when you and Mr. Robinson - and when you and the defendant were in the bathroom?
A. I think he was - I couldn't see him no more. I think he was still over there.
Q. Could you ever see anything going on with Jared?
A. No. Not until we actually got up out the bathroom.
Q. Okay. What did you see once you were out of the bathroom?
A. I seen Jared getting beat.
Q. Beaten up by who?
A. Dantonyo Robinson. I mean Dantonyo Heath.
Q. And after you saw Jared, Mr. Crane, getting beat up, what happened after that?
A. After he got finished getting beat - Well, as we was in the bathroom Mr. Robinson, he called Yodi, you know, as we was tussling, he was calling for Yodi to come and help him - to come and help him but then by that time, you know what I'm saying, he was on my back and pretty much

running him up against the wall and stuff like that trying to get him off while he was choking me. By the time I fell up out the bathroom, fell up out the bathroom and started trying to crawl away, he was choking me so by the time I made it right there out the bathroom while he was still on my back, there was some glass right there, I was trying to go for the glass but I couldn't get it and at that time, he grabbed the glass and he was trying to come down on my throat and some kind of way when I rolled over he was trying to come down on my throat but I was holding his hand like that there.

(WITNESS DEMONSTRATED.)

A. I said, "man I ain't gonna to let you kill me up here in like that," you know. So as I was holding him, that's when I actually seen Jared. He was coming around to see what was going on and about that time, that's when he got cold cocked.

Q. Were you - Did you stay in the bath - Were you left in the bathroom the whole time?

A. No, ma'am.

Q. What happened after you were taken out of the bathroom and how did that happen? How did you get taken out the bathroom?

A. With him on my back. When he was choking me, kind of bent down and was just dragin him out the bathroom when he

was choking me.

Q. And how did this all stop, the fight?

A. How did it all stop?

Q. Yes. I mean, you're here, so how did it all stop?

A. I think - I just think like, you know what I'm saying, we was in the bath - like when we was in the um, I was like, "man I ain't going to let you kill me here." You know what I'm saying? "I ain't gonna to let you kill me like this." I was like, "man I got some money in the truck. I got money in the truck." But he - And Dantonyo was like "man, let's get this money and go. Man, let's get this money and go." And that's pretty much what stopped the whole altercation.

Q. So you told him you had money in the truck?

A. Yes, ma'am.

Q. At that point did you go to the truck with him?

A. No. At first they tied Jared up. They put another bullet in the head of the gun, in the chamber of the gun cause the clip was broke out. So they put another bullet in the head of the gun then he told me not to try to make no sudden moves. You know what I'm saying. Put it to my back and they walked me outside.

Q. And was there anyone else outside when you went outside?

A. Yeah. Amanda.

Q. And what happened after they walked you outside?
A. She was sittin in the car. Dantonyo — Maquis told Dantonyo to get her cell phone.
Q. And did he go over there at that time?
A. Yes, ma'am.
Q. To the car where Ms. Crane was?
A. Yes, ma'am.
Q. How long had you known Maquis Robinson?
A. About four or five years.
Q. How did you know him?
A. Through my wife's brother.
Q. How often did you see him?
A. He was at the shop pretty much every other day.
Q. Did he do any kind of jobs for you or anything like that at the shop?
A. Like when he come around, you know what I'm saying, like if I need a hand with something, I'd pretty much tell him, you know what I'm saying, help me out on this or something like that there.
Q. Did you know Dantonyo Heath?
A. No, ma'am.
Q. Had you ever seen him before this night?
A. Yes, ma'am.
Q. How often had you seen him before this night?
A. I had seen him about three or four times.

Q. And who had he been with when you would see him?
A. Maquis Robinson.
Q. You did not know him by name at that time?
A. No, ma'am.
Q. Did you know him by his nickname?
A. Yeah. By Yodi.
Q. What were you thinking or feeling during the assault?
A. I was bleeding so bad, you know. Like when I was in the bathroom - Actually after I got shot across the face I was bleeding so bad, you know I was pretty much telling him, "man just let me go. Let me go." You know what I'm saying. I ain't trying to die up in here. Let me get to the, you know what I'm saying, let me get to the hospital but he still refused.
Q. Were you scared?
A. A little bit.
Q. But you thought you were going to die?
A. Yeah.
Q. That didn't make you scared?
A. I mean I really wasn't - I was scared, but I, you know what I saying, I was more scared for my life than anything. I thought I was going to bleed to death really.
Q. Mr. Robinson, I'm going to ask you about your prior criminal record – I mean, Mr. Jordan. You have a conviction for possession of crack from 2003?

A. No, ma'am. Actually happened in 2000.
Q. But was the conviction in 2003?
A. Yes, ma'am.
Q. And a conviction for receiving stolen goods from 2009?
A. Yes, ma'am.
Q. I'm going to show you three exhibits that have been marked for identification. I'm going to show you State's Exhibit Number Seven. Can you look at that?
A. Yes, ma'am.
Q. Do you recognize that?
A. Yes, ma'am.
Q. How do you recognize it?
A. It's a video that I was shown.
Q. How do you know you were shown that video?
Is there any marks on it that would indicate you've seen that video?
A. Yes, ma'am.
Q. And what is that?
A. My initials.
Q. And what is that video of?
A. The assault that happened.
Q. A particular camera?
A. Bay door.
Q. And have you watched that video?
A. Yes, ma'am.

Q. And does it accurately reflect what happened that night?

A. Yes, ma'am.

Q. From the video angle of the bay door?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I would ask to move State's Exhibit Number Seven into evidence.

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER SEVEN, IDENTIFIED AND MARKED, RECEIVED INTO THE RECORD.)

BY SOLICITOR SHELTON:

Q. I'm going to show you what's marked as State's Exhibit Number Eight. Do you recognize that?

A. Yes, ma'am.

Q. What is it?

A. Camera five.

Q. And what is that a camera angle of?

A. Of the shop.

Q. And have you watched that video?

A. Yes, ma'am.

Q. How do you know?

A. Because of my initials.

Q. And when watching that video, does it also accurately

reflect the events that happened that night?
A. Yes, ma'am.
Q. And are these surveillance cameras from your business?
A. Yes, ma'am.
SOLICITOR SHELTON: Your Honor, I'd ask to move State's Exhibit Number Eight into evidence.
MS. BURRIS: No objection, Your Honor.
MR. SMITH: No objection.
THE COURT: In without objection.
(WHEREUPON: STATE'S EXHIBIT NUMBER EIGHT, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)
BY SOLICITOR SHELTON:
Q. I'm going to give you what's been marked as State's Exhibit Number Nine. Could you identify that, please.
A. Yes, ma'am.
Q. What is that?
A. Camera eight.
Q. And what is that a camera angle of?
A. Out back.
Q. Out back of your shop?
A. Yes, ma'am.
Q. And have you watched that video?
A. Yes, ma'am.
Q. How do you know you've watched it?
A. I put my initials on it after I watched it.

Q. And in watching that video, does it accurately reflect the events that occurred on the evening of June 8th?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, I'd ask to move State's Exhibit Number Nine --

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER NINE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR SHELTON: Your Honor, I request permission to publish a portion of State's Exhibit Number Seven.

THE COURT: All right.

MS. BURRIS: Your Honor, I object to the Assistant Solicitor publishing a portion. I would like for the jury to see it in it's entirety but I understand that I am allowed to cross examine Mr. Jordan.

SOLICITOR SHELTON: Your Honor, just because of the length, it's over an hour and a half total, it's in evidence in it's entirety.

THE COURT: I'm going to let her show what she wants to show. If you want to show more during your cross examination ---

MS. BURRIS: Thank you, Your Honor.

THE COURT: --- feel free to do it.

MS. BURRIS: Thank you, Your Honor.

(STATE'S EXHIBIT NUMBER SEVEN, PUBLISHED TO THE JURY AT 02:22 P.M..)

Q. And the first person that entered on that clip in that black shirt, who was that?

A. Maquis Robinson.

Q. And he had his face covered up then?

A. Yes, ma'am.

Q. And the second person who entered, who was that?

A. Dantonyo Heath.

Q. And when Maquis Robinson goes off camera, what is he doing?

A. Actually got me hold on gun point.

SOLICITOR SHELTON: Your Honor, at this time I'd ask to publish two portions of State's Exhibit Number Eight.

THE COURT: You may.

(STATE'S EXHIBIT EIGHT PUBLISHED TO THE JURY/COURT AT 02:25 P.M..)

Q. And in this clip, where are you in this clip?

A. In the back of the shop.

Q. And is that you walking across the screen?

A. Yes, ma'am.

Q. And then what else is going on? What happens next?

A. Actually I was coming out the bathroom and I heard the bay door come up so I kind of ran to the front a little

bit, then I turned around and started back, walking back, when I seen Mr. Robinson walking in, you know I kind of greeted him with a smile cause I know who he is and he was saying, "go in the bathroom".

Q. So you turned around and saw him and smiled?

A. Yes, ma'am.

(STATE'S EXHIBIT EIGHT CONTINUES TO BE PUBLISHED TO THE JURY/COURT.)

Q. Where are you at this point?

A. In the bathroom.

Q. And who was in there with you?

A. Jared Crane.

Q. And who else?

A. Maquis Robinson and Dantonyo.

Q. What is going on at this point?

A. They tying Jared up.

Q. Are you all talking about anything?

A. No. They pretty much telling me don't try to make no sudden moves, make no sudden moves, trying to clean me up so I can walk outside to the car.

Q. And who is that?

A. Dantonyo.

Q. What is he doing there?

A. Getting some speaker wire.

Q. And who is this?

A. Maquis.
Q. His face is uncovered there?
A. Yes, ma'am.
Q. Where is he taking you?
A. Outside to the car.
Q. How are you feeling at this point?
A. I'm out of it. Right now, I'm just out of it.
SOLICITOR SHELTON: Your Honor, I ask to publish another clip from State's Exhibit Number Eight.
THE COURT: All right.
Q. And who is this on the video?
A. Jared Crane.
(STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO THE JURY/COURT.)
Q. Where is he taking him now?
A. To the bathroom.
Q. And who was that taking Jared to the bathroom, Mr. Crane to the bathroom?
A. Dantonyo Heath.
Q. And Mr. Crane was crawling at that point?
A. Yes, ma'am.
(STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO THE JURY/COURT.)
Q. And where are you going here?
A. Right here they're taking everything out of my

pockets. I was taking everything out of my pockets getting ready to go to the car.

Q. And who is that with you?

A. Maquis Robinson and Dantonyo Heath.

Q. Does Mr. Heath have his mask off at any point?

A. Yes, ma'am.

Q. So you were able to see his face at some point?

A. Yes, ma'am.

Q. Is that when you go outside?

A. Yeah, he took it off when we went outside.

(STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO THE JURY/COURT.)

Q. Who is that in that car?

A. That's Amanda Crane.

Q. And the road that we can see there, which road is that?

A. Cherry Road.

Q. Is the front part of your shop --

A. Yeah, facing --

Q. Okay.

A. Yes, ma'am. Facing Cherry Road.

Q. And then the bay door is off - is down the side of --

A. Yeah. Right down the side facing Cherry Road.

(STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO THE JURY/COURT.)

Q. Who is that?

A. That's me and Maquis Robinson.

Q. Who is that?

A. Dantonyo.

(STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO THE JURY/COURT.)

Q. Where are they taking you at this point?

A. Out to the car.

Q. Why were they taking you to the car?

A. To get the money.

Q. Why did you have money in your car?

A. Because in the wheel business - In the wheel business we pretty much like a lot of the cash and carry, like people come in and spend cash on wheels and stuff, stuff like that so we have to put a deposit down on wheels and most wheel companies if you ain't signed up with like a automatic bank draft through that company you pretty much got to have cash to pay for that stuff when it come in.

Q. And when you say wheels, you don't mean tires. You mean ---

A. Yeah, tires and --

Q. Tires and rims?

A. Yes, ma'am.

Q. What were you going to do with that money?

A. Actually it was for - Actually a customer had paid

me actually for two sets of wheels, Ashanta wheels. Actually the wheels were about Fourteen Thousand Dollars but you got to put a Five Thousand Dollar deposit down on them before they start making them.

Q. Okay. So what were you going to do with the money? Why was it in your truck as opposed to being in the bank or in your shop?

A. Because I ain't had time to deposit it yet.

Q. You had it there to take to the bank?

A. Yes, ma'am.

Q. When did you last see Maquis before June 8th - Mr. Robinson?

A. About two or three days before that.

Q. Anything happen when you saw him?

A. Something about his cousin with a tire or something. Like asked me something about the tire was the wrong size or something like that.

Q. Had an argument?

A. No. Wasn't no argument but just something, she was saying like people's had called me and told me it was a two 25/30, 35/20 but I ordered a two 25/32 inch tire.

Q. So what's that mean? Was he asking you to refund it?

A. No. It was just like - he say, he told me to order the right size tire but I was like naw, that's the size tire y'all told me to order so I would just have to reorder

the tire.

Q. So it was a disagreement. You all were — when I say disagreement, you all weren't agreeing about what you all ordered?

A. Oh, no. No, ma'am.

Q. Okay. I'm going to show you what's been marked for identification as State's Exhibit Number Twelve.

Can you identify that, please?

A. Yes, ma'am.

Q. Who is in that photo?

A. It's a picture of me.

Q. And is that how you normally look?

A. No, ma'am.

Q. What is different?

A. The laceration on my face.

Q. And where did you receive those injuries?

A. The night of the incident.

Q. And is that an accurate reflection of how you looked on the evening of June 8th after the incident?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I'd ask to move State's Exhibit Number Twelve into evidence.

THE COURT: Any objection?

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER TWELVE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR SHELTON: And we ask to publish it to the jury.

THE COURT: You may.

(STATE'S EXHIBIT TWELVE PUBLISHED TO THE JURY AT 02:46 P.M..)

Q. And again, Mr. Jordan, if you could describe the injuries. Where are your injuries?

A. Right above my right eye.

Q. And then underneath your nose ---

A. Yes, ma'am.

Q. --- where did that come from?

A. That fight that took --

Q. Had your nose been bleeding?

A. Yes, ma'am.

Q. And where was this picture taken?

A. At the hospital.

Q. I want to show you what's been marked for identification as State's Exhibit Eighteen, Nineteen, Twenty, Twenty-one, Twenty-two, Twenty-three, Twenty-four, Twenty-five, Twenty-six, Twenty-seven, Forty-nine and Forty-seven.

I ask you to look at those pictures, please.

(WITNESS REVIEWING EXHIBITS.)

Q. Do you recognize those photos?

A. Yes, ma'am.

Q. Where are those photos of?

A. At the shop.

Q. Do each of those photos accurately reflect the way your shop looked on the evening of June 8th, 2011, after the incident?

A. Yes, ma'am.

Q. And there referring to, the numbers are on the back, referring to State's Exhibit Forty-seven and Forty-nine.

A. Yes, ma'am.

Q. Do you recognize those two items?

A. Yes, ma'am.

Q. What is State's Exhibit Number Forty-seven?

A. That's the dew rag I had on my head.

Q. That's your's?

A. Yes, ma'am.

Q. And State's Exhibit Number Forty-nine, what is that?

A. That was a hat I had on.

Q. Both of those were items that you were wearing?

A. Yes, ma'am.

Q. And did you take these pictures?

A. No, ma'am.

Q. But you have looked at them and they accurately

represent the way everything looked that evening?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time State would ask to move State's Exhibit Eighteen through Twenty-seven and Exhibits Forty-seven and Forty-nine into evidence.

THE COURT: Any objection?

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBITS EIGHTEEN THROUGH TWENTY-SEVEN AND STATE'S EXHIBITS FORTY-SEVEN AND FORTY-NINE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR SHELTON: And I would ask to publish to the jury at this time.

THE COURT: You may.

Q. If we could see State's Exhibit Number Eighteen.

(STATE'S EXHIBIT EIGHTEEN THROUGH TWENTY-SEVEN AND STATE'S EXHIBITS FORTY-SEVEN AND FORTY-NINE PUBLISHED TO THE JURY/COURT AT 02:50 P.M..)

Q. Mr. Jordan, what is this?

A. Picture of the front of the shop.

Q. And to the side, what is - On the far side of the screen where - the white door. What is that?

A. The bay door.

Q. And is that the bay door where Mr. Robinson and Mr. Heath entered?

A. Yes, ma'am.

SOLICITOR SHELTON: If I could see State's Exhibit Number Nineteen.

(STATE'S EXHIBIT NINETEEN PUBLISHED TO THE JURY/COURT.)

Q. What is in this picture?

A. That's Amanda Crane coming in the bay door.

SOLICITOR SHELTON: State's Exhibit Number Twenty.

(STATES EXHIBIT TWENTY PUBLISHED TO JURY/COURT.)

Q. Closer up of the bay door?

A. Yes, ma'am.

SOLICITOR SHELTON: State's Exhibit Number Twenty-one.

(STATE'S EXHIBIT TWENTY-ONE PUBLISHED TO JURY/COURT.)

Q. Is that inside the bay door?

A. Yes, ma'am.

SOLICITOR SHELTON: State's Exhibit Number Twenty-two.

Q. What's this of?

A. Of the back of the shop.

Q. And if you were taking this picture, where would you be standing?

A. Right in the garage area.

Q. Right out after you go through the bay door?

A. Yes, ma'am.

SOLICITOR SHELTON: State's Exhibit Number Twenty-three.

Q. What's this a picture of?

A. Facing the garage area.

Q. So if you were taking the picture, you would be standing on the opposite side of the bay door?

A. Yes, ma'am.

Q. State's Exhibit Number Twenty-four.

(STATE'S EXHIBIT TWENTY-FOUR PUBLISHED TO JURY/COURT.

Q. Where is this?

A. Picture of the bathroom.

Q. And did the bathroom look like this before 10:00 p.m. on June 8th?

A. No, ma'am.

Q. How was it different?

A. It was all cleaned up and nice.

Q. The sink was on the wall?

A. Yes, ma'am.

Q. Were those tires in there?

A. No, ma'am.

Q. Do you call those tires or wheels?

A. Wheels.

Q. State's Exhibit Number Twenty-five.

(STATE'S EXHIBIT TWENTY-FIVE PUBLISHED TO JURY/COURT.)

Q. What's this a photo of?

A. Inside of the shop.

SOLICITOR SHELTON: State's Exhibit Number Twenty-six.

Q. Do you recall what this is?

A. A bullet hole.

Q. Where is that located?

A. In the bathroom.

Q. Was that there before 10:00 p.m. on June 8th of 2011?

A. No, ma'am.

SOLICITOR SHELTON: State's Exhibit Number Twenty-seven.

Q. Do you know what this is?

A. It's a picture of my cell phone.

Q. Did you put that number 3 by it?

A. No, ma'am.

Q. But that is a picture of your cell phone?

A. Yes, ma'am.

SOLICITOR SHELTON: And State's Exhibit Number Forty-seven.

(STATE'S EXHIBIT FORTY-SEVEN PUBLISHED TO JURY/COURT.)

Q. What's that?

A. A picture of a dew rag.

Q. What's a dew rag?

A. Like a thing you tie your hair down with.

Q. And whose is that?

A. It belongs to me.

Q. Were you wearing it that evening?
A. Yes, ma'am.
Q. Did you put that number beside it?
A. No, ma'am.
SOLICITOR SHELTON: And State's Exhibit Number Forty-eight.
Q. What's that a picture of?
A. A black hat I had on.
Q. That's your hat?
A. Yes, ma'am.
Q. Where is it? Where is it when this picture was taken?
A. In the bathroom.
Q. On the floor?
A. Yes, ma'am. On the floor.
Q. Did you put that number beside it?
A. No, ma'am.
Q. Did you call 9-1-1, or the police, or how did the police arrive at the store?
A. Actually, I walked back in and I dialed 9-1-1. I dialed 9-1-1.
Q. And you talked to 9-1-1?
A. Yes, ma'am.
Q. And then law enforcement came?
A. Yes, ma'am.
Q. What happened after law enforcement got there?

A. I don't really know because I had passed out.
Q. Did you ever talk to law enforcement while you were still at the shop?
A. I think I — I might have. I don't know. I don't think I did. I think I talked to them when I was on 9-1-1. I did tell the officer — yeah, I did talk to one officer there, yeah.
Q. What makes you think you talked to an officer there?
A. Because I remember he was the first one got there and I was like, "man I ain't going to die." He say, "Hold on. I don't think you gonna die. It don't look that serious" you know.
Q. Did you tell him what happened?
A. Yes, ma'am.
Q. Did you tell him who you thought was involved?
A. Yes, ma'am.
Q. Who did you tell him was involved?
A. Maquis Robinson and Yodi.
Q. Did you give a description of either person?
A. Yeah. Think I gave a description of --
Q. If you don't remember, just say you don't remember. But if you do remember, did you give a description of either one of them?
A. I can't recall.
Q. But you named Maquis Robinson as one of the suspects?

A. Yes, ma'am.
Q. Did you at any time tell them there was a third suspect?
A. Yeah. I told them I thought it might a been a third suspect and they driving the get away car.
Q. Did you ever see anybody else in the shop?
A. No, ma'am.
Q. Did you ever see anybody else with a gun?
A. No, ma'am.
Q. Did anyone else ever strike you?
A. No, ma'am.
Q. Did you ever actually see someone driving the car?
A. No, ma'am.
Q. Were you able to give a description of a third suspect?
A. No, ma'am.
Q. Were you ever shown a lineup of a third suspect?
A. No, ma'am.
Q. Did you know a name of a third suspect?
A. No, ma'am.
Q. And you gave this information - How would you describe how you were feeling and what you were thinking at the time when you were talking to law enforcement?
A. The way I was feeling, I was just, you know, like I was telling them, I was telling them to get me to the

hospital cause I couldn't hardly catch my breath and I couldn't hardly breath. And I was still bleeding so I pretty much just wanted to get to the hospital.

Q. And did you get to the hospital?

A. Yes, ma'am.

Q. And while at the hospital, did you meet with any detectives?

A. Yes, ma'am.

Q. Did they - Meeting with the detectives at the hospital, did they show you a photo lineup, photo display?

A. Yes, ma'am.

Q. Do you remember how long after the incident that you were shown the first photo lineup?

A. Probably about - it could have probably been about thirty minutes to an hour.

Q. But it was immediately after?

A. Yes, ma'am.

Q. Where were you at the time?

A. Laying in the hospital bed.

Q. Was anybody with you?

A. My wife.

Q. Who showed you the lineup, the display?

A. Detective Stokes.

Q. Did he tell you anything before or read anything to you before showing you?

A. Yes, ma'am.
Q. What did he say to you or read to you?
A. He read me this paper just saying it could or could not be the suspects, you know what I'm saying, in the lineup.
Q. And at this point you had only named Maquis Robinson?
A. Yes, ma'am.
Q. How many pictures did they show to you?
A. Six.
Q. Were they shown to you one at a time?
A. No, ma'am.
Q. How were they shown to you?
A. In like three squares – well there was six pictures on one page.
Q. And were they marked in any way?
A. No, ma'am.
Q. Did anybody say anything to you to tell you who to pick out?
A. No, ma'am.
Q. Did your wife say anything to you?
A. No, ma'am.
Q. Did the police officers or your wife point to anything, to either one of them?
A. No, ma'am.
Q. Were you provided with any information about any of

the photos?
A. No, ma'am.
Q. Did anybody show you a picture of Maquis Robinson first and say this is Maquis Robinson; now look at this lineup?
A. No, ma'am.
Q. During the time period of the assault and robbery, how long did you have to look at Mr. Robinson?
A. Pretty much throughout the whole altercation.
Q. And about how long was that? And again, if you don't remember, you don't remember.
A. I don't know. It seemed like it lasted about two hours, but it was — I don't know, probably about thirty minutes.
Q. And how close were you to him?
A. We was hands to hands. We was face to face really.
Q. Were you able to get a good look at him?
A. Yes, ma'am.
Q. How was the lights in your shop?
A. It was bright.
Q. Were you under the influence of anything?
A. No, ma'am.
Q. Drugs or alcohol at the time?
A. No, ma'am. I don't do no kind of drugs.
Q. How tall are you?

A. Five, six.

Q. How much do you weigh? How much did you weigh back then?

A. One forty-nine.

Q. One forty-nine?

A. Yes, ma'am.

Q. How much do you weigh now?

A. One ninety-nine.

Q. I want to show you what's been marked for identification as State's Exhibit Number Thirty-seven.

(WITNESS REVIEWING STATE'S EXHIBIT THIRTY-SEVEN.)

Q. Do you recognize that?

A. Yes, ma'am.

Q. What is it?

A. It'S the photographic lineup Detective Stokes showed to me.

Q. And what's that on the front of the photo lineup?

A. My signature.

Q. What did you sign there? What is that form?

A. Just the photo lineup he was reading to me just letting me know, you know what I'm saying, he may or may not be in this photograph.

Q. Okay. And were you able to select a picture?

A. Yes, ma'am.

Q. What made you pick that one?

A. As soon as I seen it, I knew who it was.
Q. How did you know who it was?
A. I had just had an altercation with him.
Q. And are you sure that was Maquis Robinson?
A. Yes, ma'am.
Q. Is the picture of Maquis Robinson there a fair representation of what he looked like back on June 8th of 2011?
A. Yes, ma'am.
Q. Did law enforcement change it or alter it in any way that you can see to make it - before they showed it to you?
A. No, ma'am.
Q. And how do you know that you - How do you recognize that as the lineup that you were shown?
A. My signature.
Q. And what about the photo that you selected?
A. I circled it and initial it.
Q. And is that - The photo that you circled and initialed, who is that?
A. Maquis Robinson.
Q. And do you see Mr. Robinson in the courtroom today?
A. Yes, ma'am.
Q. And does he look any different today than he did back on June 8th of 2011?
A. No. Just cut his hair. Lost a little weight.

Q. He's lost some weight and cut his hair?
A. Yes, ma'am.
Q. And even though the person sitting in the courtroom today you say has lost a little weight and cut his hair, are you still completely sure that that is Maquis Robinson and that is the same person who committed these crimes against you on June 8th of 2011?
A. Yes, ma'am.
Q. And what is he wearing?
A. A purple shirt.
Q. And where is he sitting again?
A. Sitting right there.
Q. Sitting right where? Indicate.
(WITNESS INDICATED TO DEFENSE TABLE.)
A. Beside Twana, his lawyer.
Q. I'm going to show you what's been marked for identification as State's Exhibit Number Thirty-nine.
(WITNESS REVIEWING STATE'S EXHIBIT THIRTY-NINE.)
Q. Do you recognize that?
A. Yes, ma'am.
Q. What is it?
A. Photo lineup.
Q. Photo lineup of who? Who is in that photo lineup there?
A. Dantonyo Heath.

Q. And where were you when that lineup was shown to you?
A. In Bojangles's parking lot in Lancaster.
Q. Who showed it to you?
A. Officer Stokes. Detective.
Q. And Detective Stokes. Was anyone with you when Detective Stokes showed you the lineup?
A. My wife.
Q. Did Detective Stokes have anyone with him, if you remember?
A. No, ma'am.
Q. How did you know to meet Detective Stokes at Bojangles's?
A. He had called me.
Q. And what did he tell you when he called you?
A. Asked me did I have time to meet him.
Q. Did he tell you why?
A. He told me he had a lineup he wanted me to look at.
Q. And then when you met with him at the Bojangles's -- Where, Bojangles's where?
A. In Lancaster.
Q. When he met with you there, did he show you a picture of Dantonyo Heath and say this is Dantonyo Heath?
A. No, ma'am.
Q. Did he tell you that they figured out who Yodi is and that's Dantonyo Heath and here he is?

A. No, ma'am.

Q. Did he do anything to influence your selection of whoever you picked out of the lineup?

MR. SMITH: Objection. Leading.

A. No, ma'am.

THE COURT: Rephrase your question. They are leading.

SOLICITOR SHELTON: Yes, sir, Your Honor.

Q. How did Detective Stokes show you that lineup?

A. He just pretty much just asked me, it may or may not be anybody on this paper but you know what I'm saying, I just got to show you this lineup just to see if you can identify anybody.

Q. What if anything did he do to suggest to you who was in the lineup?

MR. SMITH: Objection. Leading.

THE COURT: Rephrase it.

BY SOLICITOR SHELTON:

Q. Did he suggest to you who was in the lineup?

A. No, ma'am.

Q. Did he point to anyone in the lineup?

A. No, ma'am.

MR. SMITH: Objection. Leading.

THE COURT: I overrule the objection.

BY SOLICITOR SHELTON:

Q. Was there any markings on the lineup suggesting ---

A. No, ma'am.
Q. --- who to select? Were you provided any information about the people that were in the picture as to who they were?
A. No, ma'am.
Q. Did your wife do or say anything to you to suggest who you should pick?
A. No, ma'am.
Q. Did anyone say anything to you to influence your pick?
A. No, ma'am.
Q. Were you able to pick someone out out of the lineup?
A. Yeah, soon as I seen him.
Q. And who was that?
A. Dantonyo Heath.
Q. And did you do anything to indicate on that form who that is?
A. Circle and initial it.
Q. And is that still your testimony that that's who you picked out?
A. Yes, ma'am.
Q. Do you see Mr. Heath in the courtroom today?
A. Yes, ma'am.
Q. And where do you see him?
A. Sitting right there with glasses on in the blue shirt.
SOLICITOR SHELTON: Your Honor, let the record reflect

that Mr. Jordan has indicated to both Mr. Maquis Robinson present in the courtroom and Dantonyo Heath present in the courtroom.

(WITNESS INDICATED TO DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH AT DEFENSE TABLES.)

Q. Thank you, Mr. Jordan.

A. All right.

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

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor. May we approach real quickly?

THE COURT: Yes.

(BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF THE JURY AT 03:05 P.M..)

THE COURT: We'll take another about ten minute refresher break.

(JURY EXITS COURTROOM AT 03:05 P.M..)

THE COURT: Mr. Jordan, you can step down and use the restroom and get some water, but don't discuss the case or your testimony with anybody.

MR. JORDAN: Okay.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: We'll take a ten minute break.

(COURT IN RECESS AT 03:06 P.M..)

(COURT BACK IN SESSION AT 03:18 P.M..)

THE COURT: Take your seats.

Get the defendants in.

(DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH, REENTER COURTROOM.)

THE COURT: The defendant's are present with counsel.

Bring in the jury.

(JURY REENTERS COURTROOM AT 03:19 P.M..)

THE COURT: You may proceed, Ms. Burris.

MS. BURRIS: Thank you, Your Honor.

THE COURT: Oh, we need the witness. Sorry.

I let the witness step out to use the restroom and have some water if he wanted some, so we'll get him back up here.

(WITNESS REENTERS COURTROOM AND RETAKES THE STAND.)

THE COURT: Of course, he's still under oath and he knows that.

MR. JORDAN: Yes, sir.

CROSS EXAMINATION

ERNEST JORDAN BY MS. BURRIS:

Q. Mr. Jordan, ---

A. Yes, ma'am.

Q. --- would you prefer me to call you Ernest or Mr. Jordan? Ernest?

A. Just call me Mr. Jordan.

Q. Mr. Jordan. Okay. Now, the first question that the Assistant Solicitor ask you what happened, the first thing you said "robbed and kidnaped". So you sound a little rehearsed. Have you actually had the opportunity to meet with the Assistant Solicitor?

A. That's something you'll never forget.

Q. You've never met with her in regards to this case?

A. What you mean never met?

Q. Did you actually sit down with her in the conference room of the solicitor's office?

A. I mean, what you --

Q. Let me make it clear. Did you, Mr. Jordan, sit down with Assistant Solicitor, Misti Shelton, or co-counsel, Ryan Newkirk, in regards to your case?

A. Yes, ma'am.

Q. And how to prepare your case?

A. No, ma'am.

Q. You didn't actually review anything?

A. No. We went over a couple things but not nothing to prepare it. That's been over three or four months ago.

Q. And so you did not, you have not spoken with Ms. Shelton over the last couple of days or last week in regards to how you would testify?

A. No, ma'am.

Q. She did not say anything to you about how you would

testify?

A. What do you mean by how would I testify?

Q. What do I mean? I mean did she have a conversation with you in regards to how you would testify today during this trial?

A. Just, she say I had to take the stand.

Q. Right. That you had to take the stand. You had to testify under oath.

A. Yes, ma'am.

Q. And she discussed the details of the case?

A. Yes, ma'am.

Q. And she told you exactly how to answer each question didn't she?

A. No, ma'am.

Q. She did not try to prepare you for this trial?

A. No, ma'am.

Q. Now, one of the things that the Assistant Solicitor asked you was, and I'm not sure. You indicated that, "I didn't do or I don't do any drugs". Isn't it true that you have a conviction for possession of crack cocaine?

A. Yeah, but that's a long story.

Q. That's a long story?

A. Yes, ma'am.

Q. But you do have a conviction for possession of crack cocaine?

A. Yes, ma'am.

Q. And you in fact pled guilty to possession of --

SOLICITOR SHELTON: Objection, Your Honor.

THE COURT: He's admitted it. That's where the inquiry ends.

BY MS. BURRIS:

Q. Now Mr. Jordan, when the Assistant Solicitor asked you just to basically describe what happened after the alleged incident in which you say you saw Maquis Robinson and she asked you did you call 9-1-1. Correct?

A. Yes, ma'am.

Q. And you did?

A. Yes, ma'am.

Q. Okay. And in regards to actually calling 9-1-1 she asked you about the physical did you give 9-1-1 or the taker of the call, the dispatcher.

A. Yes, ma'am.

Q. What happened and gave them the physical descriptions and you were about to answer and then you kind of stopped.

A. Yes, ma'am.

Q. You did give the dispatcher physical descriptions didn't you?

A. I don't know. I can't recall.

Q. You cannot recall?

A. No, ma'am.

Q. What can you recall in regards to what you told the dispatcher?

A. I gave them names.

Q. You gave them names? And what else?

A. I gave them a name and a nickname.

Q. Names and a nickname?

A. Yeah. And what kind of car they was driving.

Q. And you had the opportunity to speak to the initial responding officer, and that's for Rock Hill Police Department, and you told them what?

A. I can't recall everything I told them. That's two and a half years ago.

THE COURT: Keep your voice level up, please.

A. Okay.

MS. BURRIS: If you could please speak up.

A. Yeah. I can't recall everything I said to them then but that's been two and a half years ago.

Q. Okay. Can you remember anything you said to them?

A. Yeah. I just remember telling, you know, saying like you all hurry up and get the ambulance here I feel like I'm fixing to die.

Q. Okay. So you remember telling the officers that or 9-1-1?

A. The officer

Q. The police officer who came to the scene?

A. I told 9-1-1 that too, plus I told the officers too cause they arrived before the ambulance did.

Q. Okay. Now you testified earlier that the lights were bright. You don't mean they were bright. You mean they were actually fluorescent. Right?

A. Yeah, but they bright.

Q. Okay. So fluorescent lights that were actually in your shop?

A. Yes, ma'am.

Q. Okay. Now, you testified earlier in regards to the photographic lineup, that when you saw the photographic lineup, when Detective Stokes actually presented it to you that you picked out Maquis Robinson.

A. Yes, ma'am.

Q. Did you know any other persons that were actually presented in the photographic lineup?

A. No, ma'am.

Q. Did they have all the same physical characteristics ---

A. Yes.

Q. --- with - I'm sorry. Within the photographic lineup?

A. Yes, ma'am.

Q. Did they all have similar hair styles in the photographic lineup?

A. Yes, ma'am.

Q. Were they all the same complexion in the photographic lineup?
A. Yes, ma'am.
Q. Did they all look somewhat similar, age, I guess facial structure. Did they all look the same in the physical - the photographic lineup?
A. Yeah. All of them had similarities. All of them.
Q. Well, Maquis Robinson was the only one that you actually knew?
A. Yes, ma'am.
Q. Now, let's talk about - You told the initial responding officer that there were three suspects. Correct?
A. Yeah. I said think it was three suspects.
Q. And you testified in prior testimony that you believed that there was a third car parked up on a hill of a location that was a couple of doors down from your location. Right?
A. A third car?
Q. Or a car. The get away car.
A. Yes, ma'am.
Q. Okay. And you are testifying here under oath that the title loan place was not actually right beside your building or the shop?
A. Yeah. It's a pay day loan store next door and then

like right – the next parking lot is the title loan.
Q. Okay. So it is your testimony that there was a car parked at the title loan place and you thought a third person may have been in there?
A. Yeah.
Q. Okay. Now, you had the opportunity to write a statement for the Rock Hill Police Department didn't you?
A. Yes, ma'am.
Q. And you indicated that Maquis Robinson, or you just said "Maquis, I been with you since day one when you started painting these cars and you could have looked out for me" --
MADAME COURT REPORTER: I'm sorry, Ms. Burris. You've going so fast I can't - I'm sorry.
MS. BURRIS: I apologize.
THE COURT: And also, don't turn your back to everyone.
MS. BURRIS: Yes, sir. Thank you.
Q. You in your statement indicated that – now, let me just make sure I'm clear. You didn't actually hand write a statement for the Rock Hill Police Department did you?
A. No, ma'am.
Q. So the Rock Hill Police Department, who was it who actually interviewed you?
A. I believe it was - I think it was Detective Stokes.

Q. Detective Stokes?
A. Yes, ma'am.
Q. So Detective Stokes actually typed up the statement. Not you. Right?
A. Yes, ma'am.
Q. Okay. And did you - you didn't - Did you actually read over the statement?
A. Yes, ma'am.
Q. Okay. In detail?
A. Yes, ma'am.
Q. And you signed it?
A. Yes, ma'am.
Q. Now according to the statement, you indicate that Maquis Robinson said something about he ask you to borrow Eight Hundred Dollars for the truck.
A. Yeah. He did come in about - maybe about three weeks before that happened and asked me could he borrow Eight Hundred Dollars, give him a title loan on his truck. I said, "I don't loan people money." You know what I'm saying, "the title loan next door, I'll call over there and tell them you work over here they might give you one. I know the people over there next door."
Q. Okay. Let's talk a little bit about the money. And you said that Maquis Robinson would have come basically asking you for money. And in your statement you indicate

that you told Maquis Robinson you're about to kill me over some BS?

A. Yeah.

Q. What BS were you talking about, money?

A. I reckon. I mean, to me it felt like it was a jealousy thing like because when they come in they didn't ask for no money. Pretty much just say go to the bathroom. I think if it wasn't for Yodi I think it probably would have been over.

Q. Let's talk about the money and let me make sure I'm clear. You think that Maquis Robinson actually came - and was jealous, jealous of you because of some money? A money situation?

A. Naw, I just think it was more jealousy because once I hired Jared to start painting, I pretty much, you know what I'm saying, he was around there helping but once I pretty much got Jared, I pretty much didn't need him no more.

Q. Okay. So he was actually around there. Was he helping you? He was working?

A. No. If he was actually around there, you know what I'm saying, like a car come in if I - cause we had just started painting cars probably about maybe about five months before that, and when he come in, you know what I'm saying, cars come in, he'd come up there. I'm like "Man, sand this car down for me. I'll give you a couple dollars"

you know.

Q. Yow long had he actually, Maquis Robinson actually been working for you?

A. He ain't been working for me. He just come up there and help out.

Q. So he would come up there and help out. So you would pay him. Right?

A. Yeah. I would look out for him.

Q. You'd look out for him. So that means you actually paid him money. Right?

A. Yeah.

Q. Okay. Right. So the money - About how much money do you think that you've actually paid Maquis Robinson --

A. Like he'd go back there and help me sand a car down, help me sand a car down or something after hours, I'd give him a hundred dollars.

Q. A hundred dollars. And he helped you sand about how many cars now?

A. Well he probably helped with about five.

Q. About five.

A. Yeah.

Q. Okay. So you're saying that Maquis Robinson, you've given him about a total of about Five Hundred total?

A. Yes, ma'am.

Q. Okay. And he worked for you for how long?

A. He didn't work for me. He just used to hang around the shop.
Q. You gave him Five Hundred Dollars over what period of time?
A. Like, we had just started painting cars so pretty much he was hanging around. He still used to just come up there and hang around. Like I used to let him work on his own car when he come up there.
Q. Okay. And that was over what period of time? Answer the question.
A. About over a five period - a five month period.
Q. Five months?
A. Yeah.
Q. So he only got a Hundred Dollars a month from you?
A. Naw, I mean, I used to let him work on his car for free.
Q. So --
A. I even put rims on his car. You know what I'm saying, just let him make me payments on it and never got paid for.
Q. Okay. So, he got Five Hundred Dollars from you and you placed rims on his car?
A. Yes, ma'am.
Q. Do you have a rim business right now?
A. No, ma'am.
Q. Okay. Let's talk a little about that. You talk about

the value of the rims.
A. Yes, ma'am.
Q. And you said these rims are not cheap. Right?
A. No, they ain't.
Q. Pretty expensive rims aren't they?
A. Yes, ma'am.
Q. But you had said that you bargained what, more than Five Hundred Dollars with him because the rims - What kind of rims did you actually give him to put on his car?
A. A set of 26 inch red sports 33.
Q. Give me the average cost of 26 inch - those rims.
A. About Twenty-one Hundred.
Q. Twenty-one hundred?
A. Yes, ma'am.
Q. Okay. In regards to the jealousy thing and the monies, you testified that the Asanti wheels, is that what you call it?
A. Yes, ma'am.
Q. Okay. Now, you said they cost about how much?
A. They cost about - let me see, it was a set of 24's instead of 26's. It was about - On both sets of wheels about Fourteen Thousand.
Q. They're Fourteen Thousand for two?
A. Yes, ma'am.
Q. Okay. And you had just, according to your previous

testimony, you had just sold some Asanti wheels. Correct?
A. Yes, ma'am.
Q. Okay. And a set of two. Correct?
A. Yes, ma'am.
Q. Okay. So you are talking about Fourteen Thousand Dollars. Right?
A. Yeah. Well, Seven Thousand Dollar deposit.
Q. Seven thousand dollar deposit. So you had to special order them?
A. Yes, ma'am.
Q. Okay. So someone had actually come in and they gave you Seven Thousand Dollars and --
A. No, they didn't give me Seven Thousand Dollars. It was actually two people.
Q. I'm sorry?
A. Actually they was home boys. Actually it was two peoples that came in. I gave them a deal because they got two together.
Q. They got two together. So you sold a set of Fourteen Thousand Dollar rims for - I guess they put a deposit down of Thirty-five Hundred ---
A. Yes, ma'am.
Q. --- a piece? So actually you were willing to lose money on the Asanti wheels?
A. No. I wasn't losing money. I mean, I really wasn't

making that much but I still was making something.

Q. How were you able to make it when you had to special order them? And not only did you have to special order them, but you indicated that when you special ordered them that they're Fourteen Thousand Dollars for two, but yet you were giving your home boys a discount so they actually came in and paid half, which would have been Thirty-five Hundred, but yet you were still making money?

A. Yes, ma'am.

Q. Really?

A. Yes, ma'am.

Q. Okay. Do you have another way to do the math?

A. What do you mean?

Q. Let me just strike that question.

Now, if I came up there and told you that I wanted rims for my Ford 150, 26 inch rims, what's the average cost of them?

A. About twenty-one hundred.

Q. And you would say for 20 inch rims, tires and installation, about what?

A. Twenty-one hundred plus tax.

Q. For 32 inch rims, tires and installation, how much?

A. Thirty-two.

SOLICITOR SHELTON: I'm going to objection to relevance.

THE COURT: Well, it's cross examination, but I hope this is going somewhere.

MS. BURRIS: Yes, sir, Your Honor. Thank you.

A. You say 32's?

Q. Yes, sir.

A. About Ninety-five Hundred.

Q. About Ninety-five Hundred?

A. Yes, ma'am.

Q. And one of the most expensive sets of rims is Ford G Auto?

A. Yes, ma'am.

Q. And they range from?

A. They go all the way to like Twenty Thousand Dollars for a set of wheels.

Q. So they're not Five to Seven Thousand?

A. I mean, you might start at about Five.

Q. So they go from five --

A. Yeah, you can go all the way up to Twenty Thousand Dollars for a set of wheels.

Q. It depends on what, the size?

A. The size. I mean, they stagger wheels so it depends on whether you going two piece or three piece wheels.

Q. And you don't keep them in stock. You just have to order them?

A. No, I have to order that.

Q. Now, Mr. Jordan --
A. Yes, ma'am.
Q. Now, you indicated you have a rim business.
A. Yes, ma'am.
Q. You've been in this rim business for how long?
A. Twelve years now.
Q. Twelve years you've been selling rims.
A. Yes, ma'am.
Q. Right?
A. Yes, ma'am.
Q. You also did landscaping before didn't you?
A. Yes, ma'am.
Q. And during the time that you were doing landscaping, were you also selling rims?
A. No, ma'am.
Q. You were not?
A. No, ma'am.
Q. Now, isn't it true that in regards to your rim shop, you used to have a business where you have persons go --

SOLICITOR SHELTON: Objection, Your Honor. Can we approach?

THE COURT: Let's let the jury go in the jury room for just a minute and we'll take this up outside the jury's presence.

(JURY EXITS COURTROOM AT 03:39 P.M..)

THE COURT: Ms. Burris, this is cross examination and I'm giving you some leeway but I have to know kind of where the relevancy is ---

MS. BURRIS: Yes, sir.

THE COURT: --- in all of this.

MS. BURRIS: I was just going to ask him on the prior convictions in which you ruled that I could bring in, just the possession of stolen goods.

THE COURT: Well, but I told you before in regard to the other one, all you can do is ask him. Once he admits it, that ends the inquiry. You can't --

MS. BURRIS: Yes, sir, Your Honor. Okay. I'll just ask him in regards and that's what --

THE COURT: I think he has already admitted it.

SOLICITOR SHELTON: He's been asked and he's admitted it and --

THE COURT: Well, I'll let her ask again, didn't you admit that you did this, but once he says I admit it, then that ends it.

MS. BURRIS: Yes, sir. That wasn't that charge. That was another charge.

THE COURT: I thought it was receiving stolen goods.

SOLICITOR SHELTON: I asked him to both on direct. I ask him on direct.

THE COURT: Well, regardless you can ask him. You can

ask him again had he got a conviction for receiving stolen goods in whatever year it was.

MS. BURRIS: Thank you, Your Honor.

THE COURT: Then that's it. The inquiry ends then.

MS. BURRIS: Okay. Yes, sir.

SOLICITOR SHELTON: My concern, Your Honor, is the way that she is asking it, she is leading in - she is asking about I think alleging facts that were eluded to in that case that involved his rim shop and that's where those questions were going and I would say that that's objectionable. She just needs to ask if he was convicted and if he says, that ends the talk about that situation.

THE COURT: I don't know where it was going. Where was it going because I'd like to know?

MS. BURRIS: Your Honor, I was just going to ask him in regards to, he has two charges which involves crimes of dishonesty, receiving stolen goods and also possession of stolen goods. And one of them actually doesn't involve his rim shop. It involves --

THE COURT: I know but what are you asking all about the price of these tires and that tires and these tires and that tires, doing the math and all that? What has that got to do with --

MS. BURRIS: Sure.

THE COURT: He got convicted and he said it. If he

hadn't already said it, you can ask him about it and that's where it stops.

MS. BURRIS: Your Honor, in regards to the direct examination as to the monies that Mr. Jordan had on him as to where he got the monies from, so since it was asked on direct, I would like to be able to ask him that on cross, you know, in regards to the monies and the amounts because he has testified two different things. One minute he says seven thousand; the next minute he says ten thousand.

THE COURT: Yeah, but you can stick to that.

MS. BURRIS: Okay.

THE COURT: I mean, you're going back to all kinds of stuff that — I mean, you've got folders there with tires prices I guess and I don't - I mean you're well prepared, there's no question about that, but I just don't see that as an issue in this case.

Now what happens on that day is but the price of tires or wheels or hubs or whatever they are at other times and what he did for his home boys and that sort of thing, I just don't follow it.

MS. BURRIS: Okay, Your Honor. I'm get past that but again, I think we ruled that the crime of dishonesty is up. I'll just ask him about those two, which is the possession so he doesn't receive the stolen goods.

SOLICITOR SHELTON: The possession was from 1998.

MS. BURRIS: It's still a crime of dishonesty.

THE COURT: I'd say possession - I'll allow her to ask about that because I don't think there's any time limit on dishonesty.

SOLICITOR SHELTON: Your Honor, I do think the rule still has a time limit on that.

THE COURT: Let me see, 609. It says "evidence for a conviction under this rule is not admissible when a period of more than ten years has elapsed since the date of the conviction or the release from confinement. Unless the court determines that an injustice of approbative value of the conviction supported by specific facts and circumstances substantially outweighs the prejudicial effect. And it's not admissible unless you've given ten days notice to the adverse party by written notice of intent to use that evidence.

Did you do that?

MS. BURRIS: Your Honor, it is evident that any witness who has been convicted of a crime shall be admitted if it involved dishonesty or false statement regardless of the punishment, so that's under 609(a)(2).

SOLICITOR SHELTON: I think your book is from --

THE COURT: Okay, but then it's looking at B. B has the time limit.

MS. BURRIS: 2013.

THE COURT: Well look under - What ever book, I don't now. Rule 609(b).

MS. BURRIS: We would have to actually conduct a balancing test. Your Honor, I'll just ask him about the receiving stolen goods which is actually within the ten year time frame.

THE COURT: He's already admitted that but that's fine, I'll let you ask it again. Are we through with tires for a while?

MS. BURRIS: Yes, sir.

THE COURT: Okay. All right.

Bring in the jury.

Don't get me wrong. You can still ask him about the money he had that night and how it ties in and that's fair game.

MS. BURRIS: Right. Thank you, Your Honor.

(JURY REENTERS COURTROOM AT 03:45 P.M..)

THE COURT: You may proceed.

MS. BURRIS: Thank you, Your Honor.

CROSS EXAMINATION

ERNEST JORDAN BY MS. BURRIS:

Q. Now, Mr. Jordan, isn't it true that you plead guilty to receiving stolen goods in 2009?

A. Yes, ma'am.

Q. And the value was Five Thousand Dollars or more?

A. Yes, ma'am.
Q. All right. Let's talk about your statement. In regards to the statement that you actually wrote for Detective Stokes two days after the alleged incident.
A. Yes, ma'am.
Q. Okay. You were where? Where were you? Up at the police department or where?
A. I think I had to meet with him at the police department.
Q. You went up to Rock Hill Police Department?
A. Yes, ma'am.
Q. Okay. And you told Detective Stokes that the gun had fallen and you kept trying to pull Maquis Robinson, you just said him, out of the bathroom?
A. Yes, ma'am.
Q. And you also told Detective Stokes that we wrestle over the gun, you, broke the clip and the bullets fell out.
A. Yes, ma'am.
Q. So you were able during - You all were where during this particular time in your shop?
A. In the bathroom.
Q. In the bathroom?
A. Yes, ma'am.
Q. And you were able to hit the gun and it fell out, the clip fell out?

A. No, ma'am. Actually once he put the gun to my head, I reached for it. I grabbed it and it went off and I was like "Damn, you done shot me" and I had the gun, I had his wrist right there.

(WITNESS DEMONSTRATED.)

A. And while I had his wrist right there, he wrapped his other arm around my neck. I took this hand ---

(WITNESS INDICATED.)

A. --- and broke the bottom of the clip off the gun and the spring popped out and all the bullets fell out and while he had the gun in his hand I was trying to bring it back around and it went off again.

Q. That's not what you told Detective Stokes, though right?

A. Yeah, that's what I told him.

Q. And you read your statement?

A. No, not since then.

Q. You haven't read the statement since ---

A. No.

Q. --- June?

A. No, ma'am.

Q. During one period of time that you were actually in the bathroom ---

A. Yes, ma'am.

Q. --- you were holding this person's hand. Right?

A. Yes, ma'am.
Q. Okay. And then you told Detective Stokes finally I think he ran out of gas and I said, "now look I got about Ten Thousand Dollars in my truck, just let me live".
A. Yes, ma'am.
Q. And the person that you allege to be Maquis Robinson, he didn't ask you about the money but according to your previous testimony, Dantonyo Heath, the person you are claiming to be Dantonyo Heath, asked you about the money. Right?
A. Yes, ma'am.
Q. Okay. So --
A. He didn't ask me for the money. He just said let's get this money and go.
Q. Okay. So Dantonyo Heath said, let's get this money?
A. Yes, ma'am.
Q. Okay. And your testimony is not Maquis Robinson?
A. It's both of 'em.
Q. But the voice of Dantonyo Heath said let's get this money?
A. Yes, ma'am.
Q. Okay. And is there any reason why you told them that, "look I got about ten thousand dollars in my truck" any reason why you told them that just right off the bat?
A. Because I felt like that was the only way I was gonna

to live. You know, when you got a gun to your head you'll do anything to get a person out the way and I was just trying to get them out the shop.

Q. They'd not asked you for any specific type of money or amount of money had they?

A. No, but it was only – my money was right there in my console. It was all together so that's why I told them.

Q. Was it in your console in an envelope or was it actually in your console just lying out there?

A. Just laying out there.

Q. So it was loose?

A. Yes, ma'am.

Q. And you just - You placed Ten Thousand Dollars in your - the center console of your car just lying loose?

A. Yes, ma'am.

Q. You do? Do you do that often?

A. No, I don't do that often. But I mean I had money on me.

Q. Ten Thousand Dollars?

A. No. I don't keep no Ten Thousand Dollars on me but, you know, that's just what I made.

Q. That's what you made?

A. Yes, ma'am. Plus the - that Seven Thousand Dollars for that – I had put that deposit down on them wheels and plus the money I already had in my pocket.

Q. Okay. So you had Seven plus Three Thousand Dollars?
A. Yes, ma'am. It might have been a little over.
Q. So you may have had Seven plus Three plus a little more maybe?
A. Could have been, yeah.
Q. Could a been. Go ahead.
A. It could have been more cause I had about Three or Four Hundred in my pocket.
Q. So it could have been over Ten Thousand Dollars ---
A. Yes, ma'am.
Q. --- that you actually had in the center console?
A. Yes, ma'am.
Q. Now, you remember testifying under oath previously. Right?
A. Yes, ma'am.
Q. And the question was asked, "did you normally keep your truck locked"? And you said "yes, sir.
A. Yes, ma'am.
Q. Next question was "how much cash did you have in your truck that evening"? And you said "Seven Thousand."
A. Yes, ma'am.
Q. And the question was asked, "Seven thousand in cash?" And you said, "yes, sir."
A. I don't remember that comment. I don't remember exactly how much I said in the official statement but I

know how much I had in there.

Q. Okay.

MS. BURRIS: Your Honor, may I approach the witness.

THE COURT: Yes.

MS. BURRIS: Thank you.

Q. If you could please start where Line 6, I'm reflecting your previous testimony, Page 2.

THE COURT: Keep your voice up so the people can hear you.

Q. And starting at - from Line 6 to the next page down to and the next page down to --

SOLICITOR SHELTON: Your Honor, I'm going to objection to her just having him read from something without laying any kind of foundation for it.

THE COURT: Well, you've got to lay a better foundation.

MS. BURRIS: Okay. Sure. Okay.

Q. Do you remember testifying in a previous --

THE COURT: A previous time.

Q. Time?

A. Yes, ma'am.

Q. Okay. And you were actually on the stand and you had taken the stand and you raised your hand to tell the truth and nothing but the truth so help you God.

A. Yes, ma'am.

Q. Okay. And you were questioned by I assume the Assistant Solicitor in regards to the facts of this case and what happened?

A. Yes, ma'am.

Q. And as a result of being questioned on the stand, you answered those questions truthfully?

A. Yes, ma'am.

Q. Okay.

MS. BURRIS: Your Honor, may I approach now?

Q. And so if you could please read --

SOLICITOR SHELTON: Your Honor, she still hasn't --

THE COURT: This is not a question for him to read. It's whether or not his answer at that time is inconsistent with his answer today. Just point out where - If that's what it's being used for, you ask him just point out what his testimony was and where's the difference.

MS. BURRIS: Okay.

Q. And you testified today that you may have had Seven Thousand plus Three Thousand plus maybe Four or Five Hundred Dollars, so it may have been over Ten Thousand Dollars just lying in your car, vehicle, in the center console. Right?

A. No. I told you I had Three or Four Hundred in my pocket.

Q. Right.

A. That's what they took out as they went out the bay door.

Q. Okay. So you had Three to Four Hundred Dollars in your pocket and you are alleging that somebody took that money additionally when going out of the back door?

A. Yes, ma'am.

Q. But it was your testimony - prior testimony that it was Seven Thousand Dollars in cash. and today your testimony, it was about Ten Thousand Dollars in cash?

A. It was.

Q. It was what?

A. I told her about Seven to Ten but it was Ten.

Q. It was Ten Thousand?

A. Yes, ma'am.

Q. So you agree that your testimony is inconsistent today?

A. I mean, from the record of what I said the last time, I said it was between Seven to Ten Thousand.

Q. Okay. You said Seven - you testified as to Seven to Ten thousand?

A. Yes, ma'am.

Q. So you're alleging that the prior testimony under oath, the transcript is wrong?

A. Yeah. I mean if you read the police report I even --

Q. Just answer the question, please, Mr. Jordan.

A. Yes, ma'am.

Q. Okay. So you're alleging that this transcript is wrong. Okay.

Mr. Jordan, do you remember the question being asked as to that's how much money you had made that day and your answer was two days before that?

A. Yes, ma'am.

Q. And you remember being asked the question "what kind of job pays seven thousand dollars?" And you said "I sell rims and tires. I mean, I can sell one set of rims that could cost Ten Thousand." And then the question was "and those people pay you cash"? and you said, "yes, sir. Some people don't. Some people run their cards up. A lot of people run their credit card." Right?

A. Yes, ma'am.

Q. And you remember testifying that whoever paid you that Seven - The question, I apologize. The question asked was "whoever paid you that Seven Thousand didn't pay with a credit card?" And your answer was, "no, sir."

A. Yes, ma'am.

Q. Okay. And then the question was asked "was that from one job or several jobs, do you remember?" And you said "that was from one job." Right?

A. Yes, ma'am.

Q. And then they further went and asked in prior

testimony "had you reported that to the IRS" and you said, "yes." Correct?

A. Yes, ma'am. No, I hadn't tell them I had reported nothing to the IRS.

Q. You did not tell them that?

A. No, ma'am.

Q. And you remember giving your testimony?

A. Yes, ma'am.

Q. All right.

(ATTORNEY BURRIS REVIEWING PRIOR TESTIMONY WITH WITNESS.)

SOLICITOR SHELTON: Again, Your Honor, I'm going to objection to him just reading from something without the foundation being laid as to what he is reading from.

THE COURT: Well, I haven't heard the question yet, so I can't enter an objection until the question.

BY MS. BURRIS:

Q. And you remember giving that prior testimony?

A. Yes, ma'am. I don't remember about the dollar amount that I gave the last time.

MS. BURRIS: The question that I asked him, Your Honor, was that - The first question I asked him was whether or not he had ---

THE COURT: Well ask him.

MS. BURRIS: I apologize.

Q. Okay. So you remember giving your testimony in regards to having Seven Thousand Dollars loose in the center console during a prior time?

A. Seven to Ten thousand.

Q. You said Seven to Tten and not Seven Thousand?

A. No, ma'am. Like if you'd read the police report you can see it was mostly --

Q. Let me - Let me, let me continue.

MS. BURRIS: Your Honor, the transcript is actually inconsistent to the witness' answer.

THE COURT: That's what you can talk to the jury about later. You've asked him.

Q. So Mr. Jordan, when the person asked you had you reported that money to the IRS, you said, yes, sir. Right?

A. No, ma'am.

Q. You did not say, yes, sir?

A. No, ma'am. I don't remember that.

Q. You don't remember?

A. No.

Q. And one of the questions - Strike that.

Now, you do remember giving testimony prior. Right?

A. Yes, ma'am.

Q. But according to what I just read from the transcript, of course, which is recorded testimony, your answer today is that you didn't say this?

A. I mean I didn't say nothing about - I said Seven to Ten thousand and if you read the initial police report, it's in there.

Q. Mr. Jordan, I'll get to that.

THE COURT: Let's move on. I think we've got the picture.

MS. BURRIS: Yes

Q. During what you believe to have been, as has been previously stated a scuffle or a fight, you asked who you believed to be Maquis Robinson "Man, help me up. Help me up, man".

A. Yes, ma'am.

Q. That was according to your statement that you shared with Detective Stokes?

A. Yes, ma'am.

Q. And isn't it true that who you believe to be Maquis Robinson, that person helped you up. Right?

A. Yes, ma'am.

Q. In fact, you were given some lemonade during this scuffle. Right?

A. Yeah because I couldn't catch my breath and I asked at the time Yodi to - "Man, give me something to drink, give me something to drink. I can't breath. I can't breath."

Q. And Yodi gave you something to drink?

A. He hesitated but he did.

Q. Now, it was your previous testimony that this money, whatever amount it was, was actually lying loose in the console. Right?

A. It wasn't laying loose. I mean, it had a band around it.

Q. It had a band around it. So just basically the money in the console had a rubber band?

A. Yes, ma'am.

Q. Okay. And the statement that you actually wrote for the police, Detective Stokes, you said that you reached in your car and gave, you just said "him, the envelope".

A. Yeah. Well it was the money.

Q. So was the - okay. So --

A. Basically what he said, "give me your keys." I said, "Man I ain't giving you my keys. I'll unlock the door myself." And when I reached in, they was on top of me and I just handed them the money.

Q. Was it in an envelope or loose?

A. I think it was - I don't - I can't recall but I think it was loose. I think it just had a band around it.

Q. You would agree that at some point while who you believed to be Maquis Robinson and Yodi, at some point you and who you believed to be Maquis Robinson actually had their arm around you and you had your arm around him?

A. Yes, ma'am. Trying to hold myself up I was so weak.

Q. But there was not at that time nobody had actually placed a gun at your head. You were just holding yourself up on that person?

A. Yeah.

Q. Yes?

A. Not until we get outside and they put the gun - I mean, at that point in time I actually was just holding myself up till we walked to the car. And then after we got out there, he actually pulled the gun back out. Once we got from around where Amanda was, he pulled the gun back out, told me don't try nothing.

Q. Okay. So when you got outside they pulled the gun back out?

A. Yes, ma'am.

Q. Okay. And according to what you say, there wouldn't have been any bullets in that gun though. Right?

A. Yeah. He put a bullet back in the chamber in the bathroom. After they tied Jared --

Q. So they took --

A. Yeah. After they tied Jared up and I told them about the money, they actually put a bullet, they actually pulled the hammer back on the gun and dropped a bullet in the head.

Q. So they had time to do all that?

A. Yeah.

Q. With you? While dealing with you - I'm sorry - and with Jared?

A. Ain't nothing more I could do. I was out of breath. I mean my main objective was just to get to the hospital.

Q. Okay. Is it your testimony that the person that you're alleging as Maquis Robinson was primarily dealing with you?

A. Yes, ma'am.

Q. And the person that Yodi, Yodi was dealing with Jared Crane?

A. Yes, because Jared was coming - That's just because Jared was coming in and he caught Jared from the blind side.

Q. So Yodi caught Jared from the blind side?

A. Yeah.

Q. So primarily you're alleging that the person you believe to be Maquis Robinson was just primarily dealing with you. Correct?

A. Yes, ma'am.

Q. Okay. Now you wrote in your statement that you gave to Detective Stokes, you said "he". You didn't indicate who he was, you said "he asked me, man are we good? Are we good?" And I said, "yeah we good." And he said "Man, you better not call the police" and you keep saying, "we're good. We're good."

A. Yeah.
Q. That's what you told the police?
A. Yes, ma'am.
Q. And then you also indicated you went back in and grabbed the phone and called 9-1-1?
A. Yes, ma'am.
Q. Now, you testified at previous testimony that when asked about him taking you to the bathroom, you testified that, under oath, that he took you to the bathroom. He said, "go in the bathroom". I said, "Man I ain't going in no bathroom. You think I'm gonna to let you kill me in the bathroom."
A. Exactly.
Q. You at one point thought you had been shot but isn't it true that you had not actually been shot?
A. I don't - I mean, I don't know. That's what they say. You know what I'm saying.
Q. They who?
A. At the hospital.
Q. The hospital said you'd been shot?
A. No. I mean, they say, you know what I'm saying, like it been like a laceration.
Q. Laceration.
A. But the only thing I remember the gun going off and I'm bleeding.

Q. Right. Okay. So you remember the gun going off but you would have known if you had been shot in your face or your head. Right? You would have known that?

A. I mean, if you get grazed how you going know? If a bullet graze you, it ain't gonna to do nothing but pierce the skin.

Q. Okay. Well how did your face feel?

A. It was burning.

Q. It was burning?

A. Yes, ma'am.

Q. Okay. But you indicated it was a laceration. Right?

A. No. To this day I still think I got shot.

Q. At the time that you and Maquis Robinson was actually in the bathroom, Yodi and Jared Crane was off somewhere in another room?

A. They was right there in the little - like the bathroom is back here, and then the room right here, well the room right here in the back and you just go out to the bathroom. Like while we in the bathroom, well it actually took a minute. I reckon Jared - They didn't actually start getting - I reckon they didn't actually start out fighting till he heard the gun shots.

Q. Okay. So you mean Yodi and Jared Crane ---

A. Yes, ma'am.

Q. --- did not actually start fighting at all until they

heard --

A. Yeah. I reckon when Jared heard the gun shots, I reckon that when he started walked towards us to see what was going on.

Q. Okay. That's when Jared actually went towards Yodi to see what was going on?

A. No. He was actually coming towards the bathroom.

Q. Okay.

A. And Yodi I think, he must have been ducked down behind the car.

Q. And that's when Yodi came up and grabbed Jared Crane?

A. Yes, ma'am.

Q. Okay. While you were in the bathroom?

A. Yes, ma'am.

Q. Is there a wall, I'm sure there's a door because it's a rest room.

A. It's a door yes, ma'am.

Q. Yes. Okay. So you have a bathroom. You have a door. And so they were on the outside of that door?

A. Yes, ma'am.

Q. Were they also on the outside of that brick wall?

A. No, ma'am.

Q. Okay. Just outside of the door?

A. Yes, ma'am.

Q. Okay. And you couldn't really see them. Right?

A. Not until we got out of the bathroom.
Q. Not until you came out of the bathroom. Right?
A. Yes, ma'am.
Q. And your testimony is you've known Mr. Robinson how long?
A. About four to five years.
Q. And you remember testifying previously that you said when asked the question as to Mr. Robinson "how long have you known him" and you said "five to seven years." Correct?
A. Yes, ma'am.
Q. And you met him how?
A. Through my wife's brother.
Q. Now you testified earlier that he was coming to the shop how often?
A. Pretty much every other day at least. Just pretty much every other day he'd stop in.
Q. So it's your testimony that you had a laceration on your face. Right?
A. Yes, ma'am.
Q. Okay. And a couple of scars on your - According to your previous testimony, a couple of scars - I apologize - scars on your chest and arm?
A. Yes, ma'am.
Q. Now, you described in your previous testimony, at a

prior time, when you were asked about the bathroom and how the sink gets to be down, you're testimony was that we were tussling.

A. Yes, ma'am.

Q. Then you also testified that when he was in there tussling, he was choking me and I was running him against the sink and stuff, trying to probably get a loose?

A. Yes, ma'am.

Q. At any time during this incident - Now I understand that in regards to your shop,---

A. Yes, ma'am.

Q. --- Five Customs — Is it called Five Customs?

A. Five Star Customs.

Q. Five Star Customs.

A. Yes, ma'am.

Q. There's a bay door that you can come through. Right?

A. Yes, ma'am.

Q. Okay. And then there's like a main area there?

A. Yes, ma'am.

Q. Okay. And then there's a bay area?

A. Yes, ma'am.

Q. Okay. It's your testimony that when you and who you believe to have been Maquis Robinson were in either the main area or the bay area, Jared and Dantonyo Heath were off somewhere or close by but not where you were?

A. Yeah. When we was in the bathroom and they was in the main - the main little shop area. The bathroom is in the shop area.

Q. Do you have a lot of traffic coming to your shop after ten o'clock?

A. No, ma'am. I mean, probably after six or seven we ain't got no traffic.

Q. This is not the first time something like this has happened is it?

A. Yes, it's the first time.

Q. Now, law enforcement actually took a picture of your cell phone.

A. Yes, ma'am.

Q. Okay. And took your phone. Right?

A. Yes, ma'am.

Q. And they actually downloaded your text messages. Right?

A. I don't know. I ain't see none of it.

Q. You haven't seen your text messages that they downloaded?

A. No, ma'am.

Q. Now, you would be familiar with your own content of your own phone. What type of phone did you have?

A. A Boost mobile.

Q. You had a Boost mobile. Model, do you remember the

model?

A. No, ma'am.

Q. Was it Sanyo?

A. I don't remember what the model was.

Q. What was your phone number?

A. 417-1693.

Q. 417-1693?

A. Yes, ma'am.

Q. User code 1693?

A. Say what now?

Q. You're user code, 1693?

A. Not sure.

Q. Not sure. Okay. Now, the State actually showed you - State's Exhibit Twenty-seven they actually showed you and admitted into evidence with the marker on it three. Is that your phone?

A. Yes, ma'am.

Q. And you remember what was actually on that phone. Right?

A. You said what was on it?

Q. Yes, sir. As in what was in your phone, your own phone. Your cell phone.

A. Back then no. That's been two and a half years ago. I can't tell you what was in that phone by now.

Q. It wouldn't surprise if I said there were pictures of

cars. Right? In the phone.

A. Yeah, it probably was pictures of cars cause I take pictures of all the cars we do.

Q. It wouldn't surprise you if I told you there were pictures of rims?

A. No, ma'am.

Q. And it wouldn't surprise you if I told you that - pictures of yourself?

A. No, ma'am.

Q. And it wouldn't surprise you that if I told you that you have pictures displaying lots of money?

A. No, ma'am.

Q. You and Jared talked, you and Jared Crane actually talked after this incident didn't you?

A. Yes, ma'am. He was still working for me

Q. No, no. I mean, like, I'm sorry, on the date of the incident. Like when it first happened.

A. No, because I picked - I mean, I talked to him, you know what I'm saying, when he left the hospital - I mean, when we was at the hospital.

Q. Okay. So you and Jared Crane did not actually talk while the two of you were there at your shop?

A. At the shop. What do you mean?

Q. I'm sorry. Let me make my questions clear. After this alleged incident, these two or three persons are gone.

Right?

A. Yeah.

Q. And you were there at your shop. Right?

A. Yeah.

Q. Okay. And you were in which area, the bay area, the main area, outside?

A. In the front lobby, or in the front area.

Q. Okay. So you were in the front area?

A. Yeah.

Q. Okay. And Jared Crane was?

A. He had threw his wife in the ceiling and then he fell through the ceiling and then he came - When I sat down he come running back in there. He was like, "you alright? You alright?" And pretty much I just pretty much told him, "Man if I die tell my kids I love him." He was like "Man you ain't going to die. You ain't going to die."

Q. And you all talked about the case and what happened?

A. No.

Q. You all didn't talk about the case and what happened?

A. What do you mean the case?

Q. You guys didn't actually just discuss what had just happened?

A. No. I mean, I was out of it. I wasn't worried about the case then. I was just trying to get to the hospital.

Q. So you didn't discuss what had just happened?

A. We both knew what had just happened. We had just got robbed.

Q. You told Jared Crane who you thought had actually robbed you. Right?

A. No. Jared already knew who had robbed us. Only thing he kept saying "I can't believe Maquis did that".

Q. And he knew Maquis by name?

A. Yeah.

Q. And he spent about how much time with Maquis?

A. He had been working there about two months and Maquis was coming to the shop. You know, he — you know what I'm saying. He was pretty much - I mean he was pretty much trying to get through to learn him how to paint.

Q. In your previous testimony you said, "when he grabbed me around my neck I just kind of ran him up against the wall and everything" and the person asked you - I apologize - In the prior testimony was asked, "so you were fighting" and you said "yes, ma'am."

A. Yes, ma'am.

Q. And you also told him that "I'm not shutting the door," right, of the bathroom?

A. Yeah.

Q. And you have a truck?

A. Yes, ma'am.

Q. You have what type of truck?

A. Excursion.
Q. Excursion?
A. Yes, ma'am.
Q. Okay. And in regards to the lineup that Detective Stokes showed you while you were actually at Piedmont Medical Center, that would be State's Exhibit Thirty-seven, Court's Exhibit Two, Detective Stokes showed you this lineup and he told you what?
A. He just pretty much read the front of the paper and just told me --
THE COURT: Keep your voice up.
A. He just pretty much read the front of that paper and just, you know saying, told me if I don't see nobody in there don't pick out nobody that I don't know. But as soon as he handed me the paper I just circled and initialed.
Q. So he told you if you don't know anyone in the photographic lineup that you know then don't pick anyone out?
A. No. If you don't know any of these suspects that did the crime, don't pick none of them out, you know.
Q. Okay. And you didn't know any of these persons that are actually in the photographic lineup except you did know Maquis Robinson?
A. No, I mean, he done been in the shop. This guy here. You know what I say, I know him.

Q. Okay. And so the photograph that's actually under, in Court Exhibit Number Two, State's Exhibit Thirty-seven, the photograph that is actually under Maquis Robinson's photo, you've seen that guy. He's actually been to the rim shop?

A. Yes, ma'am.

Q. And you've had previous dealings with him?

A. No, ma'am.

Q. Well, how do you know he came to the rim shop?

A. I mean, he never been in the shop. We put rims on his car. I mean, once you see someone's face you don't forget it.

Q. Now typically when a person actually comes to inquire about rims, they talk about the type of rims they want on their car. They talk about the wheels. They talk about the installation and the cost, of course. Right?

A. Yes, ma'am.

Q. Okay. And so this person would have had more than one dealing or encounter with you because nobody comes to the rim shop to talk about wheels, talk about the rims and the size rims they need and just buy them right off. Right? And you never see them again?

A. Many people do that.

Q. Really?

A. Yes, ma'am.

Q. And it is your testimony that the person whose

photograph is actually under Maquis Robinson, he came one time and you never saw him again?

A. Yeah, I done saw him somewhere else. Yeah. I mean, plenty people done come in the shop and I don't see them no more.

Q. Right. So you sold him some wheels?

A. Yes, ma'am.

Q. He came in one time?

A. Yes, ma'am. I mean, I ain't at the shop everyday so I can't say if he came back in there since then or not. I mean, I ain't at the shop every day. I ain't there. I got other people who work for me.

Q. Right, but it's your testimony that he came in one time and during that particular time, you sold him some wheels and you never saw him again?

A. Yes, ma'am. But I mean this after the case. This ain't got nothing - this after the case, you know.

Q. How much longer after the case did this person come in?

A. This could have been almost - about a year ago.

Q. So you're saying he came in a year ago one time to buy some --

A. I'm just saying that I done seen the guy. I done seen the guy on the photo. He done been in the shop.

Q. Right.

A. But he ain't got nothing to do with this case.
Q. You see somebody one time and you remember them?
A. Yeah. I seen you one time and I remember you.
Q. Well, I'm a frequent flyer around here. So but showing you this photographic lineup, you saw the guy whose picture is actually under Maquis Robinson ---
A. Yes, ma'am.
Q. --- one time and you remember him?
A. Yes, ma'am.
Q. And you remember his name? How much money did he spend with you?
A. I don't remember all that. I can't tell you how much money he spent with me.
Q. He bought some wheels from you though. Right?
A. Yeah, but I can't tell you how much money he spent with me though.
Q. And his name is?
A. I don't - I mean, I don't know everybody's name.
Q. While at the hospital when you got there you were checked into a room?
A. Yes, ma'am.
Q. And the nurse gave you some medication or something to alleviate the pain?
A. No, ma'am.
Q. She didn't give you anything or he didn't give you

anything?

A. No, ma'am.

Q. Now, you testified in previous testimony that Maquis Robinson owed you Twenty-four Hundred Dollars?

A. Yes, ma'am.

SOLICITOR SHELTON: Objection, Your Honor. Can we approach?

(BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF THE JURY AT 04:27 P.M..)

BY MS. BURRIS:

Q. Now, you testified earlier that you and Maquis Robinson had previous dealings in regards to some rims. Right?

A. Yes, ma'am.

Q. And you had testified that he owed you money. Right?

A. Yes, ma'am.

Q. Okay. Now, you also remember - you testified - How much money did he actually owe you?

A. I don't remember exactly how much it was but I know we had put some 26's on his car and I was letting him make me payments on it but I never did get it.

Q. But he did actually give you Eighteen Hundred Dollars. Right?

A. Yes, ma'am.

Q. According to your testimony he only owed you Six

Hundred. Right?

A. I don't recall.

Q. You remember testifying during a previous time. Right?

A. Yes, ma'am.

Q. And the question was asked is "how much money did he owe you." Right?

A. Yes, ma'am.

Q. And you testified "the rims was Twenty-four Hundred Dollars and he gave me eighteen" so he owed you Six Hundred Dollars and you said, "yes, sir."

A. Yes, ma'am.

THE COURT: That's just what he testified to, isn't it?

SOLICITOR SHELTON: Yes, sir.

MS. BURRIS: Well he didn't know. He said he didn't know.

Q. Now, Mr. Jordan, you testified a few minutes ago in regards to that Maquis Robinson fought you over a piece of - I think there was a piece of glass involved in the bathroom?

A. Yes, ma'am.

Q. Okay. And it was a broken piece of glass?

A. Actually like when I was running him up against the bathroom wall the mirror broke. The mirror broke and while

he was on my back I was trying to grab it and I was about out of breath so he ended up grabbing it somehow. By the time I caught that second we ended up rolling over some kind of way and he actually tried to come down. He was actually trying to come down at me but I was just holdin his hand and telling him, "you ain't going to kill me in this bathroom."

Q. And you would say that you all were tussling pretty hard. Right?

A. Yes, ma'am.

Q. Okay. And not at any time do you remember this person bleeding at all?

A. No, ma'am. I mean, I was the one bleeding.

Q. No cuts or scratches from this person?

A. Oh, I don't know.

Q. Now you mentioned when asked on direct examination from the Assistant Solicitor when asked whether or not you were scared, you said a "little bit". Right?

A. Yeah. Yeah I was scared.

Q. Your testimony was that you were only scared a little bit. Yes?

A. I was scared for my life.

Q. You never had to stay overnight at the hospital did you?

A. No, ma'am.

Q. You were out within how many hours?
A. I think I stayed there after they stitched my face up probably about four or five hours.
Q. About four to five hours. Never given any medication?
A. No, ma'am.
Q. And you had definitely testified that when you were actually there in the hospital bed on State's Exhibit Twelve, eyes were closed on State's Exhibit Twelve?
A. Yes, ma'am.
Q. You were tired. Tired?
A. Yeah, I was tired.
Q. Pretty much out of it. Right?
A. Yeah.
Q. Okay. Sort of dazed. Not doing a lot talking. Right?
A. I mean, I wasn't dazed or nothin. I was alert.
Q. Who you believed to be Maquis Robinson never left out of the bathroom with you to go fight with Jared did he?
A. No, ma'am.
Q. Okay. Thank you.
When you testified earlier when the Assistant Solicitor asked you on direct that the officer said that it didn't look that serious. What was the officer referring to?
A. I don't know. I mean, you know what I'm saying, when

I told him I felt like I was fixing to die, you know he looked at my face, he said I don't think no bullet there. It don't look like there no bullet there so it don't look that serious.

Q. You're a pretty strong guy. Right?

A. I think so.

Q. Pretty good body strength. Right?

A. Yes, ma'am.

Q. In fact, body strength strong enough to have pushed your alleged offender back against the wall. Right?

A. Yeah. I mean, he was choking me so yeah, I mean I had enough strength to push him back and forth, you know what I'm saying. If I wouldn't have, I probably wouldn't be here now.

Q. And you had enough strength to be able to take the gun and pull the clip out. Right?

A. Yes, ma'am.

Q. Even as you were tussling with your alleged offender. Right?

A. Yes, ma'am.

Q. At no time did you ever feel like you were confined in a room and couldn't get out because you had enough body strength to fight didn't you?

A. Yeah. I mean, at one point in time I did felt like that. I mean, once I fell on my stomach yeah I did feel

like that.

Q. When did you fall on your stomach?

A. As he was choking me.

Q. Where was that?

A. Pretty much once we run up against the bathroom but we fell and I was trying to grab the glass and pretty much my circulation had cut off but pretty much like something must have gave me a second wind and that's when I pretty much rolled up on my stomach.

Q. So you felt like you just couldn't move?

A. I couldn't. I mean, there was something that gave me a second wind. I don't know what it was, you know, when he was saying go to sleep, it was something. I reckon it was the Lord. I mean, it was something, you know, that gave me a second wind.

Q. You weren't tied up or anything. Right?

A. No, ma'am.

Q. This was during the time period in which you allege that you were tussling with this person?

A. Yes, ma'am.

Q. And you'd seen Yodi how many times?

A. About like four or five times.

Q. Four or five times. Do you know Yodi?

A. No, ma'am. I know him by coming to the shop with Maquis. He be coming up there talking to Maquis. That's

how I met him.

Q. You never told the police that before did you?

A. Yeah I told them that.

Q. When?

A. At the initial thing. I told them it was Yodi.

Q. Did you ever tell them that Yodi was coming to --

A. I mean, he never been up there but about four or five times. Yeah I told them that. We had suppose to have put some rims on his car, on that Cadillac.

Q. Did Yodi ever actually come up there with Maquis Robinson?

A. Yeah.

Q. And you told the police that?

A. Oh, I don't know. I mean, I think I did. I don't know.

Q. When do you think you told the police that?

A. I don't know. I was asked some many questions I can't recall. I don't know.

Q. You mean the night it happened?

A. After it happened too. You know, I gave my statement but I can't recall everything I told them.

Q. Well you should know whether or not he's ever actually been to your shop with Maquis Robinson.

A. Yeah. He done been up there to the shop.

Q. Now, in regards to - Mr. Jordan, in regards to -

You've indicated that you were being choked by this person. Right?

A. Yes, ma'am.

Q. What kind of bar was it?

A. It was long.

Q. A long bar.

A. You talking about — I mean, that's a separate - I mean, he got that crow bar, that crow bar that's what he tried to pry on my neck but in the meantime when we was in the bathroom he had his arm wrapped around my neck.

Q. Okay. So --

A. I mean, it went on for a minute.

Q. Where did the crow bar come from?

A. Off the shop floor.

Q. Off the shop floor?

A. Yeah.

Q. And the police collected that into evidence?

A. Yes, ma'am.

Q. They did?

A. I think so. I ain't sure. I ain't sure.

Q. Okay.

A. I ain't sure if they --

Q. They actually came to the scene on the night of the alleged incident which was June 8, 2011, and they were able to take pictures of the scene?

A. Yes, ma'am.
Q. And the crow bar would have actually been left in the --
A. I reckon in the shop area. I mean, I don't know. I had went to the hospital.
Q. In the shop area. So, but the crow bar and you and who you believe to be Maquis Robinson, you all were in the bathroom?
A. Yes, ma'am.
Q. Okay.
A. I mean, we came out the bathroom too, you know.
Q. In the bathroom with the crow bar?
A. Yes, ma'am.
Q. And then came out of the bathroom with the crow bar left in the bathroom?
A. No. The crow bar would have been in the shop area.
Q. It would have been in the main shop area.
A. And then once we came out the shop area, when he was still on my back choking me, and I was trying to run him up against the tires and stuff, and when I hit the floor, when I hit the floor that's actually — you know I was about out of it and for some reason that's when I grabbed the glass and he was trying to come down, trying to come down on my neck, and I was holding it, but he knocked the glass though, I was trying to grab the crow bar when he was

trying to press down on my neck with it once he got it he was trying to press down with it.

Q. Was there any time that you were able to actually get control of the gun?

A. No, ma'am.

Q. Do you know anything about anyone taking any money from Jared Crane?

A. Yeah. They went in his pocket once they got rid of me. They went in his pocket.

Q. Where were you guys at?

A. In the back back there by the bathroom.

Q. In the back near the bathroom?

A. Yeah. Right before I got ready to go out.

Q. Right before you got ready to go out where?

A. Out the bay door.

Q. Out the back door; not the bay door?

A. Yeah, the bay door.

Q. Okay. Right before --

A. They took me to the car.

Q. Okay. So right before you, and who you believe to be Maquis Robinson, and the other person, and Jared Crane, you guys were there at the bay door. Right?

A. Yes, ma'am. Right before they got ready to tie him up.

Q. Right before they got ready to tie up?

A. Jared.
Q. You mean as in Yodi got ready to tie up Jared Crane. Correct?
A. Yeah. Dantonyo Heath.
Q. Okay. You answered — let me make sure I answered this question ---- you mean as in Yodi or Dantonyo Heath got ready to tie Jared Crane up. Right?
A. Well, Maquis the one told Yodi to tie him up.
Q. Okay. So all four of them were at the bay door - all four of you were at the bay door. Right?
A. No. We was back there towards the bathroom.
Q. Okay. So you were at the bathroom?
A. Yeah.
Q. Towards the bathroom?
A. Yes, ma'am.
Q. And you said there was money taken out of Jared Crane's pocket?
A. Yes, ma'am.
Q. And the money was taken out of Jared Crane's pocket by?
A. Dantonyo Heath.
Q. Dantonyo Heath, okay. Do you know how much money it was?
A. No, ma'am.
Q. Now, I'm going to show you what's been previously --

As we're waiting for this video to play, we talked a little bit about just, you know, your strength and you hitting the gun.

A. Yes, ma'am.

Q. And it's your testimony that when he tried to shut the door I hit the gun - you hit the gun and it went off.

A. As he trying to shut the door, as he tried to shut the door I reached for the gun ---

Q. You reach for the gun?

A. --- and the gun goes off. Yeah.

Q. And it went off?

A. Yes, ma'am.

Q. Now let's talk a little bit about this video. Let's pause it right here.

THE COURT: Can all the jurors see?

MS. BURRIS: I apologize.

(VIDEO PUBLISHED TO THE JURY/COURT.)

Q. Can you see that video, Mr. Jordan?

A. Yes, ma'am.

MS. BURRIS: Okay, can you back it up a little bit. Thank you. Okay, pause it right there.

Q. So at that time, Mr. Jordan, where are you?

A. Right there at the bay door.

Q. So you're at the bay door?

A. Yes, ma'am.

Q. And beside you is who you believe to be?
A. Maquis Robinson.
Q. Maquis Robinson. And walking here with this shirt on, I guess this dark colored shirt, you believe to be?
A. Dantonyo.
Q. Okay. So at some point - at some point there was you and who you believed to be Robinson and Dantonyo standing there together?
A. Yes, ma'am.
Q. They never tried to attack you? Right there.
A. No, ma'am. They're actually fixin to walk me out to the car now.
Q. About to walk you out to the car.
A. Yes, ma'am.
Q. Okay. Did you ever pull out - pull out anything out of your pocket?
A. Yeah. I pulled out my money.
Q. Your money?
A. The money I had in my pocket.
Q. Okay. And where was Jared during this time?
A. In the bathroom tied up.
Q. So at this time you, and who you believe to be Robinson and Yodi, you're outside in the dark?
A. Yeah. Pretty much they said walk out the door, we'll play it cool, you know.

MS. BURRIS: Thank you.

SOLICITOR SHELTON: Your Honor, for the record that was State's Exhibit Number Seven.

THE COURT: Thank you.

SOLICITOR SHELTON: And I'm about to show State's Exhibit Number Eight.

THE COURT: Okay.

(STATE'S EXHIBIT EIGHT PUBLISHED TO THE JURY/COURT.)

(PAUSE.)

THE COURT: Ms. Burris.

MS. BURRIS: Yes, sir.

(PAUSE.)

MS. BURRIS: Okay. Stop it right there please.

Q. All right. So at this time you, and who you believe to be Mr.,Robinson, basically you're placing your arm around this person. Right?

A. Trying to hold myself up.

Q. Trying to hold yourself up. And this person looked like also has their arm basically around you?

A. Yes, ma'am.

Q. Okay.

(STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO THE JURY/COURT.)

MS. BURRIS: Stop it right there.

Q. Now it looks like on this particular picture

that you, and who you believe to be Mr. Robinson, looks like on this picture there was a conversation going on. Right?

A. No, ma'am.

Q. No conversation?

A. Actually he was telling me to move my arm.

Q. So this person was basically saying move your arm, man, move your arm.

A. Yeah.

Q. Okay. And you were saying?

A. I was telling him to hold me up.

Q. Hold you up?

A. I told him I was going to pass out.

(STATE'S EXHIBIT EIGHT CONTINUED TO BE PUBLISHED TO THE JURY/COURT.)

MS. BURRIS: Stop right there.

Q. And then you actually go to try to put your arm back around him?

A. Yes, ma'am.

Q. Okay. And during this particular time, there is no gun displayed.

A. No. By that time he done, I mean, he put the gun in his pocket.

Q. The gun was actually in the pocket?

A. Yeah.

Q. Now you mentioned — I had asked you previously — I just have a couple more questions and I'll be done. You were previously asked - We were talking about a gun. Did you, Mr. Jordan, ever have a gun in your possession?

A. No, ma'am. I actually had my hand up around his --

Q. You had your hand around the gun?

A. Yeah. I had my hand on this end, on this end and then I broke the clip of the gun and I was trying to bring it back around and it just went off.

Q. Okay. So you had your hand on the gun and then you took your other hand and broke the clip out?

A. Yes, ma'am.

Q. And that was in the bathroom?

A. Yes, ma'am.

MS. BURRIS: At this time I have no further questions. Thank you.

THE COURT: Mr. Smith.

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

SOLICITOR SHELTON: Your Honor, I hate to drag it out by he's been on the stand --

THE COURT: We'll go take another break. We'll take about a ten minute break and have a refresher break.

(JURY EXITS COURTROOM AT 04:55 P.M..)

THE COURT: We'll take about a ten minute refresher

break. The witness can step down.

MS. BURRIS: Your Honor, may my client use the rest room as well?

THE COURT: Yeah, we'll do that.

MS. BURRIS: Thank you.

(DEFENDANT'S EXIT COURTROOM.)

(COURT IN RECESS AT 04:55 P.M..)

(COURT BACK IN SESSION AT 05:11 P.M..)

THE COURT: Thank you. Take your seats.

And we'll get the defendant's in.

(DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH, REENTER COURTROOM.)

THE COURT: Everybody is where they should be so bring in the jury.

(JURY REENTERS COURTROOM AT 05:13 P.M..)

THE COURT: All right, Mr. Smith.

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

CROSS EXAMINATION

ERNEST JORDAN BY MR. SMITH:

Q. Mr. Jordan, the business, Five Star Customs, it's now moved; is that right?

A. Yes, sir.

Q. So it's across Cherry Road sort of near the same location but across the street?

A. Yes, sir.
Q. All right. But the videos and all that we've seen are obviously as it existed back in June of 2010; is that right?
A. Yes, sir.
Q. The - You said that when you attention was first brought to something going on and you saw someone coming towards you and I believe someone ducked down behind a vehicle; is that right?
A. Yes, sir.
Q. And did you indicate that, that at that point you immediately knew that to be the person you had heard called Yodi?
A. Yes, sir.
Q. Okay. And at some point you were discussing what went on in the bathroom, and I may have gotten it wrong, but did you say a gun went off on two separate occasions?
A. Yes, sir.
Q. Okay. And once you believe is when you were shot in the face?
A. Yes, sir.
Q. And where did the bullet go or what was the gun aimed at the second time it went off?
A. Actually when I grabbed his hand and broke the clip, I was actually trying to bring it back around and it just

went off.
Q. Okay. But it was in the bathroom somewhere as well?
A. Yes, sir.
Q. The whole time that this went on, you only saw one gun; is that right?
A. Yes, sir.
Q. And who was in possession of that gun the whole time?
A. Maquis Robinson.
Q. Now, you talked about some monies being in your car.
A. Yes, sir.
Q. And you said that they left with the money or they took the money. Specifically who took that money?
A. Well, both of them were standing there and when I opened the door and opened the console, Maquis got on me and he is the one that actually grabbed the money.
Q. And you also talked about a couple lineups that you had been shown. I believe that's State's Exhibit Number Thirty-seven and Number Thirty-nine; is that right?
A. Yes, sir.
Q. Okay. And you were shown both those by Detective Stokes; is that correct?
A. Yes, sir.
Q. The first one I believe is Number THirty-seven, is the one which contains Mr. Robinson's photo?
A. Yes, sir.

Q. And you were shown that one at the hospital; is that right?
A. Yes, sir.
Q. And you talked about the first form on there or the cover sheet, that first page; is that right?
A. Yes, sir.
Q. And you indicated that Detective Stokes read that whole sheet to you before he showed you that form?
A. Yes, sir.
Q. Okay. And then you initialed that ---
A. Yes, sir.
Q. --- lineup on the picture side; is that right?
A. Yes, sir.
Q. And then the second lineup that you were shown, I believe at a Bojangles parking lot.
A. Yes, sir.
Q. Is there an attached cover sheet with it?
A. No, sir.
Q. Were you shown a cover sheet with that lineup?
A. No. He just advised me of -He just read it off to me and just told me, you know, if I see anybody on there, you know, that I can make a positive I.D., just circle and initial.
Q. Do you remember testifying earlier today that you thought he did show you the sheet but you just didn't sign

it?

A. Yes, sir.

Q. Okay. So did something change over the break that made you testify differently now?

A. No, sir.

Q. Okay. So do you think he did show you a sheet or he didn't show you a sheet?

A. Yeah. I think he read me the sheet.

Q. Okay. The second time he did?

A. Yes, sir.

Q. And the first time you were read the sheet, you actually signed and initialed it?

A. Yes, sir.

Q. And he signed it as well?

A. Yes, sir.

Q. But there is no signed copy of the sheet with the second lineup; is that right?

A. No, sir.

Q. Now, the person who was wearing the bandana over their face.

A. Yes, sir.

Q. They never hit you; is that right?

A. No, sir.

Q. And they never pointed a gun at you; is that right?

A. No, sir.

Q. All right. Do you know the color of the bandana?
A. Yeah. It was black.
Q. Okay. Are you sure it was black?
A. Yeah.
Q. Do you remember testifying earlier and you said it was blue or black?
A. Yes, sir.
Q. Has something changed since you testified earlier that makes you more confident now with the color?
A. Yeah because I know it was blue. I meant, black bandana. Black with like little white dots on it.
Q. Okay. So what made you not able to know the color back when you testified before but able to know the color today?
A. I'm in a better mind frame.
Q. Okay. Now, when the video was being shown to you by Ms. Burris, at one point you came walking and it appeared that you had a cup in your hand; is that right?
A. Yes, sir.
Q. Where did that cup come from?
A. I had went to Wendy's earlier that day and I had a sweet tea and actually Dantonyo, after I told him I couldn't breath, I was like man, give me something to drink. I can't breath. And actually he hesitated for a minute but he got it.

Q. Okay. So the man in the bandana actually went and got your drink for you and handed it to you; is that right?

A. Yes, sir.

Q. And I believe you said that he – well, obviously he helped you out in getting you that; is that right?

A. Yes, sir.

Q. And you mentioned another time when he helped you out in the bathroom. You said if it wasn't for him, you thought it would be over; is that correct?

A. Yes, sir.

Q. All right. And what did he do to help you then?

A. He pretty much just saying, "man let's get this money and go. Let's get this money and go."

Q. So you believe he stopped some violence that was going to occur to you?

A. Yes, sir.

MR. SMITH: No further questions.

THE COURT: Redirect?

SOLICITOR SHELTON: Just very briefly, Your Honor.

REDIRECT EXAMINATION

ERNEST JORDAN BY SOLICITOR SHELTON:

Q. When Ms. Burris had you watch the video and showed you walking with your arm around Mr. Robinson and she said you all were having a conversation.

A. Yes, ma'am.

Q. What did you say he was saying to you?
A. Telling me to move my arm.
Q. And right after he said that to you, what did he immediately do next?
A. Pushed my arm down.
Q. So he wasn't really helping you out?
A. No, ma'am.
Q. But why did you keep putting your arm around him?
A. Trying to hold myself up.
Q. You weren't doing it because you all are such good friends?
A. No, ma'am.
Q. Why did you need to hold yourself up?
A. Because I was out of breath.
Q. Why were you out of breath?
A. Being choked.
Q. Who choked you?
A. Maquis Robinson.
Q. Where were you going with him?
A. To the car.
Q. Why were you going to the car?
A. Because I told him I had some money in the truck.
Q. Were you willingly going there?
A. No, ma'am.
Q. What was making you go?

A. He had pretty much put a bullet back in the gun and told me, don't try nothing to walk out there.

Q. Now did you - Ms. Burris asked you about your statement several times. She never actually gave you a copy of your statement to help you refresh your memory. Would looking at your statement help refresh your memory?

A. Huh?

Q. The statement that you gave two years ago, would looking at it help you remember what you put in that statement two years ago?

A. Yes, ma'am.

(WITNESS REVIEWING DOCUMENT.)

Q. Now, you testified previously I believe that you and Mr. Robinson were wresting and tussling around. That you grabbed his wrist and in fighting over the gun, the clip - you broke off the clip?

A. Yes, ma'am.

Q. In that statement, what did you tell law enforcement about what happened to the clip? On that first page.

A. You said what did I tell them what happened to it?

Q. Yeah, what happened to the clip.

(WITNESS REVIEWING DOCUMENT.)

A. Right there? Right there by the part when I say I kept trying to pull him out the bathroom?

Q. Yes.

A. I broke the clip out the gun.
Q. But read the whole sentence.
Or don't read it but what did you say there?
A. "I broke the clip out the gun and then the bullets fell onto the floor."
Q. But that sentence doesn't begin with "And I broke the clip out of the gun" does it? Where does the sentence begin?
A. No, it don't begin with it.
Q. How does it begin.
A. To my right here where it say I pulled him out the bathroom. "We was wrestling over the gun"?
Q. Yes. So you told - Back in 2011, you told the detectives that you were wrestling over the gun and that you broke the clip?
A. Yes, ma'am.
Q. And then what if anything did you tell the detectives talking about when you were being taken out of the bathroom? First off, when you were being taking into the bathroom, did you willingly go into the bathroom?
A. No, ma'am.
Q. Were you free to leave your shop at that point?
A. No, ma'am.
Q. How did you end up in the bathroom?
A. He pulled me in there.

Q. Who pulled you in there?
A. Maquis Robinson.
Q. And did you at that time feel like you could leave?
A. No, ma'am.
Q. When you met with the detectives back two years ago, a little over two years ago, referring back to the part of the video that Ms. Burris showed where you all were arm in arm, did you feel safe at that point?
A. No, ma'am.
Q. Had Mr. Robinson threatened you in any way, and if you need to refer to your statement, did he say anything threatening to you? Just up prior to that part of the clip did he threaten you in any way?
A. Just told me, don't try nothin.
Q. Did he do any additional threats? What would happen if you tried something? Did he tell you what he would do if you tried something?
A. He still had a bullet in the chamber he'd shoot.
Q. If you want to look at your statement, did he say anything to you or did you tell the detectives he said anything to you?
It would be at the top part of the statement.
A. Right here when I said, "you're about to kill me over some bullshit?"
Q. Now on the second page of your statement, you were

talking to the detectives about what happened after the wresting in the bathroom and right around the time that Ms. Burris showed you that clip of you walking off arm and arm, she asked you if you see a gun at that point; you do not, but were there any threats made to you about the gun and what would happen to you prior to that clip that she showed?

A. Right there where he said, "you try anything?"

Q. Right.

A. "You try anything, Neal, I swear I'll kill you."

Q. And who said that to you?

A. Maquis Robinson.

Q. And is that what you told detectives back in June of 2011?

A. Yes, ma'am.

SOLICITOR SHELTON: Thank you, Mr. Jordan.

I have no further questions, Your Honor.

MS. BURRIS: I do have a couple questions, Your Honor.

RECROSS EXAMINATION

ERNEST JORDAN BY MS. BURRIS:

Q. Now you just testified that when you - and I think it was two other additional persons outside - you testified earlier that you gave him the money and then one point you testified that he grabbed the money out of the car. Reached over and grabbed the money out of the car.

A. He asked me for my keys as I opened the door and I opened the console to get the money out of there, he reached in and he grabbed the money out my hand.
Q. So he reached in. You didn't give and offer the money?
A. He took it out my hand.
Q. Okay, so now he took it out your hand?
A. Yeah.
Q. Okay. And in regards to - You testified to earlier in regards to wrestling and tussling in the bathroom. Right?
A. Yes, ma'am.
Q. How big is the bathroom?
A. It's probably right about six by five.
Q. Six by five?
A. Yes, ma'am.
Q. That's fairly small.
A. Yes, ma'am.
Q. In a small room?
A. Yes, ma'am.
Q. Mirror broken?
A. Yes, ma'am.
Q. How big was the mirror?
A. It was just like a little medicine cabinet mirror.
Q. Okay. Glass from the mirror?
A. Yes, ma'am.

Q. Blood?
A. Yes, ma'am.
Q. And you would say that you and this person was tussling pretty heavily. Right?
A. I was tussling. He just had me around my neck. I mean --
Q. But at some point, you all were in a small room. There was glass broken and there was bleeding. Correct?
A. Yeah. I was already bleeding before all the glass and stuff was broken. Before we even started tussling.
Q. Okay. You testified also that both you and this person were grabbing for the glass at the same time. Right?
SOLICITOR SHELTON: Objection, Your Honor. That was not subject to redirect.
THE COURT: I sustain the objection. Let's go over what was brought up new and on redirect.
MS. BURRIS: Okay.
Q. And about how many pieces of broken glass were actually in --
SOLICITOR SHELTON: Again, I'm going to object. We didn't discuss the glass at all on redirect.
THE COURT: I sustain the objection.
BY MS. BURRIS:
Q. But at some point, you, this other person, the mirror

was broken, in a very small bathroom and there was blood?
A. Yes, ma'am.

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

THE COURT: Mr. Smith.

MR. SMITH: Nothing further, Your Honor.

THE COURT: You can step down. We appreciate your time. Thank you.

MR. JORDAN: You're welcome.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Jury panel, it's about 5:30 so we're going to quit for the day and start back at 9:30 in the morning. Unlike this morning where I had a book of business so to speak that I had to take care of regarding this trial, tomorrow we should be able to start right around 9:30 so please be here at 9:30 ready to go; keeping in mind my admonitions about what not to do.

I'm not going to repeat them every day so we can tell by doing that but it is very important that you recall those. So we'll see you at 9:30 in the morning. Have a pleasant evening.

(JURY EXITS COURTROOM AT 05:30 P.M..)

THE COURT: Anything from the State before we stop?

SOLICITOR SHELTON: No, sir, Your Honor. And I'll leave it up to the court. It does not matter to me. I

have Ms. Crane here. I know that Mr. Smith would like an in-camera hearing on her testimony if there is going to be an in court identification and we'll take that up whenever the court wants to.

THE COURT: When is she going to testify?

SOLICITOR SHELTON: She would be my second witness tomorrow.

THE COURT: Well, let's not do anything else today. It's 5:30. I imagine your next witness will be Mr. Crane?

SOLICITOR SHELTON: Actually, I'm going to call Tim Buchanan from forensics next. I think that he would still be a fairly lengthy witness because he collected most of the evidence.

THE COURT: Okay. And then she is going to be your second witness. We'll take a little longer break and - Well, why don't we - How long do you think it would take to do the in-camera?

SOLICITOR SHELTON: I have twenty questions for her. I don't know how long cross from either Ms. Burris or Mr. Smith --

THE COURT: Why don't we start at nine and then the jury is coming in at 9:30 if they have to wait a little bit we'll start at nine and do the in-camera on Ms. Craine even though the jury will have to wait a little longer.

MS. BURRIS: Your Honor, if I may I just wanted to ask

in regards to the State's witnesses simply because I do have one of the witnesses driving down from Walterboro and she does have a small child and she needs to be back to pick up her small child. She is one of the police officers who was actually involved in the case, so I guess I'm just trying to get an idea as to when we'll actually start our case so I can further notify her but I did tell her that I would keep her posted.

THE COURT: Well, based on the way we've gone today, I don't know that we'll reach your case tomorrow.

SOLICITOR SHELTON: I would just think that we would not, Your Honor. We have Investigator Buchanan, Amanda Crane, Jared Crane, Betty Butler from SLED, Lily Galman from SLED. I have Patricia Crooks under subpoena. She is an internal chain. Ms. Burris has not told if she is going to object to her absence or not but she is on standby. Ray Hamilton from Rock Hill PD who was in the chain. Detective Stokes and Sargent Smith.

THE COURT: I would think that your witness wouldn't be needed until Thursday.

MS. BURRIS: Okay. Thank you, Your Honor. I'll let her know. Thank you.

THE COURT: Mr. Smith, anything before we stop for the day?

MR. SMITH: No, Your Honor.

THE COURT: All right. Nine a.m.

(COURT IN RECESS AT 05:35 P.M..)

(COURT BACK IN SESSION IN THE MATTER OF STATE V. MARQUIS ROBINSON AND DANTONYO HEATH WEDNESDAY, JULY 24, 2013 AT 09:32 A.M..)

THE COURT: Thank you. Take your seats.

We can get the defendants in.

(DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH REENTER COURTROOM.)

THE COURT: We're back on the record in *State versus Robinson and Heath* and it's my understanding we need to have a *Neil versus Biggers* concerning an identification from Amanda Crane so the State can proceed.

SOLICITOR SHELTON: Your Honor, the State at this time would call Amanda Crane. And Your Honor, just to be clear there was no out of court identification for Mrs. Crane.

THE COURT: If you'll come up here and put your left hand on the Bible and raise your right.

(WHEREUPON: AMANDA CRANE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MADAME CLERK: Please have a seat.

DIRECT EXAMINATION - IN CAMERA

AMANDA CRANE BY SOLICITOR SHELTON:

Q. State your name for the record, please.

A. My name is Amanda Crane.
Q. And Mrs. Crane, where do you live?
A. I live in Lancaster, South Carolina.
Q. Are you married?
A. Yes, ma'am, I am.
Q. Who is your husband?
A. Jared Crane.
Q. And was Mr. Crane the victim of a crime on June 8th of 2011?
A. Yes, ma'am, he was.
Q. Did you witness any part of that crime?
A. Yes, ma'am, I did.
Q. Describe what you witnessed just briefly for pretrial.
A. I witnessed the suspects carrying Neal Jordan out of the business and my husband coming out of the bathroom tied up, bleeding from his face and I then crawled into a ceiling until the police arrived.
Q. And when you witnessed -- How many suspects did you see with Mr. Jordan?
A. Two.
Q. When you saw Mr. Jordan with two suspects, did you get a close look at either one of them?
A. Only one when he approached my car and asked for my cell phone.
Q. And who was that that approached your car and asked

for your cell phone?

A. Mr. Heath.

Q. Did you know him?

A. I'd never seen him before. No, ma'am.

Q. You had never seen him before in your life?

A. The first time I saw him is when they opened the bay doors and brought Mr. Jordan out of the building.

Q. Was his face covered when he came up to your window?

A. No, ma'am.

Q. And what about lights?

A. My car light, interior light was on because the driver's side door was open and the store next to us was lit up pretty well.

Q. But it wasn't like broad daylight?

A. It wasn't broad – no, ma'am. It was night time.

Q. How close were you to the person that you believed to be Mr. Heath?

A. Closer than her and I are.

(WITNESS INDICATED TO COURT REPORTER.)

Q. Were you able to get a look at him?

A. Yes, ma'am.

Q. Were you ever shown a lineup of Mr. Heath?

A. No, ma'am.

Q. Why not?

A. Because they offered – They asked me the night of the

incident at the hospital and my husband really was scared for what had happened and didn't want me to do a photo lineup at that time.

Q. Did you give a statement?

A. Yes, ma'am.

Q. And what, if anything, in your statement did you tell officers about the encounter that you had with that suspect?

A. That he approached my car and leaned up against it where my driver's side door was open and asked me if I had a phone he could use and I told him that mine was dead. It was laying on the center console of the car. And I then said that my husband is inside he has a phone I can go get it for you. And I exited my vehicle and walked into the business.

Q. And you testified that you have not seen a photo lineup, but have you seen a picture or anything of this — of Mr. Heath since the incident?

A. I saw him just on the website of the Moss Justice Center.

Q. When was that?

A. It was after the incident.

Q. And for pretrial purposes, you've seen him in this courtroom before?

A. Yes, ma'am, I have.

Q. And is the person that approached your car that evening in the courtroom today?

A. Yes, ma'am.

Q. And where is he?

A. He's sitting right over there.

Q. And did you --

THE COURT: Why don't you give us a little better description than just sitting right over there. There are several people sitting over there.

A. He is sitting over here with the blue shirt and button up - blue button up shirt with a tie on.

SOLICITOR SHELTON: Your Honor, let the record reflect that she has indicated to Dantonyo Heath.

(WITNESS INDICATED TO DEFENDANT DANTONYO HEATH AT DEFENSE TABLE.)

Q. And you previously identified him in court?

A. Yes, ma'am, I have.

Q. Would either that previous in-court identification or previously seeing him on the detention center website, is that why you're picking him out today?

A. No, ma'am. I've seen him in dreams since this happened. I mean, I remember his face from that night.

Q. And are you absolutely certain that that is - that the person that you've indicated in the courtroom sitting in the dark suit with the blue shirt is the same person

that approached your car on June 8th of 2011?

A. I'm very positive. Yes, ma'am.

Q. Just briefly, you did not get a good look at Maquis Robinson?

A. No, ma'am, I did not.

Q. And you never picked him out of a lineup?

A. No, ma'am, I haven't.

Q. And there will be no in-court identification. You won't point to him and say this is Maquis Robinson in court today?

A. No, ma'am.

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

THE COURT: Ms. Burris.

MS. BURRIS: No, sir, Your Honor. I have no questions for this witness.

THE COURT: Mr. Smith.

MR. SMITH: Thank you, Your Honor.

CROSS EXAMINATION - IN CAMERA

AMANDA CRANE BY MR. SMITH:

Q. Mrs. Crane, how long did you see the individual outside the store, the shop?

A. Maybe — Well maybe he stood there maybe three, four minutes.

Q. Okay. Would it surprise you to learn that it was

thirty-five seconds?

A. No, sir.

Q. No. So could it be less?

A. He was there for a few minutes because I looked for my phone and told him that it was dead and he - I didn't have one he could use and that my husband was inside the building with one that he could use.

Q. Okay. So if the video were to show it to be thirty-five seconds, obviously your memory is inaccurate; is that right?

A. It's been a long time.

Q. And thirty-five seconds wouldn't be enough for you to remember as well as you claim you're remembering. Right?

A. It's pretty - I have a pretty good remembrance of who I saw.

Q. Okay. Now, the lighting today, you said it was pretty good. Do you remember testifying prior at a trial of this case and do you remember saying that the lighting was kind of dark?

A. It was night time outside and there was no business - there was no lights on outside the business that we were at. My car interior light was on and so was the store's light beside of us.

Q. Okay. And the individual that you're claiming to be Mr. Heath never got inside the car while you were in the

car did he?

A. He didn't get inside the car. He leaned down into where he could see my face and where I could see his face in the car.

Q. Okay. And were you face to face with him the entire time he was outside?

A. No. At first he come and leaned up against the side of my car out of breath and couldn't talk. It took him a few minutes to catch his breath even to ask me for the phone.

Q. Okay. And at that point was he standing or was he kneeling?

A. He was standing at that point.

Q. All right. And you were seated in your car; is that correct?

A. Yes, sir.

Q. So you weren't face to face looking him at that point?

A. I was turned looking up at him.

Q. And then at some point did you walk off or did he walk off?

A. I walked off. I got out of my car and - After I said my husband's inside, he has a phone you could use, I got out of my car and walked in the building.

Q. You indicated that you had seen a picture of Dantonyo Heath on the Moss Justice Center website; is that right?

A. Yes.
Q. How did you know to pull his picture up?
A. After this incident had occurred, I looked, we had looked to see if they had been arrested.
Q. But how did you ever know the name Dantonyo Heath?
A. I didn't. I searched the recent bookings and saw his face.
Q. Did you see the newspaper article of who had been arrested?
A. No, sir, I did not.
Q. And how many people had been arrested?
A. Two.
Q. What day was he arrested?
A. I believe it was July. I'm not sure of the date.
Q. So you searched every day from the date of the incident?
A. Yes, sir.
Q. Okay. And what charges was he arrested for?
A. I didn't - After I saw his face I dropped my phone and I didn't look again.
Q. And was there a bond hearing?
A. Yes, sir.
Q. Were you at that bond hearing?
A. Yes, sir.
Q. And was Mr. Heath at that bond hearing?

A. Yes, sir.

Q. How was he dressed at that bond hearing?

A. I believe he was still in his orange jumpsuit then.

Q. Where was that bond hearing?

A. It was held here, I believe. I don't remember.

Q. And was he named as Dantonyo Heath and the charges that he was charged with read out?

A. I'm not sure if they were before I test - I mean, I'm not sure.

Q. But there was no doubt in your mind that that was the person they had arrested; is that correct?

A. Yes, sir.

Q. And both that bond hearing and that viewing on the Moss Justice Center website occurred before you made your first in-court identification; is that right?

A. Yes, sir.

MR. SMITH: I have no further questions.

THE COURT: Redirect?

SCLICITOR SPRINGS: Nothing, Your Honor.

THE COURT: You may step down.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: I find that Mrs. Crane's identification is reliable. Of course all the things such as weight and credibility is for the jury, but as far as admissibility, I find that her identification is reliable based on the

testimony presented by her during this hearing.

She had a very good opportunity to view the individual she identified at the time of the event, basically face to face with his face not covered, through the window of her automobile. Her interior light and the store light next door if I remember correct, on the surveillance, which was not presented during this hearing, but that surveillance video does show the interior light of her car being on. But she said she got a good look and said that she was very positive that this is the individual that looked into her car on the night in question. So I find that her identification is reliable and is admissible.

All right, anything else before we bring the jury in?

SOLICITOR SHELTON: Nothing on the record, Your Honor, but may I have a short restroom break?

THE COURT: All right. We'll all take a short restroom break. That way when we get started we can go for a good while. The jury is already there so we'll do five minutes.

SOLICITOR SHELTON: Yes, sir.

THE COURT: We'll start at a quarter of ten by my clock.

(COURT IN RECESS AT 09:40 A.M..)

(COURT BACK IN SESSION AT 09:50 A.M..)

THE COURT: Thank you. Take your seats.

Is the State ready?

SOLICITOR SHELTON: State's ready, Your Honor.

THE COURT: Ms. Burris?

MS. BURRIS: Yes, sir, Your Honor.

THE COURT: Mr. Smith?

MR. SMITH: Yes, Your Honor.

THE COURT: Bring in the jury.

(JURY REENTERS COURTROOM AT 09:51 A.M..)

THE COURT: When you look at the clock, you might think I missed that class in kindergarten that taught you how to tell time. I really didn't. We had some matters to take up not dealing with this trial. I had something else I had to do quite frankly I had forgot about. And we just got through doing that so now we're starting to do this. And I apologize for getting here a little earlier but we're still pretty close to on time.

You may proceed.

SOLICITOR SHELTON: Thank you, Your Honor.

Can I get Tim Buchanan, please. He's in the hallway.

THE COURT: If you'll step up here and put your left hand on the Bible and raise your right the clerk will administer the oath.

(WHEREUPON: TIM BUCHANNAN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MADAME CLERK: Thank you. Please have a seat.

MADAME CLERK: Thank you. Please have a seat.

DIRECT EXAMINATION

DETECTIVE TIM BUCHANNAN BY SOLICITOR SHELTON:

Q. State your name for the record, please.

A. Tim Buchanan.

Q. And Investigator Buchanan, how are you employed?

A. I work for the York County Sheriff's office. I'm an investigator with the Multi-jurisdictional Forensics Service Unit.

Q. And explain to the jury in case they don't know, exactly what is that. What do you do?

A. I am like a CSI on TV. We go out and process the crime scene and collect the evidence; put it into the evidence storage. And we're multi-jurisdictional which means that there are several officers from each of the different agencies, Rock Hill, York, the Sheriff's office, Fort Mill, Tega Cay and Winthrop. They are multi-jurisdictional which means they are under the Solicitor's office which gives the Rock Hill officers the ability to work in the county and Fort Mill. It just gives them county wide jurisdiction.

Q. And how many years have you worked in law enforcement?

A. Fifteen.

Q. How many years have you been with the forensics service unit?

A. For the last five and I volunteered back before they had the unit.

Q. How long has the unit been operational?

A. I'm sorry?

Q. How long has the unit been operational, Forensic Service Unit?

A. I think it's seven or eight years now that they've been in operation.

Q. So you were working for the Forensic Service Unit on June 8th of 2011?

A. Yes, ma'am.

Q. Do you remember being part of an investigation of an armed robbery, attempted murder and a kidnapping at Five Star Customs on Cherry Road in Rock Hill?

A. Yes, ma'am.

Q. What county is that in?

A. I'm sorry?

Q. What county is that in?

A. That's in York County. It's in Rock Hill right on Cherry Road there.

Q. As a part of your investigation, what exactly did you do there?

A. We got on the scene, and I took photographs of the scene, and then several of the unit's officers showed up to assist and we collected items and placed them into

evidence.

Q. Did you take pictures?

A. Yes, ma'am. I took photographs.

Q. Do you have your report of the items that you took into evidence?

A. Yes, ma'am.

Q. I'm going to show you what's been marked for identification as State's Exhibit One.

You just hold onto that.

I'm going to show you State's Exhibits One through Six and Ten. And if you can just look at each of those in turn.

(WITNESS REVIEWING EXHIBITS.)

A. Okay.

Q. And what is State's Exhibit One?

A. This is a white tee shirt with red stains on it that we found on top of a table in the shop at the back of Five Star Customs.

Q. And how do you - it's obviously in a bag. How do you recognize that as what you just described?

A. Whenever we collect these items, we'll package them in the proper way. This is in a paper bag. Any cloth that has any kind of biological stuff would be put in a paper bag so it can breath, and once it's bagged up, it's sealed and it's signed. And it's also labeled and signed here

with my signature.

Q. And so you sealed that piece of evidence into that bag?

A. When it was placed into evidence, it was seal and signed and placed into evidence. That's correct.

Q. And once you recovered the shirt, was it in your care and custody the entire time?

A. Yes, ma'am.

Q. Did you or anybody else do anything to tamper with that evidence?

A. Nc, ma'am. We placed it in a bag and took it over to Rock Hill PD and filled out the forms and placed it into evidence.

Q. And looking at it now, is it in the same condition as it was when it left your custody?

A. No. It's inside this evidence bag that somebody has placed it in, but other than that, it seems to be the same. It's the same paper bag.

Q. And if you need to refer to your report, did you ask for any follow up testing or anything with that specific piece of evidence?

A. The detective - Generally we place them into evidence and then the detectives request that they be sent down to SLED, but I do believe this one was sent to SLED for DNA testing.

Q. Hand me that one. Thank you.

And then referring to items 2 through 6 and item 10, can you identify those items?

A. Yes, ma'am. They appear to be my signatures on all of them.

Q. What is item 2?

A. This is a Sanyo cell phone. Your item 2. It would be my item number 3.

Q. Or State's Exhibit Number Two.

A. I'm sorry?

Q. State's Exhibit Number Two.

A. Yeah, that would be a Sanyo cell phone. That's the second one you give me.

Q. Look at the - there's an I.D. number on it.

A. Oh, I apologize. I see it now. State's Exhibit - you've got a different sticker on here. State's Exhibit Two is a .9 millimeter Luger round that was found in the shop floor of the bathroom.

Q. And did you recover that?

A. Yes, ma'am.

Q. And did you place it into evidence?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I'd ask to move --

Q. And is that the same piece of evidence that you placed

-that is what you placed into evidence back in June of 2011?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time we would ask to move State's Exhibit Number Two into evidence.

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER TWO, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. And State's Exhibit Number Three?

A. That's a spent .9 millimeter shell casing. It was found in the bathroom floor.

Q. And is that the same ---

A. Yes, ma'am.

Q. --- piece of evidence you placed in evidence --

A. Yes, ma'am.

Q. How do you recognize it? From your signature on the back?

A. Yes, ma'am. From my signature.

SOLICITOR SHELTON: Your Honor, at this time we ask to move State's Exhibit Number Three into evidence.

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER THREE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. And State's Exhibit Number Four.

A. It's a .9 millimeter luger round that was found beside the toilet and this one is signed too, the same.

SOLICITOR SHELTON: Your Honor, we ask to move State's Exhibit Number Four into evidence.

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER FOUR, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. And State's Exhibit Number Five?

A. A .9 millimeter round from behind the toilet at marker cone number 9. It's also signed.

SOLICITOR SHELTON: Your Honor, I'd ask to move State's Exhibit Number Five.

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No, Your Honor.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER FIVE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. State's Exhibit Number Six?

A. Also a .9 millimeter round that's found at marker cone number 10. It's also signed and sealed up.

SOLICITOR SHELTON: We ask to move State's Exhibit Number Six, Your Honor.

MS. BURRIS: No objection.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER SIX, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. And State's Exhibit Number Ten?

A. That would be the Sanyo cell phone found in the shop floor under some tires by the bathroom.

Q. Placed into evidence by your self?

A. Uh-huh. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, we ask to move State's Exhibit Number Ten.

MS. BURRIS: No objection.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER TEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. Investigator Buchanan, I'm going to give you what's been marked for identification as State's Exhibits Twenty-eight through Thirty-six and State's Exhibit Forty-six, Forty-eight and Fifty.

Look through those, please.

(WITNESS REVIEWING EXHIBITS.)

A. All right.

Q. Do you recognize those photos?

A. These would be photos that I had taken at the crime scene.

Q. You personally took the pictures?

A. Yes, ma'am.

Q. And looking through those photos, do each and every one of them accurately reflect the pictures that you took that night, reflect the way the scene looked on the evening that you took the pictures?

A. Yes, ma'am.

Q. Did you do anything to alter the scene as represented in those pictures?

A. No, ma'am.

Q. There's nothing added into the pictures that weren't there before?

A. No, ma'am.

Q. Not on any of them?

A. No, ma'am. Doesn't appear to be. I don't have all my

pictures in front of me, but these appear to be the ones that I took and they don't appear to be altered in any way.

Q. So when you arrived on the scene, the way that — just in looking at that first picture — when you arrived --

A. The only difference that has been altered is it has a marker cone in it. I also had these pictures without the marker cone. I go through and snap pictures of the scene as I walk in and we take full pictures of the whole scene.

Then we go back and mark items of evidence or items of interest with marker cones so that we can annotate it and we take pictures of them from a distance so you know where the cone is in relation to the building. You can refer back to the scene pictures and the cone pictures and it gives you a general idea where it was at. Then we take close up photos. These appear to be the close up photos.

This would be a mid-range photo but this one would be a close up photo so you get it of the ball cap.

Q. Before we show it to the jury I have to move it into evidence. But going back to the picture, have those pictures been altered by yourself in someway before the pictures were made?

A. No, ma'am. Like I said, the only difference is the cone was placed beside the object.

Q. So that would be an alteration. Those cones were not there when you got there?

A. No, ma'am. The cones were not there. I put the cones back down.

Q. And other than that, is that an accurate reflection of how the scene looked that way?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time we'd ask to move State's Exhibits Twenty-eight through Thirty-six and State's Exhibit Forty-six, Forty-eight and Fifty into evidence.

MS. BURRIS: Without objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBITS TWENTY-EIGHT THROUGH THIRTY-SIX, FORTY-SIX, FORTY-EIGHT AND FIFTY, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. I'm going to have you hold on to them.

SOLICITOR SHELTON: Can I get State's Exhibit Number Twenty-eight up, please.

(STATE'S EXHIBIT TWENTY-EIGHT, PUBLISHED ON COURTROOM OVER HEAD.)

Q. Investigator Buchanan, what is this a picture of?

A. That's a picture of a .9 millimeter round that was in the floor. I believe that's right in front of the bathroom.

Q. Is that a spent round or a live?

A. No. That's a live round.

Q. And then Exhibit Number Twenty-nine?

(STATE'S EXHIBIT TWENTY-NINE PUBLISHED ON COURTROOM OVER HEAD.)

A. That's a spent shell casing and I believe that's in the bathroom.

Q. And what is that to the side of the cone?

A. I'm sorry?

Q. What are those pieces of things to the side?

A. Those look like some shards of mirror that was broken in the bathroom.

Q. And then Exhibit Number Thirty.

(STATE'S EXHIBIT THIRTY PUBLISHED ON COURTROOM OVER HEAD.)

A. That would be a live round. That's also in the bathroom.

Q. And Exhibit Number Thirty-one?

(STATE'S EXHIBIT THIRTY-ONE PUBLISHED ON COURTROOM OVER HEAD.)

A. A live round that's behind the toilet on top of a piece of broken mirror.

Q. Exhibit Number Thirty-two?

(STATE'S EXHIBIT THIRTY-TWO PUBLISHED ON COURTROOM OVER HEAD.)

A. Another live round that's near the toilet right in front of the broken mirror.

Q. Exhibit Number Thirty-three?

(STATE'S EXHIBIT THIRTY-THREE PUBLISHED ON COURTROOM OVER HEAD.)

A. That would be a bullet hole through the wall of the bathroom and the sheet rock.

Q. Is that on the outside?

A. I think that's on the outside. I'd have to refer back to the pictures. Of the outside of the bathroom where it came through.

Q. And Exhibit Number Thirty-four?

(STATE'S EXHIBIT THIRTY-FOUR PUBLISHED ON COURTROOM OVER HEAD.)

A. That would be the shirt that was found in the shop that was placed into evidence, a white tee shirt.

Q. Exhibit Number Thirty-five?

(STATE'S EXHIBIT THIRTY-FIVE PUBLISHED ON COURTROOM OVER HEAD.)

A. That would be a red stain in the floor beside some tires.

Q. Exhibit Number Thirty-six?

(STATE'S EXHIBIT THIRTY-SIX PUBLISHED ON COURTROOM OVER HEAD.)

A. That would be a red stain on top of the toilet lid in

the bathroom.

Q. Exhibit Number Twenty-six.

(STATE'S EXHIBIT TWENTY-SIX PUBLISHED ON COURTROOM OVER HEAD.)

A. That would be where the bullet grazed the wall and went through the wall to the outside. That's from inside the bathroom. It's up in the - If you're in the door, it's in the top right corner looking inside the bathroom.

Q. Okay. Thank you.

You testified that part of your job is to recover evidence. Does that - Is that just the physical evidence that was recovered or other evidence as well?

A. We're in charge of recovering pretty much all the evidence on the scene. We take photographs and document and we also pick up any physical evidence, DNA, whatever we need to take.

Q. If you need to refer to your reports, what - other than the physical exhibits that we've already discussed, what other evidence was collected at the scene?

A. There was some swabs taken of the red stains. On the back of the - There was a car that was processed on the exterior and there was a swab taken of a red stain on the back of it. There was one taken from a tire rim in the shop floor. The picture of the shop floor there of the red stain, we took a swab from that and we took a swab from the

top of the toilet.

Q. And what happened with those swabs?

A. They were placed into evidence along with the rest of the evidence and they were sent - some of these items were sent to SLED for further DNA testing.

Q. And were there any other evidence that was not, physical evidence that had been entered into evidence today that was collected at the scene besides the red stains?

A. We took buccal swabs from the two victims and one of the defendants and placed those into evidence too for comparison purposes.

Q. What is a buccal swab?

A. It's a swab of the inside of your cheek. And what it does, is it gets your DNA so that they can compare it. It's taken with a cotton swab and then placed in an envelope, sealed and placed into evidence.

Q. Were there any fingerprints or anything like that collected at the scene?

A. There were some fingerprints taken off of the vehicle outside.

Q. Were any tests done to those?

A. They were compared to the victims and both of the fingerprints that had any value were determined to be the victims.

Q. Any other fingerprints collected?

A. No, ma'am. Just the ones that were collected on the vehicle.

Q. And those were matched to which victim?

A. Jared Crane.

Q. What about the bullets that were found there. Anything done with those?

A. Investigator Boyd processed the two .9 millimeter shell casings with the - and the live rounds for fingerprints with a perma blue method, which means that they used a gun bluing. When you handle shell casings, if they sit for very long, the secretions from your hand actually etch into the shell and actually start to rust it more or less. The perma blue adheres to that first before it adheres to the metal and you put the gun bluing on and rinse it off and it will help develop some fingerprints that were on there. None were developed but she attempted to develop some there.

Q. So no fingerprints from any of the shell casings?

A. No, ma'am.

Q. I'm going to show you what's been marked for identification as State's Exhibit Number Forty-one.

(WITNESS REVIEWING EXHIBIT.)

Q. Do you recognize that? Do you need to open it?

A. I'm trying to look through it. I'm going to have to open it up.

(WITNESS OPENED SEALED EXHIBIT.)

A. Yes, ma'am. This is a buccal swab I took from Jared Crane.

Q. Of Jared Crane?

A. That's what it says. Yes, ma'am. Well, no. I apologize. I'm readying the victim. That's my bad. This is a buccal swab that was taken at the detention center. Yes, ma'am.

Q. Of who?

A. I read the victims. I didn't write the suspect's name in there but it was from - give me just a second here.

I've got the report. Dantonyo Heath. A retrieved a buccal swab on 4-30 and placed it into Rock Hill PD evidence.

Q. And do you know what happened with that swab after you placed it into evidence?

A. It was send down to SLED for comparison purposes.

Q. And once you took that swab, what did you do with it?

A. I took the swab from him. I placed it in this package and I took it straight over to Rock Hill PD and dropped it into evidence.

Q. Was it sealed when you dropped it into evidence?

A. Yes, ma'am.

Q. Did you or anyone else in your presence to anything to alter or tamper with that swab?

A. No, ma'am.

Q. Was there anyone else with you when you took it to Rock Hill?

A. No, ma'am. But it was — I was in the jail when I took it, the sample, and sealed it up.

Q. And it was with you the entire time?

A. Yes, ma'am.

Q. When you arrived on scene, did you talk to the victims?

A. No, ma'am.

Q. Did you see the victims?

A. No, ma'am.

Q. Did you know anything of the allegations?

A. Just what the officers told me on the scene.

Q. Do you recall what you were told?

A. That there had been an armed robbery. The victim knew the suspect and that's basically it. That they had been attacked inside there.

SOLICITOR SHELTON: Thank you, Investigator.

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor. May it please the court.

CROSS EXAMINATION

INVESTIGATOR TIM BUCHANNAN BY MS. BURRIS:

Q. How are you?

A. I'm fine.
Q. Good. Do I call you detective or officer?
A. Call me whatever you want will be fine.
Q. Okay. Mr. Buchanan?
A. That's fine.
Q. Okay. Mr. Buchanan, when you actually went to the alleged crime scene, you weren't by yourself were you?
A. I'm sorry?
Q. You weren't alone. Were you?
A. No, ma'am. I had Cheryl Boyd with me.
Q. Okay. Ms. Boyd and who else? Was George Weeks with you?
A. Not at the time, no.
Q. Okay. So it was you and Ms. Boyd.
A. Uh-huh.
Q. Yes?
A. Yes, ma'am.
Q. Okay. Just make sure that your responses are audible. Okay.
A. You have to speak up a little bit. I'm a little hard of hearing.
Q. Yes, sir. I sure will. I'll just say close.
Now, you mentioned when asked on direct in regards to you were able to recover physical evidence?
A. Yes, ma'am.

Q. And there was not any DNA from that physical evidence that you matched up to a profile belonging to Maquis Robinson. Correct?

A. I don't match any evidence, ma'am, for DNA.

Q. Okay, but you collected it?

A. I collect the - everything I said. Yes, ma'am.

Q. Okay. Now, you also - you lifted - there were prints, latent prints ---

A. Yes, ma'am.

Q. --- lifted?

A. Cheryl Boyd lifted some off the vehicle.

Q. Okay. You also, there were swabs taken from red stains. Right?

A. Yes, ma'am.

Q. Okay. Fingerprints?

A. Off the vehicle. Yes, ma'am.

Q. Prints from the mirror, the broken mirror?

A. No. We didn't print the mirror.

Q. You talked about the secretions from the hand, I guess and that's - that would be like the hand prints or the fingerprints?

A. That would be like sweats and oils that you secrete naturally.

Q. Okay. Didn't get any fingerprints from any shell casings?

A. No, ma'am.
Q. Now, you went out that evening, took pictures, all those samples, DNA samples. Right?
A. On --
Q. Went out to the crime scene.
A. Actually Cheryl Boyd collected the DNA samples.
Q. Okay. So she collected the DNA samples. You went out, took the pictures?
A. Yes, ma'am.
Q. Okay. And Cheryl Boyd collected the samples?
A. Uh-huh.
Q. Okay. And then I believe you testified you had packaged them?
A. Yes, ma'am.
Q. Okay.
A. I dropped everything into evidence. Yes, ma'am.
Q. Okay. You identified, wrote on the tape and sealed it up and dropped it into evidence?
A. Yes, ma'am.
Q. Okay. And you did not perform an analysis of any of those?
A. No, ma'am.
Q. The only prints you found on anything was on the vehicle. Correct?
A. That's the only thing we really treated for prints

there. Yes, ma'am.

Q. And those prints actually were Mr. Crane's, Jared Crane's?

A. Yes, ma'am.

Q. And it's your testimony that you did not receive or get any prints from - or hand prints or fingerprints that actually belonged to a profile of Maquis Robinson. Right?

A. I didn't get any fingerprints. No, ma'am.

Q. You've actually looked at the pictures that the State admitted into evidence. Right?

A. Yes, ma'am.

Q. And I know of course there are more pictures than that. Like there are pictures of the overall scene?

A. Yes, ma'am.

Q. Okay. You placed the little yellow cone markers right before you actually took the photograph?

A. One of the four of us that were there did. Yes, ma'am. And then I took the pictures.

Q. Let's look at State's Exhibit - what's been previously marked as State's Exhibit Thirty-six. And there was blood there found on the back of the toilet. Right?

A. There was a red stain on it. Yes, ma'am.

Q. Okay. And you were able to take a sample of that?

A. Yes, ma'am.

Q. And collected it?

A. Yes, ma'am.

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

What is that a picture of, the glass that you recovered?

A. That's a picture of a round that I recovered.

Q. The round?

A. Yes, ma'am.

Q. What about this?

A. It's sitting on top of a piece of glass ---

Q. Sitting on top --

a. --- but we recovered the round. That's what it's marking.

Q. Okay. What about State's Exhibit Thirty-two.

But all of that glass was actually on the floor. Correct?

A. Except the piece that's on the wall right here. Yes, ma'am.

Q. Okay. So you have on State's Exhibit Thirty-one and Thirty-two --

A. Two rounds. Two live rounds.

Q. And what's by the live round?

A. There's a piece of glass beside the live rounds.

Q. Okay. And that glass would have actually come from the mirror as far as you can tell when you went to the

scene?

A. Yes, ma'am.

Q. Now you indicated that you worked for the Multi-jurisdictional Unit in York County?

A. Yes, ma'am.

Q. And you have special training in forensics and crime investigations?

A. Yes, ma'am.

Q. And part of your training of course is talking about different types of evidence and collection of evidence from different crime scenes?

A. Yes, ma'am.

Q. Now, one type of evidence that we talk about is trace evidence. Trace evidence?

A. Yes, ma'am.

Q. Okay. And trace evidence is something that gets left somewhere or gets deposited like at - or behind something or around something in that particular crime scene. Right?

A. Yes, ma'am.

Q. Coming from some other person or object?

A. Yes, ma'am.

Q. And when you actually go to a crime scene, you look for trace evidence. Right?

A. Yes, ma'am.

Q. And so you testified that you really didn't know

exactly what happened so when you go there you sort of look for things that are out of place when you go to a scene?

A. The first thing we do is take pictures and then we evaluate and decide what we're going to collect. We collect it. Box it up. Put it into evidence.

Q. One type of trace evidence is fiber evidence. Right?

A. Yes, ma'am.

Q. And those are like strips from clothing. Right?

A. Yes, ma'am.

Q. Okay. Or it can be any type of just minute fibers. Right?

A. Yes, ma'am.

Q. And usually if you go into a crime scene - And you did have the opportunity to go into that small bathroom located there. Right?

A. Yes, ma'am.

Q. And you looked around for trace evidence, any clothing or fibers that may have actually been lying anywhere in the restrocm. Right?

A. We could. Yes, ma'am.

Q. I'm sorry. You did?

A. Yes, ma'am.

Q. Hair evidence is also a type of trace evidence. Right?

A. Yes, ma'am.

Q. Another type of evidence we talked about was fingerprints?

A. Yes, ma'am.

Q. Palm prints?

A. Yes, ma'am.

Q. And impressions or indentations is what you called it; is that right? Impressions. Fingerprint impressions.

A. Fingerprint impressions would be just fingerprints. Yes, ma'am.

Q. Okay.

A. It's the same thing. Different wording.

Q. Okay. Let's talk about fingerprints. Fingerprints can actually be left in a lot of different ways. Right?

A. Yes, ma'am.

Q. Okay. One could be that you touch any surface with your fingerprints, because we actually have very distinctive ridges on each fingerprint that belongs to each one of us. Right?

A. That's correct.

Q. Right. Okay. And so if you touch a soft surface, or any surface, and you make an indentation in that surface, given that we have these very specific details, ridged details, within our fingers on our hands, whatever it presses on; is that right? That's the way you actually look at the fingerprints in your training?

A. When we look at the fingerprints, there are several different ways that fingerprints can be deposited. You can deposit a print in a soft, like a chocolate bar or a piece of soap. That's called a plastic impression or in paint, you know, if it leaves an impression in the paint that's visible, that's a plastic impression.

You can have a bloody fingerprint or paint on your fingers and leave a fingerprint that's visible that you can see with the naked eye, that is a patent print.

Then there is also latent prints which are basically invisible but what it is, is the deposit, the secretions from your fingers, the sweat, the oil, the salt and everything, when you touch it it leaves an impression. We go back with some type of fingerprint dust or cyanoacrylate glue fumes which is super glue that leaves fumes that adhere to that so that we can see it and we lift it and go from there. What we look at is what we lift or what we photograph on the scene. That's what we look at.

Q. Okay. So you would have looked at - The evidence that you actually collected, you would have looked at that evidence to see if there were any fingerprint?

A. Yes, ma'am.

Q. Or hand prints or palm prints?

A. Uh-huh.

Q. Yes, sir?

A. Yes, ma'am.

Q. And, when you talk about - What are plastic prints?

A. If you take a chocolate bar ---

Q. The chocolate bar.

A. --- and stick your finger in it, ---

Q. Okay.

A. --- when you pull it away you can see the lines and furrows. That's a plastic print.

Q. So in other words there could be like if your hand has some substance or foreign substance on it and you pick up let's say the chocolate bar, then that's a way - once you touch that - let's say chocolate bar - then your fingerprints are actually left on there?

A. No. It's actually - A plastic print is placed like in silly putty, soap, any type of soft object where when you press into it, it leaves a reverse of your actual fingerprint in that substance.

Q. Okay. That has the ridge details?

A. Correct.

Q. Okay. And you can usually see that with the visible eye?

A. Correct.

Q. Is it your testimony that basically if you touch something, the natural oils from your skin from actually touching, or touching the surface, is probably going to

leave a print?

A. Not necessarily.

Q. Explain why wouldn't if you are talking about something soft like soap or a chocolate bar.

A. You didn't say soap or chocolate bar. You said if I touch a surface, I left a print. You don't always leave a print when you touch something. Different people secrete differently. If it's wet, it may not leave a print. There are all kind of factors in collecting fingerprints.

Q. What if you touch just say a toilet, like a porcelain toilet?

A. You don't necessarily leave a fingerprint.

Q. But you could?

A. You could, yes.

Q. What about a mirror?

A. You could.

Q. A mirror you could. Right? Glass?

A. Porcelain, glass, wood, paper. You could leave it on any substance but it doesn't mean that you will.

Q. So you agree with me there are many different types of ways that you can actually get evidence?

A. Yes, ma'am.

Q. It just depends on which type of evidence it is.

A. Yes, ma'am.

Q. DNA can be found in blood?

A. Yes, ma'am.
Q. And you're trained in how to preserve the evidence so as not to harm or destroy the evidence. Right?
A. Yes, ma'am.
Q. So that it can be tested at a later point?
A. Yes, ma'am.
Q. And you definitely - When the State actually showed you all the State's exhibits, which actually had the photographs of the blood, which I'm showing you now State's Exhibit Thirty-five, a photograph of the blood, you collected evidence from that. Right?
A. Cheryl Boyd took swabs from it. Yes, ma'am.
Q. Now, would you say that once you actually got there, along with Cheryl Boyd, was it a pretty secure scene you would say?
A. They had the crime scene tape up and they had everybody out of the scene at that time. Yes, ma'am.
Q. When you have like a sweaty hand or a sweaty palm or your fingers are sweaty and you touch something, it's more likely that you are going to leave a print. Right?
A. I can't say one way or the other, but like I said before, you don't always leave prints when you touch something.
Q. Right, but if you have sweat on your hand, or secretion on your hand, usually if you touch something

you're gonna leave a print?

A. Not necessarily.

Q. Okay. Would you say most likely?

A. I couldn't say one way or the other because I've seen prints left on all types of surface, all different types of conditions, and you're talking about - If everybody looks at their hand right now, can you see the fingerprints?

It's a very, very shallow ridge. If you fill that ridge up with water and you touch something, you're not going to leave nothing but a smear. Now, I can develop smears everywhere but it has to have the actual ridge detail. And you know if you want to put one up on the screen, I could show them a picture of what a fingerprint looks like, but what we identify are the ridges and valleys and they can get filled up very easily and you don't leave a fingerprint.

So I can't say one way or the other whether anybody is going to leave print on a piece of glass, which is a perfect surface. But I've seen glass. We process vehicles all the time, completely smooth. We don't get anything. Other times we get prints all over 'em. It varies from person to person and it varies on the conditions.

It's not like TV where we can get fingerprints out of the air. You know, if you walk by and do that ---

(WITNESS TOUCHED WITNESS STAND BENCH.)

A. --- and we got you in five minutes later, it's not like that. It's a very long drawn out process to even identify one fingerprint.

Q. Okay.

A. Did that answer your question?

Q. It did. Thank you.

A. You're welcome.

Q. Now, on your report Mr. Buchanan, you actually took a - According to your forensics services laboratory report, you took into evidence a swab from a white tee shirt.

A. A swab from a white tee shirt?

Q. Yes, sir.

A. Can I see it?

Q. Sure.

A. This is actually not one of my reports.

Q. Uh-huh. Your name is at the top.

A. This is a SLED report. That means that I submitted a request for them to process this. I don't have anything to do with this report. This is generated by SLED.

Q. Did you --

A. I just requested that this be done.

Q. Okay. Did you actually ask them to analyze a swab from a white tee shirt?

A. I asked them to analyze the tee shirt.

Q. Okay.

A. They take the swabs and do — You'll have to ask the SLED agent that question, ma'am.

Q. Okay. So you took - Let's look - Is this your report from the evidence inventory sheet?

A. Yes, ma'am.

Q. Okay.

A. This is a evidence sheet that we drop in with the evidence.

Q. Okay. And you remember what's on here. Right?

A. Yes. It's also right here in front of me.

Q. Okay.

A. I've got it right here too if you have any questions.

Q. Okay. I do. So you actually recovered a red handled - Strike that. You actually recovered a orange Long Horn cap. Right?

A. Yes, ma'am.

Q. And you recovered that from the shop floor next to the tires. Right?

A. Yes, ma'am.

Q. And you also recovered from evidence a Sanyo cell phone. I'm sorry, recovered from the incident site, a Sanyo cell phone from the shop floor under the tires by the bathroom?

A. Yes, ma'am.

Q. Okay. And you also recovered a black dew rag beside

the bathroom door?

A. Yes, ma'am.

Q. And you also recovered a .9 millimeter round from the shop floor in front of the bathroom door?

A. Yes, ma'am.

Q. And you also recovered a black ball cap from the bathroom floor?

A. I placed all these items into evidence. Yes, ma'am.

Q. Okay.

A. That doesn't mean that I physically grabbed it and put it in the bag. I took the bag - after we - There were four of us working at that time. We collected all the evidence and bagged it. I took possession of it and I dropped all the evidence into Rock Hill PD evidence.

Q. Okay. Now you found one spent .9 millimeter shell casing by the bathroom floor in front of toilet marked 2. Right? Well where it just indicates --

A. No. It was in front of the toilet marker number 7.

Q. Right.

A. Uh-huh.

Q. Right.

A. There should be a picture of it right here that's you've already shown me.

Q. Right. But I guess I'm thinking about more of what you recovered. You recovered one spent .9 millimeter shell

casing?

A. Yes, ma'am.

Q. Okay. And you recovered on Eight, Nine and Ten additional rounds. Right?

A. Yes, ma'am.

Q. And number 11 you recovered a white tee shirt with red stains on the table in the shop ---

A. Yes, ma'am.

Q. --- at marker number 11. Right?

A. Yes, ma'am.

Q. And item number 12, you recovered the swab of red stain on the shop floor?

A. Yes, ma'am.

Q. Number 13, you recovered another swab of red stain near the tire rim beside bathroom marker?

A. Uh-huh. Yes, ma'am.

Q. Okay. Thank you. And you recovered another swab of red stain from the toilet lid in the bathroom, marker number 14.

A. Correct.

Q. And you recovered another swab of red stain from the rear wing of the Toyota Camry - outside?

A. Yes, ma'am.

Q. So it's fair to say you took swabs from the floor, tire rim, toilet and vehicle. Right?

A. Yes, ma'am.
Q. Was Investigator Sullivan also there to help you?
A. Yes, ma'am.
Q. Okay. So it's you, Cheryl Boyd, Investigator Sullivan, as well as Director Weeks. He came later? George Weeks.
A. Yes, ma'am.
Q. So at one point there were actually four investigators there?
A. Yes, ma'am.
Q. Did not recover a gun?
A. No, ma'am.
Q. Did not recover a clip from a gun?
A. All we recovered were the items that are listed, ma'am.
Q. Answer the question. You did not recover a clip from a gun?
A. No.
Q. You did not recover any broken pieces of a clip?
A. No, ma'am.
Q. When you got to the scene and you had the opportunity to speak with a couple of the officers who were there on the scene, they indicated to you that there had basically been a struggle there?
A. Yes, ma'am.

Q. And so one of the things they said that there was a struggle that actually took place in the bathroom?

A. Yes, ma'am.

Q. Which is fairly small?

A. Yes, ma'am.

Q. And the first thing you wanted to know, if there was a struggle is whether or not you could process to see if there is any DNA from blood?

A. We didn't bring DNA up, ma'am.

Q. Now, would you agree that anything that you touch could possibly hold touch DNA?

A. That's pretty vague, but yes I'd have to agree with that. You're probably leaving DNA breathing on something.

Q. I'm sorry.

A. You're probably leaving DNA breathing on your papers right there.

Q. Leaving DNA even breathing?

A. Yes, ma'am.

Q. Wow. So - And it's SLED policy that once you collect all the evidence, and of course identify that you've actually had it in your possession, that you don't do the analysis; that you basically send it to them?

A. Correct.

Q. And you fill out the SLED request online?

A. Yes, ma'am. At my desk online.

Q. And you usually actually get the report back that you - I guess when you send the request to SLED, they send you a report back as to their conclusion after they analyze the DNA that you collected?

A. They post it online and the detectives, or whoever can download it. They just put it in care of me because I'm the one that filled out the report. The detectives is the ones that actually pull it up and look at it.

Q. Okay. Mr. Buchanan, did you actually ever have this in your possession?

A. Yes, ma'am.

Q. Okay.

A. I've got a copy of it. You can stick in the computer and put it on a big screen if you want.

Q. That's not necessary. Can you tell us about this?

THE COURT: All right, before we get into that, I think you need to have it marked in some way. I'm not telling you what to do but before he can start talking about it, it has to be in evidence.

Q. You actually took - You lifted a fingerprint from Jared from the back of the car. Right?

A. No. I didn't lift it. Cheryl Boyd lifted it.

Q. She lifted it?

A. Yes. We ran it on AFIS and got a hit and I confirmed it.

Q. You confirmed?

A. That this print belonged to Jared Crane. Correct.

Q. Okay. And that was a pretty - Would you say that was a pretty detailed latent print?

A. That's normal for the type of print that you might lift off of something. If you look at it, you can see it's fair quality. It's not super great.

Q. But you consider it to be fair quality?

A. Yes, ma'am.

Q. And you didn't actually get any additional fingerprints from anything else?

A. No, ma'am.

Q. Okay. Thank you, Mr. Buchanan.

THE COURT: Mr. Smith.

MR. SMITH: If it please the court, Your Honor.

CROSS EXAMINATION

INVESTIGATOR TIM BUCHANNAN BY MR. SMITH:

Q. Investigator Buchanan, you indicated that there were at some point in time four different members of the Forensic Service's unit at the scene on Cherry Road; is that right?

A. Yes, sir.

Q. And that would have been you, Agent Sullivan, Agent Boyd and Director Williams; is that correct?

A. Yes, sir.

Q. But at some point Director Weeks left and went to the hospital with the victims?

A. He actually went to the hospital on his way over to the scene. He arrived right after we had probably finished up taking our first set of photos.

Q. In the bathroom, you found evidence that a gun had been fired. Is that fair to say?

A. Yes, sir.

Q. And based upon your observation and your training, how many times did you find evidence, or you found evidence that a gun had been fired how many times?

A. From what we could gather from looking at it, it looked like it had went off one time. There was one spent shell casing and there was one hole through the wall and the bullet actually fragmented and came out in two spots on the outer wall.

Q. And then the scene, when we talk about the crime scene, in this case it included not only the interior of the building but you mentioned that a car was also in the crime scene; is that right?

A. There was a car outside and they said some items were missing from the car so Cheryl processed the vehicle after I snapped photos of it.

Q. Okay. And to call something a scene, is that on the

outside when we see like the yellow tape?
A. It's on the outside. There's a - The building is like a two room. It has a store front and then it has a warehouse with a bathroom in the back and then there's a shed off to the side that they detail cars on the right side. The car was parked outside right in front of that.
Q. And would of that somehow been corded off or taped off or something?
A. There was a crime scene tape on the outside keeping people away from the car.
Q. And when you go to a scene or through your training, there are a number of tools that you can use to help you determine if there is evidence and recover that evidence; is that right?
A. Yes, sir.
Q. And I believe you mentioned a perma blue as one of those being used to help recover fingerprints. Is that something you --
A. That's a lab item that we use on shell casings. Yes, sir.
Q. Okay. And you may have also mentioned cyanoacrylate or super glue fumes?
A. Yes, sir.
Q. Okay.
A. That can be used in the field or at the lab.

Q. Okay. And that's a fume that basically adheres?
A. When you heat up super glue, it releases a cyanide gas and the gas actually they found adheres to the moisture in the fingerprints. If something has been soakin wet, it doesn't do any good to use it but on items that have been touched, it's a more permanent way to develop fingerprints on a non porous item like glass or metal or something.
Q. And what we used to see as sort of a black dust on TV shows, is that --
A. That's just regular fingerprint dust. We have magnetic and regular that we use on the scene.
Q. And then for DNA or other items with blood, how do you determine if blood may be in the location?
A. There are several. We can use hemo-sticks, which is a quick way to determine if something is blood. If it's a red stain we normally would take a swab of it, if we think it's blood, and we'll label it as a red stain and let SLED determine whether it was blood or not.
Q. Okay. And then blue star, what is that?
A. Blue star is a blood enhancer. It's for detecting real faint amounts of blood. It's usually used after a crime scene has been cleaned up and it reacts to the blood and actually glows in a darkened environment and all it does, it's an indicator that there could have been blood there.

You can also get false-positives with certain types of bleaches and metals so it's just — it's a tool to help identify. You've got aluminal, amino black, blue star. There are several different items on the market.

Q. And you talked about potential sources of DNA, one being blood. Another source is cells. Cells could be left behind someway at the scene; is that right?

A. Yes, sir.

Q. And then you talked about fluids or even what we now sort of call this touch DNA, basically any salts or anything that is secreted from your body can be left at a scene, even through breath, sweat or whatever it is. Is that accurate?

A. That's correct.

Q. And one way that those cells can be collected is from a buccal swab that you talked about; is that right?

A. That's correct.

Q. And my client, Dantonyo Heath, agreed to allow you to swab the inside of his cheek to get DNA?

A. Yes, he did.

MR. SMITH: I have no further questions.

THE COURT: Any redirect?

SOLICITOR SHELTON: Just very briefly, Your Honor.

REDIRECT EXAMINATION

INVESTIGATOR TIM BUCHANNAN BY SOLICITOR SHELTON:

Q. Investigator Buchanan, you've talked about there were four folks from the FSU on the scene. As far as evidence that was collected, and I know you said you all work as a team, but as far as the evidence that was placed - the items that were placed into evidence, who placed all items into evidence?

A. I placed all the items into evidence. Generally the first FSU member that arrives on the scene is the lead agent and he handles all the items that are collected and some of the processing and stuff they usually take care of.

Q. And you were the lead agent?

A. Yes, ma'am.

Q. There was a lot of talk about prints during cross.

Did you see any chocolate bars lying around with prints in them?

A. No, ma'am. And it was our understanding that the suspects were known to the victims, and the shop area is actually a common area and they would have been back and forth in that area before since they had been there before and there was a lot of stuff that we didn't process because - and there was a lot of wet stuff in the bathroom because the sink was torn off and everything was soakin wet. Some of the items we had to place in the drying chamber. I think I noted in my report that they had to dry out before we could actually even put them into evidence.

Q. And you testified on cross that there was a picture of the shell casing and glass, and I think Ms. Burris asked you about the glass taken into evidence. You didn't actually take any glass into evidence?

A. No, we didn't take any glass into evidence.

Q. And you didn't fingerprint any glass?

A. No, ma'am.

Q. Could you have fingerprinted the glass?

A. We could have.

Q. And who chose not to do that, or was it even a discussion?

A. It was a group discussion about what we should process when everybody got there. And we decided these items were the most relevant and that's what we collected and we took DNA swabs from some of the spots of the blood in there because most of it we thought would be the victims'.

Q. I want to show you State's Exhibit Fifty.

You talked about evidence collected. Again, what is that?

A. Marker cone number five would have probably been a shell casing. I'd have to look back at my notes, but I believe that this is a mid range shot which shows you the marker cone in relation to the doorway into the bathroom which identifies and places that object at that.

Q. And --

A. The detail shot would have shown exactly what was in that marker cone. I'm pretty sure it's a shell casing or a live round.

Q. So from your point of view, what was the focus of this picture?

A. The live round, the marker cone. Placing the marker cone would be my objective here.

Q. And what is that beside the picture, beside the live round, the object lying there beside it?

A. There is a metal bar looks like right beside it.

Q. That was not the focus of your picture?

A. No, ma'am.

Q. Did you know anything about that bar?

A. No, ma'am. The shell casing was the focus of that picture.

Q. And you had not talked to the victim about the facts of the incident?

A. No, ma'am.

Q. Did you fingerprint that bar?

A. No, ma'am.

Q. Did you have any reason to believe you needed to fingerprint that bar?

A. No, ma'am. Because it was right - that's a tire iron and that's actually a tire machine on the left right beside it, and that would be a common area for that to be laying

there, right beside the tire machine.

Q. What is touch DNA?

A. Touch DNA is a - The way we collect touch DNA is we take two swabs. We put some distilled water on one swab and we take it and we rub it on the area like if I wanted to get touch DNA I'd have to rub it right here on there.

(WITNESS DEMONSTRATED.)

A. And then I would take the dry swab and come righ behind it. And then they're placed inside a cardboard box which is placed inside an envelope, sealed up, and then placed into evidence.

Q. Can you see touch DNA?

A. No.

Q. How do you know when to look for it?

A. We take - We try to look at the scene and take the items that, of course, blood would be something we would take it from. Something that the subject or the victim has handled or touched, that's what we would try to take it from.

We could take thousands of swabs from in here and we would probably get thousands of DNA profiles. It's a very minute amount of evidence and we have to try to control how many we send because SLED will only test five things.

Their caseload is such that we can't take hundreds of swabs and send them down there because they're doing this

for the whole state and they take five items of DNA at a time and we have to have comparers from the victims or the suspects to compare them to otherwise they get knocked aside. And we have to make a decision and the detectives, once we take it into evidence, they have to decide what items they want actually tested. They have to judge the best value and send it down there because there's quite a huge back load and it may take six months to a year to even get an answer on a simple --

You know, even if we know we've got the suspect's and the victim's DNA that we're taken buccal swabs, if we sent three things to be tested down there, it might take six months to a year before we even get an answer.

Q. And there is no touch DNA in this case?

A. There was none taken except for the blood samples tha we took. That's correct.

Q. But is it your testimony that there was no other DNA present?

A. No. I'm not saying that. There could be touch DNA everywhere.

Q. Is it your testimony that there were no other fingerprints present?

A. There weren't any other areas that we tested for fingerprints other than the vehicle.

SOLICITOR SHELTON: Thank you.

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor.

RECROSS EXAMINATION

INVESTIGATOR TIM BUCHANNAN BY MS. BURRIS:

Q. Mr. Buchanan, what does A-F-I-S stand for?

A. AFIS?

Q. I'm sorry. Yes, sir.

A. That's the Automated FBI's Fingerprint Identification System.

Q. Okay. And that's a pretty complex system. Right?

A. It - You --

SOLICITOR SHELTON: Objection, Your Honor. I didn't get into AFIS.

THE COURT: Yeah, I sustain the objection.

Q. Detective, Mr. Buchanan, when asked on redirect whether or not you actually fingerprinted the pry bar that was actually flashed on the screen here, projected on the screen.

A. Uh-huh.

Q. You indicated that you didn't actually fingerprint that pry bar because it was actually right beside the tire machine which you actually thought that it was where it should have been so you didn't fingerprint it. Right?

A. That's what I said. Yes, ma'am.

Q. And when asked whether or not you had actually

fingerprinted the glass - When you actually arrived on the scene and you went to the bathroom, you saw that there was a mirror, right? And it was broken. Correct?

A. It was laying in the floor in pieces. Yes, ma'am.

Q. Lying in the floor in pieces. And you indicated in your previous testimony that it was a group discussion, meaning that it was probably you, Cheryl Boyd, Mr. Weeks, as well as who else?

A. Investigator Sullivan.

Q. Okay, and Investigator Sullivan. So there was at least four of you and you decided that you were not going to fingerprint the glass?

A. That's correct.

Q. Okay. Thank you.

MS. BURRIS: I have no further questions.

THE COURT: Mr. Smith.

MR. SMITH: Thank you, Your Honor.

RECROSS EXAMINATION

INVESTIGATOR TIM BUCHANNAN BY MR. SMITH:

Q. It was our understanding that the suspects were known.

That's what you gave as an answer as to why you processed the scene in the way you did; Is that correct?

A. That is what was reflected to me when I got on the scene. That's correct.

Q. If the suspects had been unknown, or if one of them

had been unknown, would you have processed the scene differently?

A. We would probably been a — I don't know if we would have or not because everything was wet. It was - I can't say one way or the other.

Q. But nobody came and ran you off. You had secure --

A. No. We had time and we worked it like we should.

Yes, sir.

MR. SMITH: Thank you.

No further questions.

THE COURT: You can step down and be excused. We appreciate your time. Thank you.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Call your next witness.

SOLICITOR SHELTON: Your Honor, the State at this time calls Amanda Crane. Your Honor, may Investigator Buchanan be excused?

THE COURT: You may be excused.

SOLICITOR SHELTON: Thank you.

THE COURT: Please come up, put your left hand on this Bible and raise your right and the Clerk will administer an oath.

(WHEREUPON: AMANDA CRANE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

AMANDA CRANE BY SOLICITOR SHELTON:

Q. State your name, please.

A. My name is Amanda Crane.

Q. And, Ms. Crane, where do you live?

A. I live in Lancaster, South Carolina.

Q. Are you married?

A. I am.

Q. Were you married back on June 8th of 2011?

A. Yes, ma'am, I was.

Q. Who is your husband?

A. My husband is Jared Crane.

Q. And where was your husband working back then?

A. He was working for Five Star Customs.

Q. And where is that at?

A. It's in Rock Hill.

Q. Was he the victim of a crime?

A. Yes, ma'am, he was.

Q. And that was on June 8th of 2011. Did you witness any part of that crime?

A. Yes, ma'am, I did.

Q. Can you describe to the jury what you witnessed?

A. I witnessed the suspects carrying Mr. Neal Jordan out of the building and then one suspect approached me and asked for my cell phone and I didn't have one so I went in the building to get my husband's for him, and at that point

is when I saw my husband coming out of the restroom untying himself bleeding from his head.

Q. And other than that, how did he look?

A. He was awful. He was distraught. He was - I couldn't hardly recognize him, there was so much blood.

Q. What did he do after he came out of the bathroom?

A. He asked if they were gone and he grabbed me and put me in the ceiling in the bathroom in the front of the building.

Q. What do you mean he put you in the ceiling?

A. He punched out the ceiling tiles and just basically threw me in the ceiling to hide me.

Q. Why did he do that?

A. He was scared for our lives.

Q. Going back to when you said when you first saw Mr. Jordan, you said he was with two suspects. Did you ever get a close look at either one of those people?

A. Only one of them when he approached my car and asked me for my cell phone.

Q. And what was the lighting like when he came to your car?

A. It was dark outside but my car interior light was on and the store next door to us had their lights on it was - I mean, it was lit up from the output.

Q. Was his face covered?

A. No, ma'am.
Q. And were you able to see his face?
A. Yes, ma'am.
Q. And the person that you saw, did you know that person?
A. I had never seen him until that night.
Q. After that night were you asked to identify him from a lineup?
A. I was. That night when Jared and I were at the hospital when he was being seen for his injuries I was, but Jared in fear for our safety, declined. He didn't want me to do a lineup at that time.
Q. And since that evening, have you seen the suspect since then?
A. Yes, ma'am.
Q. Where have you seen him?
A. I saw him on the Moss Justice website when he was arrested.
Q. For these charges?
A. Yes, ma'am.
Q. So you saw him there. And you've seen him in this courtroom?
A. And I've seen him in this courtroom for bond hearings.
Q. Okay. Do you see the person who came to your car that night and ask you for your phone sitting in the courtroom today?

A. Yes, ma'am, I do.

Q. And where is he?

A. He's sitting over here in a dark suit with a light blue shirt and tie with his attorney.

SOLICITOR SHELTON: Please let the record reflect that the witness has identified Dantonyo Heath.

(WITNESS INDICATED DEFENDANT AT WITNESS TABLE.)

Q. How do you know that that's the same man?

A. I saw his face. And after what I saw what he had done to my husband I've dreamed about it and it's been stuck in my head ever since that night.

Q. Are you being influenced at all by the prior times that you saw him?

A. I had never seen him before that night. No.

Q. But the times that you've seen him between that night and now?

A. No, ma'am.

Q. Are you sure it's him?

A. I'm sure.

Q. How were you and Jared, Mr. Crane, feeling that night? Like what were you all feeling?

A. I was scared. My husband was scared for his life and begging for mine and I was just – it was one of the worst things I've ever been through.

Q. How does it seem to have impacted Jared, Mr. Crane?

A. We're scared now. I mean, we're not - I mean, people just - Jared had a hard, a really hard time after this and it's changed a lot of aspects of our lives.

Q. Ms. Crane, I'm going to show you some pictures. Okay.

A. Okay.

Q. What's been marked for identification as State's Exhibits Number Thirteen through State's Exhibit Number Seventeen. I want to ask you to look at these.

(WITNESS REVIEWING EXHIBITS.)

Q. Do you recognize those pictures?

A. Yes, ma'am.

Q. And what are they?

A. They're my husband's injuries from that night.

Q. And you didn't actually take those pictures, did you?

A. No, ma'am.

Q. But did you see him when he was looking that way?

A. I seen him when he looked worse than this, but yes, ma'am.

Q. And do those pictures, is that an accurate reflection of the way your husband looked at the hospital that night?

A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I'd ask to move State's Exhibits Number Thirteen through Seventeen into evidence.

THE COURT: Any objection?

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBERS THIRTEEN THOUGH SEVENTEEN IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. Ms. Crane, I'm going to show these to the jury.

(STATE'S EXHIBIT THIRTEEN PUBLISHED TO THE JURY ON COURTROOM OVER HEAD.)

Q. And what is this?

A. That's just a bruised knee from where he was on concrete.

Q. And whose leg is that?

A. My husband, Jared.

Q. And I'm going to show you State's Exhibit Number Fourteen.

(STATE'S EXHIBIT NUMBER FOURTEEN PUBLISHED TO THE JURY ON COURTROOM OVER HEAD.)

A. That's his arm. I'm not sure how that injury occurred.

Q. You don't have to know how it occurred. That's the injury that you observed that night?

A. It happened that night. Yes, ma'am.

Q. And I'm gonna show you State's Exhibit Number Fifteen.

(STATE'S EXHIBIT FIFTEEN PUBLISHED TO THE JURY ON COURTROOM OVER HEAD.)

A. That's the back side of Jared's ear.

Q. How did the back side of his ear look to you that night?

A. It was really, really swollen and bruised.

Q. Did it ever look any worse than this?

A. It got way worse than that after the day - I mean, after that night.

Q. State's Exhibit Number Sixteen.

(STATE'S EXHIBIT SIXTEEN PUBLISHED TO THE JURY ON COURTROOM OVER HEAD.)

Q. What's this?

A. That's Jared's face.

Q. Is that how it looked when you first saw him?

A. No, ma'am.

Q. How did it look when you first saw him?

A. His whole face was covered in blood. I couldn't even recognize him.

Q. And then State's Exhibit Number Seventeen.

(STATE'S EXHIBIT SEVENTEEN PUBLISHED TO THE JURY ON COURTROOM OVER HEAD.)

A. That's the left side of his face.

Q. And his ear?

A. It's black in that picture as well. That's the same

picture. That's just the front of the picture that you showed the rear of the ear. He couldn't hear out of his ear for a long time after that.

Q. And so that discoloration, is that normally how his ear looked?

A. No, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I'm going to ask to publish two clips from State's Exhibit Number Eight.

THE COURT: You may.

(STATE'S EXHIBIT NUMBER EIGHT PUBLISHED TO THE JURY ON COURTROOM OVER HEAD AT 11:10 A.M..)

Q. Who is this?

A. That's me.

Q. What's going on here?

(WITNESS CRYING.)

A. He's telling me what happened and asking me if they were gone and I just told him I just saw 'em outside. He's trying to find somewhere to put me. He's trying to find somewhere to hide me.

SOLICITOR SHELTON: Your Honor, for the record, this is State's Exhibit Number Nine.

(STATE'S EXHIBIT NUMBER NINE PUBLISHED TO THE JURY ON COURTROOM OVER HEAD.)

Q. Where are you?

A. That's when I pulled up right in front of the bay doors at the shop. I had just got back from getting us something to eat. I sit there because I'm calling him and I didn't get an answer.

(STATE'S EXHIBIT NINE CONTINUED TO PLAY/PUBLISHED TO THE JURY ON COURTROOM OVER HEAD.)

Q. And who is that there?

A. They walked by with Neal.

Q. Did you see Neal?

A. I saw him.

Q. And you knew that was him?

A. And the one with Neal told me that my husband - he said, "he'll be here in a minute" and then he said, "ask her for her phone."

Q. And that's the person that you identified as Dantonyo Heath that has approached your car?

A. Yes, ma'am.

Q. Was there anything taken from your car?

A. My cell phone.

Q. Your cell phone was taken?

A. Yes, ma'am.

Q. Did you ever get it back?

Q. (WITNESS INDICATED.)

THE COURT: Is that a yes or a no?

A. No, sir.

Q. Thank you.

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

THE COURT: Ms. Burris.

I mean Ms. Cruz.

MS. CRUZ: Just briefly, Your Honor.

CROSS EXAMINATION

AMANDA CRANE BY MS. CRUZ:

Q. Amanda, so you often go to the rim shop and you pick up Jared and you bring him food and you visit him?

A. I had before but that was the first time I had been there that late at night because that was the first time he had stayed that late at night.

Q. And he was staying working on cars?

A. Yes, ma'am.

Q. Okay. And so you said it was late so it was dark outside. Right? And it was quiet when you got there?

A. I was there from around 5:30 that afternoon. I had left right before this incident occurred.

Q. When you pulled up that second time, like on the clip that we just watched, it was quiet when you got there at that time?

A. Besides the traffic going by because the bay door was closed and it wasn't suppose to be. Jared had left it open for me.

Q. But it was quiet and you didn't hear any gun shots and you didn't hear any yelling or commotion or anything when you got there that second time?

A. I was inside my car on my phone calling. I was trying to call Jared so all I heard was a ringing on my phone.

Q. You had your car door open; is that right?

A. Uh-huh.

Q. I think you said that.

A. Uh-huh.

Q. Okay. And you did identify the one person you saw. Right? But that wasn't Maquis Robinson was it?

A. (WITNESS INDICATING.)

Q. No?

THE COURT: You've got to say yes or no.

A. No, sir.

No, ma'am.

Q. Had you ever seen Maquis Robinson before?

A. No, ma'am.

Q. In the times that you had been there during the day, you hadn't seen him?

A. I had only been there - that was the second time I had been there. The first time was just to drop Jared off. That was the first time I had been there during the day.

Q. Okay. And you said that the lights inside the building were on though, the florescent lights from the

bay?

A. Yes, ma'am.

Q. And you can't testify under oath today that that was Maquis Robinson, that he was there at all on June 8th; is that right?

A. I did not see him. I mean, I can't testify that that is who it was. No, ma'am.

Q. And before this incident, have you ever heard Jared talk about Maquis Robinson at all, or any of the people he worked with?

A. He actually had mentioned to me that Maquis had asked him about air brushing and painting and that he was going to start helping someone learn how, that he was going to teach him how to do it but that's it.

Q. Okay. Did he tell you what Maquis Robinson looked like?

A. He just that it was a guy who had been around the shop, but no he didn't describe him in detail to me.

Q. Okay. And Jared went to the hospital that night didn't he?

(WITNESS INDICATING.)

Q. Did he go into the intensive care unit?

THE COURT: I'm sorry. You have to give us an answer.

A. No, ma'am. He didn't go into the intensive care unit not that night. He had to have surgery the following week.

Q. But he didn't stay overnight at the hospital that night June 8th?

A. He was discharged later on that morning.

Q. Okay. You did not see his face that night did you?

A. I can't testify - no, ma'am.

Q. And you didn't tell the police in your statement that this was the man that you saw was it?

A. No, ma'am, I did not.

Q. And you never picked Maquis Robinson out of a photo lineup did you?

A. No, ma'am, I did not.

Q. And that's because you never saw him there.

MR. NEWKIRK: Your Honor, I'm going to object. It has been asked and answered three different times.

THE COURT: I think it has been asked and answered but it is cross examination.

Go ahead.

Q. And that's because you never saw him; is that right?

A. I can't say under oath that for a fact I saw his face but there were two suspects there that night. Yes, ma'am.

Q. But it wasn't him?

A. I can't say for a fact that it wasn't him. No, ma'am.

Q. Okay. Thank you.

MS. CRUZ: No further questions.

THE COURT: Mr. Smith.

MR. SMITH: Thank you.

CROSS EXAMINATION

AMANDA CRANE BY MR. SMITH:

Q. Ms. Crane, did you say when you first saw the bay door open that you saw them carrying Neal out?

A. Yes, sir. When the bay door first opened, both of the suspects had Neal and then one of them walked behind Neal. When they saw that I was out there, one let go of Neal and came and walked behind Neal.

Q. Okay. And by carrying you mean physically having to lift up --

A. Having him by his arm. Yes, sir.

Q. How long did you see the suspect that came to your car?

A. Long enough for him to ask me for my phone. And like I said, he stood there for a minute catching his breath. The other suspect told him to ask for my phone and he did and I told him that mine was dead. Not knowing these people, dark neighborhood, I didn't know, I got out of my car and told him that my husband had a phone he could use.

Q. Okay. My question is how long did you see him?

A. I can't answer that. I don't know if it was thirty-ive seconds-ish or I mean, a hour, I mean, a minute or two or three minutes. I'm not sure.

Q. Okay. You say you can't answer it. Have you answered

it before?
A. No, sir. I mean, I'm just - I don't know how long it had been.
Q. Did you answer it earlier today and say three to four minutes?
A. Yes, sir.
Q. And then I told you it was thirty-five seconds on the video and that's now why you answered thirty-five seconds?
A. I told you I don't know how long it was. It felt longer than it actually shows on the video because of the situation that I was in. It felt a lot longer than what it shows because of what had happened.
Q. Yes, ma'am. But you now know it was only thirty-five seconds and that's the whole time that you were outside.
A. I didn't count how long it was so I don't know for certain. No, sir.
Q. Could it be five seconds?
A. I didn't count. I don't know.
Q. But you, before I began asking you questions today, you thought it was three to four minutes?
A. It felt like he was standing there for a long time. Yes, sir. I was being intimidated and I felt like I was there - like he was there longer than the video shows.
Q. You've never been shown a photo lineup display?
A. No, sir.

Q. But you've seen your husband look at two different ones; is that right?

A. I was not around when my husband done his photo lineups. No, sir.

Q. Either time?

A. Either time.

Q. Did he ever tell you he had done a photo lineup?

A. He told me that he was going to meet Officer Stokes but that was it. He didn't tell me who he identified. I did not know of anything else. No, sir.

Q. Okay. He didn't even tell you he looked at a photo lineup?

A. No, sir.

Q. What did he tell you when he got back?

A. Nothing.

Q. Did you speak with any officers at the hospital that night?

A. I spoke with Officer Stokes and Ms. Tashia. I don't remember her last name but I ---

Q. Officer Smith?

A. --- spoke with her. Yes.

Q. Okay. And then some later point you went and gave a statement; is that correct?

A. At the Rock Hill Police Department. Yes, sir.

Q. All right. That was not that same night?

A. No, sir.
Q. Okay. And were you shown a photo lineup then, that next time?
A. No, sir.
Q. All right. Then you indicate that you saw a photograph on the website of Mr. Heath; is that right?
A. Yes, sir.
Q. And then you indicate that you saw him I believe at a bond hearing; is that right?
A. Yes, sir.
Q. And what would he have been wearing at the bond hearing?
A. I'm not certain but I believe he was in his orange jumpsuit.
Q. Okay. And at the bond hearing, was the lighting good like it is here today?
A. Yes, sir.
Q. So you had a perfect opportunity to see the face of that man in the orange jumpsuit at that bond hearing. Right?
A. I'd seen his face in nightmares before then.
Q. My question was, did you have a perfect opportunity ---
A. Yes, sir. I saw him that day.
Q. --- to see the face of the man in the orange jumpsuit

at the bond hearing?

A. Yes, sir. I saw him that day.

Q. And did you have enough time to observe him?

A. I didn't stare at him. I didn't — I don't want - care to look at him.

Q. Did you have enough time to?

A. I saw him. Yes, sir.

Q. Okay. And you did see his face clearly?

A. Yes, sir.

Q. Now, did I hear you testify that when you first went into the business that you couldn't recognize your husband?

A. When he first turned the corner out of the bathroom, I didn't know what was going on. He had blood on his face. He had just twisted the wires off of his arms. I didn't know what was going on. He was panicking. He didn't even know that it was me coming through the door and ran back into the bathroom.

Q. And at some point did he fall out of the ceiling?

A. Both — yeah, he fell after I dropped - cause I - The video shows that I go back to pick something up and I go back to pick up his cell phone to call the police. I drop it and he falls when I drop the cell phone. Yes, sir.

Q. And actually fell out of the ceiling onto the floor?

A. He actually fell out of the ceiling onto the toilet in the bathroom.

MR. SMITH: No further questions.

THE COURT: All right.

SOLICITOR SHELTON: No redirect, Your Honor.

MS. CRUZ: No questions, Your Honor.

THE COURT: You can step down ---

MS. CRANE: Thank you, Your Honor.

THE COURT: --- and be excused if you wish. Appreciate your time.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Members of the jury panel, we'll take our morning break.

MS. CRANE: Thank you, Your Honor.

THE COURT: Yes, ma'am. Thank you.

THE COURT: Mr. Bailiff, the jury will take their morning break.

(JURY EXITS COURTROOM AT 11:23 A.M..)

THE COURT: We'll be at ease for - until about twenty till.

SOLICITOR SHELTON: Thank you, Your Honor.

(COURT IN RECESS AT 11:24 A.M..)

(COURT BACK IN SESSION AT 11:45 A.M..)

THE COURT: Thank you. Take your seats.

Is the State ready?

SOLICITOR SHELTON: Yes, sir, Your Honor.

THE COURT: Ms. Burris, you ready?

MS. BURRIS: I am ready, Your Honor. However depending on - I apologize, Mr. Smith. Go ahead.

MR. SMITH: I just want to say I was ready too.

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor, if I may.

I'm not sure exactly which witness the State is going to call but if the State is actually going to call Jared Crane, I actually do have a prior conviction of a crime of dishonesty, being shoplifting, and so we need to take that up, of course outside the presence of the jury.

SOLICITOR SHELTON: If it's the one that I'm thinking about from Rock Hill City from – what's the date?

MS. BURRIS: No. It's actually from Lancaster Municipal Court.

SOLICITOR SHELTON: Is that from his new rap sheet?

MS. BURRIS: I'm not sure.

THE COURT: If you're looking at a piece of paper you gonna let me look at it and see?

MS. BURRIS: Yes, absolutely. May I approach.

THE COURT: We call it Lancaster by the way.

MS. BURRIS: What did I call it, Lancaster?

THE COURT: Yes you did.

MS. BURRIS: Sorry. It's depending on the day, Your Honor.

THE COURT: No penalty attached.

MS. BURRIS: Thank you.

THE COURT: This is from 2002.

MS. BURRIS: Uh-huh.

THE COURT: Bench trial. Took place at the Wal-Mart.

SOLICITOR SHELTON: I didn't realize that was on there but I don't have any - if it's -

(SIDE BAR BETWEEN ATTORNEYS.)

SOLICITOR SHELTON: What Mr. Newkirk is saying is that it's outside of the ten year time period now. It would not have been outside the ten year time period at the time of the offense, and I don't know which date the court wishes to use.

THE COURT: Well the date the court usually use is when they're testifying because that's when their credibility would be assessed.

MS. BURRIS: And the rules says, Your Honor, if I may. I says evidence of a conviction under this rule is not admissible of a period of more than ten years have elapsed since date of conviction or the release of the witness from which confinement and imposed for that conviction, whichever is the later date, unless the court determines in the interest of justice that the probative value of the conviction, supported by specific facts and circumstances substantially outweighs it's prejudicial effect.

And I would just - My position, Your Honor, is that

of course credibility is a major factor in this particular case given that there are alleged three to four persons that are actually at the crime scene. I think his credibility is a major issue. I believe --

THE COURT: No, I heard all that. I hate to stop you but I am ---

MS. BURRIS: Yes, sir.

THE COURT: --- because the time limit says the evidence of the conviction is more than ten years old as calculated is not admissible unless the proponent gives the adverse party advance written notice of intent to use such evidence to provide the adverse party the fair opportunity to contest the use of such evidence.

Have you given advance written notice of your intent to use this?

MS. BURRIS: I have not, Your Honor.

THE COURT: All right. I'm not going to let you use it.

SOLICITOR SHELTON: Thank you, Your Honor.

SOLICITOR NEWKIRK: Thank you, Your Honor.

THE COURT: We'll make a copy of this unless you want it back. I'll make a copy of the disposition sheet a Court's Exhibit?

MS. BURRIS: Yes.

THE COURT: You ready for the jury?

MS. BURRIS: Yes.

THE COURT: State ready?

SOLICITOR SHELTON: Yes, Your Honor.

THE COURT: Defense ready? Ms. Burris, you ready?

MS. BURRIS: Yes, sir, Your Honor.

(WHEREUPON: COURT'S EXHIBIT NUMBER EIGHT, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

THE COURT: All right, bring in the jury.

(JURY REENTERS COURTROOM AT 11:49 A.M..)

THE COURT: You may call your next witness.

SOLICITOR SHELTON: Your Honor, the State at this time would call Jared Crane.

THE COURT: Come up and put your left hand on the Bible and raise your right.

(WHEREUPON, JARED CRANE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

JARED CRANE BY SOLICITOR SHELTON:

Q. State your name for the record, please.

A. Jared Crane.

Q. And Mr. Crane, where do you live?

A. I live in Lancaster, South Carolina.

Q. And back on June 8th of 2011, where did you work?

A. At Five Star Customs in Rock Hill.

Q. And were you working that day?

A. Yes, ma'am, I was.
Q. Did anything unusual happen to you on that day?
A. That night yeah. Yes, ma'am.
Q. Could you tell the jury what happened?
A. I was beaten and robbed and kidnapped at gun point.
Q. And you're gonna have to give us some details.
A. Oh.
Q. What were you doing that evening around 9:30, ten o'clock?
A. Oh, okay. All right. I had to stay late that evening because my - I was painting a truck that night and it was supposed to be painted earlier but it was some other things in the shop took over - priority over it and it got pushed back and so he asked me if I would stay late and do it. I agreed.

I was painting the truck in the detail bay and heard the roll up door come up. I was actually standing in front of the vehicle which was a Dodge Durango, so I couldn't see the door but I could hear the door when it come up. It caught my attention. I looked over and I seen Maquis Robinson run by with his shirt just over the tip of his nose so I could still - knew it was him, okay. I knew him and Neal were friends. Him and Neal Jordan were friends, so it may be a practical joke. I mean, I hadn't seen them in any altercations, arguments before then. All right. So

I let that go. You know, pay it no attention.

Continued doing what I was doing. I can't tell you exactly how long later I heard a chrome rim fall and hit the ground. I knew that wasn't right. Went to walk around the corner to see what it was and hear a pop, like a firecracker. So that really got my attention and when I come around the door with my paint gun still in my hand, didn't see anything, and next thing I knew my bells was ringing.

Q. When you say your bells were ringing, what happened?

A. I got hit in the back of the head.

Q. And did you see who hit you?

A. I did not see who hit me.

Q. Did you see it coming?

A. I did not see it coming.

Q. Did you know that there was another person other than Maquis Robinson in the shop?

A. Had no clue there was another person in the shop.

Q. After you were hit, what happened?

A. I was basically in a fight for my life. When I was hit, I lost all hearing. Like I said, bells was ringing. Loss of sight in one of my eyes. Everything was black in this side of my face.

(WITNESS INDICATED TO FACE.)

A. I couldn't see out of this side of my face and I was -

I could see feet and that was it, and all I could do was put my hands up and when I put my hands up, I realized that it was a black male attacking me and I just fought as hard as I could.

Q. And in fighting, what exactly did this person do to you? Did he hit you?

A. Punched me several times. Choked me. Actually picked me up off of the ground by my neck choking me. I mean, I tried to play like I was going to pass out because I didn't want him to choke me to death. I was actually in fear for my life so I tried to play like I was passed out. I tried to go limp thinking maybe he would let me go and I could get the upper hand in the situation. That never happened. Even when I went limp, he just continued to hold tighter and tighter so I continued to fight.

Q. How tall are you?

A. 5'8", 5'9".

Q. Was the person that you were fighting with taller than you?

A. Yes, ma'am.

Q. Can you guess at --

A. Six, one, 6'2". Tall enough that he could pick me up off the ground in a choke hold leaning backwards. He had to lean backwards and put pressure on my neck to get my feet off the ground but that's what was happening.

Q. Where was Mr. Jordan when all this was going on?
A. When this was going on, I had no clue at that time but he was in the bathroom.
Q. And did you eventually end up in the bathroom?
A. I did eventually end up in the bathroom.
Q. How did that happen?
A. I was told that if I did not stop fighting that I - The whole time this was going on I was telling him, my wife's coming back just let me go. I don't have anything to do with this. Just let me go.
(WITNESS CRYING.)
A. And I was told if I didn't quit fighting that my wife would be harmed when she got back so I just quit. I quit fighting.
Q. After you quit fighting, where did he take you?
A. Made me crawl to the bathroom.
Q. And once inside the bathroom, what happened?
A. I was told to sit up against - Well, get up against the wall and get up against the toilet and that's really vague, my memory is really vague, but I was in there for a few seconds while they were looking for something to tie me - while he was looking for something to tie me up with.
Q. And did they find something to tie you up with?
A. Yes they did.
Q. What did they tie you up with?

A. Some speaker wire. Some car audio speaker wire.
Q. And when I asked they, there were two suspects?
A. Yes, ma'am.
Q. You knew one of the suspects?
A. I knew one of the suspects.
Q. And who was that?
A. That was Maquis Robinson.
Q. And what - Do you know what Maquis Robinson was wearing?
A. Yes, ma'am. I remember what he was wearing.
Q. What was he wearing?
A. A white tee shirt. A big, a really big baggy white tee shirt and blue jeans, I believe.
Q. He was wearing a white shirt?
A. Yes, ma'am.
Q. And the second suspect, what was he wearing?
A. A dark tee shirt. A black bandana with white little graffiti dots around it like a normal bandana, black jeans. Kind of like acid washed black jeans. Had a little bit of white fade on the front of them but black mostly on the side and a pair of neon and black Nike Air Max.
Q. And was he taller? As far as size, how were they compared to each other?
A. One was shorter than the other one and fat, chunkier. And one was taller and slim.

Q. Which one was the shorter chunkier one?
A. Maquis Robinson. He had a lot more weight to him at that time than he does now.
Q. From looking out in the courtroom, do you believe he's lost weight?
A. I know he's lost weight.
Q. You want to estimate about how much you think he's lost?
A. Twenty pounds maybe.
Q. So the reason I'm asking for those descriptions is which one of those two were tying you up?
A. Dantonyo Heath.
Q. But you did not know his name at the time?
A. I did not.
Q. Did they take anything from you?
A. Yes, ma'am.
Q. What did they take from you?
A. Took some money out of my front pocket and a bag of marijuana.
Q. Mr. Crane, I'm going to show you State's Exhibit Number Forty-six. Do you recognize that?
A. Yes, ma'am.
Q. What is that?
A. That's my Texas Long Horns hat.
Q. That's your hat?

A. That is mine.
Q. You were wearing it that night?
A. I was.
Q. And I'm going to show you State's Exhibit Number Forty-eight. What is in this photo?
A. That's my pocket knife.
Q. That was on you that evening?
A. Yes, ma'am, it was.
Q. Did you cut anybody with that knife?
A. I was going to.
Q. But did you?
A. No, I did not.
Q. Can you tell the jury about your injuries?
A. Yes. I sustained a broken nose, which I had to have surgery for. I lost my hearing in the right side of my ear for a few months. And black eyes and a hole, a stab hole in my arm and just some skinned up, bruised up knees.
Q. Did you have any kind of surgery?
A. Yes, ma'am. I had to have a rhinoplasty done.
Q. When was that?
A. A week after this happened. About a week after I believe.
Q. If you could, explain to the jury what happened during the surgery as far as were you asleep, awake, that sort of thing.

A. Yes. I was put to sleep because it was explained to me that it was going to be a very painful process because they were going to have to re-break my nose and set it again and scrape the bone fragments to make it look right again so yes, ma'am, I was put to sleep. But it was a very painful surgery and a very painful process afterwards.

Q. How long did it take you to recover?

A. I believe the packing stayed in my nose for two weeks after that. And keep in mind it was about ten foot of gauze packed into my nose so I was in a lot of pain until that came out and a lot of pain after it came out also.

Q. And how long before you, I think you've already testified, but how long before you recovered your hearing?

A. Around two - Closer to three months.

Q. But no surgery or anything like that?

A. No surgery for it no. I mean, they said they couldn't - I mean, if it was a busted ear drum, then they couldn't do surgery on a busted ear drum.

Q. I'm going to show you what's - I'm also going to show you State's Exhibit Number Thirty-four. Do you remember what that is?

A. I believe that's the tee shirt I had on.

Q. The tee shirt you had on that night?

A. Yes, ma'am.

Q. Did you leave it at the scene?

A. Yes, ma'am. I took it off to try to stop my bleeding.
Q. Mr. Crane, I'm going to show you what's been marked for identification - First off before I show it to you. Did you go to the hospital that night?
A. Yes, ma'am, I did.
Q. And while at the hospital did you meet with anyone investigating this case?
A. Detective Smith was in my room, come in my room with me.
Q. And had you told anyone who you believed the suspects to be?
A. Yes, ma'am. I was talked to at the scene soon as this happened because I was one of the first people that the officers seen and the first officer, that guy there.
(WITNESS INDICATED TO OFFICER BEHIND SOLICITOR'S DESK.)
A. I spoke with three, maybe four, officers before I left to go to the hospital. I mean, just different ones asking me the same questions over and over. What happened? Did I know 'em? What did they leave in? Were they here looking for something.
Q. And you didn't see them leave?
A. No, ma'am. I did not.
Q. Who did you — When talking with the officers, who did you tell them that you believed was involved?

A. Maquis Robinson.
Q. Did you tell them about a second suspect?
A. I did but I didn't know who he was.
Q. You did not know him?
A. No, ma'am.
Q. And how did you know Maquis Robinson?
A. Because I'd seen him at that business. Him and Neal were friends and I'd seen him there several times.
Q. Had you ever talked with him?
A. Yes, I had.
Q. The evening of the incident, how close did you get to looking at Maquis Robinson?
A. Face to face really. Face to face.
Q. Did he have his face covered up the whole time?
A. No, he did not.
Q. What was the lighting like in there, in the shop?
A. Like this, bright enough.
Q. And you testified they that they took money and marijuana out of your pocket?
A. Yes, ma'am.
Q. Had you been smoking marijuana that night?
A. No, ma'am. I had not. I was at work.
Q. Had you been drinking?
A. No, I had not.
Q. Do you feel like you had a good opportunity to view

Maquis Robinson?

A. I had an excellent opportunity for about thirty minutes to view Maquis Robinson.

Q. Do you have any question that the person that you saw there that evening in the white shirt was Maquis Robinson?

A. I have not a doubt in my mind.

Q. Did Mr. Robinson say anything to you?

A. Uh-huh.

Q. What did he say to you?

A. He told me that he – he told Neal first, you better tell your boy and then he said you better keep quiet. We will come - Our goons will come back for you.

Q. Going back to the hospital, you said you met with Detective Smith. Did she show you a lineup?

A. I honestly don't remember that night if she showed me the lineup.

Q. Let me show you what's marked for identification State's Exhibit Number Thirty-eight.

A. Yes, ma'am. That is.

Q. And do you recognize that?

A. Yes, ma'am.

Q. How do you recognize that?

A. Because that's my signature and my print.

Q. And when did you sign that? Is there a date and time on that?

A. Yeah. There's a date 6-9 but we were at the hospital really late. It could have been rolled into nine. Well actually it says 12:30 a.m. so yes it would have been at the hospital that night.

Q. And if you don't remember specifically where you were, but you remember Detective Smith at some point showing you a lineup?

A. Yes, ma'am.

Q. What did she say to you before showing you the lineup?

A. Told me what she was fixing to do, that she was going to show me some pictures and if I seen a suspect in 'em, circle it and put my initials on it.

Q. Did she read something to you or have you read something?

A. She did read something to me but I'm not exactly sure what it was. Like I said, I was under a lot of stress that night.

Q. When she showed you the lineup, did she say anything to you to influence who you picked out?

A. No.

Q. Did she point to anybody?

A. No, ma'am.

Q. Was there any markings identifying the suspect?

A. No, ma'am.

Q. Did she show you a picture of Maquis Robinson

beforehand and say this is Maquis, now look at this lineup?
A. No, ma'am.
Q. Did she provide you with identifying information for the people in all six of the photos?
A. No, ma'am.
Q. And in viewing the lineup, were you able to identify the suspect?
A. Immediately.
Q. And who did you pick out?
A. Maquis Robinson.
Q. And you've testified that you were out of it.
A. I was.
Q. Are you sure?
A. I was out of it because of what had happened to me but I remember vaguely who did it to me.
Q. And which picture were you able to pick out?
A. The very first one. Maquis Robinson.
Q. And did you do anything to indicate that's your choice?
A. Yes, ma'am. I circled it and put my initials on it.
Q. And are you a hundred percent sure of that selection?
A. A thousand percent sure.
Q. And is the person that you identified as Maquis Robinson the suspect in that photo, is that person in the courtroom today?

A. Yes, ma'am, he sure is.

Q. Where is he?

A. Right there in the peach colored polo shirt.

SOLICITOR SHELTON: Please let the record reflect he has pointed to Maquis Robinson.

(WITNESS POINTED TO DEFENDANT MARQUIS ROBINSON AT DEFENSE TABLE.)

Q. Mr. Crane, were you later shown a lineup of Dantonyo Heath?

A. I was.

Q. And who showed you that lineup?

A. Detective Stokes.

Q. Do you remember where you were?

A. Yes, I do. I was at a business, Fast Bucks, at the Lancaster County line. A gas station/convenience store. He asked me if I would meet him halfway.

Q. And from your memory, going back to both of the lineups, both the one for Mr. Heath and Mr. Robinson, was there anyone with you when you were shown the lineup?

A. No, ma'am.

Q. Did anyone do or say anything to influence who you selected?

A. No.

Q. Did Detective Stokes indicate to you which suspect you should pick up in the lineup with Dantonyo Heath?

A. No, ma'am. Detective Stokes wasn't even close to me. I was at the back of the car by myself.

Q. But he didn't point anybody out? Didn't give you any identifying information of anybody?

A. No, ma'am.

Q. You didn't even know Dantonyo Heath's name?

A. No, ma'am.

Q. Were you able to pick out someone from that lineup?

A. I was not.

Q. Thank you.

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

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor. May it please the court.

CROSS EXAMINATION

JARED CRANE BY MS. BURRIS:

Q. Hello, Mr. Crane.

A. Hello.

Q. Now, after all of this happened, there was an initial responding officer who actually came to the scene. Right? You remember the first officer you saw?

A. Yes, ma'am.

Q. Right. And was the officer a female or a male?

A. I do not remember that. I remember the officer - I

remember the police car being the first one there but I did not remember because I turned around and went back inside once the police were there.

Q. Okay. You turned around and went back inside and you were actually having conversations back and forth with Neal, right, about what had just happened?

A. No. Actually I hadn't because Neal was on - I went back to my wife is where I went. I didn't go back to Neal. Neal is a grown man. He was taking care of his self.

Q. Okay. So Neal was somewhere taking care of himself?

A. He was sitting on the couch in the front bay of the business.

Q. Okay. So he was actually seated on the couch, on the sofa, right there in the business?

A. Yes, ma'am.

Q. And then you went to go make sure that your wife was okay?

A. Yes, ma'am.

Q. And you - So when the person, officer - Where were you when the officer came up to you and tried to talk to you about what had just happened?

A. In the showroom. More officers were coming. I mean, it wasn't the very first officer I don't believe that got there. I think they were talking. I mean, they were with Neal because he was believed to be shot through the face so

they were more worried about him. I was okay. I mean, just - But as more and more officers came in, I was asked questions.

Q. Okay. And when the officer actually came to the scene, you were the one who actually directed the officers inside the building?

A. Yes, ma'am, I was.

Q. Okay. And you basically told them that the business had been closed, the business was closed. The garage door was cracked open when a black male came through the garage door?

A. Yes, ma'am.

Q. Okay. And you basically told the officers that you were not alarmed because you had seen the male come into the business before to have work done?

A. Yes, ma'am. Well, no. I don't know that I said to have work done but I had seen the male come into the business before because him and Neal were friends.

Q. Okay. So you basically told the officer I've seen that male come in - I've seen that male come into the business before because him and Neal were friends?

A. Uh-huh.

Q. Okay. Now, you testified earlier that one of the males asked you not to move. Right?

A. Uh-huh.

THE COURT: You need to say yes or no.

A. Yes. Yes, sir.

MS. BURRIS: Just make sure your responses are audible. Thank you.

Q. And then one of the males told you that if you didn't stop - One of the males told you that if you didn't stop fighting for your life they were going to harm your wife. Right?

A. That's exactly.

Q. And that male who told you that, you cannot one hundred percent under oath say that that as Maquis Robinson. Right?

A. No, ma'am. It wasn't Maquis Robinson.

Q. Okay. Now, you would agree with me that on that particular night Maquis Robinson never had any contact with you. Right?

A. No. I wouldn't agree with that. I mean, he may have never struck me or I mean, or actually assaulted me, but I can't say that we didn't have any contact.

Q. Okay.

A. I mean, a lot happened that night.

Q. Okay. When the person that you said, or the male or the guy that you referred to, the male, the guy, in the incident report you referred to different the male, the guy in your own personal statement. When did you decide to

start calling this male or the guy or one of the male guys Maquis Robinson?

A. I don't – I'm not sure. I mean, that I – I mean, was I suppose to write Maquis Robinson every time I responded because I mean, --

Q. Okay. Because let's talk a little bit about this, Mr. Crane. Now, after you – You actually stayed in the hospital for how long?

A. Just a few hours that night.

Q. A few hours that night and then they let you go home, released from Piedmont Medical Center?

A. Yes, ma'am.

Q. Okay. And then the next day you had the opportunity to speak with Detective Stokes in a follow up investigation. Right?

A. I believe so.

Q. Okay. And you actually sat down with Detective Stokes?

A. Yes, ma'am.

Q. And you all were actually at the Rock Hill Police Department?

A. I believe so.

Q. And he probably had you seated next to him and there was a computer there. Right?

A. As I recall, he had his – His cubicle is very small so

I think he was in front of the computer and me and my wife were kind of sitting facing him. He was sitting facing this way towards his computer and we were sitting like this.

(WITNESS DEMONSTRATED.)

A. No actually I don't think I could see a computer. I don't believe I was able to see the computer.

Q. Okay. But you were there pretty close.

A. Yes, ma'am.

Q. And you all actually had a conversation just like you and I conversing now?

A. Yes, ma'am.

Q. Okay. And as you were sitting there, he was interviewing you and you was basically telling him what happened. Right?

A. Yes, ma'am.

Q. And you told Detective Stokes in your statement that Neal told me the guy used to work for him and he let him go. Neal said that he wanted Neal to give him a title loan for his truck for eight hundred but Neal didn't do it. I also remember the guy --

SOLICITOR SHELTON: Your Honor.

THE COURT: You need to ask him questions and just not read his statement. You can ask questions and use his statement.

MS. BURRIS: Yes, sir.

THE COURT: If there is any.

MS. BURRIS: Yes, sir.

Q. You actually told Detective Stokes when he was interviewing you the next day that Neal told you --

THE COURT: That's the same thing. Ask him a question. If his answer is different today,---

MS. BURRIS: Inconsistent. I'll show him the statement.

THE COURT: --- then you can compare it but don't do that.

BY MS. BURRIS:

Q. Mr. Crane,---

A. Uh-huh.

Q. --- isn't it true that you told Detective Stokes that the guy used to work for you? You didn't refer to the guy when you spoke with Detective Stokes when he was sitting there interviewing you. You didn't actually tell Detective Stokes that Maquis Robinson had contact with you but Neal told you the guy used to work for him. Right?

A. I don't - I mean, yeah Maquis Robinson did used to work for Neal or tried to work for Neal to my recollection to what I know, my knowledge.

Q. Right. But that's not - Right. So when you were speaking to Detective Stokes ---

A. Uh-huh.
Q. --- and you were actually - he was actually interviewing you, ---
A. Uh-huh.
Q. --- Detective Stokes.
A. Yes, ma'am.
Q. You never actually called Maquis Robinson's name did you?
A. I don't recollect that. I mean, I told him that night who he was. Who done it.
Q. You told who that?
A. The officers that night.
Q. You told --
A. They asked me if we knew the suspects and I knew one of the suspects.
Q. You told the police officer that night when you were there at the scene?
A. Yes, ma'am.
Q. And you told them that Maquis Robinson did it?
A. Yes, ma'am. That's - They were looking for the suspect. They were looking for that, for the suspect vehicle that night also.
Q. Did you not tell officers that when they first came to the incident scene, you didn't tell them that it looked like three black males in their twenties?

A. No, I did not. I knew exactly who had done it.
Q. And you told the officers that night after you and Neal had spoken who exactly did it?
A. Me and Neal hadn't spoken. But yes I told the officer who did it.
Q. Now, let me go back to this. So you say you told officers that night who did it. You spoke with the officers. You told them who did it and then you sat down with Detective Stokes. You didn't tell Detective Stokes though did you?
A. I don't remember that. If Detective Stokes asked me who done it, I told him who done it.
Q. That's the first thing you discussed though. Right?
A. It would be yeah. I mean like I said, --
Q. Because you want to make sure they arrest the right person. Right?
A. That's correct.
Q. So that's one of the first --
A. And that would have been the first thing I would have said.
Q. Right. But you cannot one hundred percent under oath testify that you told Detective Stokes. even on the next day. that Maquis Robinson was at the scene?
A. I mean, — no.
Q. Okay.

A. I can't recall that conversation two years later. I cannot.

Q. You don't recall the conversation you had with him is what you're saying?

A. Yes, with Detective Stokes.

Q. Who called 9-1-1?

A. Neal.

Q. You had the opportunity - After you and Detective Stokes sat down, you had the opportunity to read over your statement?

A. Yeah.

Q. Yes?

A. Yes, ma'am.

Q. And you also had the opportunity to date your statement?

A. Yes I did. If it's in my handwriting and it's dated, I did. This happened two years ago, so, you know.

Q. And having a conversation with Detective Stokes on 6/9 of 2011 you kept referring to - I'm not sure who you were referring to - but you kept saying the guy or the guys. Right? You agree with that?

A. Okay. I mean, if I said that so then --

Q. And it was closer to time because it was the day after it happened. Right?

A. Well, yeah.

Q. Okay.
A. I mean, I do that just in person. I mean, I know your name but if I told you - if I was talking about you and I said your name one time, I would keep saying she. I wouldn't keep saying your full name every time.
Q. But if you're familiar with somebody, you typically call them by their name, right, since you know them. Right?
A. Not necessarily.
Q. Okay. So let's talk a little bit about that. You indicated that you know Maquis Robinson pretty well. Right?
A. Uh-huh.
Q. And in fact, you said — You testified that you've seen him often?
A. Uh-huh.
THE COURT: Let's say yes or no.
A. Yes, ma'am.
Q. Thank you. Now, you testified on direct that when the police officer actually - was it - and I just want to make sure I'm straight as in asking this question. When the police actually came to the scene, they took marijuana out your pocket?
A. Uh-huh.
Q. So that was one of the initial responding officers?

A. I believe. I told the same story to each officer that asked me.

Q. Okay. That asked you about what happened or about the marijuana?

A. That asked me what happened.

Q. Okay. Okay. And they actually just sort of patted you down just --

A. They didn't pat me down. They didn't do anything.

Q. How did they get the marijuana out your pocket?

A. Who?

Q. You said marijuana. Marijuana was in your pocket.

A. The officers?

Q. Yeah. Who took the marijuana out your pocket?

A. Dantonyo Heath.

Q. Dantonyo. Did you ever tell the officers Dantonyo Heath took money or marijuana --

A. Yeah, I told the officers that and told them that a

ell phone was taken and none of that was put in the police report.

Q. Okay. So Dantonyo took a bag of marijuana out your pocket?

A. Yes, ma'am.

Q. Okay. And you had the bag of marijuana --

A. And the eleven hundred and fifty dollars.

Q. And Dantonyo took eleven hundred and fifty dollars ---
A. Yes, ma'am.
Q. --- out of your pocket?
A. Yes, ma'am.
Q. Okay. And it was around what time was it when this happened? Eleven?
A. Yeah.
Q. Okay. So --
A. Ten forty-five, eleven o'clock.
Q. Ten forty-five, eleven o'clock, so it was pretty late?
A. Yeah.
Q. About how much marijuana was it?
A. It was suppose to be half an ounce.
Q. A half an ounce?
A. Uh-huh. I had just purchased it earlier.
Q. You had just purchased it?
A. Uh-huh.
Q. Okay.
THE COURT: Remember you got to say yes or no.
A. Yes, sir.
Q. About around what time did you purchase it?
A. Earlier in the day. A customer had came in and I - I mean, I talk to everybody that comes in the shop.
Q. Right. Now, a lot of people come in the shop. Right?
A. A lot of people come in the shop.

Q. So how many people come in the shop in a given day would you say?

A. I couldn't - I don't know because most of the business comes in the front of the shop. It's the people that know me that will come in the back of the shop so on any given day, maybe four or five people that are Neal's friends come in the back of the shop.

Q. Okay. When you say the back of the shop, what's there, like the cars?

A. Yes, ma'am. The detailing area and stuff.

Q. Okay. Okay.

A. Where they wash cars and stuff out so when people are getting their cars washed, they're standing in there talking.

Q. Okay. Okay. So you have the back of the shop where they were washing cars and you had people that come in and out of there. Correct? I mean people on a daily basis.

A. Yes.

Q. Okay. And then you had the front of the shop. And who was primarily like in the front of the shop? Was it Neal usually since he run it?

A. Yes, ma'am. Neal or his brother or his wife, Christy.

Q. Okay.

A. But yeah mainly on a day to day basis, Neal.

Q. Okay. But on a day to day basis, lots of people would

come in that rim shop. Right?

A. I would suppose. I didn't - I worked in the back so I didn't get to see everything that happened in the front so I would suppose lots of people come in.

Q. Okay. And you said you had - So you had purchased it earlier in the day from some guy, right, the marijuana?

A. Yes, ma'am.

Q. Okay. And you had actually smoked a little bit hadn't you?

A. I hadn't smoked any.

Q. Not any?

A. Nope.

Q. When were you going to smoke it?

A. When I got home.

Q. Do you smoke marijuana often?

SOLICITOR SHELTON: Objection, Your Honor.

THE COURT: I sustain the objection. He's established that he had marijuana on him and it was taken by one of the people that was involved in this incident.

BY MS. BURRIS:

Q. Now, in regards to the photographic lineup when you were at the hospital, was your wife actually in the hospital room with you?

A. Yes, ma'am.

Q. She was?

A. Yes, ma'am.
Q. Okay. And you had one of the detectives come in there and actually show you the photographic lineup?
A. Yes, ma'am.
Q. And you testified earlier that you were pretty much out of it. Right?
A. Yes, ma'am. Well, at the time at the rim shop.
Q. You were out of it at the rim shop?
A. I mean yes, ma'am. Because I mean, it all had just happened. By the time we got at the hospital, I had calmed down a lot.
Q. Now, in your previous testimony, you had actually testified that at the scene that you and Neal actually ---
SOLICITOR SHELTON: Objection.
MS. BURRIS: What's the objection.
THE COURT: Ask him questions.
MS. BURRIS: Yes, sir.
Q. You actually told police that you and Neal actually had a conversation, right, at the scene?
A. I don't - I mean, where are you - Had a conversation when? Before all this happened or after this happened?
Q. After it happened.
A. No we didn't have a conversation. I asked him was he okay because he was screaming he was fix'in to die to whoever he was talking on the phone to.

Q. So you all did have a conversation just about how he was feeling?

A. I asked him if he was okay and he said - shook his head yes and I went to my wife so I wouldn't call that a conversation.

Q. So you all never had a conversation about who it was?

A. I knew who it was.

Q. But you didn't tell the police did you?

A. Yes, I told police

Q. And you told them that night?

A. I told them that night.

Q. And you also sat down with Detective Stokes and your testimony is that you told Detective Stokes exactly who did it?

A. Yes. I told the police that night who did it. I also told them that a cell phone was stolen out of the car and everything. Is all that in the police report? Is any of that in there? I had to make supplemental reports because they didn't get it right the first time.

Q. You had to write supplemental reports?

A. Uh-huh.

Q. Okay. Hold on.

THE COURT: Keep reminding you, you need to say yes or no.

A. Yes, sir.

SOLICITOR SHELTON: Just briefly, Your Honor.

(PAUSE.)

BY MS. BURRIS:

Q. The supplemental reports — Now, when you talk about supplement reports, typically those are reports that are basically produced after the day of the incident of course as you know that. Right?

A. Uh-huh.

Q. And so you had the opportunity to speak with a police officer I would even say maybe three to four weeks after it happened too?

A. I would guess so.

Q. Yes?

A. Yes.

Q. And you didn't actually tell police on the night that this happened that any of the males or the guys or the suspects took money out of your pocket did you?

A. Yes, I did. I just - I told you that a while ago at the same time when we said the cell phone was gone because we told them they could track the cell phone. It had GPS and find out where they were at.

Q. You told the police that they stole one thousand one hundred dollars from you?

A. Actually it was eleven hundred and fifty dollars.

Q. One thousand one hundred and fifty dollars from you?

A. Yes, ma'am.
Q. And you told police there that night?
A. Yes, ma'am.
Q. And you told Detective Stokes there the second time?
A. I don't remember if I said it to Detective Stokes because I thought it was already - it had already been said one time.
Q. When you were speaking also to the police that night ---
A. Uh-huh. Yes, ma'am.
Q. --- and you told them - Yes. Okay. And you told them that the guy or the male or one of the three black males actually stole the one thousand one hundred fifty dollars from you?
A. No, ma'am. I did not say one of the three black males because I never told anyone there were three black males.
Q. Okay. But when you told the police officers about the one thousand one hundred fifty dollars, you also told them that one of them took the marijuana out?
A. I sure did.
Q. If you told police or Detective Stokes - Let me be specific. You said that you told the police and it was actually produced in a supplemental report. Right?
SOLICITOR SHELTON: Objection, Your Honor.
THE COURT: Just ask questions.

BY MS. BURRIS:

Q. You testified that when you told - you believe that it was produced in a supplemental report.

A. I believe what was produced?

Q. The fact that the guy or male had gotten the one thousand one hundred and fifty dollars off of you in addition to the marijuana?

A. I didn't believe that, I knew that it had happened.

Q. You told the police that?

A. Yes, I did.

Q. And you said you believe that it was produced in a supplemental report?

A. I believe that it was in that. I mean, actually - I haven't seen that. I haven't seen the actual report yet. That was the very next day.

Q. But you did actually remember reading over your statement. Right?

A. Briefly. I had a lot of stuff going on. I expected them to get it right. I mean, what I told them I expected them to write down exactly what I told them.

MS. BURRIS: May I approach the witness, Your Honor?

THE COURT: Yes, ma'am.

MS. BURRIS: Thank you.

Q. Mr. Crane, is this your signature?

A. Yes, ma'am, it is.

Q. Okay. And did you actually read over that prior to signing it basically saying that you are making this statement on your own free will and voluntarily making this statement?

A. I signed my name to a lot of stuff. I probably did look over it but no, I can't tell you that I read everything word for word that I signed. I know - I mean, I'm just one of those type of people.

Q. That you just write statements or you hear statements and you just --

A. No. I don't just write statements. I mean, but when people hand me a stack of paperwork to sign and they told me that everything's right and especially a police officer, yeah I would basically sign it.

Q. So you're saying that you don't really adopt this full statement. Right?

A. What does that mean?

Q. Oh, I'm sorry. That you can't necessarily testify under oath that these are your words from the statement that you signed?

A. Yeah. I mean, yes they're my words but I'm not telling you that I read over everything that I was suppose to sign. I already know what I said, so yeah I would have signed it.

Q. Okay. And you signed it knowing that the police

officer never had Maquis Robinson's name in that report when you spoke with him. And he never included Maquis Robinson's name in that report when you sat down and spoke with him the next day when you all were calm. You were in the police department. You and your wife was sitting there with Detective Stokes, and you never said Maquis Robinson?

SOLICITOR NEWKIRK: Your Honor, counsel is testifying. There is no question here.

MS. BURRIS: I'm asking the --

SOLICITOR NEWKIRK: I object.

THE COURT: Yeah.

MS. BURRIS: Okay.

THE COURT: This is cross, go ahead.

MS. BURRIS: Thank you.

A. Explain that one more time.

Q. Sure. I'll try to ask you one question at a time.

A. Okay.

Q. Okay. Thank you. So you testified that basically you signed off on the statement and dated it?

A. Uh-huh.

THE COURT: Yes or no.

A. Yes, ma'am.

Q. Thank you. And in that particular statement that you signed and dated and you had the opportunity to read through it. Right?

A. Yes, ma'am.
Q. And you read through it. You agree with me that you never told Detective Stokes that Maquis Robinson was the one who was there at the rim shop did you?
A. Is that what it says in that?
Q. You signed --
A. I told everyone, every police officer that I spoke with that it was Maquis Robinson because I knew him by name. I did not know the second person. I would never have told anyone that I did not know him.
MS. BURRIS: I'm going to approach the witness, Your Honor.
THE COURT: All right.
Q. Mr. Crane, is this your signature? See here.
A. Yes, that's my signature.
Q. And is this your handwriting with the date?
A. That appears to be. It could be.
Q. Did you write that date there?
A. I suppose. I also signed my name next to it. Are you trying to show me something?
SOLICITOR SHELTON: Your Honor, he has acknowledged that that is his statement several times.
MS. BURRIS: Okay.
THE COURT: Make sure you keep your voice up. You've got your back to the jury. I know you kind of got to but

make sure they can hear you.

MS. BURRIS: Yes, sir.

Q. And in this particular statement, this is the same statement that Detective Stokes showed to you to read over so you could sign and date it. Right?

A. Uh-huh.

Q. And in this particular statement, what did you say here?

A. Where at?

Q. Here.

A. "Neal told me the guy used to work for him and he let him go." Where is the beginning of the statement? Did I not say Maquis Robinson in the beginning of the statement? It says right here "the guy that I identified last night came running past me in the open bay area." So where was the guy that I identified the night before? The very first line. The guy that I identified.

Q. Why didn't you just say Maquis if it was a guy that you knew and you knew Maquis.

A. I wasn't asked to say Maquis. I said the guy I identified. I identified Maquis Robinson the night before.

Q. So you claimed to know Maquis Robinson over and over. Right?

A. He's not my best friend. I've seen him come in there a few times.

Q. But if somebody did this to you and you know who they are, you're going to let the police know who they are. Right?

A. I sure did.

Q. In your statement, you sure did.

A. It says it right there. The guy that I identified the night before.

Q. You're not sure that that guy is Maquis are you?

A. I'm a hundred percent positive that that guy is Maquis.

MS. BURRIS: Beg the court's indulgence.

(PAUSE.)

Q. And just to make sure, just for confirmation, you've already testified, you said that you were in the main area and the couch was located where?

A. Up against the wall. I was in the main area when?

Q. I'm talking about I guess when the police got there.

A. When the police got there, I was actually outside in the middle of the road.

Q. In the road trying to get them to come.

A. Telling them where they needed to come to.

MS. BURRIS: I have no further questions at this time. Thank you, Mr. Crane.

A. Yes, ma'am.

THE COURT: Mr. Smith.

MR. SMITH: If it please the court.

THE COURT: Yes, sir.

CROSS EXAMINATION

JARED CRANE BY MR. SMITH:

Q. Mr. Crane, you got a very good look at some shoes that the person was wearing that struggled with you; is that right?

A. Yes, sir.

Q. And you've described those shoes both in testimony and in statements to the police; is that right?

A. Yes, sir.

Q. And you've been very specific. You've described not only the brand, but the model and even the color; is that right?

A. Yes, sir.

Q. And that was gray, neon, yellow and white Nike Air Max's?

A. Air Max 95's, yes, sir.

Q. Air Max '95. You also described for the Solicitor from a picture a knife, or you identified a knife that was shown to you in a picture; is that right?

A. Yes, sir.

Q. And you indicated that that was your knife?

A. Yes, sir.

Q. And at some point during the struggle with the

individual, you pulled that knife out but you ultimately dropped the knife; is that right?

A. I did pull the knife out and I was told that if I did not let it go that my wife would be harmed, so yes I did.

Q. Okay. And so you dropped the knife?

A. No. I actually throwed the knife.

Q. And the knife was never used against you was it?

A. No.

Q. And it just remained laying there on the ground in the shop?

A. Yeah.

Q. And during the struggle that you've described, were you told to go to sleep a number of times?

A. A several amount of times.

Q. Okay. And were you asked to stop fighting a number of times?

A. Yes. Well, I was asked to stop fighting. I was told to go to sleep more times than I was asked to stop fighting. When it was closer to the end I was asked to stop fighting.

Q. And were you ultimately asked to crawl to the bathroom?

A. I was.

Q. And were you told that you would be all right?

A. Yeah. Yes I believe I was.

Q. And after the struggle, you were left tied in the bathroom; is that right?

A. Yes.

Q. Now, Ms. Burris asked you about a statement. A statement that you gave I believe on June 9th of 2011; is that correct?

A. Yes. That's when it was dated.

Q. She just showed you a copy of it.

A. Yes, sir.

Q. And if you need it at any time just ask me and I'll grab you another copy. Now, you just mentioned another version of a threat to your wife. This time it involved when you had the knife in your hand ;is that right?

A. Yes, sir.

Q. And before when you testified when the Solicitor was questioning you, you talked about I believe when you were in the bathroom some threat being made to you about your wife; is that right?

A. I don't — no. I believe what it was is I just told them hurry up and leave before my wife got there. I mean, hurry up and go. They got what they wanted. Everything was done. I was tied up. Hurry up and go.

Q. Okay. But when you testified on direct, you got very emotional when you talked about some threats to your wife. Right?

A. Yeah.
Q. But in the statement that you gave on June 9th of 2011, you don't mention any threat to your wife do you?
A. I didn't mention a lot of things. A lot of stuff happened.
Q. And in fact in that statement the way you phrase it is just like you did saying you just told them to hurry up and get out of here because your wife was coming. No threat to your wife.
THE COURT: Got to be yes or no.
A. No. I don't remember.
Q. But you did mention the shoes?
A. Yes I did mention the shoes.
Q. Now, in that statement, you didn't tell them that any items were taken from you did you?
A. In which statement?
Q. The statement that you gave to the police, the two page statement.
A. There at the shop that night?
Q. No. The two page statement that you were allowed to review and asked if you needed to make any changes, additions or subtractions.
A. That was the statement from that night?
Q. The written statement that you signed that you were just shown by Ms. Burris.

A. That's what I'm asking you. Is that the statement that was made that night?

Yes, sir. That was from 6-9. That was the very next day.

Q. Okay. And yes, sir, you did mention that items were taken from you or yes, sir you did not?

A. Yes, sir. I did mention items were taken from me and like I said before, I had - it doesn't mention anything about the cell phone that was gone in this either. And we also told them about that too.

Q. All right. Maybe I'm confused. Let me ask it another way.

A. Okay.

Q. That statement does not say any items were taken from you does it?

A. Before I answer that, I'm going to read the whole thing this time.

(WITNESS READING DOCUMENT.)

A. Okay. Now ask your question again.

Q. That statement does not say that any items were taken from you?

A. No it does not. It doesn't say anything about the knife in here either. A lot of other things that were also told, that I also told.

Q. It doesn't mention the threat that you say was made

concerning your wife?

A. No. Not the one when I had the knife in my hand but it does say - I mean, yeah it does say that I asked him to hurry up and go before she did get there.

Q. But it didn't say that they threatened they would harm your wife.

A. It didn't say that they would harm my wife?

Q. Right.

A. No. That had already - that threat had already been made.

Q. Maybe I'm asking unclearly again. No where in that statement does it say individuals threatened to harm your wife?

A. No where. No. No, sir. It does not.

Q. And you were given a copy of that statement after you made it?

A. I would believe so.

Q. But you indicate at some point you called back and asked for some items to be supplemented to the police report.

A. I mean, yeah. Like I said, the cell phone. We kept asking them about the cell phone. Had they found it. What we needed to do about it. Would we need a police report to even say that we were missing a cell phone so yeah we were back and forth about this a lot.

Q. And you called on I believe July 1st and mentioned that items were taken from you; is that correct?
A. I mentioned it a lot of times.
Q. And you mentioned that it was at that point eleven hundred dollars that was taken from you; is that right?
A. I don't know. I would not have come up with a different number because I knew exactly how much money I had in my pocket because I was suppose to be going to family court for child support so I knew exactly how much money I had.
Q. And you needed all the money in your pocket for family court?
A. That's exactly right.
Q. And that's why you bought marijuana earlier in the day?
A. Okay. What point are you trying to make?
Q. I'm trying to ask questions and get answers from you that are honest.
A. All right.
Q. What did you get the marijuana for?
A. To smoke.
Q. When?
A. When I got off work.
Q. Why?
A. I wanted to.

SOLICITOR SHELTON: Objection, Your Honor.

THE COURT: Well, I sustain the objection. I sustain the objection.

BY MR. SMITH:

Q. Does it say in that statement anywhere that you had marijuana that day?

A. It does not.

Q. Did you tell any of the persons at the hospital that you had marijuana?

A. I didn't have marijuana at the hospital. It was gone.

Q. Were you asked about drug usage by anyone from law enforcement or at the hospital?

A. No. I wasn't under the influence of any drugs.

Q. Were you asked if you were under the influence?

A. More than likely.

Q. When you called the police back on July 1st to supplement what was taken from your pocket and you mentioned money and a cell phone, did you mention marijuana?

A. I'd mentioned all of it before.

Q. At the scene, how many suspects did you tell them there were?

A. Two.

Q. Had there been a lot of testimony in the word they and them and he has been used. At no point in time have you

ever told anyone that it was Dantonyo Heath who was involved with you at the scene; is that correct?

A. What do you mean at any point in time? Yeah. Once - I mean, yeah. Once I found out what the name with the face was, I did.

Q. I see.

A. I seen the face. I didn't know the name.

MR. SMITH: Thank you. No further questions.

THE COURT: Redirect?

SOLICITOR SHELTON: No, Your Honor.

THE COURT: You can step down.

MR. CRANE: Okay. Thank you.

THE COURT: Appreciate your time.

MR. CRANE: Thank you.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: It's a little bit before one. We'll take our lunch break until 2:15. Have a pleasant lunch and we'll see you back at 2:15.

(JURY EXITS COURTROOM FOR LUNCH RECESS AT 12:53 P.M..)

THE COURT: Anything from the State before we break for lunch?

SOLICITOR SHELTON: No, sir, Your Honor.

THE COURT: Ms. Burris?

MS. BURRIS: No, sir, Your Honor. I guess just for matter of scheduling for today, I have my witnesses

traveling here in the morning as I previously said. My understanding is we probably will actually maybe finish the State's witnesses today. I'm just trying to make sure I keep my witness posted on the timing and what time they need to be here.

THE COURT: You will have to coordinate with Ms. Shelton.

SOLICITOR SHELTON: I don't expect we will finish today because I think cross of both Detective Stokes and Detective Smith will be lengthy and I still have SLED to get through before we get to those two witnesses.

MS. BURRIS: Thank you, Your Honor.

THE COURT: All right. We'll see you at 2:15. Have a pleasant lunch.

(COURT IN LUNCH RECESS AT 12:54 P.M..)

(STATE V. THOMAS BOULER PLEA AT 02:04 P.M..)

(COURT BACK IN SESSION IN STATE V. ROBINSON/HEATH AT 02:23 P.M..)

THE COURT: Thank you. Take your seats.

Is the State ready?

SOLICITOR SHELTON: State's ready, Your Honor.

THE COURT: Ms. Burris, you ready?

MS. BURRIS: Yes, sir, Your Honor.

THE COURT: Mr. Smith?

MR. SMITH: Yes, sir, Your Honor.

THE COURT: Bring in the jury.

(JURY REENTERS COURTROOM AT 02:24 P.M..)

THE COURT: Call your next witness.

SOLICITOR NEWKIRK: Your Honor, the State calls Ray Hamilton.

(WHEREUPON: RAY HAMILTON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MADAME CLERK: Thank you. You may have a seat.

DIRECT EXAMINATION

OFFICER RAY HAMILTON BY SOLICITOR NEWKIRK:

Q. Good afternoon, Mr. Hamilton. Could you please state your name for the record?

A. Yes. My name's Officer Ray Hamilton.

Q. And how are you employed?

A. I am the Head Evidence Technician for the City of Rock Hill.

Q. Being the Head Evidence Technician, what kind of duties is that?

A. For the job that I have, there's two of us that work in evidence in Rock Hill P.D., and basically what we do is we get all the evidence that comes into the department, we bar code it, we enter it into the computer system and we store it and keep control of it. On occasion, some evidence will be taken to different places for testing, such as the SLED lab or here at the County, we bring some

drugs over here to be tested and I have the responsibility of transporting that to and from.

Q. So how is evidence deposited into the evidence room?

A. We actually have two different ways. One is we have some lockers that are two-sided lockers. On the outside there is a lock on it the officers have access to, and then once they secure the evidence into that, they put the lock on it. From the inside the evidence room, which is controlled and alarmed, we can open the back of the locker and take the evidence out.

We also have a, we call it a drug drop but it's just like a night depository at a bank. You can pull it open, drop the evidence in and close it back up and the evidence falls into a safe that we have within the evidence room.

Q. So once somebody deposits evidence into your room, they can no longer access it?

A. That's correct.

MR. NEWKIRK: Your Honor, may I approach?

THE COURT: You may.

MR. NEWKIRK: Thank you.

Q. Mr. Hamilton, I'm handing you what's been marked as State's Exhibit Number One for identification purposes and State's Exhibit Number Forty-one for identification purposes. Do you recognize these items?

A. I do, sir.

Q. And what are they?

A. These are two bags that have been returned from SLED. Within the plastic bags are the envelopes that the officers use and our forensics technicians use. They seal those up after putting the information on the outside and placing the evidence inside, they seal it with evidence tape. We receive it. We track it. We put it into the system by signing off on it and putting a bar code on it. That bar code records where it is placed within the evidence room and in this particular case, these items were taken by myself to the SLED lab in Columbia.

And the reason I know that is because these are the bags that they seal it into. When they seal it, they use a heat seal. We have to sign the seal as well as date it and then on the front of the bag it will actually say sealing official with the date on that. The sealing official is my name. I recognize my signature and the dates that I took it to SLED.

Q. So you received those items from the evidence drop-offs at the Rock Hill Police Department?

A. Yes, sir.

Q. And are those items in the same condition as when you last saw them?

A. They are in the same condition as when I released them

for this trial. Yes, sir.

Q. You said that you took these items down to SLED; is that right?

A. Yes, sir.

Q. Where is SLED located where you drop the items off?

A. SLED headquarters is located in Columbia, South Carolina off of Broad River Road. It is about a mile or approximately two miles off of Interstate 20.

Q. Did anyone else ride in the car with you when you took these items to SLED?

A. Sometimes the other evidence technician goes with me, but typically when this evidence goes, I'm the only one that goes.

Q. So were these items within your custody and control the entire time?

A. Yes, sir, they were.

Q. Did you do anything to tamper with these items?

A. No, sir.

Q. And you said that you signed for these items at SLED; is that correct?

A. That's correct.

Q. And do you recognize your signature on the items?

A. Yes, sir. My signature is on both bags where I dropped them.

Q. Thank you, Mr. Hamilton.

MR. NEWKIRK: No further questions from the State, Your Honor.

THE COURT: Ms. Burris.

MS. BURRIS: Yes, Your Honor. If it please the court.

CROSS EXAMINATION

OFFICER RAY HAMILGON BY MS. BURRIS:

Q. How are you Officer Hamilton?

A. Good. How are you?

Q. I'd like to see what that is.

(ATTORNEY BURRIS RETRIEVED EVIDENCE FROM WITNESS.)

Q. And what Mr. Newkirk had just asked you about in State's Exhibit Forty-four[sic]. Do you know exactly what this is?

A. I would have to look at the bag to know, ma'am.

Q. Okay.

A. This is a bucal swab.

Q. The bucal swab. Okay. And you were the sealing official?

A. Yes, ma'am.

Q. Okay, so you had --

A. Well, actually SLED is the ones that seal it and then they hand it back to me and I sign off on it.

Q. Okay. So you work at the Rock Hill Police Department.

A. Yes, ma'am.

Q. You took it out of the evidence lockbox?

A. That's correct.
Q. Okay. And it was your responsibility to actually transport it and makes sure it gets to SLED?
A. That's correct.
Q. Okay. And on this bucal swab on State's Exhibit Forty-four[sic], it looks like it is dated May 23rd, 2012?
A. If that's what's on it. I don't - I didn't - yes, ma'am, that's correct.
Q. Okay. And where did this date actually come from?
A. The date that's on there is the actual date that I take it to SLED. They in-process it and I sign on the back after they seal it.
Q. Okay. So that would have been about - that would definitely - I mean, because this incident happened June 8th, 2011, so almost a year later?
A. Yes, ma'am.
Q. Okay. And I'm going to show you what has been marked as State's Exhibit One. Can you tell me what that is? What is in the bag?
A. Yes, ma'am. This is a white tee shirt with red stain.
Q. And it is actually dated what date?
A. 11/29/11.
Q. Okay. So about five months later it was actually taken to SLED?
A. That's correct.

Q. Okay. So how often do you actually go to SLED, Mr. Hamilton?

A. It just depends on what we have and what kind of evidence needs to go. If we have a case that needs to go quicker, I will go two or three times a week if necessary. That's never happened. At the minimum I go at least twice a - twice a month.

Q. Okay. Twice a month or sometimes if necessary you go two to three times per week ---

A. Yes, ma'am.

Q. --- if necessary?

A. That's correct.

Q. Okay. Thank you, Officer Hamilton.

MS. BURRIS: No further questions.

MR. SMITH: No questions.

THE COURT: Redirect?

SOLICITOR NEWKIRK: Very briefly, Your Honor.

REDIRECT EXAMINATION

OFFICER RAY HAMILTON BY SOLICITOR NEWKIRK:

Q. Officer Hamilton, how do you know which items to take to SLED?

A. SLED has a system that they call a pre-log for evidence that needs to come in there and basically what that does is the detective, myself or one of the forensics officers, has to fill out some paperwork which is actually

on a computer that tells them what they want done with it, how they want it processed, what the items is, and SLED has a limitation to how many items depending on the crime to what they can take.

SOLICITOR NEWKIRK: No further questions, Your Honor.

THE COURT: Ms. Burris?

MS. BURRIS: No, sir, Your Honor.

THE COURT: Mr. Smith?

MR. SMITH: Nothing further.

THE COURT: You can step down and be excused. We appreciate your time. Thank you.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Call your next witness.

SOLICITOR NEWKIRK: Your Honor, the State calls Betty Butler.

THE COURT: Ms. Butler, if you'll come forward to the Bible up here and put your left hand on it and raise your right.

(WHEREUPON: BETTY BUTLER, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MADAME CLERK: Thank you. You may have a seat.

DIRECT EXAMINATION

BETTY BUTLER BY SOLICITOR NEWKIRK:

Q. Good afternoon, Ms. Butler. Could you please state your full name for the record?

A. Good afternoon. Betty Walker Butler.
Q. Ms. Butler, where are you currently employed?
A. I'm employed with the South Carolina Law Enforcement Division, also known as SLED.
Q. How long have you worked with the South Carolina Law Enforcement Division?
A. Approximately seventeen years.
Q. And have you had any education or training in order to have that position?
A. Yes. I had - we have to - We was trained underneath two forensic technicians and a lieutenant. We have to go through hundreds of items before we are able to go online. We have to take a competency test before we go online and every year we have to take proficiency tests to make sure we still know what we're doing.
Q. And are you up-to-date on your proficiency?
A. Yes, I am.
Q. What are your current duties at SLED?
A. I'm a forensic technician in the DNA department.
Q. And what does that involve exactly?
A. As a forensic technician in the DNA department, I get evidence, I look for blood, presumptive test for blood, semen; I look for hairs, fibers. I look for skin cells. Sometimes sweat, glass, or anything that could be of value to a particular case.

SOLICITOR NEWKIRK: May I approach the witness, Your Honor?

THE COURT: You may.

Q. There you go, ma'am. I've just handed you what has been marked as State's Exhibit Number One for identification. Do you recognize that?

A. State's Exhibit Number One is SLED Item Number 1 and it's associated with Lab Number L-1-1-13-387. Yes, I do.

Q. And what is that document? You can feel free to open it if you need to.

(WITNESS OPENED EXHIBIT.)

A. State's Exhibit Number One, SLED Item Number 1, is a white tee shirt. It has the item number on it. My initials, the lab number and the date that I processed the item.

Q. Ms. Butler, where did you get State's Exhibit Number One? Who did you receive that from?

A. On December 5th of 2011, I received it from Salina Kinard because she is in the Evidence Control Department.

Q. So she had it before you did?

A. Yes, she had it. She is the one that logged in the case.

Q. Let me grab that from you. It looks like you've got a lot to hold up here.

Thank you. Can you say who brought the evidence to

SLED?

A. It was submitted by Ray Hamilton of the Rock Hill Police Department.

Q. If the evidence bag had been tampered with in any way when it was brought to SLED, what would you have done with the evidence inside?

A. If I received the evidence that was opened or damaged, I would have stopped the process and find out why it was opened. And I also would have noted it on my worksheet and I don't have a note on my worksheet.

Q. So that wasn't the case here?

A. That's not the case here.

Q. So is the State's Exhibit Number One, the tee shirt, in the same condition as the last time that you saw it?

You want to see it again?

A. Yes, it is. This is the white paper that I put it in. I put the tape around it and sign it. If it was opened, I would have known it.

Q. Was the tee shirt within your custody and control the entire time that you had it?

A. Yes it was.

Q. And what did you do with the tee shirt after you picked it up?

A. After I received the white tee shirt, the request was for ownership. Normally they always look at every - do a

visual of every evidence to make sure it's properly sealed. Then they open it up and they do an inventory to make sure what it says that's in there, which is the white tee shirt. And after I do a visual, because the request was for ownership, I saw a red stain and I tested that and it tested positive for a presumptive test for blood. I made a cutting of that and then I also did scraping of the collar to swab for ownership.

SOLICITOR NEWKIRK: Your Honor, the State ask to move Exhibit Number One into evidence.

THE COURT: Any objection?

MS. BURRIS: Your Honor, it is my understand that it was actually taken from Ms. Salina Kinard in the Evidence Control Room. I'm not sure if the chain has actually been established since they have not actually called Salina Kinard to testify.

THE COURT: All right.

Let me let the jury go to the jury room while we take up a matter of law.

(JURY EXITS COURTROOM AT 02:43 P.M..)

THE COURT: Mr. Newkirk.

SOLICITOR NEWKIRK: Your Honor, as far as the chain being established, it was my understanding with the defense that certain chain witnesses were going to be waived as not needing to be present so we talked about that before trial

today.

MS. BURRIS: I think the one that I was actually — yeah, the one that I was actually specifically asked about was Ms. Patricia Crooks and I did say that I would waive her presence because mainly due to just timing problems getting here.

SOLICITOR SHELTON: Your Honor, and may I address this issue because I've actually --

THE COURT: Then we whoever — we only have one argument.

Do you object, Ms. Burris, to Ms. Shelton chiming in on this? Do you object to her participating argument?

MS. BURRIS: No, sir. It is no problem.

THE COURT: Subject to Mr. Newkirk - -

MS. BURRIS: No, sir, I don't mind.

THE COURT: Okay. Go ahead.

SOLICITOR SHELTON: Ms. Kinard no longer works at SLED. When we tried the case back in January and we made attempted to contact her, she no longer works there. Based on case law concerning *State versus Taylor* and then on forward, the internal chain has been established.

Ms. Butler has testified as to what SLED process is. Mr. Hamilton has testified that he took the evidence there, that he signed the seal; that that evidence was turned over to SLED which Ms. Butler has testified that was Salina

Kinard. That the bag was signed. That she would not have accepted the bag and she would not have tested the substances within the bag if their procedure had no been followed so we have established the internal chain from SLED and who had contact with that bag and their procedure.

Also, this evidence is in reference - the evidence that is going to be deep gleaned from this piece of evidence would be referenced to Dantonyo Heath. Maquis Robinson doesn't have anything to do with the evidence that was collected from this piece of material.

THE COURT: You're presenting the case which her client's charged?

SOLICITOR SHELTON: I understand, Your Honor, but there will be no evidence linked from what was gathered from that tee shirt linked to him. I guess it would the absence of evidence would be linked to him, but we don't intend to introduce any DNA evidence linked to Maquis Robinson. But our argument would still be that we have established the chain on the item.

THE COURT: All right. Mr. Smith, before I rule, what's your position?

MR. SMITH: I'm not objecting, Your Honor.

THE COURT: All right. I'm going to deny —

What is your motion? You object to it coming in?

MS. BURRIS: I do object to it, Your Honor, and it is

our position that any evidence against Dantonyo Heath is actually evidence, of course, against Maquis Robinson and even though, you know, I think Ms. Kinard she indicated was no longer working there, she actually at some point - or they actually do have, I'm sure, an evidence room technician which is whom Ms. Butler actually testified who she actually got the evidence from. And again, it is our position that this evidence should not be admitted or this exhibit should not actually be admitted into evidence simply because I do not believe that the chain has been established.

THE COURT: All right. Well I'm going to allow it in. I find that this is not plungable. This is a non-plungable item and that the chain has been sufficiently and substantially confirmed by the testimony and I overrule the objection.

Bring the jury back in.

SOLICITOR NEWKIRK: Thank you, Your Honor.

(JURY REENTERS COURTROOM AT 02:47 P.M..)

THE COURT: You may proceed.

SOLICITOR NEWKIRK: Thank you, Your Honor. We ask that State's Exhibit Number One be moved into evidence.

THE COURT: Over objection I'll allow it in.

(WHEREUPON: STATE'S EXHIBIT NUMBER ONE IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR NEWKIRK: Thank you, Your Honor.

Q. Ms. Butler, you mentioned that you did some collar scrapings on the tee shirt; is that correct?

A. That's correct.

Q. What is a collar scraping? What does that accomplish?

A. The request was for ownership. If you - Things that you wear and normally rub against your neck, and what we do, we scrape the inside of the collar, and the outside of the collar, and we should get skin cells off of that and that's what we use for the - when I say we scrape the collar.

Q. Thank you, Ms. Butler.

SOLICITOR NEWKIRK: Your Honor, may I approach the witness?

THE COURT: Yes, sir.

Q. I'm handing you what has been marked as State's Exhibit Number Forty-two for identification purposes.

Do you recognize that?

A. State's Exhibit Number Forty-two is SLED Items Number 1.1 and 1.2.

Q. And what are SLED Items 1.1 and 1.2?

A. 1.1 is a swab from the scraping of the inside ahe outside of the collar. And SLED Item Number 1.2 is a cutting from the outside of the tee shirt that was for presumptive test for blood.

Q. So Items 1.1 and 1.2 came from the tee shirt?

A. That's correct.

Q. And what did you do with Items 1.1 and 1.2 after you gathered them from the tee shirt?

A. Once I gathered 1.1, I had to let the swab dry. It is a clean swab that we have to dry it. Then after it dries it goes into these envelopes. We seal it up. We put our initials on it and the date. And the cutting, we put the cutting in here and seal it up, put our initials and the date. We put it into a heat sealed pouch. We have to seal it and seal it. We put our initials on it, the date that we process it. Then we have to sign it and you have to date it.

Q. And you followed all of those procedures with Items 1.1 and 1.2?

A. That's correct.

Q. After you filled out the appropriate information on SLED Item 1.1 and 1.2, what did you do with them then?

A. 1.1 and 1.2, I gave it to Patricia Crooks in the Evidence Control Department. Once she gets it, she secures it into our DNA refrigerator that's in the Evidence Control Department that only the forensic technician can get to it.

Q. Thank you, Ms. Butler.

SOLICITOR NEWKIRK: Your Honor, the State has no further questions for Ms. Butler.

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor.

CROSS EXAMINATION

BETTY BUTLER BY MS. BURRIS:

Q. Ms. Butler, you seem to take your job real serious, do you?

A. Yes, I do.

Q. Okay. And you are well trained you would say?

A. Yes, I am.

Q. And you have how many years experience?

A. Nearly seventeen years.

Q. Nearly seventeen years. Pretty focused?

A. Yes.

Q. Pay attention to detail?

A. Yes.

Q. And you testified that typically when you do a visual test you look for blood.

A. When I do a visual test, I'm looking for anything that is out of the ordinary on a particular item.

Q. Anything that could be of value to the case?

A. Yes.

Q. Okay. And that includes blood?

A. Yes.

Q. That includes hair, hair fibers?

A. Yes.

Q. And skin cells?
A. Skin cells, actually you can't see it. You are actually scraping in the blind and then you use a clean swab and you swab it and you send it up to DNA for the skin cells.
Q. So if there are skin cells then you actually - it.s a different process, of course?
A. Yes, from the presumptive test of blood.
Q. And bodily fluids?
A. Bodily, yes.
Q. Anything that could be of value to a particular case, you make sure that you try to either do the presumptive test or the visual test. Correct?
A. It depends on particularly the case itself and the request.
Q. Okay. And in this particular case the request was?
A. For ownership.
Q. For ownership.
A. Yes.
Q. Okay. And you were able to determine the ownership?
A. I don't determine it. What I do, I collect the evidence and I pass it on to the analyst and they establish the ownership.
Q. Okay. But you would agree that you actually did a pretty good job in looking for what you needed to look for.

Right?

A. Yes.

MS. BURRIS: Thank you. I have no further questions.

THE COURT: Mr. Smith.

CROSS EXAMINATION

BETTY BUTLER BY MR. SMITH:

Q. Agent Butler, do you get in all kinds of different things to be tested?

A. Yes, I do.

Q. It could be cloth, metal, other materials, carpet, shoes, all things like that?

A. That's correct.

Q. And in some cases do you get just piles and piles of things and in some cases you may just get one item?

A. Sometimes we do. It depends on the case.

Q. Okay. And in this case you received how many items?

A. One.

MR. SMITH: No further questions.

THE COURT: Redirect?

SOLICITOR NEWKIRK: None, Your Honor.

THE COURT: You may step down. Thank you.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Of course I found that there was substantial chain but also that the evidence is relevant. I find that too.

All right. Next witness.

SOLICITOR SHELTON: Your Honor, the State would call Lilly Gallman.

SOLICITOR SHELTON: Your Honor, may we approach?

THE COURT: Yes.

(BENCH CONFERENCE OFF THE RECORD AT 02:55 P.M..)

THE COURT: I'm going to excuse Ms. Shelton just for a moment.

(PAUSE/SOLICITOR SHELTON EXITS COURTROOM.)

THE COURT: Ms. Gallman, come on up and be sworn. There is a Bible up here, put your left hand on it and raise your right.

(WHEREUPON: LILLY GALLMAN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MADAME CLERK: Thank you. You may have a seat.

(SOLICITOR SHELTON REENTERS COURTROOM.)

THE COURT: Ms. Shelton, Ms. Gallman has already been sworn in.

SOLICITOR SHELTON: Thank you, Your Honor.

DIRECT EXAMINATION

LILLY GALLMAN BY MS. SHELTON:

Q. State your name for the record, please.

A. My name is Lilly Smalls Gallman.

Q. Ms. Gallman, where do you work?

A. I work for South Carolina Law Enforcement Division.

Q. And where is that located?
A. In Columbia.
Q. And how long have you worked there?
A. Twenty-three years.
Q. And what is your job there?
A. I'm employed as a forensic DNA analyst.
Q. Has that always been your job with them?
A. Yes.
Q. What is the department called that you are assigned to?
A. I'm assigned to the DNA Casework working department.
Q. And what do you do there?
A. I receive evidence and standards for the purposes of identification.
Q. What is your educational background?
A. I have a degree in Biology from the University of South Carolina. Once I received my degree, I continued working there in the area of genetics in the genetics lab where I did sequencing of DNA. Then I began working with the South Carolina Law Enforcement Division in January 1990 as a DNA Analyst. Since that time, I've attended the FBI DNA schools. I've been trained by serologists to do forensic serology. I've also taken advance courses in genetics and statistics to help me be able to do my job. And I've also taken advance courses in DNA to study

mixtures in different areas of DNA.

Q. And prior to working with SLED, did you have any other experience working in laboratories?

A. Yes. I worked at the University of South Carolina in a laboratory.

Q. How long were you there?

A. I worked in the laboratory for ten years prior to coming to SLED.

Q. And you've kind of already told me this, but what specific training have you had in forensics?

A. I've been trained by the FBI to work in the area of forensic DNA and I've also been trained in the area of serology where I'm able to process evidence and determine what type body fluids you might find on a piece of evidence.

Q. Have you been qualified as an expert in the field of forensics, serology and DNA prior to today?

A. Yes, I have.

Q. How many times?

A. Approximately sixty.

Q. And approximately have many times have you testified?

A. At least a hundred.

SOLICITOR SHELTON: Your Honor, at this time I would offer Ms. Gallman as an expert in the field of forensic DNA analysis.

THE COURT: Any voir dire?

MS. BURRIS: No, sir, Your Honor.

MR. SMITH: No, Your Honor.

THE COURT: I find she is qualified in forensic DNA - Say again? Forensic DNA?

SOLICITOR SHELTON: Analysis.

THE COURT: Analysis. I find she is qualified.

BY SOLICITOR SHELTON:

Q. Ms. Gallman, could you explain to the jury in as best layman terms as possible what DNA is.

A. DNA stands for deoxyribonucleic acid. It is considered to be the blueprint of the body. You get part of your DNA from your mother and part from your father and since this is the case, except for everyone's DNA is unique except for identical twins, which they have the same DNA. We are able to compare DNA profiles from evidence and DNA profiles from standards, be it from the victim or the subject in a particular case, and determine whether it matches or it does not match.

Q. And in looking at DNA in what you do, what are you looking at and how do you test it or compare it?

A. What we do is we - the samples that we have are say a sample from a piece of evidence. We extract the DNA from that piece of evidence and we do what's termed PCR, Preliminary Chain Reaction, to be able to generate a DNA

profile from that evidence or a standard. We look at sixteen areas on the different chromosomes and look at that persons DNA profile.

Q. Can you explain to the jury the chain of custody process that SLED follows?

A. It depends on where the evidence is starting from. Let's take for instance in this particular case, the technician, Betty Butler, she processed the evidence and made cuttings and swabs, a cutting and a swab from let's say Item Number 1. That evidence is then packaged and sealed and then eventually it is transferred into my custody.

Q. And what about evidence that is received into SLED from outside locations?

A. We have an area which is called the log in area where if you are bringing evidence let's say from York County, they go in. The technician there assists whoever is bringing the evidence in, having that evidence submitted. It is packaged in our pouches. Sealed by the submitting agency and then distributed to what department it should go to.

Q. And when evidence is submitted from an outside department into SLED or even within SLED, what specifically is done to preserve the integrity of that evidence?

A. Well, the evidence is sealed first and then the

initials of the sealing person will be on that seal along with the date that the seal was done. The evidence is then kept in the log-in area until it is retrieved by whoever the case is assigned to. Once you pick up the evidence from log in, you check to see if the seals are intact or whether there is something different about the evidence. If not, then you would proceed. If there is a problem with the evidence, you will back track and find out why it is not sealed properly and who had the evidence last.

Q. And so - So does SLED maintain a list of everyone who touches any particular piece of evidence?

A. Yes.

Q. During the testing process, when you are testing a piece of evidence that you've received, what is done to prevent contamination from people, from you transferring your DNA to it, or from other evidence of being contaminated against each other?

A. Well, all the analysis is performed in a hood. There is a glass shield. We also wear gloves and we also make sure that the standards that come in, the known standard from the victim or subjects in a case are handled at a different time than the evidence so you won't cross contaminate that.

Q. What about the utensils that you use?

A. They are always sterilized in between different cases.

Q. And what about the areas that you are working?
A. It is also sterilized, wiped down with disinfectant and also with alcohol.
Q. Is there anything about the testing process that could change or alter DNA?
A. No.
Q. If you could just walk the jury through in detail when you're assigned a case, what do you do as far as DNA analysis?
A. In this particular case since it's a blood case which is handled different than a CSE case, the technique that you use in order to generate a DNA profile. Once I receive the evidence, I open the pouch and I check the paperwork to see what the request was on a particular case, whether it was for touch or whether it was for blood. It determines as to what I proceed to the next step.

If it's for blood, then I'll test the items with a presumptive test for blood and then go - The next step is to make a cutting from the cutting that I receive and extract the DNA from that.

Q. And in DNA testing are there controls that are used?
A. Yes. We always have a negative control, which is just the solutions that you are using to make sure that they are not contaminated. And also we have a positive control which lets us know that when we do what's termed the

amplification, that the procedure worked.

Q. What's the term amplification mean?

A. It's used with PCR. With PCR it's when - Take for instance if you are looking for touch DNA which would automatically says just touching you have a small amount of DNA, you are able to amplify that particular DNA. I guess you would call it make more of the same DNA that you have and then generate a DNA profile from it.

Q. So you are able to take the DNA that you have at the time and grow it?

A. Well, the - Just make more of the same. It's not growing because there's no change in it. It's - You're just making the same thing over ---

Q. Okay.

A. --- and over again.

Q. Why are controls important?

A. Well, as I stated, like we have a negative control that's carried through from the beginning of the extraction all the way until the end to make sure that none of the solutions that you are using are contaminated with anyone else's DNA, mine or anyone else's in the lab.

The positive control let's you know that the amplification step that you're doing, that DNA is being amplified in another tube, the same as the one from the evidence in the standards to let you know that that

procedure is working properly.

Q. And do you have a peer review process?

A. Yes we do.

Q. And what is that?

A. We have two reviews. The first one is the technical review and that's when another analyst in the laboratory looks at your case from start to finish, make sure that the results that you are planning on reporting are what you actually have. And there is another review which is the administrative review. That's the review where they make sure that your I's are dotted and your T's crossed.

Q. And when getting a DNA result, what possible results could you get?

A. You could have a match between the evidence or in the standards that are submitted. You could have where the evidence does not match any of the standards that were submitted to you. You can have mixtures where you can't distinguish whether you have a major contributor or a minor contributor in that particular mixtures. And in some cases, you can distinguish you've got a major so you can say that one of the standards that was submitted to you does match that particular item.

Q. So you have a match. Do you have a no match?

A. Yes. You can have a non match to any of the standards that were submitted to you. You have to have something to

compare it to ---

Q. Okay.

A. --- so based on the standards that you have.

Q. Okay. And other than a match and no match, what else in between could there be?

A. You can have no conclusive statement can be made about that person. You can distinguish whether - You can't distinguish because - between the major and the minor - because you have such an equal mixture of the individuals that are involved. You can have like three, four, five people in that mixture and you would have to say no conclusive statement. You can have a problem where you can't distinguish exactly the minor contributor from the major contributor because they share - their DNA is similar. And in that case you would have to say this person cannot be excluded from that particular item.

Q. Do you ever use DNA evidence to exclude people?

A. Yes. Often.

Q. And if you can't exclude someone that's not a match, what is that?

A. Well, the first thing you are looking at, you have the standard and you have the evidence, that's say a mixture, and you're looking at all of the areas on the chromosome to see if this person is included at that particular locus and if you cannot exclude them because there is information

then that says that could possibly belong to them, you cannot exclude them, so you say I cannot exclude that person from this mixture.

Then on the other hand as you look at each one of the loci, and this person's DNA is not there, then you would exclude them and say they are excluded from this mixture.

Q. Did you receive any evidence in this case?

A. Yes I did.

Q. What evidence did you receive?

A. I'm going to look at my report here.

(WITNESS REVIEWING DOCUMENT.)

A. Okay. I received a swab and a cutting from Item Number 1, which is a tee shirt, a white tee shirt. I also received a swab from the shop floor. A swab from the tire rim. A swab from the toilet lid and a swab from the Toyota Camry. I also received standards, buccle swabs which mean that they are swabs from the inside of a person's mouth from Ernest Jordan, Jared Crane, and Dantonyo Heath. I hope I'm pronouncing it right.

Q. Excluding, I believe what you said was Item 1 which was the swab and the cutting from a tee shirt, excluding that, the rest of the swabs that you received, were you able to match someone conclusively to those swabs?

A. Okay. Item 2 matched Jared Crane.

Q. What is Item 2 again?

A. Item 2 is the swab from the shop floor.
Q. Okay.
Q. Item 3, which is from the tire rim, matched Ernest Jordan. I was not able to extract human DNA from Items 4 and 5.
Q. And where were Items 4 and 5 located?
A. One from the toilet lid and one from the Toyota Camry.
There was an indication of blood on both of those items but I was not able to extract human DNA from those.
Q. There was an indication of blood?
A. Yes.
Q. But you could not extract DNA?
A. I was not able to obtain any human DNA from those items.
Q. What would result in that, there being an indicator of blood but no DNA?
A. Well, when you are looking at a swab that was taken and you do a presumptive test for blood, you are just looking at the heen that's found in the blood. But what we're interested is in the white blood cells that are located in the blood and if there is not a lot of cells there, then just a very, very, small amount of cells, then the indication for the human blood it would come up negative.
Q. Going back to Number Items 1 and 2, you said that

there was a match for Jared Crane for Number 1 and a match for Ernest Jordan for Number 2. Any other — You've talked about previously - previously testified about mixtures, a major contributor, a minor contributor. From those two samples, could you extract any minor contributors?

A. Item 2 and 3 were single source meaning there was not a mixture there for those two items.

Q. Ms. Gallman, I'm going to show you what has been marked for identification as State's Exhibits Forty-one and Forty-two.

Could you identify State's Forty-one for me, please?

A. Item number - State's Forty-one is the buccal swab from Dantonyo Heath.

Q. And where did you receive that?

A. It was transferred in my custody from Pat Crooks in the log-in area.

Q. And when you received it, did it appear to have been tampered with in any way?

A. No it did not.

Q. How do you know it had not been tampered with in any way?

A. Well, I would have - I checked the seal to make sure that that's intact and it was. Otherwise, I would have had to backtrack and find out what's going on with it.

Q. And once you received it, was it within your entire -

Was it within your custody and control the entire time?
A. Yes until I returned it to the log in area. Until it was returned to the log in area to be retrieved by the submitting agency.

SOLICITOR SHELTON: Your Honor, at this time I would ask to move State's Exhibit Number Forty-one into evidence.

MS. BURRIS: No objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-ONE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. And then if you would look at State's Exhibit Number Forty-two.
A. These are the cutting and swab made by evidence processing technician Betty Butler.
Q. And at some point did you have those in your custody?
A. Yes I did.
Q. Where did you get them from?
A. They were transferred into my custody from Patricia Crooks.
Q. And who had them before Ms. Crooks?
A. They were generated by Betty Butler.
Q. And when you received that package, had it been tampered with in any way?

A. No it had not.

Q. And how do you know that?

A. Because the seal was intact.

SOLICITOR SHELTON: Your Honor, at this time I'd ask to move State's Exhibit Number Forty-two into evidence.

MS. BURRIS: Without objection.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER FORTY-TWO, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. Now referring to State's Exhibit Forty-one, you said that that was the buccal swab from Dantonyo Heath?

A. That's correct.

Q. Were you able to develop a DNA profile from that swab?

A. Yes I did.

Q. Then with State's Exhibit Number Forty-two, you testified that those were the cuttings and the scraping from Item Number 1?

A. Yes.

Q. And were you able to develop a DNA profile from those cuttings and scrapings?

A. Yes I did.

Q. And that is Item 1.1?

A. 1.1 and 1.2.

Q. What is Item 1.1?
A. 1.1 is the swab from the white tee shirt and 1.2 is the cutting from the white tee shirt.
Q. And looking at the cutting of 1.2, what were you looking for on that?
A. They asked for – 1.2. I checked it for the presence of blood and then also took it on to do DNA analysis on it, for 1.2.
Q. And was there presence of blood there?
A. Yes. Blood was indicated on that item.
Q. And were you able to develop a DNA profile from that cutting?
A. Yes.
Q. And were you able to make a conclusive match on that cutting?
A. Yes.
Q. And who is that to?
A. That item matched Jared Crane.
Q. And then referring to Item 1.1, that's the scraping?
A. Yes.
Q. Were you able to develop a profile or profiles from the scraping?
A. Yes. The DNA obtained from Item 1.1 was a mixture and the DNA profile the major contributor to Item 1.1 matched Jared Crane. And Dantonyo Heath could not be excluded as

the minor contributor to that mixture.

Q. Dantonyo Heath could not be excluded?

A. That's correct.

Q. And when you make a determination that someone could not be excluded, are you looking for a certain - I think you previously testified about looking at the low side. Are you looking for a certain number? Is there -Were you able to generate a statistic with a report for Dantonyo Heath?

A. Yes. This particular mixture, I could pull up out major contributor as being coming from Jared Crane. When looking at the minor contributor, Dantonyo Heath and Jared Crane shared the same repeats or aleos on many of the low side, so certain information I could not use in the calculation for the statistical value.

Q. Is that because they overlapped?

A. Yes.

Q. Their DNA overlapped. Is that what that means?

A. Yes. It means - Well I'm looking at a particular section on a chromosome that turned - repeats. And let's say Jared Crane had 11 repeats maybe from his mother and 13 maybe from his father. I can't tell from this without having their standard. But then when you look at Dantonyo Heath, he has 13 repeats and 14 repeats so that would mean that 13, just showing that, it could be from both of them.

Q. Okay.
A. And so that's how it went all the way through the profile.
Q. And when - You said that Mr. Crane was the major contributor?
A. Yes.
Q. And when you - I asked previously, is there a statistic related when you call someone a major contributor, a match, a minor contributor?
A. Well, what you do you are looking at the information that you have and it comes - it's generated in peak heights and depending on how high the peaks are whether you can tell whether this person is a major contributor to a mixture.
Q. And you do a probabilities?
A. Yes. I did not on that particular item. Because he is the major contributor I generated stats on his profile from 1.2.
Q. Okay. So you did not for Jared Crane?
A. I did for Jared Crane but I based it on Item 1.2.
Q. And what was that?
A. It was 1 in 11 quadrillion.
Q. Okay. So that would be - That means that there would have to be 1100 quadrillion other people and only one would have that DNA?

A. And it could be outside that number also.
Q. And then were you able to develop a probability for Dantonyo Heath where you said he could not be excluded?
A. That's correct. It's 1 in 111 because of the amount of information I could use to generate the statistics.
SOLICITOR SHELTON: Please answer any questions the defense has for you.

CROSS EXAMINATION

LILY GALLMAN BY MS. BURRIS:

Q. Ms. Gallman, you testified on direct that you are able to compare DNA known standard whether victim or subject. Correct?
A. Yes. Whatever standards are submitted to me, I can compare them to the evidence.
Q. And Maquis Robinson was listed as a subject in this case. Right?
A. Yes.
Q. And you testified earlier that you took swabs. There were swabs from the shop floor?
A. Yes.
Q. Toilet lid?
A. Yes.
Q. And tire rim?
A. Tire rim and the Toyota Camry.
Q. And the Toyota Camry. And there was no evidence that

matches Maquis Robinson's DNA. Correct?

A. Well, I did not have a standard from him so I was not --

Q. But you said that you could --

A. If I had a standard.

Q. Okay.

A. But now on my report no, there's nothing that said there was any foreign DNA that I couldn't match to anyone.

Q. Okay. So the answer is no.

A. Yes.

MS. BURRIS: Thank you.

THE COURT: Mr. Smith.

CROSS EXAMINATION

LILLY GALLMAN BY MR. SMITH:

Q. Ms. Gallman, you said that DNA is sort of the blueprints for a human. What is it? Is it cells? Is it membranes? Is it something different? What is DNA?

A. DNA is DNA. It's not a cell. It comes out of cells. It's not membrane either.

Q. So its even smaller than a cell?

A. That's correct.

Q. But it's in every human cell?

A. Yes. Well, it's in - When in terms of blood, it would be in the white blood cells.

Q. Okay. And you indicated that you have courses in

statistics' is that right?
A. That's correct.
Q. And that's because part of what you do is not just the science in determining if DNA exists, but part of what you do is do this calculation of probability; is that correct?
A. Yes. Statistical courses like I took help me to understand how to apply the statistics to my results.
Q. Okay. Because probability is a different calculation than the process of actually finding and determining low side DNA.
A. Yes. The first thing you establish is the fact that you have a match before you even generate a statistics.
Q. Okay. And I believe you testified that everyone's DNA is unique?
A. Yes.
Q. We don't know that for sure do we?
A. Yes.
Q. Has everyone been tested?
A. No everyone has not been tested. We know that identical twins are the same but based on the information and the studies that have been done because they have sequence to complete genome we can say with confidence that that's not - that's the case.
Q. With confidence but not with absoluteness.
A. There are people that would beg to differ with you and

I am one of them.
Q. What you said you do for DNA that the PCR testing that you do, you said you actually extract the DNA from the source; is that right?
A. That's correct.
Q. Okay. And then you said, I believe you said replicate or duplicate, DNA?
A. No. Amplify.
Q. Amplify. Is that the same as multiply?
A. I guess you could say yes. I'll go with that.
Q. Is it the same as cloning?
A. No.
Q. All right. Well, you locate a piece of DNA.
A. Yes.
Q. And then is that what you test or do you do some procedure to make multiple copies of it and then you test all those multiple copies?
A. We do what's termed, preliminary chain reaction, where that single piece of DNA is amplified. You're just making more of the same thing that you already have and then you look at the profile that's generated from there.
Q. But to me amplify means I turn up the stereo. It doesn't mean I build eight more stereos. This is actually you're replicating DNA aren't you?
A. No. The terminology I'm using is correct. There's

just different definitions for the same word.
Q. Okay. But you've created other pieces. You didn't make just one big piece of DNA?
A. You're taking a section from the chromosome and that particular section is being amplified like this.
Q. You've created other sections?
A. Okay.
Q. You had one. Now you've got ten. You had 30, now you've got 300.
A. Of the same piece of DNA, yes.
Q. Yes. That you created in the lab?
A. That's amplified in the tube. Yes.
Q. Right. In the tube because they weren't found at the scene.
A. No.
Q. And what is tested is actually not what's found at the scene, it's what you've amplified; is that right?
A. Well, it's what was found at the scene what was amplified so it is what was found at the scene.
Q. Well it's an amplification of what was found or a replication or a multiplication.
A. It's an amplification of what was found at the scene.
Q. And you're trying to use that term when you testify.
A. No it's just --
Q. You say replicate --

A. It's just the right term. It's just the right word.
Q. Well, okay. But you had a single piece of DNA.
Right?
A. Yes.
Q. And then when you say amplified, you didn't make it bigger or louder. You made multiple copies of that piece of DNA didn't you?
A. Yes, but it is called amplification. You've just got different definitions for the same word.
Q. And you use a PCR technique. But it's known that one of the difficulties for PCR technique determination is a mixture profile; is that right? It struggles in that area.
A. I don't understand your question.
Q. Okay. Let me back up. There are different DNA typing techniques that are done; is that correct? PCR is not the only one.
A. No it's not. It's not the only one.
Q. And PCR, one of its weaknesses, lesser strengths, whichever term you would wish to use, is that it struggles when you are trying to determine profiles in a mixture.
A. It doesn't struggle with it. It's the fact that you do have mixture and we look at it with caution to make sure you don't include somebody who is not there. The struggle is not with the PCR because the PCR is amp - the DNA that's there is going to be amplified. Whether there is more of

one person or less of one person is based on the sample that you have. Not on the PCR technique itself.

Q. Okay. And when you received the items, did you receive the tee shirt itself or you only received the swab and the cuttings from the DNA?

A. The swab and the cutting.

Q. And you talked about the safeguards and concerns. What's an unlikely coincidence error?

A. Unlikely coincidence?

Q. Unlikely confidence error.

A. We don't normally use that terminology. Could you explain what you mean?

Q. No. If in determining within a mixture, if a sample exists, do you have concern or safeguards that you don't commit what would be called an unlikely coincidence error?

A. Are you referring to a contamination?

Q. Could be.

A. Okay. Well, the safeguards are that for instance I'll give you an example of one. Everyone that works in the laboratory, we have generated a DNA profile for them first, but we have systems where we would go in and take whether that person or anyone that's in the laboratory DNA is in that mixture. When you are actually doing the case yourself, you use safeguards that you are not contaminating with another case that you had previously done.

Q. Okay.

A. So you use safeguards to make sure that tht's not what is happening and then once you have the profile generated. the DNA obtained, and then there is a mixture, you go back and check and see if there is a possibility it could be from any other case or any thing else that you've done. You want to safeguard everything to make sure you are not including someone who should not be there.

Q. Because if you had received a known swab from Jared Crane in this case, and from Dantonyo Heath in this case, if they touch together or they touch something that had touched then that could leave as mixture on that item; is that correct?

A. If they did what now?

Q. Of the swabs from the two known individuals came into contact, or touched another item, they could leave a mixture on that item; is that right?

A. The swabs from the two individuals, you're talking about their standards if the swab, the buccal swab from Mr. Heath and Mr. Crane were to touch like this?

Q. Yes.

A. Whether that could form a mixture?

Q. Yes.

A. But there are standards and once I extract the DNA from them and I generate a DNA profile there should not be

a mixture in either case.

Q. And what if they both touched another item?

A. As in a piece of the evidence?

Q. Sure.

A. That's - yes, that's so. That's why they are not handled at the same time.

Q. Let me talk to you about the actual process that you use to determine these loci, these locations. Is this done via computer, via machine, via a chemical test? What's actually done to the DNA?

A. The DNA, once it is extracted and we take it through the application process, it is - the information is placed on another instrumentation and then the profile is generated through that.

Q. Okay. And do you get a printout with graphs or what do you do to look at?

A. We get an electropherogram printout.

Q. Okay. And what are off scale peaks?

A. We have what is called ladders and the alleles, or the numbers, or part of the ladder. If the peak falls within the rung of the ladder, like you have - and it falls in between, then it would be off scale. Yeah, off ladder peaks

Q. And split peaks is another potential problem with using this technique?

A. It's not a problem, per se. They say that with using this technique, if you get split peak, what you would do is re-inject your sample to clear it up because it could be something with the instrument at that time. Over the years of doing this technique, you know what you need to do to clarify the information that you have.

Q. Okay. So if the reading doesn't come out, you shoot more of this amplified or copied DNA into the machine?

A. You just re-inject the same sample again.

Q. Allele drop out. Is that a problem?

A. Allele drop out? None of these things are problems. They are just things that happen. When you have a small amount of a sample, you could get an allele to drop out and you know from training what to look for.

Q. Okay. And you'll have to help me with this pronunciation. The stochastic effect.

A. Sto --

q. I'm sorry, I messed you up.

A. Yes you did. Stochastic. Stochastic. Like you were saying, like the allele drop out ---

Q. Right.

A. --- if information falls in the stochastic region, we approach that with caution. If you can't say with confidence that this particular profile is there, then you don't report it as a match.

Q. Okay. And that's something that occurs, that effect occurs with amplification; is that right?

A. It is really based on the amount of DNA that you have because if you have a small amount of DNA, you are going to have peaks that fall in the stochastic region. You can have allele drop out at those areas also.

Q. Okay. Ninety-nine point nine percent of our DNA itself is the same for all peoples; is that right?

A. That's what makes a human.

Q. Okay. It better be the same for us then. Right?

A. Yes.

Q. Okay. The test that you did here, do you run the test a number of times or did you just run it once?

A. You mean the three instrumentation?

Q. Yes.

A. In this particular case, I believe I only had to run it twice. I got useable data the first time around.

Q. Okay. And you have a report. You have a copy with you; is that right?

A. Yes.

Q. And in that report, there is - is it one, two. Let me get the number of pages right. Is it three pages?

A. Well I generated two reports.

Q. Okay.

A. Because once I received the standard from Mr. Heath, I

compared him to the evidence that was submitted.

Q. Okay. And I represent Mr. Heath so let me to get you to look at the report that occurs after you received his standard.

A. Okay.

Q. How many pages is that report?

A. Three.

Q. All right. And the first page, is it fair to say that that described what you received and the item that you had to do testing on?

A. Yes.

Q. Okay. Then the second page tells the examination you did and the results you received?

A. Yes.

Q. And then the third page is labeled a table, table one identifier. Does this show the low side or the alleles and where they match for the various samples?

A. It's a chart of the information that I gathered to do the comparison.

Q. Okay. And based upon your report, and I'm turning to your results now, you said that from a DNA profile of Item 1.2, you found a profile matching this item.

A. Yes.

Q. Okay. And then with DNA profile - and I'm sorry - it matched Jared Crane; is that correct?

A. That's correct.
Q. And then the item of 1.1, you said that that matched the DNA profile of Jared Crane; is that correct?
A. I said the DNA profile, the major contributor, matched Jared Crane.
Q. Okay. So if we had a match of Item 1.2 to Jared Crane and a match of Item 1.1 to Jared Crane --
A. The major contributor.
Q. The major contributor. And then with Dantonyo Heath, it does not say matched. Correct?
A. It says cannot be excluded.
Q. Okay.
A. And I explain that the alleles that were generated from the different loci, they overlap in the number of repeats and there was information I could not use in generating the statistics for that item or to separate him out as to get a complete separation from the major and minor contributor.
Q. All right. So you did not say it matched. Correct?
A. I said I could not exclude him as a contributor to this mixture.
Q. Okay. Maybe I'm not asking it clearly. Did you say it matched or did you not say it matched?
A. I'm saying that I could not exclude him from this but I'm not saying - I'm not using the terminology "match"

because I was not able to separate totally a major and minor contributor from the item so I am not using the terminology matched for him.

Q. And you did use that terminology for Jared Crane for Item 1.1 and as the major contributor to Item 1.2?

A. That's correct because I was able to pull him out as the major contributor in that item.

Q. And in the other report that you have, you also indicated a match for the profile from Ernest Jordan; is that correct?

A. He matched Item number 3

Q. Okay. On one of the profiles that you determined, and I'm on your second report now, the Item 1.2, Jared Crane, you indicated that the probability of randomly selecting an unrelated individual having DNA profile matching this item is approximately one in eleven and that says quadrillion?

A. That's correct.

Q. All right. You've got to help me. Is quadrillion, that's 15 zeros? Eleven and then 15 zeros?

A. Yes, it is 15.

Q. Okay. That's a lot?

A. Yes.

Q. Way over what the population of the world is? Any idea of what the worlds population is?

A. Around seven billion.

Q. Okay. So based upon your science, and your statistics, you would expect that the odds of randomly finding someone matching that profile, we could test everybody in the world some millions of times and still not have that covered?

A. Yes.

Q. And then the profile that is matched in Item 1.1 which is a mixture, did you do a profile of the odds of randomly finding a match for that for someone other than Jared Crane?

A. I did it based on a mixture.

Q. Okay.

A. And it's the probability of someone contributing to this mixture and based on the information that I could use in the calculation, which I could not use all of the loci ---

Q. Right.

A. --- to calculate the statistics, the frequency was one in one hundred and eleven.

Q. Okay. And was that for the probability of Dantonyo Heath; the probability of Jared Crane; or both?

A. It's a mixture calculation, so the probability of both.

Q. Okay. So that's just one hundred and eleven?

A. Yes.

Q. So what you are saying --
A. Based on the information that I could use.
Q. Right. Based on the test. What was taken from the scene is that you would expect through statistics to randomly find in every one hundred and eleventh person that same result?
A. The information that I used in the calculation.
Q. Correct.
A. Not in this particular profile that I have.
Q. Right. But if it were randomly you would expect if it were three hundred and thirty-three done, you would expect to fined three profiles that would be in that same position?
A. Only based on the statistical information that I utilized.
Q. Correct. And you used statistics that you were trained in to come to your report that you put in here.
A. Yes. I was not able to use all of the information that was generated from it because of our protocol and the way statistics are suppose to be done.
Q. Okay. And if five hundred and fifty people were sampled, you would expect five to show up with that same representation?
A. It could be out of that number. Yes.
Q. Okay. But randomly you would expect through

statistics that five would not be the unexpected number. And part of what you deal with in DNA is data basing; is that correct?

(PAUSE.)

Q. I'll back up again.

A. Okay.

Q. You're numbers are based upon a SLED database; is that right?

A. It's based upon the FBI database.

Q. Okay. The FBI database. And how many people are in the FBI database?

A. I don't remember at this time.

Q. All right. But that is a number of people whose DNA has been tested and based upon that probabilities are calculated because you've looked to see what their DNA would reflect in these tests?

A. Yes. But the probability of an event does not depend on how many people are in the database. It's a calculation that's done on how frequently you should see this particular DNA profile.

Q. Right, but a larger database would have a bigger pool from which to pull to see how often you would expect someone's DNA to find in a specific loci.

A. Yes. But they have learned that the size of the database is not what is totally used.

Q. Okay.
A. It's the frequency of that particular event.
Q. Okay. So if the FBI tomorrow comes in and says we've changed our minds. This database is too big. Our database is now going to be two people. Would you feel confident running tests based upon a database of two people?
A. No. Statisticians have found that there need to be at least a certain size but it does not need to be a gigantic data base.
Q. Well is the FBI database reflective of the population of South Carolina?
A. They have people in the database from South Carolina and from the whole United States because they gather the information like that from different parts of the United States.
Q. Okay. But you would expect family members to have a alleles hitting in the same area or more overlap amongst family members; is that correct?
A. The calculation that we do takes that into consideration.
Q. Okay. So if your database were from a region where there were a lot of family members, it would be more true to that local population; is that correct?
A. I still say that the database of size and exactly

where it is from is not the avenue you go down for the frequency of that event. And we look at at least four different databases and we use the most conservative number.

Q. Okay. Which four databases do you use?

A. We use the Caucasian, the Black, the southeast Hispanic, and the southwest Hispanic databases. And we use the most conservative one out of those databases.

Q. And by most conservative, you mean the one that puts them the least likely in that number?

A. The smallest of the - like for instance when you said got the one in one hundred and eleven, that's the least. The most one was the one in two hundred and twenty which was twice that so we used the most conservative off the databases.

Q. So in your mind odds are one in one hundred and eleven that Dantonyo Heath is Hispanic?

A. No. Why --

Q. Caucasian?

A. We do not look at race at all. We just plug that particular profile into the databases and the one with the most conservative number is the one that is reported. We don't take into account race.

Q. All right. Let me ask you about the calculation you did with Mr. Jordan. What were the odds of a randomly

selected individual having a DNA profile matching the result for Mr. Jordan?

A. As I said, we used four databases and we used the most conservative result and that number would be one in six hundred quadrillion.

Q. Is it six hundred or six hundred and fifty?

A. Six hundred and fifty.

Q. Quadrillion. Again 6-5-0 with fifteen zeros afterward?

A. Yes.

Q. What are false positives?

A. You switched my whole train of thought. False positives. In DNA?

Q. Yes.

A. We don't use that terminology when it comes to DNA.

Q. Okay.

A. We have in serology when we identify like body fluids, we utilize the terminology false positive but a false positive would be a mis-identification. No.

Q. All right. How about error rates. Do you use that?

A. Yes.

Q. What is SLED's error rate?

A. I don't know it right now, right off hand. The last time I checked though it was zero.

Q. Zero?

A. Yes.
Q. A lab with a zero error rate?
A. Yes.
Q. Is that scientifically accepted for a lab to have a zero error rate?
A. Well, the last time anyone talked about this, they figured we should have an error rate so they assigned one to us based on what we should have. We did not have one.
Q. All right. You've got to have - Your error rate was zero. Somebody's decided, hey we ought to have an error rate so let's just assign an error rate to SLED?
A. And there was a judge that asked that same question that you just said. But - No, error rate is that we reported a result that of someone matching an item and they did not match the item.
Q. Right. All right. Let me ask you about your error rate. What is your error rate?
A. I don't have an error rate, recorded error rate. I don't have one.
Q. You don't make mistakes?
A. I'm not saying that. I do things to safeguard from not making errors.
Q. Okay. So before it hits your report, you've done all the safeguards to make sure there's no errors?
A. That's correct.

Q. Okay. Let me get you to turn to the report concerning my client, Dantonyo Heath, to that first page. That indicates the --

A. You talking about the supplemental report?

Q. The report that --

A. Does the heading say Supplemental Report? Right above the items does it say Supplement?

Q. It does.

A. Okay.

Q. On that first page it lists DNA analysis in the top right side and it indicates who you received items from.

A. Yes, sir.

Q. Or it indicates the victim and the suspect; is that correct?

A. Yes.

Q. And it lists my client, Dantonyo Heath, as the suspect; is that right?

A. Yes.

Q. And that is D-a-n-t-o-n-y-o Heath; is that correct?

A. That's what's off to the right hand side.

Q. Okay. And that's because that's what you received from law enforcement. You wouldn't have known him personally. Right?

A. No.

Q. And there's eight letters in Dantonyo?

A. Yes.

Q. But in your findings, you spell Dantonyo how?

A. His name was submitted both ways by law enforcement.

So when it was put in the computer, it was put in as D-o-n-t-y. I did not spell it.

Q. So the mis-spelling is not because you have an error rate. It must be someone else?

A. Well, in this particular case I'm not saying I'm without error. But I do - and that's why I do safeguards against having an error because I'm human just like everybody else.

Q. The best you can say per your training, per your protocol, that you can testify here today is that statistically you would expect any one hundred and eleven persons to have the same profile you saw showing assigned to Dantonyo?

A. Based on the information I could use in the statistics?

Q. Yes.

A. It would - If the statistic came back as one in one hundred and eleven, not saying that you will find that person within the one hundred and eleven, but that's the statistical value that was applied to the information that I was able to use.

MR. SMITH: Thank you.

THE COURT: Redirect.

SOLICITOR SHELTON: Yes. I'll try to be brief.

Thank you, Your Honor.

REDIRECT EXAMINATION

LILLY GALLMAN BY SOLICITOR SHELTON:

Q. Ms. Gallman, you testified about the amplification. I don't want to go back over the multiplying, growing, but I just want to ask you from the DNA that's found at the scene and I think you said you look at fifteen or sixteen loci. When you take that DNA found at the scene and amplify it, do you create different loci?

A. No. You don't create them. They are already there, so all you're doing is just amplifying what's already there.

Q. Taking the same sixteen loci of the DNA that was found and just making that over and over and over again?

A. That's correct.

Q. Why do you do that?

A. Well, when you have a - The technique has changed over the years. When we started out, we just extracted the DNA and used that to generate a DNA profile. But since the technique has improved, we are able to amplify the DNA and get more information from your sample. That's what we're using now.

Q. So you do that to be able to take a better look at it?

A. That's correct.
Q. But you're not creating anything?
A. No.
Q. And Mr. Smith asked - I wrote his words down - unlikely coincidence error.
A. Yes.
Q. And you are not familiar with that terminology?
A. No. We utilize whether you have a contamination or unintentional transfer but not the term he used.
Q. And he talked about touching Dantonyo Heath's swab with something else. Do you test multiple items at one time?
A. No. What is done, and this is our policy and the one that I follow, we do the evidence first and once you have processed the evidence, then you go back and you do the standards. And in this particular case, the evidence, the DNA profile was already generated from the evidence prior to receiving Mr. Heath's standard.
Q. So there was no touching of Mr. Heath's standard to any piece of evidence that you analyzed?
A. No. When I did the analysis on the evidence, his standard was not at SLED.
Q. And then he asked you a bunch of questions about thing that you could have happen with DNA. I got lost on some of them, but did you have an allele drop out with this case?

A. With the minor contributor for Item 1.1 where there was a mixture, the DNA profile from the - the alleles that could be assigned to Mr. Heath were in a low area and it was - it could have possible that there were allele drop off. I would need to look at the profile again to make sure.

Q. But would you have taken that into consideration in developing your statistics or your probability?

A. Yes. See, that's the reason why I could not use all of the loci in generating the statistics is because you have to approach it with caution and if there are alleles that are low or there are alleles that possibly not present or whatever, you have to take all of that into consideration, and that information, you couldn't use it in generating a statistics.

Q. And then he asked you about a stochastic effect?

A. Yes. That's called when you have a small amount of DNA it will fall in the stochastic region, which is below the threshold that we use for our alleles.

Q. And again did you take that into consideration in this case?

A. Yes.

Q. So you were able to recognize those as issues and take into consideration in developing your profile of your statistics?

A. Yes.
Q. And the error rate, who would assign the error rate? Where does that come from?
A. We would look at how many errors that we have generated by saying someone match a piece of evidence and they did not and we don't have any of that on record as having an error rate in that way.
Q. And that would be reported as known errors?
A. Yes.
Q. Something that had been tested or compared later on down the road and found to be invalid?
A. That's correct.
Q. And to your knowledge, you don't have that?
A. That's correct.
Q. For you and to your knowledge I think you testified, you said that you testified about a hundred times?
A. Yes.
Q. To your knowledge, none of your prior tests have been found invalid?
MR. SMITH: Objection.
THE COURT: I sustain the objection.
BY SOLICITOR SHELTON:
Q. With the major contributor and the minor contributor, were you able to pull out a complete profile for the minor contributor on that 1., I think it was 1.1?

A. No, I was not. As I stated, Mr. Heath and Mr. Crane have overlapping alleles and I was not able to separate them as in the major minor. But I was able to pull out a major but when it came to the minor, I could not say with confidence that I could pull out at every loci.

Q. And why could you not do that?

A. Because of the small contribution from Mr. Heath.

Q. So the major contributor was --

A. That's correct.

Q. And did it overwhelm the major contributor in laymen's terms?

A. Yes.

Q. If you were - Are you able to get a better statistic when you are able to pull out a full profile?

A. Yes. If I'm able to separate a major minor - major minor contributors, I'm able to generate statistical value for the major and one for the minor.

Q. And you testified previously about a peer review and the things that you take into - safeguards that you do to protect cross contamination or false reports. Do you have a peer review for spelling?

A. That's the admin. The administrative review.

Q. But do you - Were all of your reports submitted for peer review for spelling?

A. They were submitted for peer review. When there are

two areas on the submission form, one area is spelled Mr. Heath's name, D-a-n. And the other area it's spelled D-o-n. So the evidence area had D-o-n.

Q. And you weren't admitted as an expert for spelling?

A. No.

Q. And Mr. Smith asked you several times about the language on your conclusions on Dantonyo Heath's report. He asked you if you said it matched, and you kind of dodged him on that question, but did you use the word match with Dantonyo Heath?

A. No, I did not.

Q. What words did you use?

A. I said he could not be excluded as a contributor to the mixture.

Q. What words would you have used if he was a no match?

A. That he is excluded from this mixture.

Q. And in your twenty-three plus years of experience, have you reported a no match?

A. Yes.

Q. And how would you word that if someone is not a match?

A. With it being a mixture, I would say that this person is excluded as a contributor to this mixture.

Q. And that's not what you said in this case?

A. No, it's not.

SOLICITOR SHELTON: Thank you.

THE COURT: Ms. Burris.

MS. BURRIS: Thank you, Your Honor.

RECROSS EXAMINATION

LILLY GALLMAN BY MS. BURRIS

Q. Ms. Gallman, you would have known if any foreign DNA other than the standards that you have, you would know if there were any foreign DNA other than the standards you had. Right?

A. With me not having any of the standards to compare, I could not say if this person would be included or excluded to this mixture, whoever, you know, I'm looking for in that particular mixture.

Q. Okay. So your answer is not to your knowledge there was not actually any foreign DNA that contributed to the standards?

A. Yes. Not to my knowledge.

Q. Okay. So if there was another DNA --

SOLICITOR SHELTON: Objection, Your Honor. We didn't go into this.

MS. BURRIS: We talked about this.

THE COURT: I'm allow this. It's cross.

Go ahead.

BY MS. BURRIS:

Q. So if there was another DNA profile contributing to the standard, you would have listed that on your report.

Correct?

A. Well, I would not have speculated as to whether - based on information that I have there, I would not speculate whether there was an unknown or foreign DNA profile in this mixture.

Q. Would you know?

A. Based on the information I have from that item, I really don't want to speculate, but based on the information that I have, it does not look like there is any foreign - any one foreign to Mr. Crane or Mr. Heath to this.

Q. Okay.

MS. BURRIS: Thank you, Ms. Gallman.

MR. SMITH: No, Your Honor.

THE COURT: You can step down and be excused. We appreciate your time.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: We'll take our fifteen minute afternoon break. Smokers can smoke.

(JURY EXITS COURTROOM AT 04:03 P.M..)

(COURT BACK IN SESSION AT 04:03 P.M..)

(COURT BACK IN SESSION AT 04:30 P.M..)

THE COURT: Thank you. Take your seats. Get the defendants in and we'll be ready.

(DEFENDANT'S REENTER COURTROOM.)

THE COURT: All right, bring in the jury.

Ms. Shelton, for planning purposes, it's about 4:30. You got a number of other witnesses' listed. I know we're not gonna finish today obviously but I just wanted to see, and this is for Ms. Burris also, what else you got?

SOLICITOR SHELTON: I intend to call Sargent Smith now and my direct should not take more than half an hour, probably less than that, and then Detective Stokes and that would be it for the State's case.

THE COURT: We might not get to Stokes this afternoon.

SOLICITOR SHELTON: Yes, sir.

THE COURT: We'll see.

MS. BURRIS: So would it be fair to maybe have our witnesses here at ten, Your Honor?

THE COURT: Probably. We probably won't get to them until around eleven so. I've said enough.

MS. BURRIS: Thank you.

THE COURT: I'll say ten.

(JURY REENTERS COURTROOM AT 04:31 P.M..)

THE COURT: All right, call your next witness.

SOLICITOR SHELTON: Your Honor, at this time the State would call Sergeant Tashia Smith.

(WHEREUPON: TASHIA SMITH, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

SERGEANT TASHIA SMITH BY SOLICITOR SHELTON:

Q. State your name for the record, please.

A. Sergeant Tasha Smith.

Q. And, Sergeant Smith, where are you employed?

A. Rock Hill Police Department.

Q. How long have you been employed there?

A. Since 2006.

Q. Your current rank is Sergeant?

A. It is.

Q. What are your current duties?

A. I am the supervisor for community services division, the school resource officers.

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

A. I was a detective with Criminal Investigations Division. Property side.

Q. And during that time, did you become involved in an investigation of an armed robbery and attempted murder and kidnapping from Five Star Customs?

A. Yes I did.

Q. What was your involvement in that case?

A. I was on call with Detective Stokes and we were called out to investigate the armed robbery and attempted murder.

Q. And when you say called out, did you go to the scene?

A. I did respond, I responded initially to the scene.

Q. Who was there when you responded to the scene?

a person and it tells them that you don't have to pick that person - pick a person out of the lineup. It's not necessary to identify somebody because basically it explains that it's just as important to indicate guilty parties as it is to indicate non guilty parties, or not to identify guilty parties, in a nutshell is what it says.

Q. And did you do or say anything to Mr. Crane to influence his selection?

A. I did not.

Q. Did you point to any picture?

A. No I did not.

Q. Did you mark any picture?

A. No.

Q. Did you provide Mr. Crane with any identifying information of the pictures?

A. No. I did not.

Q. Did you show Mr. Crane a single picture of Maquis Robinson and then the lineup?

A. No I did not.

Q. Did Mr. Crane appear to be under the influence to you at the time?

A. He didn't. He was speaking to me and he seemed like he was okay.

Q. What kind of mood was he in?

A. He was a little bit emotional. He was shaken up a

little bit when I got into the hospital room with him and he had just gone through something traumatic so he was upset.

Q. When giving him the lineup, was he able to select someone from the lineup?

A. He was.

Q. Did he seem to have a hard time doing that?

A. No he didn't.

Q. Did it take him a long time to do it?

A. It didn't take him very long. No, it didn't.

Q. Did he seem too upset to focus on the lineup?

A. No.

Q. Who did he select?

A. He selected Mr. Robinson from the lineup.

Q. And did he do anything to indicate his selection?

A. He circled it and initialed it.

Q. And the lineup that I've handed you, is that the same lineup that you showed him?

A. It is.

SOLICITOR SHELTON: Your Honor, at this time I would ask to move State's Exhibit Number Thirty-eight into evidence.

MS. BURRIS: Without objection, Your Honor.

THE COURT: In without objection.

SOLICITOR SHELTON: Your Honor, I believe Mr. Smith

was going to object.

THE COURT: Mr. Smith?

MR. SMITH: No, no, no. No objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-EIGHT, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. Just briefly going back to the lineup, you said that his wife was present in the room?

A. Yes she was.

Q. Did she do or say anything to Mr. Crane to influence his decision?

A. No she did not.

Q. Did she have any input at all in his selection?

A. She did not.

Q. Did you show her the lineup?

A. I attempted to show her a lineup and Mr. Crane was very much against her being involved in any identifying elements of this case. He didn't want her in it at all.

Q. Did you take his statement at the hospital?

A. No we did not.

Q. What did you do next on the investigation?

A. At that point, Detective Stokes met me in the room and we spoke with Mr. Crane and Mrs. Crane and set up a time I think for the next day, I think we were working that next day, and set up a time for them to come in for interviews.

Q. And did they do that?

A. Yes, they did.

Q. Did you collect any further evidence?

A. None.

Q. Did you ever go back to the scene?

A. We didn't go back to the scene that night.

Q. Did you ever review any surveillance videos?

A. Not that night. We didn't get the surveillance video until later on.

Q. How did you get those videos?

A. Myself and Detective Stokes went to Five Star Customs and met with Mr. Jordan and we were able to pull up the video. I don't remember whether or not we were able to download it. I think we may have had to call FSU for that. Mr. Jordan was having some trouble using his system.

SOLICITOR SHELTON: Thank you, Sergeant Smith.

THE COURT: Ms. Burris.

MS. BURRIS: Ms. Cruz.

THE COURT: I'm sorry. Ms. Cruz.

CROSS EXAMINATION

SERGEANT TASHIA SMITH BY MS. CRUZ:

Q. Sergeant Smith, you testified that you were in training on the night of June 8th?

A. Prevvously yes, I was.

Q. Of 2011 you were in training?

A. Correct.
Q. And how long had you been working there at that time?
A. With the detective division?
Q. Uh-huh.
A. I started with them I believe in March and this happened in June so I had been there for --
Q. Three months?
A. Several months yes.
Q. And how long was your training process?
A. What do you mean training process?
Q. Training. How long were you in training from the time that you started working until June 8th, 2011?
A. There wasn't really a training process so much. I was shadowing Detective Stokes because he was on call for the week and that next week I had on-call by myself so my supervisors wanted to make sure that I had the proper training for being on-call and giving me the experience for what to do in different cases.
Q. Okay. Had you done a photo lineup and presented a photo lineup to a victim or a witness by yourself previous to the night that you gave the one to Jared?
A. I had shown a few photo lineups, yes. When I say training in the detective division, you pretty much go to somebody and you say hey how do I do this. They tell you what to do. I mean they might show you a few times but by

the time you get to the detective division you have the experience to go in and do most things on your own.

Q. So it's not a real training program? You don't actually go through a training program? You just follow somebody around? Is that what you're saying? There is not like a set protocol or anything for how to do detective work?

A. There are training classes that I've attended. Detective training and different classes that are offered by the South Carolina Criminal Justice Academy, however, at the Rock Hill Police Department with an actual officer, no there is not a set program. There are different classes that are offered by different private companies that teach you how to investigate.

Q. Had you taken those classes before June 8th, 2011?

A. I had come back from a class in Durham. Actually when I was told I was going to be on call I was in training in Durham with another detective, Kathy Harveston.

Q. Had you taken classes on giving and presenting photo lineups before you did the one on your own on June 8th, 2011?

A. I don't believe there is a class that specifically focuses on giving photo lineups. It would just be within the new detective training.

Q. So you're in training, no classes and no set program.

Right?

A. For?

Q. For photo lineups or for training in general.

A. That would have been included in the classes that are for new detectives, the photo lineup.

Q. Okay. But you said you hadn't actually done those or the one you did before June 8th was not one for photo lineups?

A. It was new detective class.

Q. New detective class. Okay. So you were a new detective on June 8th of 2011, just completing your new detective class. Right?

Am I following you?

A. Yes. I was coming out of new detective class. I had been an officer and had dealt with several different cases. I mean, patrol officers show photographic lineups. It's not something that you just learn in the detective division. It's not something that's detectives only can do. Patrol officers can do that also.

Q. Okay. And you had done maybe a couple, maybe like two or three, before this?

A. I wouldn't say two or three. I had been in the detective division for several months. I had shown a few lineups with people. I had shown a few lineups without people and there is a sheet, the sheet that I described

earlier, it pretty much gives you directions as to what you should do with a photographic lineup.

Q. Okay. I have a question about that sheet. So you testified that you read, you called it disclaimer language. You had read the disclaimer language to Jared when you gave him the photo lineup; is that right?

A. I referred to it as disclaimer, yes, but on the sheet it actually says viewer. It's for the viewer. It's directions.

Q. I like that terminology. I just meant you - my question was more towards you in fact read that to him. Right?

A. I did.

Q. And so would it surprise you to hear that he had said something otherwise?

A. Yeah, because I read it to him.

Q. Okay. And you said that his wife was in the room with him at the hospital when you gave him the photo lineup?

A. She was.

Q. And she was like sitting beside him?

A. I don't think she was sitting beside him. She was in the room. I can't tell you exactly where she was.

Q. Okay.

A. I know she wasn't hovering over his shoulder looking at the photographic lineup with him.

Q. Okay. And when Jared made the identification, did he say - he didn't say that's Maquis Robinson. That's him who did it right there. He just circled the picture. Right? He didn't actually say the name or identify him other than just circling a photo?

A. I don't remember what he said. What I would normally say in presenting a lineup is do you see the person responsible in this lineup and I guess he - I don't know if he would have said Maquis Robinson. I don't remember what he said. That was several years ago.

Q. Sure.

A. I don't recall the exact words.

Q. When you say do you see the person responsible, do you think that the person looking at that and hearing that statement would assume that they are in fact suppose to pick somebody?

A. They shouldn't because within that sentence, those directions that I explained about, it says that person may or may not be in this photographic lineup so they have fair warning prior to looking at the lineup that the person that they are looking for may not be in that lineup.

Q. Do you think that sentence on that page is more powerful than you making a statement to them about it with your police officer outfit on and all that? You think that they would take the sentence or your statement?

A. I didn't have a police officer outfit on. I had on jeans and probably a --

Q. But they knew you were an officer; is that right?

A. They did. I identified myself as a detective.

Q. And you said you didn't prepare the photo lineup of Maquis Robinson?

A. I did not.

Q. But you were there with Detective Stokes when he prepared it though weren't you?

A. I was.

Q. You were. You were sitting beside him?

A. I may have been sitting beside him or I may have been working on criminal histories. Usually when we have things like that where there are two of us, if there is something else that I can do to help the investigation go a little bit quickly for the evening just so we can wrap some things up, then we will separate. So I may have been looking at him for the first little section of it but I --

Q. But you were right there in the room sitting beside him. Right?

A. The detective division is - we have our own cubicles so I can't tell you where I was when he completed the lineup.

Q. Do you remember testifying previously about this case?

A. Previously?

Q. Just at a prior hearing do you remember testifying about this incident and about giving the photo lineup to Jared Crane and about Detective Stokes being the one who made it and where you were in the room and what you were doing. Do you remember testifying about that?

A. Where I was in the room? No, I don't.

SOLICITOR SHELTON: Objection, Your Honor. There hasn't been a question.

MS. CRUZ: My question was where was she and was she sitting beside him. I asked that question. She responded that she was not sitting beside him.

THE COURT: Show her what you want to show her.

MS. CRUZ: Thank you.

Q. This is a copy of your previous testimony. I just circled it. If that helps refresh your memory.

A. Okay.

Q. Okay.

A. Well I suppose I was sitting beside him.

Q. So you were sitting beside him while he was doing the lineup and --

A. But that says I was sitting beside him because I was training so I would imagine that I would assume that that's where I would be in training.

Q. Right. I just want to make sure. So when a photo lineup is created, right. You put the information in about

the physical characteristics of the defendant or of the suspect that you are looking for into a computer system. Right?

A. Yes.

Q. And it generates photos. Is that how it works?

A. You can enter the name. We have a system that includes arrests and includes photographs from previous arrests, and we can enter a person's name, pull up a photograph and the system will pull up people that are close in character - that have close characteristics to the person that's entered.

Q. Okay. But you also put in physical characteristics sometimes. Right? Like you say you are looking for ---

A. No.

Q. --- like say for - No?

A. I don't put in physical characteristics. I've never done a photographic lineup where I put in - I actually entered physical characteristics.

Q. Really?

A. It's always - When the person is arrested, that stuff is entered.

Q. Well what if the person hasn't been arrested and the victims at the scene have just said that they think that it was three black males in their twenties. One was tall and thin and the other was short and heavy set?

A. If the person hasn't been arrested ---

Q. Yeap.

A. --- and is not in our database a name is given to us, I will contact SLED and go by their photos from their driver's license.

Q. Okay. So what if the name isn't given to you? There is no way to find a person using a photo lineup other than having a name?

A. If a name isn't given to you, it's difficult to do a photo lineup. You would just have to put random people in there.

Q. Okay. Even though you would have the physical characteristics?

A. Right.

Q. Okay.

A. Because there are people that can match that suspect's physical characteristics but I mean, you can't produce a photographic lineup without a suspect because then you would just be putting a bunch of people with similar characteristics into a photo lineup.

Q. I'm confused because I thought that was the point of a photo lineup. I thought that a photo lineup was used to find the suspect. Right? So if you only had physical characteristics, you are saying you cannot find the suspect?

A. The photo lineup is used to identify the person who was given to us just to make sure that, say there is another Maquis Robinson in Rock Hill. We want to make sure we have the right Maquis Robinson, therefore, we'll find a picture of that Maquis Robinson, put him in a photographic lineup and that's why it's used for that person to say yes, that's him. Not Maquis Robinson from the other side of Rock Hill. It's not just chose random people with similar characteristics and stick them in a lineup.

Q. So did the people in the photo lineup have different characteristics than each other or are they the same?

A. They should be similar.

Q. They should be similar. Okay. And when you, and this is you as in a general word, not you specifically, when you would develop a photo lineup or when a photo lineup is developed and printed off to be taken to a victim, does something else print off with it?

A. There is a list that prints off that tells you who each person is.

Q. What else does that list have on there?

A. I --

Q. And is that list called a photo image detail? Is that what it is called?

A. I think so. I can't tell you verbatim what it's called, but it has that person's name and I think their

date of birth. It may have their social. I'm not sure all the information that's contained on that sheet.

MS. CRUZ: Beg the court's indulgence for a moment, please.

(PAUSE.)

MS. CRUZ: May I approach the witness, Your Honor?

Q. Can you tell me what that is?

A. This is a lineup image details sheet.

Q. Okay. So the thing that prints out with the photo lineup, it would be that. Right?

A. Yes.

Q. Okay. And what all is on that sheet?

A. It includes the name, social, address, phone number, employer, height, weight, hair color, eye color, birth date and age.

Q. Okay.

May I approach the witness?

Thank you. Here I'll take that. Thank you.

Q. So it's pretty detailed. Right?

A. Yes.

Q. And those are all the identifying factors that a person would need in order to make sure they got the right man. Right? All that information. The name. How old they are. What they look like. How tall they are. How much they weigh. Everything. Right?

A. You mean as far as if that person were allowed to view that sheet would they be able to say this is the person that I'm looking for?

Q. No. Not the witness. No. Just that it would have all the information that a witness or a victim might give about a prospective suspect on that sheet. Right?

A. Well, as far as the address and the phone numbers and socials, most times victims don't have all that information. They'll give us a name and we would have to find a photograph of that person and put it in a lineup and take it to the victim which would help us with the identification.

Q. Sc it helps with the identification. So was a photo lineup image detail sheet printed off with the photo lineup that contained Maquis Robinson's photo?

A. Yes, it was. It prints out with every photo lineup that we do.

Q. Okay. So did you have it?

A. Usually we don't take those into the room with us when we take it for photo lineups. To present them to victims, you don't take that sheet. You don't want a victim to see that sheet because like you said, it has everything on there that a victim needs to say, yeap that's my guy including where his photograph is I believe in that lineup so I do not use that sheet.

Q. What happens to it then? Who has it?
A. Most times it's left in the car or in the file or at the office.
Q. That sheet with all that personal information on it isn't particularly placed in a very safe place and maintained in the file? It could be left in a car?
A. If we're somewhere on a scene and we're showing a photographic lineup, you keep it as part of your lineup. You just don't want to take it into the building with you so yes it would be secure in a locked vehicle ---
Q. So you wouldn't have it.
A. --- in a folder.
Q. Would Detective Stokes have it?
A. Most likely the folder that we had, we'll have temporary folders that we use when we're investigating, and to leave things like that in a vehicle you don't want to leave it on a seat to have everybody's information out for anybody passing by. You would secure it in a vehicle and put it in a folder so that it's not easily accessible.
Q. Would it surprise you to know that Detective Stokes doesn't have it. That the State doesn't have it. That we don't have it?

SOLICITOR SHELTON: Objection, Your Honor.

THE COURT: I sustain. We're not dealing with surprises. Just ask the question.

BY MS. CRUZ:

Q. So you testified earlier that Detective Stokes came in the room while you - right after or while you were in there with Jared; is that right?

A. Yes, he did.

Q. And that you all were talking about the incident, the three of you?

A. Not necessarily interviewing about the incident. We were asking him basic questions about the incident because like I said, this is the first time that we had met with the victims so we got very basic information from them and set up appointments for them to come in I believe that following day. I'm not one hundred percent certain. I would have to look at the statement dates but I believe we were working that next day.

Q. Okay. So not an interview but you all were talking about what happened. Right?

A. Correct. Usually when you respond as a police officer to something or a detective, when you get to your victim, you ask them questions about what happened. That's part of your investigation.

Q. Okay. Basic questions like, who did it. Right?

A. Or do you know the person responsible or do you know this person who did this to you.

Q. Did Jared Crane say to you that Maquis Robinson had

did it? Did he use that name to you or Detective Stokes while you all were talking about it?

A. We wouldn't have asked him that because that question had already been asked and answered at the scene. He had already given the responding officers that information so there was no need for us to ask him that again and we had shown him a photo lineup.

Q. But he didn't say that name?

A. I don't remember if he said the name, but he picked out Mr. Robinson.

Q. Okay. And so it was you and Jared and Amanda and Detective Stokes in the room. Right? All four of you?

A. Detective Stokes walked in shortly after Jared picked out Mr. Robinson, so it would have been me, Amanda and Jared during the photographic lineup. But after a little bit of time, after he showed Mr. Jordan his photographic lineup he came into the room with me.

Q. Did you ask Jared, or his wife, or a nurse, or a doctor, or any medical professional there what Jared's medical condition was?

A. No. I didn't ask them anything about his medical condition. Typically they won't give us that information. I mean, you've got HIPPA laws that protect that information.

Q. Sure. So you didn't know what his condition was. You

didn't know if he was on any kind of any medication. You didn't know if he was under the influence of any kind of -- any thing from the hospital or anywhere else. Anything --

SOLICITOR SHELTON: Can she ask one question --

THE COURT: Let's just ask questions. You're stringing out these long statements.

MS. CRUZ: Sorry about that, Your Honor.

THE COURT: Let's ask questions.

BY MS. CRUZ:

Q. Did you know if he was under the influence of any medication?

A. I DO not.

Q. Or anything else?

A. No I do not.

Q. Do you know if he had a concussion?

A. I do not know if he had a concussion.

Q. Do you know if he suffered any injury that would have dulled his senses, including his eyesight or his mind?

A. I don't.

Q. And you didn't find out?

A. I went into the room and he acknowledged me and he was speaking with me and he seemed coherent at the time and he didn't seem like he was under the influence of anything. I mean, in the job that I do I see people a lot. I mean, I'm not an expert as in identifying people that are under the

influence of drugs but I come across a few but he didn't seem to be under the influence of anything and he seemed coherent and he spoke with me. He knew where he was.

Q. Okay. You didn't get an independent verification?

A. I'm sorry?

Q. You didn't get an independent verification?

A. I did not.

MS. CRUZ: Okay. Thank you.

THE COURT: Mr. Smith.

MR. SMITH: Thank you, Your Honor.

CROSS EXAMINATION

SERGEANT TASHIA SMITH BY MR. SMITH:

Q. Sargent Smith, the Rock Hill Police Department sort of has different divisions and you sort of talked about a distinction in some. Patrol officers are one area. Did you say you were a patrol officer at some point in time?

A. I was.

Q. And they sort of have to obviously patrol but respond to calls. They tend to be the first persons who get the calls when 9-1-1 is called or something like that?

A. Correct.

Q. And then detectives tend to have to take over from there. Is that fair enough to say with the investigation?

A. Correct.

Q. And that's what you were doing in this case?

A. Yes.
Q. And that can involve doing interviews as you did?
A. Yes.
Q. That can involve doing photo lineups as you did in this case?
A. Yes.
Q. Could involve search warrants?
A. Yes.
Q. Did you do any search warrants in this case?
A. I don't recall doing any search warrants in this case. We had consent from the victims to process the scene, therefore I don't think there was a search warrant needed on this case.
Q. Okay. And you talked about another thing the officers do and that's go to a lot of training courses?
A. Correct.
Q. And you mentioned training courses and in part some of those courses covered interviews or a display of photo lineups; is that right?
A. Yes.
Q. And in addition to those courses, there are policies within Rock Hill Police Department about how to conduct those and what forms to use, et cetera?
A. Right.
Q. Because the form that you referenced on State's

Exhibit Number Thirty-eight, that's not a form that you yourself prepared. That's a form that exists within the Rock Hill Police Department; is that right?

A. Correct.

Q. And the basis of that form as you summarized is to make sure that whoever you are showing that picture to doesn't get a suggestion as to who's been arrested or who you think the suspect is. Right?

A. Right.

Q. Because it wouldn't be fair for you to say I think it's this person?

A. No.

Q. Okay. And similarity, it wouldn't be fair if you just showed one picture. I'm going to show you this one picture and see if you think this is who did it. Or certainly it wouldn't be fair to show them one person in an orange prison jumpsuit and say is this the person. Right?

A. Correct.

Q. Okay. So you were trained and you have a form to make safeguards to make sure that those don't happen?

A. Correct.

Q. And you took a witness statement I believe from Mr. Jordan. Is it June 10th? Does that sound correct?

A. I don't believe I took a statement from Mr. Jordan. I took a statement from Mrs. Crane.

Q. And I may be using the wrong term. Might you have witnessed the statement from Mr. Jordan?

A. I was probably a Notary on that statement, so I would have witnessed his signature.

(WITNESS REVIEWING DOCUMENT.)

A. Yes, I was - Actually not a Notary. I was a witness to his signature on this sheet here.

Q. Okay. And that sheet would be a?

A. This is our Notary form. It just basically tells them that they make the statement of their own free will without reward or hope of reward and that they've not been mistreated or threatened in any way and all of the above is true, the whole truth and nothing but the truth so help you God makes it a sworn statement.

Q. And that would have been on the tenth when Mr. Jordan gave his statement; is that's correct? Or when you witnessed his signature on that form?

A. Correct.

Q. And then you also talked about Mrs. Crane coming in for an interview sometime later; is that right?

A. Yes.

Q. And do you know that day off hand or would it help to see it?

A. It would probably help to see it.

(WITNESS REVIEWING DOCUMENT.)

A. It looks like Mrs. Crane came on the ninth.
Q. All right. And on that one did you witness or did you prepare that statement?
A. I witnessed it and I prepared it.
Q. Okay. And when you say prepared, you mean she talks to you, you type, you give her the statement to review and she can make any changes she wants to?
A. Correct.
Q. And you mentioned that at the hospital she declined to make any photo lineup identification of any suspect at that point; is that correct?
A. It's not that she declined. Her husband was in fear for her safety and didn't want her involved ---
Q. Okay.
A. --- as far as the photo lineup is concerned.
Q. And then on the ninth when she came to the police department, I assume that's where this statement was prepared; is that right?
A. It was.
Q. When she came to the police department at that point she wasn't shown a photo lineup or anything at that point was she?
A. No, she wasn't.
Q. And to your knowledge, she's never indicated through any type of photo lineup that Dantonyo Heath was an

individual she saw that night?

A. Now, I don't know if she would have seen a photographic lineup of Mr. Heath later. He was from what I remember identified a little bit later down the line. I didn't show her a photo lineup of Mr. Heath.

Q. Yes, ma'am.

MR. SMITH: Thank you.

THE COURT: Redirect?

SOLICITOR SHELTON: Nothing, Your Honor.

MS. CRUZ: No, Your Honor.

THE COURT: You can step down and be excused.

SERGEANT SMITH: Thank you, Your Honor.

THE COURT: Thank you.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Can I see counsel up here for just a minute?

(BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF THE JURY AT 05:05 P.M..)

THE COURT: Call your next witness.

SOLICITOR SHELTON: The State would call Detective Stokes.

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

MADAME CLERK: Thank you. Have a seat.

DIRECT EXAMINATION

DETECTIVE CEDRIC STOKES BY SOLICITOR SHELTON

Q. State your name for the record, please.

A. Cedric Stokes.

Q. And you are a detective?

A. Yes, ma'am, I am.

Q. How long have you been with Rock Hill?

A. Since 2006.

Q. How long have you been in law enforcement?

A. Since '96.

Q. Where were you originally?

A. I held prior certifications in North Carolina and also in New Jersey.

Q. And you started here in 2006?

A. That's correct.

Q. When did you become a detective here?

A. It was in 2010.

Q. What were you doing before that?

A. I was assigned to the street crimes division. Street Crimes Unit.

Q. When you were in North Carolina and New Jersey, what did you do?

A. Patrol.

Q. Back on June - Detective now, in what division are you a detective?

A. I am in the criminal investigations division in the

persons crimes division.

Q. Can you be more specific than that?

A. Homicide. The actual Homicide team.

Q. But back on June 8th of 2011 what division were you in?

A. I was in the persons division just assigned to serious assaults at that time.

Q. Were you working on June 8th of 2011?

A. Yes, ma'am, I was.

Q. Did you become involved in an investigation of some crimes committed at Five Star Customs in Rock Hill?

A. Yes, ma'am, I did.

Q. And what was your involvement in that investigation?

A. Okay. On June 8th of 2011, we - myself and Detective Smith were paged out by the patrol supervisor in reference to an armed robbery that happened at Five Star Customs. I think I got there just a few minutes before Detective Smith.

Mr. Crane was actually being transported when I was arriving at the scene by the patrol officers. When I got there, several of the patrol officers that were on the scene said that the victims had named Maquis Robinson as one of the suspects that were involved in the case.

Shortly thereafter Detective Smith arrived and just got a quick little rundown on what happened and we

responded to our law center and there I produced photo lineups and together we went to Piedmont Medical Center to show the victims the lineups.

Q. And how did you go about producing those lineups?

A. I actually used our records management system. What I did is - When you produce a photo lineup what you do is, in this case we had a suspect name, once we put the suspect's name in, the computer automatically generates a list of people that matched his height, his weight, his facial features, his hair description and it produced a number of photos.

From those photos, we picked five other people that are of the same facial features, height, weight, and we put them into the photo lineup. Once we hit the print button, the computer generates where exactly on the form that person goes so we don't have any control over where in the lineup they sit.

Q. What happens if you have multiple Maquis Robinsons?

A. Then what we'll have to do is we'll have to go in and eliminate based upon height and weight. There is actually a way to edit it where you can hit a button and say okay, well Maquis Robinson, six foot, black male, skin color light skin. You can just click on the buttons and then hit a produce and it will narrow it down to that one Maquis Robinson.

Q. And in addition to having the name Maquis Robinson, did you have other identifying information from the victims?

A. At that time I believed I received it from the officers. They said Maquis Robinson, black male, and they kind of gave me a gist of - I think they may have even done some preliminary work prior to us arriving to let me know exactly who it was.

Q. Did you have to - In putting this lineup together, did you have to narrow the field of Maquis Robinson's down to one photo?

A. No. It was just the one. Just the one.

Q. And then you personally picked the five other photos to go with his photo?

A. Yes, ma'am, I did.

Q. And you have nothing to do with the space where they come out in the lineup?

A. No, ma'am. Can't control it.

Q. And is there an additional report printed?

A. Yes, ma'am. There's actually - When you print the formal lineup, there is actually a secondary sheet that prints with it with the information as far as names, date of births, social security numbers, employer information, so that form we don't take into the formal lineup. Either we'll throw them into the file or we discard them because

we don't take it when we show photo lineups to our victims.
Q. Do you remember what happened in this case with the form that was generated with Maquis Robinson lineup?
A. No, ma'am. No, ma'am, I don't.
Q. Is it still in your file?
A. I couldn't find it in my file.
Q. After you generated this lineup, where did you go?
A. After the lineup was generated, myself and Detective Smith again we responded to Piedmont Medical Center. Once we got there, we split up. I gave her a photo lineup to show to Mr. Crane and I went into Mr. Jordan's hospital room. They were in a triage area in the emergency room. I went to speak with Mr. Jordan to give him his photo lineup and Detective Smith went into Mr. Crane's room.
Q. And did you meet with Mr. Jordan?
A. I did.
Q. And did you show him the lineup?
A. I did.
Q. And in showing him the lineup did you do or say anything to him to influence his selection?
A. No, ma'am, I didn't.
Q. Did you indicate which picture he should pick?
A. No, ma'am, I didn't.
Q. Did you show him an individual picture of Maquis Robinson and then show him the lineup?

A. No, ma'am.

Q. Was there anyone in the room with him?

A. I can't remember but I didn't think there was anybody in the room but Mr. Jordan at that time.

Q. Do you recall anyone saying anything to influence his decision on who to select?

A. No, ma'am. He was actually lying in the hospital bed when I went into the room.

Q. Let me show you what's been marked for identification as State's Exhibit Number Thirty-seven.

Can you identify that, please?

A. Yes, ma'am. It's the photo lineup that I showed Ernest Jordan at Piedmont Medical Center.

Q. How do you recognize that exhibit?

A. Because I had my signature on it. My signature along with Mr. Jordan's signature.

Q. And what is the first part of that? It's a two part, it's two pages to that exhibit. Correct?

A. Yes, ma'am.

Q. What's the first page?

A. It's actually a form that we use that we actually read to the victims of crimes. Basically, I don't want to call it a disclaimer, but a form that says that the person may or may not be - who committed the crime may or may not be in the photo lineup.

Q. And did you read that form to Mr. Jordan?
A. I did.
Q. And did he sign indicating that that form had been read to him?
A. He did.
Q. Was he able to pick out a picture?
A. Yes, ma'am, he did.
Q. And which picture did he select?
A. The picture of Maquis Robinson.
Q. And did he do anything to indicate his selection?
A. Ma'am, he circled and initialed on Mr. Robinson's photo.
Q. Did Mr. Jordan appear to be under the influence of anything to you?
A. No, ma'am.
Q. What was his emotional state, his mood?
A. He was pretty battered and bruised when I got to the hospital but he seemed fine. He was talking to me. He didn't seem like he, you know, he was under the influence of anything.
Q. Did his emotional state seem to have any impact on whether or not he was able to properly view that lineup?
A. As quick as he identified him, no.
Q. No hesitation?
A. No hesitation.

Q. Has that exhibit been altered or changed in any way since you last saw it?

A. No, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I'd ask to move State's Exhibit Number Thirty-eight into evidence.

MS. BURRIS: Without objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

MADAME COURT REPORTER: I'm sorry. Did you say Thirty-eight?

SOLICITOR SHELTON: I'm sorry, Your Honor. It's State's Exhibit Number Thirty-seven.

MADAME COURT REPORTER: That's in.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-SEVEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. Once Mr. Robinson was positively identified from the lineup, what was the next step as far as he was concerned?

A. Once Mr. Robinson was identified, I left Mr. Jordan's room. Attempted to set up an interview but they were coming in the hospital room. They were coming in I believe to start working on him so I left out and walked over to Mr. Crane's room. There we set up appointments with Mr. Crane to come in to give us a statement. We got basic

information and then we left. Went back to the law center and there I drew the warrants for Mr. Robinson.

Q. That night before you took the statements?

A. Yes, ma'am.

Q. And what warrants did you seek?

A. Warrants for armed robbery.

Q. You want your file?

A. Yes, I do if I can have it, please.

Thank you.

Okay. This is for --

Q. Just on Mr. Robinson.

A. Mr. Robinson. Okay. There was a warrant for attempted murder, armed robbery, possession of a firearm through a crime of violence, criminal conspiracy and also kidnap.

Q. And when was Mr. Robinson placed under arrest for those charges?

A. His warrants were served on June 14th, 2011 it looks like here. Ma'am, I have a correction on one of the warrants.

Q. Uh-huh.

A. The kidnapping warrant was actually drawn on the 13th, a few days after.

Q. And then served on the 14th?

A. And then served on the 14th.

Q. Now let's talk about the – Were you ever looking for three suspects in this case?

A. Initially, no. Ma'am, initially we had information that there may have been a third suspect as a get away driver but it wasn't confirmed. We did know that there were two suspects inside of the business at the time of the incident, but we really wasn't sure about the third suspect.

Q. So were you ever looking for a third suspect? Did you have any information on a third suspect to look for?

A. No information at all. Just the ones named here today.

Q. What about the second suspect. Did you have some information on --

A. I did.

Q. And what information did you have about the second suspect as far as height, weight, that?

A. Yes, ma'am. Well, in speaking with Mr. Jordan, he said that - He gave me a nickname of a guy named Yodi and he said that's his nickname. I don't really know his real name but I do know that he has some family that lived in Crest Street, lived on Crest Street in Rock Hill. And he also gave me a vehicle description at that time of the vehicle that one of his family members drove.

I'm not sure if it was that day or the day after.

Myself and Detective Smith rode down Crest Street and actually found the vehicle that he stated , you know, that he stated in his statement. I ran that tag and it came back with Dantonyo Heath's name on the tag and from there I went back, pulled his DMV information and I was able to develop him as a possible suspect at that time. .What I did from there was I, again produced another photo lineup to show to Mr. Crane and Mr. Jordan.

Q. And when producing that photo lineup, did you do it the same way that you did for Mr. Robinson's photo lineup?

A. The exact same way.

Q. And did you meet with Mr. Jordan to show him that lineup?

A. Yes I did.

Q. And Mr. Crane, you met with both?

A. I met with both.

Q. Did you meet with both of them at the same time?

A. No, ma'am.

Q. Where did you meet Mr. Crane?

A. I actually called Mr. Crane and I asked him to meet me at the Fast Buck's gas station between - it's right at the York County Lancaster County line. When I met with him there, I showed him the photo lineup and he couldn't identify Mr. Heath at that time.

So what I did then, is I called Mr. Jordan because I

was right on the border. He told me he was on the way to the beach. I said well hey, can you meet me since I was halfway into Lancaster. He said, okay I'll meet you at the Bojangles and I drove into Lancaster on Highway 5 and I met him in the parking lot at the Bojangles.

Q. And you testified about the form that you do with the lineup. Did you have a form with this lineup?

A. No, ma'am. That particular night, and I usually keep the forms in my vehicle, I didn't have one in the car the night that I showed Mr. Jordan his photo lineup.

Q. Is it required that you have that form?

A. It is not part of our general order that we do that.

Q. And I know you testified that you usually read from that form.

A. I usually do but it's not a part of our general order when showing photo lineups.

Q. Did you, when showing Mr. Jordan the photo lineup even though you didn't have the form to read, did you tell him anything beforehand?

A. Mr. Jordan - When I explained it to him I said, Mr. Jordan, it's the same rules apply that applied with the previous lineup, may or may not be a part of that lineup, and when I showed him the lineup, he immediately, "that's him right there."

Q. And did you do anything or say anything to Mr. Jordan

to influence his selection?

A. No, ma'am, I didn't.

Q. Did you show him a picture of Dantonyo Heath first and then the lineup?

A. No, ma'am.

Q. Did you mark Dantonyo Heath in any way?

A. No, ma'am.

Q. Did you provide him with any identifying information of the folks in the photos?

A. No, ma'am. He - Actually prior to when he gave me that name Yodi, he told me he was six foot something, dark skin. About six foot, six foot, two, dark skin male, you know, so I kind of - When I pulled up his motor vehicle picture he fit the bill that what Mr. Jordan told me at the time of the interview.

Q. And did anyone, yourself included, or anyone else, do anything or say anything to Mr. Jordan to ---

A. No.

Q. --- influence his --

A. No, ma'am.

Q. Let me show you what has been marked for identification State's Exhibit Number Thirty-nine.

Do you recognize that exhibit?

A. Yes, ma'am, I do.

Q. And what is it?

A. It's the photo lineup that I showed Mr. Jordan at the Bojangles.

Q. When you showed that to Mr. Jordan, did he appear to be under the influence?

A. He was not.

Q. Did he appear to have a hard time looking at the photos?

A. No, ma'am, he didn't.

Q. Did he appear to be disorientated in any way?

A. No, ma'am, he didn't.

Q. Did he have a hard time picking out a photo?

A. Ma'am, he went as far as to write, "this is him" before initialing on this photo lineup

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

A. It is.

Q. Has it been altered in any way?

A. No, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I'd ask to move State's Exhibit Number Thirty-nine into evidence.

MS. BURRIS: No objection, Your Honor.

THE COURT: In without object --

MR. SMITH: Prior objection.

(WHEREUPON: STATE'S EXHIBIT NUMBER THIRTY-NINE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

Q. Detective Stokes, I'm going to show you what has been

marked for identification as State's Exhibit Number Ten.

Do you recognize that?

A. I do.

Q. And what is that?

A. This is the cell phone that was located inside of Five Star Customs.

Q. And did you check that into evidence at some point?

A. I did.

Q. Why did you do that?

A. To do a search warrant on the phone. At the time of the incident I didn't know because Mr. Jordan when it was recovered, we didn't know if it was the victim's cell phone at the time or if it was possibly one of the suspects cell phone.

Q. And you did a search warrant for the phone?

A. Yes, ma'am. I did a search warrant so I could rip the content from the phone and try to figure out whose phone it was.

Q. Were you able to determine whose phone it was?

A. I was.

Q. And whose phone was it?

A. Ernest Jordan.

Q. So were you ever able - There were a couple phones at the scene. Were you ever able to determine that any of the phone belonged to either Maquis Robinson or Dantonyo Heath?

A. No, ma'am, I didn't.

Q. As part of your investigation did you view the surveillance video?

A. I did.

Q. How many times have you viewed it?

A. Several times.

Q. Let me show you what's been marked for identification as State's Exhibits Forty-three, Forty-four and Forty-five.

Do you recognize those?

A. Yes, ma'am.

Q. And what are they?

A. These are still photos from the video.

Q. And you have viewed the video several times. Do those appear to be fair and accurate reflections of images captured from the video?

A. Yes, ma'am, they are.

SOLICITOR SHELTON: Your Honor, at this time we'd ask to move State's Exhibits Forty-three, Forty-four and Forty-five into evidence.

MS. BURRIS: Without objection, Your Honor.

MR. SMITH: No objection.

THE COURT: In without objection.

(WHEREUPON: STATE'S EXHIBIT NUMBERS FORTY-THREE, FORTY-FOUR AND FORTY-FIVE, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR SHELTON:

Q. Detective Stokes, you met with Ernest Jordan and Jared Crane after - outside of the hospital and interviewed them and talked with them.

A. I did.

Q. And can you explain the difference to the jury between a case summary and an incident report?

A. Yes. The case summary is actually a compilation between the actual incident report and all of the information that was gathered during the time of the investigation. So the case summary would basically summarize everything that happened in the case. As the incident report would be just basically the bare bones report of what happened before we took over the investigation.

Q. So which has more detail?

A. The case summary.

Q. The case summary. And who prepared the case summary in this case?

A. I did.

Q. And looking at your case summary, do you have any record of money that was taken from the victims?

A. Mr. Jordan, Seven Thousand dollars in cash. Mr. Crane, Eleven Hundred dollars in cash.

Q. And when would you have made this case summary?

A. The case summary is competed once the actual case - the suspects are arrested.

Q. And so that would have been back in June?

A. In June, yes.

Q. So back in June, that's when the victims told you that there were monies taken from them?

A. Correct.

Q. Is that what appears in the incident report?

A. It does not appear in the incident report, the initial incident report. But there is a supplemental report that was done later on I believe by Officer Stivender stating that the Eleven Hundred dollars in cash was missing as well as a cell phone.

Q. And at the time you made the case summary, did you know the names of both suspects?

A. I did.

Q. But in writing the case summary did you refer to them by name all throughout?

A. No. They're only referred to by name once they are named by the victims, once they are ID'd by the victims through their photo lineups.

Q. But before that you call them suspects?

A. Suspects or subjects.

Q. Was there a 9-1-1 call in this case?

A. Yes there was.

A. I did.
Q. Do you see him here today in the courtroom?
A. Yes.
Q. How has he changed?
A. Looks like he has lost a significant amount of weight. You know, I would say maybe thirty pounds or better.
Q. So he was heavier back in June of 2011?
A. Yes, ma'am.

SOLICITOR SHELTON: Your Honor, at this time I would ask that both Dantonyo Heath and Maquis Robinson stand beside each other and face the jury.

THE COURT: I'm not going to make them stand beside each other. If you both would stand, please. Mr. Robinson and Mr. Heath.

(DEFENDANT'S MARQUIS ROBINSON AND DANTONYO HEATH STOOD.)

THE COURT: You may be seated. Thank you.

SOLICITOR SHELTON: Your Honor, I just want to make sure Exhibit Number Thirty-nine has been moved into evidence.

MADAME COURT REPORTER: Moved in on Mr. Stokes.

SOLICITOR SHELTON: Thank you, Your Honor.

I have no further questions, Your Honor.

THE COURT: All right. We won't do cross today. We'll start back in the morning. We are not yet in a

position for you to make up your mind or do anything regarding trying to reach a conclusion in this case. I'll see you back at 9:30. Now I will tell you I do have something at 9:15 and I feel sure, reasonably sure, that I'll be through with it by 9:30 so please be here at 9:30 and we'll start as promptly at that time as we can. Have a pleasant evening.

(JURY EXITS COURTROOM AT 05:34 P.M..)

THE COURT: You may step down. Of course you'll remain under oath and you're not in a position to discuss anything about the case with anybody. Do you understand that?

DETECTIVE STOKES: Yes, sir.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Anything before we leave?

MR. SMITH: It doesn't involve Detective Stokes.

Your Honor, at the pre-trial or before Mrs. Crane testified, I objected to her in-court identification. I don't think I put that on the record at the time she identified my client.

THE COURT: I"m noting that you object to that in court implication at this time.

MR. SMITH: Thank you, Your Honor.

THE COURT: Let's take a short break and then I want to see counsel in chambers. And if the State would bring

copies with them of the warrants. We'll take about a five minute break.

(COURT IN RECESS AT 05:35 P.M..)

(COURT BACK IN SESSION THURSDAY, JULY 25TH, 2013 AT 09:34 A.M..)

(DEFENDANTS REENTER COURTROOM AT 09:34 A.M..)

THE COURT: Thank you. You may take your seats. Good morning.

MS. BURRIS: Good morning, Your Honor. Your Honor, may I run to the restroom?

THE COURT: That's fine.

MS. BURRIS: Thank you.

(PAUSE.)

THE COURT: Detective Stokes, you can come on up and take the stand. Of course you're still under oath.

DETECTIVE STOKES: Yes, sir.

(WITNESS RETURNS TO THE WITNESS STAND AT 09:35 P.M..)

SOLICITOR SHELTON: You want your file?

DETECTIVE STOKES: Yehe

(ATTORNEY BURRIS REENTERED COURTROOM.)

SOLICITOR SHELTON: Your Honor, did you want to take up the matter of the indictments before or -

THE COURT: Well I'd like to just go ahead and put on the record we had a in-chambers conference yesterday and discussed various matters including the charge and

including some issues with the indictments that were raised by Ms. Burris Monday or Tuesday whenever we started this trial. And with that I think if you have any issues regarding the indictments we'll go ahead and take them up at this time.

SOLICITOR SHELTON: And, Your Honor, if I may, I did find a case. It's not specifically on point as to your concern about the indictment containing additional information than the warrant but it does - it is on point as to notice of the elements in the indictments.

And, Your Honor, if it's okay I'll just address the issues with Mr. Robinson's indictments since we decided that Mr. Heath's indictments weren't -

THE COURT: Basically the only issue had to do with the fact that in two of - I think it was kidnapping and armed robbery - the indictments in which Mr. Robinson set forth two victims whereas the warrant in which he was arrested set forth one. The victim I think was set forth in the warrant was Mr. Jordan. Whereas the indictment includes two victims Jordan and Crane.

SOLICITOR SHELTON: Yes, sir, Your Honor.

And, Your Honor, what I've given to the Court is *State versus Ariail* cite number 311 S.C. 35. And Your Honor, this is basically the holding of *Ariail* is that arraignment is just a formality. It is not a right in that as long as

the State can establish that the Defendant was given notice there is no right to an arraignment. And the State's position is that Mr. Robinson was given ample notice. This case has been before Your Honor before, over six months ago, where we proceeded this week on the same indictments that we proceeded on that week. At no time during that trial did Mr. Robinson object to notice and required an arraignment. At no time since then has he made an objection to notice and required an arraignment. I believe the case - the *Ariail* case also says that if they do not do that before the start of the trial that that right would - that it would be waived and it would not be proper to raise that issue later on in the trial. And I would also, Your Honor, at the beginning of this trial Ms. Burris made a motion to quash those indictments because both of the victims were named in the indictments and she felt that to be duplicitous which is in and of itself evidence that they were put on notice that both of those victims were in the indictment.

THE COURT: Ms. Burris.

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

That in and of itself doesn't actually warrant notice, Your Honor. Of course this - What has been created is a very complex situation. Of course when an individual is

actually served with an arrest warrant, they are apprised of the detail of what they are being charged with. Specifically Marquis Robinson in the arrest warrant it actually had the allegations of what he was actually being charged with and it had one of the victims names and that of course was notice when it was actually served on the actual person, here Mr. Robinson. And then once the Solicitor's office gathered - Of course they actually used the warrant in order to generate the indictment from the warrant. Of course in looking at the case of *Samuels*, *Samuels* clearly says based on everything that has been presented it's clearly duplicitous. Now the question is whether or not it's impermissibly duplicitous. And then of course the Court in *Samuel* employed us to look at a federal case and it says let's look at the federal law and do the prejudicial analysis.

It again is my position that it is prejudicial simply because even in *Samuels* they had one defendant and actually two victims. In this particular case we actually have two defendants, we have two victims, of course and we know as in the evidence of course there's different evidence against each defendant who is actually being charged. That right there would actually go to the prejudicial analysis.

Now the question becomes whether or not this --

THE COURT: Slow down a little bit.

MS. BURRIS: Yes, sir. The question becomes whether or not this court even has subject matter jurisdiction simply because when you're talking about a defective indictment and the - and Mr. Robinson is not actually being put on notice for that indictment, not just those particular two indictments those being armed robbery - excuse me, as well as kidnapping, but you're also talking about conspiracy and the substantive offense in the actual conspiracy are those two indictments that are duplicitous and defective. So you have conspiracy that's also defective because the question is - And of course there is case law that says subject matter jurisdiction cannot be waived. How I guess and I know one of the things that we discussed is an amendment but how can we allow the State to actually amend when --

THE COURT: They didn't ask to amend. Their position is that they can go forward with the indictment. Apparently - but they can go forward with the indictments as drafted.

SOLICITOR SHELTON: Yes, sir, Your Honor. And if - We would ask to amend if the Court disagrees with that position. But our position is that they have been given notice; that notice has been evident by Ms. Burris's arguments that she made on Monday and notice by the fact that we've tried this case before.

MS. BURRIS: And, again if I may, Your Honor?

THE COURT: Yeah.

MS. BURRIS: Thank you. Again it's our position that that is not proper notice. He was not arraigned on the charge in which he was indicted for. He was given a separate notice document, that being an informal arrest warrant versus a formal charging document, which was actually sent to the Grand Jury.

And again in *Samuels*, if you read the *Samuels* case, Your Honor, it does talk about whether or not the jury would be able to find a unanimous verdict. Here we have two different defendants, the evidence is different as to each defendant, very limited and over lapping evidence that which would warrant conspiracy in the conspiracy indictment.

Again it ask us - The *Samuels* case ask us to look at the federal courts. Let's look at the federal courts to employ a prejudicial analysis. It's our position that it's a danger of unfair prejudice. He lacked notice in the warrant. The warrant says one thing, the indictment says two things. And of course the indictment - the defective and duplicitous indictment because that's not questioned based on the case law that I've actually read. It's not a question as to whether or not its duplicitous and impermissible. The question is whether or not now it's

prejudicial.

And it is our position that it is prejudicial simply because we have again two different defendant's and two different victims and, so, therefore he would actually - therefore we place him in a position of if we were to actually send this to the jury on these particular indictments, the conspiracy, the armed robbery and the kidnapping, the question is whether or not they would be able to come back with a unanimous verdict as to one or the other. I think that places him in a very difficult position and I think it's a violation and I definitely think it's prejudicial to Mr. Robinson.

THE COURT: And the alternative motion is to, again the kidnapping and armed robbery, to do what?

SOLICITOR SHELTON: We would elect to take out Jared Crane as the victim, Your Honor.

THE COURT: I'll will grant that motion. I will amend the kidnapping so that there will only be one victim, that is Ernest Jordan. I'll amend the armed robbery to include Jared Crane and leaving only one victim Ernest Jordan. I do not feel that is prejudicial when the - When I read the indictments I told the jury at the beginning the charges, I don't recall and I don't believe that I specifically referenced the victims. I just said that they were charged with kidnapping, each of these are charged with kidnapping,

armed robbery, attempted murder, criminal conspiracy and possession of a firearm during the commission of a violent crime. So the jury has not been informed that and we'll be doing the charge as to who are the victims of which crime as to which defendant. So I grant the motions to amend the drop Mr. Crane from those two indictments. I find that it is not prejudicial and we'll move forward.

MS. BURRIS: Okay, Your Honor. I just want to ask in regards to the conspiracy, conspiracy actually has the conspire to arm rob and then conspire to kidnap.

SOLICITOR SHELTON: Your Honor.

MS. BURRIS: I understand that the --

THE COURT: I understand what you're saying.

SOLICITOR SHELTON: The conspiracy is the conspiracy for the crimes that Mr. Heath is alleged to have committed which those indictments are armed robbery, kidnapping and attempted murder.

THE COURT: Well I think what she's saying though is that the jury could - Technically the way it's drafted they would have to find that they conspired to commit one or all three of these, one, two, or all three of these charges.

And your position is what now?

MS. BURRIS: My position is that again because when I made the motion to --

THE COURT: No, as to now.

MS. BURRIS: My position in regards to the conspiracy because the indictments of armed robbery and kidnapping are number one impermissibly duplicitious.

THE COURT: I've already taken care of that. Let's move on.

MS. BURRIS: Okay. It has to do with substantive charges in there. It has the armed robbery and the kidnapping in there. And because it actually has the armed robbery and the kidnapping in there, if they were to actually find or that indictment was submitted to them in regards I understand the substantive is the agreement but that indictment was submitted then the question becomes as to do they find Mr. Robinson guilty of armed robbery but they agree to armed robbery and kidnapping as to one defendant or the other or both. It's confusing.

THE COURT: Well if they find he did that as to anybody then that's enough to support a finding of guilt. They got to find that he conspired with somebody to commit armed robbery or attempted murder of kidnapping.

What is your motion?

MS. BURRIS: Well let me just say this.

THE COURT: No. Just tell me what your motion is.

MS. BURRIS: My motion of course, Your Honor, we just for the record, my motion is to quash the indictment in an alternative a motion to dismiss conspiracy as well as the