

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable R. Markley Dennis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DEVANTE ANTONIO GRANT,

APPELLANT

APPELLATE CASE NO. 2017-002158

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

State’s Exhibit #27 (Jail Call Audio Clips); State’s Exhibit #32 (Jail Video Visitation Clips), State’s Exhibit #55 (Letter to Chisholm), State’s Exhibit #56 (Envelope) and State’s Exhibit #63 (DVD of Interview)

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
The State of South Carolina,	)	CASE NO. 2016-GS-10-02116
	)	2016-GS-10-02106
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	
	)	
Devante Antonio Grant,	)	
	)	
DEFENDANT.	)	
	)	

July 27, 2017

Charleston, South Carolina

B E F O R E:

The Honorable R. Markley Dennis

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

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For the State

Megan Ehrlich, Esquire
For the Defense

COURT REPORTERS:

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I N D E X

HEARING -- 03

EXHIBITS - None Proffered

CERTIFICATION OF TRANSCRIPT -- 07

If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

1 THE COURT: You are Devante Grant?

2 MR. GRANT: Yes, sir.

3 THE COURT: Good. Okay, Mr. Grant. The State has a
4 motion concerning -- we have had a pre-motion status
5 conference. The court has directed Mr. Davis I think to
6 provide a copy of the letter that has been the subject of
7 some discussion, previous discussions. And the letter
8 allegedly comes from Mr. Grant; is that correct?

9 MR. WARING: Yes, Your Honor.

10 THE COURT: And you have a motion now concerning Mr.
11 Grant?

12 MR. WARING: Correct, Your Honor.

13 THE COURT: Be happy to hear from you.

14 MR. WARING: Thank you, Your Honor. Just briefly.
15 This is one of those handwriting exemplar motions. I think
16 the case law is pretty clear that the State is entitled to
17 it without any real showing of a need for it and that it is
18 somebody's handwriting is essentially the same as somebody's
19 height or weight or things of that nature, Your Honor, in
20 terms of identification.

21 US Supreme Court case law unanimously pretty much says
22 that we can do that without a showing. And so we are asking
23 for that, Your Honor. And I have got an order as well.

24 THE COURT: Very well. Ms. Uhrlich, is there anything
25 you wish ---

1 MS. UHRLICH: Your Honor, just for purposes of
2 preserving the issue should this case need to be
3 appealed ---

4 THE COURT: Absolutely.

5 MS. UHRLICH: --- we make an objection under the Fifth
6 Amendment right against self-incrimination.

7 THE COURT: Okay.

8 MS. UHRLICH: As I understand it now and from my review
9 of the case law the case law would support the State's
10 argument and the court would likely rule in their favor, but
11 I do want to make the objection and have that preserved.

12 I have -- Mr. Waring has shared with me the proposed
13 order. I requested in that that I be able to be present
14 when he gives the sample. And I believe we would do that
15 just after this hearing, Your Honor.

16 THE COURT: No problem.

17 MS. UHRLICH: And also that copies be provided to me.
18 And this ruling, should the court order that, in no way
19 would indicate whether or not the results of the letter
20 would be admissible in trial ---

21 THE COURT: Sure.

22 MS. UHRLICH: --- and that we would deal with that at
23 another hearing.

24 THE COURT: No problem. Anything in response?

25 MR. WARING: No, Your Honor.

1 THE COURT: And, Ms. Uhrlich, I appreciate your
2 professionalism. Because you are exactly right, the court
3 has made it very clear that this is proper in my opinion.

4 However, one of the area that I guess we can see on the
5 other side of the ledger is I think they still do -- I know
6 they did when I was practicing law. And I have seen some
7 pleadings. They typically raise an objection as to the
8 impropriety of punitive damages in every answer I ever saw
9 filed in a civil proceeding notwithstanding Supreme Court
10 has found that they are very proper with certain guidelines
11 and restrictions. And I think this case obviously it is.

12 I grant the motion to provide the exemplar with the
13 understanding that counsel will be present and any reports
14 will be submitted -- you will be provided a copy of that. I
15 agree with you that admissibility of any of the findings
16 will be later -- will be dealt with by later motion.

17 MS. UHRLICH: Thank you, Your Honor.

18 THE COURT: Thank you.

19 MR. WARING: Thank you, Your Honor.

20 THE COURT: If you have the order I will be happy to
21 sign it.

22 MR. WARING: I do, Your Honor. May I approach?

23 THE COURT: You surely may, Mr. Waring. Thank you.
24 And I will just give it to you.

25 MS. UHRLICH: Just for -- Your Honor, my client has not

1 seen the letter that was provided by ---

2 THE COURT: I understand.

3 MS. UHRLICH: I just wanted to make sure that that has
4 been clarified. Because I know that SLED did not want him
5 to see it. And I just wanted the court to be aware ---

6 THE COURT: Not a problem.

7 MS. UHRLICH: --- and Mr. Waring to be aware that my
8 client hasn't seen the original ---

9 THE COURT: You had been provided a copy?

10 MS. UHRLICH: I have.

11 THE COURT: But he has not seen it?

12 MS. UHRLICH: That is correct.

13 THE COURT: Very good. Thank you very much.

14 MR. WARING: Thanks, Judge.

15 THE COURT: Thank you. All right. Thank y'all. If I
16 can be of any further assistance let me know.

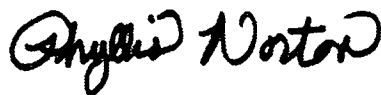
17 (WHEREUPON, the hearing concluded.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on July 27, 2017.

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



PHYLLIS NORTON, CVR

Date: January 12, 2018

Joyce Rueger, Court Reporter (Appearance at Hearing)
Phyllis Norton, Court Reporter (Transcription)

Certified Transcript Provided For: SCCID

Certification Reference #011218

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
State of South Carolina,	)	CASE NO. 2016-GS-10-02116
	)	2016-GS-10-02106
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	
	)	
Devante Antonio Grant,	)	
	)	
DEFENDANT.	)	
	)	

August 4, 2017 Trial

(Day One of Trial)

Charleston, South Carolina

B E F O R E:

The Honorable R. Markley Dennis; and a Jury.

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

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I N D E X

(SW) - DENOTES STATE'S WITNESS

(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

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C O U R T ' S E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>
1	Admonition Form	40
2	Six-Pack Photo Lineup	40

1 THE COURT: We have had a brief conference, and Mr.
2 Grant has been present.

3 You are Mr. Grant, Devante Grant?

4 MR. GRANT: Yes, sir.

5 THE COURT: Okay. He has been present during our
6 discussions about some of the preliminary matters in this
7 matter.

8 And as I understand, there is not going to be any
9 challenge to the chain of custody regarding the handgun
10 and the introduction of the handgun assuming it is
11 otherwise properly identified and properly -- as I
12 understand the testimony the officer took it into -- took
13 it into his possession, placed it in the evidence --
14 placed it into evidence. And that is basically ---

15 MR. WARING: That is correct, Your Honor.

16 THE COURT: And assuming that testimony there is no
17 other chain that is going to be argued or required for
18 that; is that correct?

19 MS. EHRLICH: Correct, Your Honor.

20 THE COURT: Okay. There is not going to be any
21 challenge or attempt to use -- whether the victim's
22 fraudulent check conviction should be mentioned. It will
23 not be mentioned.

24 There is not going to be any challenge to the
25 defendant's prior convictions unless the defendant

1 through his testimony opens the door. The State will not
2 attempt to use that should he decide to testify.

3 Witnesses will be sequestered except for the typical
4 ones; case agent for the State, victims, persons. Mr. --
5 because of certain issues we are going to have to have --
6 I assume you are going to want to be present?

7 MR. RODNEY DAVIS: Well, Judge, I am here on
8 subpoena. I don't think I go to the facts of the case.
9 I am happy to step out.

10 THE COURT: Well, no -- do y'all want him to be --
11 is the sequestration for this proceeding also?

12 MR. WARING: Your Honor, the State takes no position
13 on that.

14 MS. EHRLICH: I don't object to Mr. Davis being
15 present.

16 THE COURT: All right. You are welcome to stay if
17 you want. You are not required to. But you are welcome
18 to stay. And you may have -- you may have some issue
19 later though that may certainly play into this.

20 The case agent, the fact witnesses, certainly the
21 victims, will be present. And who else?

22 MS. EHRLICH: My investigator.

23 THE COURT: And your investigator. Okay.

24 Other issues that we have agreed to?

25 MR. WARING: Your Honor, I think that is it.

1 THE COURT: Okay. All right. Which motions do you
2 want to take up first in your motions to exclude?

3 MS. EHRLICH: Your Honor, I don't know if we want to
4 handle Mr. Davis since he is here to get him out of here.

5 MR. WARING: Sure.

6 THE COURT: Okay.

7 MS. EHRLICH: I think that has to do with the
8 admissibility of the letter.

9 THE COURT: All right. Be happy -- you want to
10 offer it. Why shouldn't it come in?

11 MS. EHRLICH: Your Honor, I think that they are
12 going to have a hard time authenticating the letter. The
13 letter itself isn't in anybody's possession is my
14 understanding.

15 THE COURT: Well ---

16 MS. EHRLICH: The State proposes that the letter
17 came from Savon Chisolm, the co-defendant, and the mother
18 got the letter.

19 I don't know how she got the letter. But the mother
20 obtained -- I assume the original is my understanding.

21 THE COURT: And I hear all of that. And I also hear
22 and read between the lines of don't know what Mr.
23 Chisolm's -- how he -- whether Mr. Chisolm is going to be
24 a willing participant or not.

25 There is no question that at this point the letter

1 has to be -- and I don't quarrel that it has -- it is not
2 extensive, but it has to be authenticated in some fashion
3 to make it relevant.

4 I don't know what that testimony is going to be at
5 this juncture. I agree with you that unless it is
6 properly authenticated -- and I think that is where the
7 only time I will know that is what testimony is rendered.

8 But let me just give you a for instance. If Mr.
9 Chisolm says I have known this man, I have known him for
10 a long time, we have exchanged writing, I am familiar
11 with his writing and that is his letter in my opinion, I
12 think that is authenticating. And he said I got this or
13 he received this.

14 MS. EHRLICH: I agree with you.

15 THE COURT: All right. Well, I don't know what the
16 testimony is going to be at this point.

17 MS. EHRLICH: Okay.

18 THE COURT: The letter doesn't come in just because
19 of a handwriting analysis, I don't think. But I will
20 certainly I will hear from the State at that point in
21 time. But I can't rule on that until I hear the
22 testimony on that issue.

23 MS. EHRLICH: Yes, sir.

24 THE COURT: Okay.

25 MR. WARING: Your Honor, I mean I would agree with

1 that as well. There are other avenues that we have ---

2 THE COURT: Sure you do.

3 MR. WARING: --- in addition to Mr. Chisolm. And I
4 would agree that until we see what happens ---

5 THE COURT: I don't know how it is going to unfold.

6 MR. WARING: Yes, Your Honor.

7 THE COURT: But no question it is -- it is certainly
8 probative from the standpoint of content. If it is
9 attributed and sufficiently connected to being a jury
10 issue of whether he wrote it or not. And that is the way
11 I look at that.

12 It may come down to the jury may not believe that.
13 But what is in it is legitimate if he wrote it in the
14 sense of being the potential threats.

15 And there is no question the case -- that there are
16 cases that have allowed that to show for the question of
17 whether or not he is involved and committed this crime.

18 So but I don't -- I can't rule on its admissibility
19 at this stage until I hear the evidence that can
20 articulate on the record why I think it should be
21 admitted.

22 MR. WARING: Thank you, Your Honor. At that point
23 if and when it is admitted if you deem that it is
24 appropriate at that point we would be asking at that
25 point based on the case law to be able to argue witness

1 intimidation as evidence of guilt.

2 THE COURT: I understand that.

3 MR. WARING: Yes, Your Honor.

4 THE COURT: I will make that decision once I see it.

5 MR. WARING: Yes, sir.

6 THE COURT: I haven't seen the letter either. Who
7 has it?

8 MR. WARING: I have got a copy of it, Your Honor.

9 THE COURT: It might be a good idea to let me look
10 at it sometime between now and then. So after this if
11 you would give me a copy of it if you would.

12 MR. WARING: Yes, Your Honor.

13 MS. EHRLICH: Yes, sir, and at that -- after Your
14 Honor has had an opportunity to review it I would like
15 to -- I don't know if it is relevant. I don't know
16 if ---

17 THE COURT: Well, you haven't seen it either?

18 MS. EHRLICH: I have -- I have seen it.

19 THE COURT: Okay.

20 MS. EHRLICH: And I don't think it means what the
21 State thinks it means. And that may be a jury issue.
22 But I ---

23 THE COURT: I think that is precisely it with the
24 qualifying instruction that -- well, I don't -- you know,
25 that is where we are getting into whether or not that is

1 evidence of guilt.

2 But that is an argument. That is not a testimony.
3 I mean nobody is going -- unless Mr. Waring is going to
4 testify. And I don't think he is. I don't think there
5 is any way to get that one in there as to what its intent
6 is and what the purpose and how it affects this thing.

7 But no question I think the case law says that that
8 is a legitimate argument if the jury concludes that he
9 wrote it, that threatening and intimidating a witness is
10 in fact some evidence of some involvement. Why else
11 would somebody do that?

12 I mean it is just a logical connection. I don't
13 think it is any great legal issue. I think it is -- and
14 again that comes back to whether the jury believes that.

15 MS. EHRLICH: Yes, sir.

16 THE COURT: So I don't quarrel with your premise
17 that it really may not have any bearing on it at all
18 because it may not -- it may not be a threat. But that
19 is up to the jury to make that determination.

20 MS. EHRLICH: Yes, sir.

21 THE COURT: I don't think -- I don't -- for
22 instance, I don't think for me to have it admissible if
23 it is suggestive of that I think that is what -- and that
24 is why I need to see it.

25 If I don't -- if I read it and it is really not -- I

1 don't think it is a threat then I may agree with you. I
2 may totally agree with you that it really doesn't have
3 any probative value.

4 MS. EHRLICH: Yes, sir.

5 THE COURT: Okay. But I will -- we will address
6 that when and if that comes available.

7 All right. What else? What is next one you want to
8 address?

9 MS. EHRLICH: Your Honor, it would be easier if we
10 could just go down the list of Mr. Waring.

11 THE COURT: Sure. Be happy to.

12 MS. EHRLICH: The jail calls and video visits.

13 THE COURT: Yes, what is your objection to that?

14 MS. EHRLICH: For the jail calls themselves I object
15 to relevance and also to whether or not they can
16 authenticate that Devante Grant is in fact the person
17 making some of those calls.

18 THE COURT: Okay.

19 MS. EHRLICH: And each call has I think to them
20 certain relevance. And I don't know if Your Honor wants
21 me to go through each one or how we should handle it.

22 THE COURT: Well, which one do you -- which do you
23 think are not relevant?

24 MS. EHRLICH: There is a call -- well ---

25 THE COURT: Well, first of all if you say ---

1 MS. EHRLICH: I can go through each call. I think
2 that might be the easiest.

3 THE COURT: Well, but you challenge whether that is
4 him or not. How do we establish that that is Devante
5 Grant?

6 MR. WARING: Your Honor, we have got the case agent
7 here, Detective Jarrell, who interviewed him and has
8 spoken with him before and collected buccal swabs from
9 him. And he is familiar with his voice, and he is going
10 to identify his voice on the jail calls.

11 THE COURT: That is fine. Then that comes to a jury
12 question of believability. So but that is certainly
13 authentication of the calls.

14 MS. EHRLICH: Yes, sir. I think there are also
15 potential hearsay issues because we have got Michael
16 Allen who is an uncharged person that they believe is
17 involved. I think most of the incriminating comments
18 come from Michael Allen.

19 THE COURT: Well, is in the telephone conversation
20 with -- the alleged conversation with Mr. Grant?

21 MS. EHRLICH: Yes.

22 MR. WARING: Yes, Your Honor.

23 THE COURT: So he is talking to your client?

24 MS. EHRLICH: Yes.

25 THE COURT: And your client is on a phone talking

1 with someone and that phone that unless they have changed
2 it before he starts talking there is a warning,
3 everything that you say in here can be used.

4 MS. EHRLICH: Yes, sir.

5 THE COURT: In the ones that I have heard and seen.
6 So he is on notice.

7 MS. EHRLICH: Yes, sir. There is ---

8 THE COURT: You can call -- you can call the person
9 and say I didn't say that I guess.

10 MS. EHRLICH: Yes, sir.

11 THE COURT: But I don't -- that doesn't stop that
12 from coming in I don't think.

13 MS. EHRLICH: Additionally there is a phone call
14 where they allege Devante to be on the phone with his
15 mother and there is a discussion about whether or not he
16 was working that day and could they really prove that he
17 wasn't at work.

18 And I think the State would like to have that
19 admitted to show some sort of consciousness of guilt or
20 that he was trying to obstruct the case by presenting
21 some sort of fake alibi.

22 I don't think the conversation with your mother
23 about could they prove whether or not I was at work rises
24 to the level of trying to present a fake alibi.

25 THE COURT: Well, ---

1 MS. EHRLICH: It is not something that we are
2 presenting as a defense.

3 THE COURT: I appreciate that, Mr. Ehrlich. But the
4 problem I have is I can -- I can easily respond to that.
5 Why else would you ask that to your mother unless you
6 were trying to figure out how to avoid getting some --
7 and that is just common sense. That is just -- to me
8 that is common sense. And I ---

9 MS. EHRLICH: I think it shifts the burden though to
10 the defense ---

11 THE COURT: It doesn't shift the burden. He is
12 making the conversation. He is the one that is -- he is
13 the one that is introducing that. Not some party out
14 there that is in the world. It is him.

15 So I -- he -- that would say that every time a
16 statement comes in that shifts the burden. What burden
17 does it shift? To whom?

18 MS. EHRLICH: I think the jury then is wonder why
19 aren't they presenting an alibi or why ---

20 THE COURT: He can testify all he wants. Just --
21 listen, is that not always the case of every statement
22 that is admitted in a case where there is an inference of
23 something or they -- he says I am involved, doesn't that
24 shift the burden for him to say I am not involved?

25 MS. EHRLICH: Yeah, I guess I was looking at an

1 alibi. Then -- I don't want them to be able to argue we
2 are presenting a fake alibi defense when that is not
3 something that ---

4 THE COURT: I don't know what they are going to
5 argue. That part might -- I can restrict. The question
6 is whether or not a jury can hear that conversation. I
7 think that conversation has some probative value.

8 MS. EHRLICH: Yes, sir.

9 THE COURT: In itself. But, again, contextually I
10 don't know what that -- how it plays out. So I would
11 have to wait and see how the context of it.

12 Probably I -- we need to hear -- I need to hear the
13 conversations that you have an objection probably.

14 MS. EHRLICH: Yes, sir. I think the State has put
15 those on a CD with just the clips that they intend to
16 play.

17 THE COURT: Okay. Well, give it to me and I will be
18 happy to listen to them. If you have an extra copy I can
19 listen to that.

20 (WHEREUPON, conversation with law clerk regarding
21 equipment required.)

22 MS. EHRLICH: They are wave files. I didn't having
23 trouble playing them in my computer.

24 THE COURT: I can play them at my home at least.
25 If you can just give me that and I can listen to them

1 over the weekend.

2 MR. WARING: Yes, Your Honor.

3 THE COURT: That will be fine.

4 MR. WARING: We will make a copy available.

5 THE COURT: Okay. That would be good.

6 MR. WARING: Thank you.

7 THE COURT: That way we don't have to take the time
8 to do that today.

9 MS. EHRLICH: Yes, sir.

10 THE COURT: So conversation with mom?

11 MS. EHRLICH: Yes, sir, regarding the McDonald's.

12 There is also depending on how you rule as far as
13 the admissibility of the letter there is a conversation
14 between him and the mom, the mom questioning whether or
15 not he wrote a letter.

16 So depending on how your rule with the letter I
17 think that would be an issue.

18 THE COURT: Well, let me just ask you. You have
19 heard it. Does he admit to writing the letter?

20 MS. EHRLICH: No.

21 THE COURT: Okay.

22 MS. EHRLICH: I don't think he does.

23 THE COURT: Then why would there be objections?

24 MS. EHRLICH: Well, ---

25 THE COURT: Doesn't that support -- doesn't that

1 answer your question that I didn't write the letter? Why
2 would you ---

3 MS. EHRLICH: It is unintelligible what his response
4 is.

5 THE COURT: And I heard that argument. That is
6 something that I am -- I am not -- and I don't quarrel,
7 and I have used transcript -- I have seen it especially
8 in civil trials where we pass out the transcription and
9 they listen to it and then we take them back up.

10 Because that part is not going -- the written part
11 is not going into evidence. They can relisten to it. I
12 have done that. But in this situation I am going to have
13 to listen to it.

14 You have -- you have a transcript of them too you
15 can give me?

16 MR. WARING: We will get you copies of that too,
17 Your Honor.

18 THE COURT: If you give me the transcripts so I can
19 listen to them. Because if you are enhancing that and
20 basically you are interpreting that then I would have a
21 problem with that. So I will have to listen to it in
22 that regard.

23 MS. EHRLICH: Yes, sir.

24 MR. WARING: Understood.

25 MS. EHRLICH: I think some of -- I think the video

1 visits are much more easy to understand ---

2 THE COURT: Okay.

3 MS. EHRLICH: --- because they are -- I don't know
4 if the quality is just better.

5 They also intend on offering three video clips. I
6 would again make the same argument over relevance. But I
7 think there was conversations between who they think is
8 my client and Michael Allen about whether or not the
9 co-defendant has talked to the prosecutor and whether or
10 not Michael Allen is a suspect.

11 THE COURT: Okay.

12 MS. EHRLICH: But I -- I don't know why you are
13 entering that (directing conversation to Mr. Waring).

14 MR. WARING: Which specific call are you referring
15 to?

16 MS. EHRLICH: I am talking about the video visits
17 where there is an implication that Michael Allen is a
18 suspect.

19 MR. WARING: Your Honor, there is a criminal
20 conspiracy here. And on that specific call that I
21 believe she is talking about, this defendant is telling
22 that individual by mouth not to say anything, to keep his
23 mouth shut. And he is saying that they can come back and
24 charge you as accessory.

25 And I think that is kind of probative because

1 Michael Allen has never been charged and why would he be
2 thinking that ---

3 THE COURT: Accessory to what? There is another use
4 of a term that implicates himself.

5 MR. WARING: Yes, Your Honor.

6 THE COURT: Charge you as accessory because I guess
7 you know x, y, z. But that means why would he be
8 concerned about that if it is not he is the person that
9 Michael Allen is supposed to be helping. So I will
10 listen to it.

11 MS. EHRLICH: Yes, sir.

12 THE COURT: I hear you on that. Okay.

13 MS. EHRLICH: I think those are all the calls and
14 visits, Your Honor.

15 THE COURT: Okay. All right.

16 MR. WARING: Your Honor, I'm sorry; you may have
17 already addressed this in between.

18 THE COURT: No problem.

19 MR. WARING: Our transcripts I guess if we give them
20 to you I guess at that point ---

21 THE COURT: I will look at them. And I -- I am
22 going to have to study that. I am going to read -- you
23 have cited some cases.

24 And as I say, I have done it before. I mean in my
25 career as a judge I have done it. I may have done it in

1 a death penalty case too. I just can't remember
2 specifically.

3 But the main thing is if it is unintelligible to the
4 person who is listening something -- you are enhancing
5 something that is not really -- because that is not going
6 into evidence. That is somebody's interpretation, in my
7 opinion. Although it may be somewhat limited it's -- it
8 is.

9 It reminds people of the world the transcripts when
10 I was practicing law when you got out of magistrate's
11 court and you got something and then it said
12 unintelligible and that was the transcript and that is
13 all you got. And so you had to fill in the blanks
14 somehow with other testimony. But you can't fill it in
15 by saying this is what was really said.

16 But -- and I tried a case, an electrocution case,
17 where -- when they took the deposition of a guy. I think
18 maybe Judge Richter was in error. But it was how visible
19 were the lines that were running through a pecan tree.
20 And the expert had taken a picture and then had written
21 with black marker showing where the lines were, and he
22 wanted to introduce that into evidence. And I said, no,
23 no, no, that is not how it looked, not at all.

24 I think that is the same -- that came to my mind
25 when I was listening to that. I thought -- I don't know.

1 I will have to hear it.

2 I don't quarrel with the use of it, and I am willing
3 to do it if in fact the court after listening to it can
4 conclude without any help that that is what is being said
5 then I think it is -- it may be helpful.

6 But, again, the transcript will not go into
7 evidence. They have to listen to the tape.

8 MR. WARING: Understood.

9 THE COURT: And then I would also instruct them
10 concerning that that it is their determination as to what
11 is being said, not what they are being -- not their
12 reading. The reading is just merely to assist in
13 following and that is all. But we will see how it
14 happens out.

15 MR. WARING: Understood, Your Honor.

16 THE COURT: All right. What else?

17 MS. EHRLICH: Your Honor, the State's next issue
18 that they raise is whether or not the Facebook messages
19 from the co-defendant's should be allowed.

20 Again, I don't know that we can deal with that until
21 we know if the co-defendant is going to testify and lay a
22 foundation.

23 THE COURT: Obviously it can't come in without the
24 party whose Facebook we are talking about. I mean I --
25 just pulling that off, I would have to know how it was

1 there and who did it. I mean Facebook is certainly
2 public. There is no question about that. But from the
3 standpoint of is it his, is it -- what it is. And there
4 was something in reading the memo that that has been
5 destroyed as to one -- one of the names of ---

6 MS. EHRLICH: There is an allegation that my
7 client ---

8 THE COURT: Used the name ---

9 MS. EHRLICH: --- changed the Facebook ---

10 THE COURT: Yeah.

11 MS. EHRLICH: --- name or something.

12 THE COURT: I don't know what you are planning to
13 use. But I just need to -- that is one I will probably
14 have to wait until the testimony ---

15 MR. WARING: Understood, Your Honor.

16 THE COURT: --- before I can rule on that. Okay.
17 Otherwise I would agree with you right now, Ms. Ehrlich,
18 on that.

19 MS. EHRLICH: I guess the next issue on the State's
20 brief was related to the jail letter which we have to
21 deal with later.

22 THE COURT: We are going to have to.

23 MS. EHRLICH: The next issue is whether or not my
24 client's comments for -- to their investigator during the
25 handwriting analysis should be admissible.

1 THE COURT: Were you present?

2 MS. EHRLICH: I was.

3 THE COURT: Okay. I thought you were. But I just
4 wanted to verify that. When I was reading it I thought,
5 okay, I think -- I think you asked to be present.

6 MS. EHRLICH: I was present.

7 THE COURT: Okay.

8 MS. EHRLICH: This was a very difficult -- difficult
9 issue for me at least, Your Honor.

10 THE COURT: I've got you.

11 MS. EHRLICH: During the handwriting session Mr.
12 Grant was using -- on the first day he was using his left
13 hand.

14 THE COURT: I understand. Left hand.

15 MS. EHRLICH: And the investigator for the State
16 asked him if he was left-handed and -- or if he usually
17 writes with his left hand. I can't remember the exact
18 wording. And he said yes and completed the session with
19 his left hand.

20 I believe the State wants to bring out that he said
21 he writes with his left hand and then be able to say no,
22 no, he is right handed based on the officer's
23 observations during the Miranda warning.

24 THE COURT: When it was signed, the Miranda.

25 MS. EHRLICH: I don't ---

1 THE COURT: Did ---

2 MS. EHRLICH: I have never had this issue come up
3 before.

4 THE COURT: Did he not come back -- as I read it he
5 gave the sample and then he came back and did it with his
6 right hand?

7 MS. EHRLICH: The following day he came back and did
8 it with his right hand.

9 THE COURT: And an expert has analyzed both of them?

10 MS. EHRLICH: I believe she has.

11 MR. WARING: Yes, Your Honor.

12 THE COURT: With that being said, I hear you and
13 understand it. First of all, you are present. I am not
14 so concerned about any statements he is making. He is
15 there in the presence of counsel. Nobody is asking him
16 anything other than to do -- to write.

17 So the statement about that he is alleged to have
18 made concerning this is my handwriting, I will do what
19 I -- using expletives deleted. But the bottom line is
20 all of that has to be triggered by the introduction of
21 the letter itself.

22 MS. EHRLICH: Yes, Your Honor.

23 THE COURT: So the first hurdle we have is the
24 letter. Once the letter comes in I think it is very
25 relevant because it goes to again prove I wrote the

1 letter. And it is corroborate of that. Why else would
2 somebody fake to be left handed and why else would he be
3 angry about having to write something. There is no
4 reason for that.

5 I mean to say I will do what I want to do,
6 basically, that's fine. He is right; he can do whatever
7 he wants to do.

8 But if he says that, they are going to be able to
9 testify to that. Because that doesn't say I wrote it;
10 that doesn't say anything. But it is indicia. It is
11 evidence. And I think it is probative.

12 So I probably will allow it and allow testimony
13 concerning the -- I agree with you that -- I assume it is
14 also on video of him when he is issued his Miranda
15 warnings in which he as I understand it invoked his right
16 to have an attorney and chose not to testify?

17 MS. EHRLICH: Yes, sir.

18 THE COURT: But the observation when he was there
19 did he sign some documents when he -- you don't even have
20 to say Miranda warnings. What hand did he use.

21 MS. EHRLICH: Yes, sir.

22 THE COURT: Then I think that's -- that to be
23 germane.

24 MS. EHRLICH: Yes, sir.

25

1 THE COURT: It wouldn't go any further than that.
2 And I am not going to allow the video because it would be
3 I think bringing up indirectly that he invoked his right
4 not to have counsel, and therefore that would be wrong
5 for the jury to see that. And then they would infer why
6 did you stop, as a typically lay person would do.

7 MS. EHRLICH: Okay. Your Honor, related to that
8 while we are on that, skipping off of the State's brief,
9 I had filed a motion regarding the throwing of the pen
10 and whether or not that behavior ---

11 THE COURT: Is that -- is this not on -- is this on
12 the video?

13 MS. EHRLICH: No, it is not videotaped.

14 THE COURT: Okay.

15 MS. EHRLICH: My concern would be that that
16 potentially could be viewed as improper character
17 evidence against him and whether or not it is
18 relevant ---

19 THE COURT: I think it shows -- it shows his
20 demeanor. I don't think it is character. I think it
21 shows -- what it infers to me -- it is like I probably
22 demonstrate with a hearing I had this morning that I got
23 a little irritated with it and got a little voice --
24 little -- raised my voice a little bit.

25 I don't think it is character assassination. It

1 just says -- again, it goes back to the simple reason
2 what are you upset about. You didn't write it. Who
3 cares. Write -- I will write as long as or as much as I
4 want to; I mean I didn't do anything.

5 So I'm sorry, it just ---

6 MS. EHRLICH: Yes, sir.

7 THE COURT: Common sense just tells me -- a jury can
8 I think consider that whatever they want to consider it.
9 But I will certainly -- I will be in a much better
10 position at that point to tie contextually with other
11 things that now I can give it I hope a rational basis
12 that will if I allow it for if the court -- if it does
13 have to be reviewed one day that the court will
14 understand why I -- why in my discretion it was
15 admissible.

16 But I will certainly hear from you fully even in
17 more detail if need be.

18 MS. EHRLICH: Yes, sir. The next issue the State
19 raised was whether or not his booking photo should be
20 allowed.

21 And I don't know the relevance of that. And I think
22 it is cumulative. And they already have the photo that
23 was used in lineup. If the lineup comes in I think they
24 already have that.

25 THE COURT: What are you using the booking photo

1 for?

2 MR. WARING: Your Honor, the case law says -- and I
3 am not going to rehash it for you. But they have kind of
4 indicated that they are going to call a witness, an
5 expert, to cast doubt on the victim's identification. It
6 is a big issue in this case.

7 THE COURT: Well, that is fine. You know what, the
8 beauty of it is this, Solicitor, it is not -- if -- you
9 have got a lineup you are going to use, I assume?

10 MR. WARING: Yes, Your Honor.

11 THE COURT: And it is not that photograph; it is
12 another photograph, in the lineup?

13 MR. WARING: Yes, Your Honor.

14 THE COURT: Okay. Well, that is where the beauty --
15 and I don't know, probably you are going to know -- you
16 are going to know this anyway.

17 But my statement would say, yeah, you have never
18 been a solicitor, Judge. And I haven't. I did prosecute
19 cases for the Town of St. Stephens though. But anyway.
20 And I did a couple.

21 But the beauty the State has is if they challenge
22 that through their testimony now we have opened Pandora's
23 box so to speak. I don't think the photo itself is
24 inadmissible. I just don't think it is necessary at this
25 stage of the game.

1 MR. WARING: Yes, Your Honor.

2 THE COURT: Now if something is challenged it may
3 definitely make it relevant. So have to wait and see on
4 that one.

5 MR. WARING: Yes, Your Honor.

6 THE COURT: Okay. So I would agree with you right
7 now. But it probably could be admissible. I will -- I
8 probably would allow it if there is a reason for it.
9 Okay?

10 MS. EHRLICH: Yes, sir. The next two issues that
11 the State raised we have already reached agreements on.

12 THE COURT: Okay.

13 MS. EHRLICH: Issue 9 was whether or not we should
14 be able to I guess mention the victim's prescription
15 medication.

16 THE COURT: What has that got to do with anything?

17 MS. EHRLICH: Well, two -- well, I think three ways
18 it is actually relevant. One is if she was on heavy
19 medication.

20 THE COURT: For identify?

21 MS. EHRLICH: Yes.

22 THE COURT: Okay. Well, that's fine.

23 MS. EHRLICH: Also the medication was part of the
24 robbery. It was stolen during the property. And I also
25 believe the State intends to try to offer those Facebook

1 messages where there is discussion about that same
2 medication among the parties.

3 THE COURT: Well, if it is part of -- if it is
4 mentioned it may have some relevance. I don't know --
5 again, I don't know the reason for which it is being
6 admitted.

7 But obviously if any of the medication could affect
8 her ability to identify then, yeah, maybe it does -- it
9 may have some significance. I don't know.

10 MS. EHRLICH: Yes, sir.

11 THE COURT: You want to use it and the State doesn't
12 want you to use it?

13 MS. EHRLICH: Yes.

14 THE COURT: Okay. Probably will allow it. But I
15 don't know. Would have to wait and see.

16 MS. EHRLICH: Yes, sir. The next issue the State
17 raised is whether or not any mention of sentence exposure
18 should be allowed.

19 THE COURT: Yeah.

20 MS. EHRLICH: Because the co-defendant Mr. Chisolm
21 already testified -- or already was sentenced.

22 THE COURT: So ---

23 MS. EHRLICH: What my argument would be, Your Honor,
24 is that Mr. Chisolm was very cooperative with the State
25 for some time in the hopes of being able to come to

1 court ---

2 THE COURT: Yeah, but what has that got to do with
3 the jury?

4 MS. EHRLICH: I think it shows ---

5 THE COURT: It might have something to do with me,
6 but it doesn't have anything to do with the jury.

7 MS. EHRLICH: I think the argument would be that he
8 has a motivation or bias to point the finger at somebody
9 else.

10 THE COURT: Are you talking about -- are you talking
11 about asking -- what the sentence of the co-defendant
12 was? I don't have any problem with that. That is
13 legitimate as to why he got a benefit.

14 But, again, the bottom line is what is the relevance
15 really other than the fact that this guy is going to
16 testify that your guy did it and -- I mean I don't know.
17 It just depends on how -- what he testifies to as to
18 whether it is -- if he comes on the stand and says, no, I
19 am not going to testify to anything then there is no need
20 for you to ask the question.

21 MS. EHRLICH: Correct.

22 THE COURT: But I will tell you this. And I know
23 you are not going to do this. But I have heard lawyers
24 in opening statements argue about how serious this is and
25 what my client is facing. That will not come in.

1 MS. EHRLICH: Correct.

2 THE COURT: Any mention of what he is exposed to.
3 Okay?

4 MS. EHRLICH: Yes, Your Honor.

5 THE COURT: Whether or not the testifying
6 co-defendant had a benefit I think is legitimate
7 cross-examination material, personally.

8 MR. WARING: Your Honor, even if he did not receive
9 a benefit?

10 THE COURT: I don't know. He can tell them how I
11 didn't get a benefit. But he did receive a benefit. But
12 it was up to me.

13 He got -- you can say he didn't get a benefit. But
14 he cooperated and you were facing 30 and you got 10.

15 MR. WARING: Yes, Your Honor.

16 THE COURT: So -- well, he got -- 16 and suspended
17 service of 10.

18 MR. WARING: Yes, Your Honor.

19 THE COURT: Which gives him a little more exposure
20 for going forward. And I think that is articulated. So
21 there was a benefit to some extent.

22 And I will tell you, I understand your position
23 is -- and I -- interesting issue. That is why I asked
24 you whether Mr. Waring was going to testify. Whether he
25 believes him or not, what does that have to do with

1 anything? I am not going to exclude him because the
2 State said I don't believe him.

3 And I don't think that is wrong. He is presenting a
4 witness that he didn't necessarily say he didn't believe
5 him on any parts of it. He said he didn't believe he was
6 being totally candidate and straightforward.

7 But be that as it may, unless he is testifying that
8 is not going to come in. No mention of that should be.
9 Okay?

10 MS. EHRLICH: Yes, sir.

11 MR. WARING: Understood, Your Honor.

12 MS. EHRLICH: The last issue that the State raised
13 is whether or not the State can mention the defendant's
14 motive for armed robbery was retaliation for being robbed
15 himself earlier that day.

16 I don't -- I guess we have a different
17 interpretation of what Mr. Chisolm told police as far as
18 that being a motive. And so I think again that depends
19 on what Mr. Chisholm says.

20 THE COURT: Well, I thought that interesting because
21 I heard arguments notwithstanding my charge that I
22 use - still use it - the State is not required to prove a
23 motive. They don't have to prove anything.

24 I don't know what the merits would be for that
25 because he is not required to. But it doesn't prevent

1 the State from proving a motive either.

2 So if there was something that would make a person
3 who otherwise is not inclined to do that. But at this
4 stage of the game it would seem to me that that would be
5 better used and more probative in a reply statement to
6 the defendant's testimony rather than in the case in
7 chief.

8 So the only thing I would caution you, Solicitor, at
9 this point it injects some things that really aren't
10 significant as to whether or not he committed this crime
11 per se. I don't quarrel with it. Might be certainly
12 probative to your case, ---

13 MR. WARING: Yes, Your Honor.

14 THE COURT: --- but the prejudice could -- I could
15 find prejudice without weight of probative value at a
16 certain stage.

17 If he gets on and says I didn't do anything; I had
18 no reason to do that; something of that language, now we
19 have created a legitimate reason for bringing that in.

20 MR. WARING: Understood, Your Honor.

21 THE COURT: Okay.

22 MS. EHRLICH: Your Honor, the remaining motions that
23 I filed I think are with the exception of Biggers are all
24 issues that are going to be contingent on how the
25 testimony goes.

1 THE COURT: I agree. And it will be ruled upon at
2 that time.

3 MS. EHRLICH: Yes, sir.

4 THE COURT: I don't think it requires any in camera
5 proceeding at all.

6 MS. EHRLICH: Yes, sir. So I would ask that we ---

7 THE COURT: Have the Biggers?

8 MS. EHRLICH: --- move forward with the Biggers.

9 THE COURT: That's fine.

10 Are you prepared to go forward with that?

11 MR. WARING: Yes, Your Honor.

12 THE COURT: Very well. Thank you. You can call
13 your first witness.

14 MR. WARING: Thank you, Your Honor. The State calls
15 Detective Jarrell.

16 (WHEREUPON, the witness was duly sworn.)

17 THE CLERK: State your full name for the record and
18 spell out your last name.

19 THE WITNESS: Detective Jason Jarrell,
20 J-A-R-R-E-L-L.

21 **DIRECT EXAMINATION BY MR. WARING OF DETECTIVE JASON**

22 **JARRELL (IC):**

23 Q Good afternoon, Detective.

24 A Good afternoon.

25 Q Did you conduct the identification procedure with

1 the victim in this case?

2 A I did.

3 Q And what was the date and time of that procedure; do
4 you recall?

5 A It was February 3rd, about 1:15.

6 Q What was the location?

7 A It was at the victim's residence in Ladson.

8 Q And exactly how many days after the incident was
9 this identification procedure?

10 A Eight days.

11 Q Can you tell us what the manner in which the
12 procedure was conducted?

13 A Per CPD policy we have a photo lineup admonition
14 form. That lineup is generated in this particular case
15 it was requested through SLED, the State Law-Enforcement
16 Division, to compile the lineup.

17 Once the lineup was compiled the victim was read
18 aloud and she was allowed to follow along with the photo
19 lineup admonition form which is essentially directions of
20 how the procedure will go.

21 Q And how many different photos were used?

22 A Six.

23 Q Now were they shown one by one or were they shown
24 all at the same time?

25 A They were all on one sheet. The same time.

1 Q And was there any identifying information on those
2 photos?

3 A No.

4 Q Was the defendant's photo itself arranged on the
5 photo sheet in a way to suggest that the victim should
6 pick it out?

7 A No.

8 Q Did the defendant's photo stand out from the others
9 in any way?

10 A No.

11 Q Are the other subjects in the photos similar as far
12 as appearance, age, and physical characteristics?

13 A They are.

14 Q Does the defendant's photo in any way imply that the
15 defendant has a prior record?

16 A No.

17 Q Did you or anybody else expressly or implicitly
18 suggest to the witness which photo the victim would pick?

19 A No.

20 Q And you mentioned it earlier. Did you comply with
21 procedures?

22 A I did.

23 Q What if anything was the victim told before being
24 shown the photos?

25 A Just that the second suspect in the investigation

1 had possibly been identified. And then she was read the
2 admonition form explaining the procedure of the lineup.

3 Q Had you shown any of the photos to the victim before
4 the procedure?

5 A No.

6 Q Did the victim in fact select any of the photos from
7 the actual lineup?

8 A She did.

9 Q Do you recall about how long it took her to pick out
10 that photo initially?

11 A It was fairly quickly. Around 20 seconds.

12 Q And did she say anything at that time?

13 A Her initial response she had pointed at a photo and
14 then said wait a minute. That was her initial statement.

15 Q And did she take more time?

16 A She did. She took about another minute.

17 Q And did she say anything else?

18 A She continued to point at the one photo and then
19 said I believe that is him.

20 Q During all of this time during all of this time that
21 she is taking more time did you ever indicate during that
22 that she should pick out the defendant's photo?

23 A No.

24 Q Did she indicate whether the person she picked was
25 the person who committed the crime?

1 A Yes.

2 Q Whose photo did she pick out?

3 A She picked out Devante Grant.

4 Q And you briefly mentioned it. In what manner did
5 she pick that photo out?

6 A She pointed at the photo and eventually said I
7 believe that is him.

8 Q Can you point out in the courtroom today which
9 person she picked out in the lineup?

10 A Mr. Grant, sitting there at the defense table
11 (pointing).

12 MR. WARING: Your Honor, we would like the record to
13 reflect that the witness is pointing to the defendant.

14 THE COURT: So reflects.

15 Q Did the victim at any point during this process
16 every pick out any other people in the lineup other than
17 the defendant's photo?

18 A No.

19 MR. WARING: May I approach the witness, Your Honor?

20 THE COURT: Yes, you may.

21 Q Detective, I am now showing you what has been marked
22 as a court's exhibits. Do you recognize those?

23 A I do.

24 Q And can you tell us what they are?

25 A This would be the photo lineup admonition form

1 (pointing). And this is the six-person lineup

2 (pointing).

3 Q Are the victim's initials and signature on there
4 indicating that she understands what she's been read?

5 A Yes.

6 Q And are her initials next to the defendant's photo
7 acknowledging that he is the one?

8 A Yes.

9 Q Do those fairly and accurately depict the admission
10 form and the photographic lineup itself?

11 A Yes.

12 MR. WARING: Your Honor, at this point we would move
13 to have these admitted as court's exhibits.

14 THE COURT: All right. Any objection?

15 MS. EHRLICH: No, Your Honor.

16 THE COURT: Very well. Court's Exhibits.

17 (WHEREUPON, Court's Exhibit 1, admonition form, was
18 marked for identification.)

19 (WHEREUPON, Court's Exhibit 2, six-pack photo lineup, was
20 marked for identification.)

21 Q Detective, I am now showing you Court's Exhibits 1
22 and 2. I am now showing you the admonition form. Is
23 that the victim's signature?

24 A Yes.

25 Q And is this what you read to her?

1 A It is.

2 Q I am now showing you the lineup. Is that also the
3 victim's initials?

4 A Yes.

5 Q And is that the person that she picked and you
6 recall that?

7 A Yes.

8 Q And is that person in the courtroom today?

9 A He is.

10 Q And he is the defendant?

11 A Yes.

12 MR. WARING: Court's indulgence, Your Honor.

13 THE COURT: Very well.

14 Please answer any questions the defense has.

15 THE COURT: You may cross-examine.

16 **CROSS-EXAMINATION BY MS. EHRLICH OF DETECTIVE JASON**

17 **JARRELL (IC):**

18 Q Good morning, Detective.

19 A Good morning.

20 Q You mentioned on your direct that you are familiar
21 with the Charleston I guess field guide onto doing
22 lineups?

23 A Yes.

24 Q In that guide you guys discuss the different types
25 of lineups that can be done. I guess this one would be

1 considered a photographic lineup?

2 A Yes.

3 Q Because you showed all six pictures to Ms. Hooks at
4 the same time, correct?

5 A Correct.

6 Q And then there is another kind of lineup called a
7 sequential photographic lineup where you have the witness
8 look at each picture individually one by one, correct?

9 A Yes.

10 Q In this case you chose not to do that; you did a
11 regular lineup where the witness can look at all pictures
12 at the same time; correct?

13 A Yes.

14 Q Is there a reason you did it that way rather than
15 the other way?

16 A That is just the preferred method that we use.

17 Q Okay. It is also part of your policy that you are
18 not to make any sort of statements to influence the
19 perception of the witness, correct?

20 A Correct.

21 Q Or do any sort of signaling or show any sort of bias
22 towards anybody, correct?

23 A Correct.

24 Q And some agencies - I don't believe Charleston does
25 this - but some agencies would have a completely

1 independent officer other than the lead agent do the
2 lineup with the witness, correct?

3 A When that is available.

4 Q I'm sorry?

5 A When that is available.

6 Q Is that how CPD would normally do it?

7 A Ideally.

8 Q Okay. Is there a reason that wasn't done in this
9 case?

10 A Because I was the person who was available to do so.

11 Q Okay. Your policy also talks about how you can
12 video or audio record the lineup procedure, correct?

13 A Correct.

14 Q And in this case there is no video?

15 A Correct.

16 Q There is audio though, correct?

17 A Correct.

18 Q And the audio doesn't capture your entire
19 conversation with Ms. Hooks before or after going through
20 the admonition form and showing her the pictures, does
21 it?

22 A It is just what is recorded. It is just general
23 conversation before and after.

24 Q But you didn't record the minute you started
25 speaking to her, correct?

1 A Correct.

2 Q Do you remember what you told her -- I think on
3 direct you said that you had told her that a suspect had
4 been identified?

5 A I said that a suspect had possibly been identified.

6 Q Okay. Do you know the context of that conversation;
7 did you tell her how that person was identified?

8 A I -- no.

9 Q Did you give her any information about who was
10 identified or how you had developed a suspect?

11 A No.

12 Q And then you testified that she pointed to Mr. Grant
13 and then said wait a second or paused?

14 A She pointed and paused.

15 Q About a minute?

16 A She did, yes.

17 Q Okay. And then she made the statement I think it is
18 him, correct?

19 A Correct.

20 Q Following that statement did she not additionally
21 make statements about how she thought the robber's eyes
22 had looked blue, not brown?

23 A She did.

24 Q Okay. And kind of making some comments about how
25 she was trying to imagine him with a hoodie on, correct?

1 A Correct.

2 Q And when you completed this you didn't ask her about
3 her level of certainty in identifying him before, did
4 you?

5 A No.

6 Q And the State kind of talked about this a little bit
7 in pretrial. Do you -- did you already know Mr. Grant
8 before this case?

9 A No.

10 Q Okay. So this is the first time you had had contact
11 with Mr. Grant was this case?

12 A It was.

13 Q Okay.

14 MS. EHRLICH: Your Honor, I don't have further
15 questions for this witness at this time.

16 THE COURT: Redirect, Mr. Waring.

17 MR. WARING: Thank you, Your Honor.

18 **REDIRECT EXAMINATION BY MR. WARING OF DETECTIVE JASON**

19 **JARRELL (IC) :**

20 Q Just a few questions, Detective. Did you comply
21 with the procedures of the Charleston Police Department
22 regarding identifications?

23 A Yes.

24 Q And Ms. Ehrlich mentioned that there was audio but
25

1 no video. Why was there no video?

2 A In order to have video we would have had to have
3 brought the victim to the Police Department. And with
4 her living far away and she to me still seemed a little
5 shaken up and unstable from the incident itself. And so
6 she actually asked me to come to her instead of making
7 her drive to the police station.

8 Q Before you started recording did you ever suggest to
9 her in any way that she needed to pick out the defendant
10 once the lineup actually started?

11 A No.

12 MR. WARING: No further questions, Your Honor.

13 THE COURT: Re-cross?

14 MS. EHRLICH: No, Your Honor.

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

16 THE WITNESS: Thank you.

17 THE COURT: Any additional witnesses?

18 MR. WARING: Your Honor, at this point we think we
19 have sufficiently covered the lack of suggestiveness of
20 the lineup. We are prepared to call other witnesses if
21 the court deems it necessary.

22 But we would think under the case law that the first
23 prong of disproving suggestiveness is showing that we
24 don't go into the second prong of reliability; and we at
25 that point ask that the lineup and the ID be admissible,

1 Your Honor, based on that.

2 THE COURT: What is your position on that?

3 MS. EHRLICH: Your Honor, with regard to the first
4 prong the biggest issue I would raise is that the lead
5 detective who had already developed somebody as a suspect
6 he is the person doing a lineup with the victim. I think
7 that is probably our strongest argument that it is
8 suggestive.

9 THE COURT: Yes.

10 MS. EHRLICH: And I don't know how Your Honor --
11 some courts like for us to go into the second prong.

12 THE COURT: The question is going to be is to
13 when -- when we seek to introduce the lineup. Because it
14 really the lineup itself I agree -- looking at -- is it
15 Picture Number 2?

16 THE COURT REPORTER: Number 2, correct.

17 THE COURT: The lineup, Court's Exhibit Number 2, is
18 clearly -- in fact I am amazed at how incredibly -- how
19 incredible it is the similarities between every picture
20 in there. I mean it is just amazing.

21 And it is a very -- probably the best I have seen in
22 my career. I don't know whether now the computers are
23 now being used and I guess that's how they do it. But I
24 would love to know how a computer takes a picture and
25 then matches it. But that is phenomenal.

1 So I find the lineup to be totally non-suggestive of
2 anything other than six individuals with all similar
3 features. Nothing suggestive at all about it.

4 The fact that it was done by the case agent that in
5 and of itself doesn't create a problem for me. I don't
6 hear anything from the standpoint of -- and the witness
7 testified to what the witness said.

8 And of course all of those questions are legitimate
9 to attack the reliability of the witness. But the lineup
10 itself is not -- I mean that doesn't -- that hasn't -- it
11 is not a suggestive lineup that would create in a
12 person's mind which person is there.

13 Now the length of time that it took, that really
14 goes to -- doesn't that go to whether the identification
15 is legitimate or not?

16 MS. EHRLICH: Yes, sir. And if I could add one more
17 thing about the lineup.

18 THE COURT: Sure.

19 MS. EHRLICH: All of the suspects -- or all of the
20 pictures they are labeled with a number followed by .jpg
21 with the exception of Mr. Grant's which is labeled 4.PNG
22 in all caps.

23 THE COURT: Let me see.

24 (WHEREUPON, exhibit reviewed by the Court.)

25 THE COURT: What is the State's position on that?

1 MS. EHRLICH: Your Honor, that is in my opinion just
2 a scrivener's error that is neither here nor there as far
3 as making a difference.

4 THE COURT: Well, according to the hearing we
5 already had today anything in caps in legal fiction. But
6 that is an aside. Because that is what somebody said
7 their birth certificate had caps and therefore that
8 person doesn't exist. That is a sovereign citizen's
9 positions.

10 It is noted I don't find that to be necessarily
11 suggestive of anything. How would that single out this
12 person?

13 MS. EHRLICH: Well, I think had the officer done a
14 sequential lineup where the person was looking at picture
15 by picture. But if the one suspect has a different
16 labeling under the picture I think that potentially makes
17 that picture stand out.

18 THE COURT: Doesn't that again go to your -- I don't
19 think that -- I don't think that is something that says
20 the lineup is defective because of that difference.

21 I understand what you are saying. Again, that goes
22 to whether a jury believes it is unduly suggestive.

23 MS. EHRLICH: Yes, sir.

24 THE COURT: I don't find -- I don't find it -- for
25 the first part, again, I can't -- my concern in this,

1 Solicitor. I will be happy to find that the lineup
2 process is not unduly suggestive.

3 I don't know when you plan to put the lineup in.
4 Because the problem I have is I have got to determine
5 whether the witness can testify to that as I read the
6 Neil v. Biggers. Because I have to determine the
7 likelihood of it being a misidentification.

8 This doesn't -- there is an issue that it could be.
9 But it is not -- I don't find that it is being such as a
10 showup lineup or one-person lineup unduly suggestive.

11 But as to whether or not there is going to be
12 testimony I haven't ruled on that. And I think I have
13 got to make that determination in camera before the
14 witness can testify.

15 MR. WARING: Your Honor, we are prepared to call Ms.
16 Hooks ---

17 THE COURT: Then I would suggest you go forward with
18 the whole thing.

19 MR. WARING: Yes, Your Honor.

20 THE COURT: Because obviously I have to deal with
21 those other factors. And we know what they are: the
22 opportunity to view it, the reliability, accuracy, the
23 witness's level of certainty.

24 MR. WARING: Yes, Your Honor.

25 THE COURT: And that is a critical factor. Okay.

1 MR. WARING: Thank you, Your Honor. The State calls
2 Ms. Hooks.

3 (WHEREUPON, the witness was duly sworn.)

4 THE CLERK: If you will state your full name for the
5 record, spelling your last name for us, ma'am.

6 THE WITNESS: Christina Hooks, H-O-O-K-S.

7 **DIRECT EXAMINATION BY MR. WARING OF CHRISTINA HOOKS (IC):**

8 Q Hello, Christina.

9 A Hey.

10 Q Okay, Christina, were you ever shown any
11 photographic lineups?

12 A Yes, sir.

13 Q And do you recall which officer did that procedure?

14 A Detective Jarrell.

15 Q I am now going to show you what has been marked as
16 Court's Exhibits 1 and 2. Do you recognize this?

17 A Yes, sir.

18 Q And is that your signature on there?

19 A Yes, sir.

20 Q And can you tell us what that is?

21 A That's my signature stating that

22 Q Is this the form that you were shown by Detective
23 Jarrell ---

24 A Yes.

25 Q --- with the lineup procedure? And how about this

1 (displaying exhibit)?

2 A That was the pictures that were shown. The lineup.

3 Q And is that your initials as well ---

4 A Yes.

5 Q --- under Picture Number 4?

6 A Yes, sir.

7 Q And is the person you circled in fact the person
8 that you recall as doing this robbery?

9 A Yes, sir.

10 Q And is he in the courtroom today?

11 A He is.

12 Q And can you point him out for us, please.

13 A (Pointing).

14 MR. WARING: Your Honor, I would like the record to
15 reflect the witness has identified the defendant.

16 THE COURT: So reflects.

17 Q How many different photos were you shown?

18 A Six.

19 Q And would you say that there were -- would you say
20 or not say that there were six different individuals on
21 there?

22 A Six different individuals, yes.

23 Q Okay. Now did anybody at any point, Detective
24 Jarrell or any other police office, suggest to you which
25 photo you should pick?

1 A No, sir.

2 Q Now we are going to get into the incident itself,
3 Ms. Hooks. Could you tell us what your education level
4 is?

5 A College.

6 Q College?

7 A Yes, sir.

8 Q Okay. Have you ever had contact with members of the
9 defendant's race before?

10 A Absolutely.

11 Q In what way?

12 A I have friends.

13 Q What kind of friends?

14 A I have best friends.

15 Q African American friends?

16 A Yes, sir, African American.

17 Q Okay.

18 A Lots of them.

19 Q So you have come into contact with African Americans
20 before?

21 A Oh, yeah, like every day.

22 Q Were you working back in January 2016?

23 A I was.

24 Q And where were you working?

25 A Substation II.

1 Q And what is Substation II?

2 A It is a sub place where you make sandwiches and
3 prep ---

4 THE COURT: I'm sorry, you are going to need to
5 speak up, please, ma'am.

6 THE WITNESS: Oh, I'm sorry.

7 A It is a sub place where you make sandwiches and do
8 prep work. And, you know, it is a sub place and we make
9 sub sandwiches.

10 Q What time did you get off work that day?

11 A 8:30.

12 Q A.M? P.M?

13 A P.M.

14 Q Had you driven to work that day?

15 A Yes, sir.

16 Q And what did you do as soon as you got off work?

17 A Walked to my car.

18 Q Where were you parked?

19 A Way across the parking lot. Towards the back. I
20 was ---

21 Q Were you alone?

22 A I was alone.

23 Q At that point was it raining; was it dark; what was
24 the weather like?

25 A The weather was fine. It wasn't raining.

1 Q Was it dark out?

2 A Oh, yeah, it was -- I mean it was 8:30 so it
3 wasn't -- you know, it wasn't like black black dark; but
4 it was ---

5 Q Was there lighting in the parking lot?

6 A Yes, sir.

7 Q Can you tell us what happened next?

8 A As soon as I got to my car I -- my hands were loaded
9 and I had a bunch of stuff that night. And threw it in
10 the passenger seat. And shut my door. Cranked my car.
11 Put on my seat belt.

12 And I had a pretty good drive. Then I don't want to
13 be on I-26 driving 65 miles an hour and have everything
14 slide off of the seat, so I was turned this way
15 (motioning) -- I was turning this way (motioning) and
16 like adjusting all of my stuff. And so I was looking
17 this way (motioning).

18 And then I heard bam, bam, bam, bam, bam, bam
19 on my window; and I just -- I jumped like (motioning).
20 Scared me to death. It scared me to death.

21 Q So what -- so what happened? What was his bamming
22 on the window?

23 A He was bamming on the window with a gun.

24 Q Who was?

25 A The defendant.

1 Q And what did he make you do?

2 A At first he was yelling at me telling me to get out
3 of the damn car now. And my mind was like -- it took my
4 mind a minute to like realize that I was in serious
5 trouble.

6 Q Can you tell us what the gun had looked like?

7 A A gun. He was about 5'7", 5'8". About 150, 160
8 pounds. Skinny. He was wearing a black hoodie pulled
9 all the way up. And he wasn't charcoal black, but he
10 wasn't malano. And he had a skinny face.

11 Q Now, Ms. Hooks, isn't it true that that night with
12 Detective Deming the same night of the incident you told
13 him that the defendant was actually 5'6" or 5'7"?

14 A I probably did, yes, sir.

15 Q And is it also true that later on a few days later
16 when you met with Detective Jarrell you actually said
17 that his age was more like 17 to 25 and actually it was
18 more like 17; did you say that?

19 A Yes, sir.

20 Q How soon after the defendant tapped on the window
21 did you see his face?

22 A Right away. He backed up a little bit. And I am
23 looking this way (motioning), and he is pointing the gun
24 at me. And I saw his faced perfectly.

25 Q Was anything obstructing his face?

- 1 A No, sir.
- 2 Q Now was he wearing a hoodie or anything like that?
- 3 A He was wearing a hoodie, a black hoodie.
- 4 Q Did that affect your ability to see his face at all?
- 5 A That actually helped me see his face because I
- 6 didn't have to focus on anything other than his face. So
- 7 when he was standing there pointing the gun at me and
- 8 screaming at me he -- the hoodie actually helped me see
- 9 just his face. And it actually had helped.
- 10 Q What was his demeanor at that time?
- 11 A Angry. Screaming.
- 12 Q And was there anybody else with him?
- 13 A I didn't know at the time while I was sitting in my
- 14 car if there was.
- 15 Q Do you recall what that individual looked like?
- 16 A After I got out of the car?
- 17 Q Yes.
- 18 A Kind of like my height. You know, dark black. And
- 19 not really -- even though he walked right up to me I was
- 20 still watching Grant because he was the one with the gun.
- 21 Q Did the other person have a gun?
- 22 A No, sir.
- 23 Q Where was he pointing the gun?
- 24 A My head.
- 25 Q Now you said earlier he said get out of the damn

1 car. Did you say something earlier initially to
2 detectives about him wanting to hurt you?

3 A Right. Right. Right. I was still sitting in my
4 car. And after he bammed on the window and said a few
5 times get out of the damn car now that is when I turned
6 and I looked and I was like, whoa, he's got a gun. And,
7 you know, real serious.

8 And plus he was screaming at me. And I don't know
9 if I can use the language that he -- am I allowed to ...?

10 THE COURT: You can testify to what you wish to
11 testify.

12 THE WITNESS: Exactly he said? Okay. He ---

13 THE COURT: He asked you what he said.

14 A Six times in a row he was holding the gun and he
15 goes I fucking swear I will hurt you. Or I swear I will
16 fucking hurt you. Or I am going to fucking hurt you. I
17 am going to fucking kill you.

18 And he said it about six times. And every time it
19 was I swear to God I am going to fucking hurt you.

20 Q Where was the gunman standing most of the time?

21 A Like right by my car. Like right there like. I am
22 looking right at him.

23 Q How far away from you was he?

24 A About a foot, foot-and-a-half.

25 Q Was that close enough to see his face clearly?

1 A Absolutely.

2 Q And did you get a good look at his face?

3 A I did. When he was screaming at me, you know, that
4 took -- that took a little while. So I kept looking at
5 his face.

6 Because I remember thinking in my head if I get
7 through this I want to be able to ID him. And so I kept
8 looking at his face and the gun and his face and the gun.

9 And with all that yelling he was doing at me. You
10 know, I swear to God I am going to fucking kill you or I
11 am going to fucking hurt you, it gave me time to look at
12 his face. A little extra time to look at his face.

13 Q Were you alert and attentive at that time?

14 A I was.

15 Q Were your senses functioning properly?

16 A I'm sorry?

17 Q Were your senses functioning properly?

18 A They were.

19 Q How is your vision, Ms. Hooks?

20 A Find. Good.

21 Q Was anything ever blocking your view of the
22 defendant ---

23 A No. I'm sorry.

24 Q Were you ever at any point directly facing him?

25 A When I got out of the car. When I got out of the

1 car and then, you know, we were face-to-face. And then I
2 kind of moved slowly away from him. And I kept my hands
3 up like this (motioning) the whole time.

4 Q How long did this whole thing last?

5 A Ten minutes.

6 Q So what happened after he is shouting at you and you
7 see the other guy; what happens?

8 A When he was shouting at me I am going like this
9 (motioning). Didn't even realize I had a pack of
10 cigarettes in this hand (motioning). You know, so I am
11 holding that.

12 And I was even scared to undo my seatbelt. So I
13 went like this (motioning). I go (motioning). And then
14 I got out of the car.

15 And that is when I looked at him right in the face.
16 And then when I looked to the left that was when I saw
17 Chisolm. That is the first time I had seen Chisolm. And
18 I was like, oh, there's two of them. I was like.

19 Q Is that the other person ---

20 A Yes, sir.

21 Q --- without the gun? What did that person do?

22 A He was talking to Grant. I was just backing up. So
23 I don't know what exactly he said to Grant except what
24 he -- I mean like when they were talking in private?

25 Q I am just asking you what he did, not what he said.

1 A Oh, Grant yelled at him and said get her fucking
2 cell phone. And then that is when Grant came -- I mean
3 Chisolm came up to me and I am going like this
4 (motioning). And he got a pack of cigarettes out of my
5 hand. I guess he thought it was my cell phone.

6 Q Now at that time you didn't know his name was
7 Chisolm; is that right?

8 A No, that is right; yeah. His friend. Whatever.

9 Q So after that he grabbed the pack of cigarettes.
10 What happens next?

11 A He walked away.

12 Q Who walked away?

13 A Them. He was friends with him.

14 Q And then what happened?

15 A Grant was going through my car on the driver's side.
16 And I just kept watching him. And finally he got in the
17 driver's seat.

18 And Chisolm walked around and got in the passenger
19 seat. And it took them a few minutes -- like a couple of
20 minutes it seemed. And then they backed up and they
21 finally left.

22 And I just stood there the whole time like this
23 (motioning). Like I didn't want to run. I didn't want
24 to get shot in the back. I just did like this
25 (motioning).

1 Q And what did you do after they took off?

2 A As soon as they took off I looked around and
3 everything like where I was working everything was
4 closed. And I was looking around to see light somewhere.

5 And that's when I noticed way across the street --
6 or Sam Rittenberg Highway I saw some lights. I didn't
7 know what store it was or -- I just ran across eight
8 lanes of traffic and tried to get a phone.

9 Q And did you call 911?

10 A Yes.

11 Q Did the police arrive?

12 A Absolutely. Immediately fast.

13 Q Did you tell them what happened?

14 A I did.

15 Q Did you give them a description of the defendant and
16 the other guy?

17 A I did the best I could. I was shaking and

18 Q Now you mentioned or Ms. -- rather Ms. Ehrlich
19 mentioned earlier about the whole blue eyes situation.
20 You mentioned that his eyes almost didn't look brown,
21 they almost looked bluish. Do you have an explanation
22 for that?

23 A It was the light shining down on his face. And then
24 the moon. I remember the moon was out. So it was pretty
25 bright outside.

1 Q Now are you sure the person you picked out of the
2 lineup is the same person in the courtroom today and the
3 same person who did the robbery?

4 A Yes, sir, I am sure.

5 MR. WARING: Court's indulgence, Your Honor.

6 THE COURT: Certainly.

7 MR. WARING: Please answer any questions the defense
8 has.

9 THE COURT: You may cross-examine.

10 **CROSS-EXAMINATION BY MS. EHRLICH OF CHRISTINA HOOKS (IC):**

11 Q Good afternoon, Ms. Hooks. When -- I want to ask
12 you a couple of questions about when Detective Jarrell
13 met with you at your home ---

14 A Okay.

15 Q --- for the identification. When he came to your
16 house did he let you know that they had a suspect in
17 mind, or what was the conversation like before he went
18 through the form?

19 A No, he did not tell me that there was a suspect. He
20 didn't tell me a name. He said I have some pictures I
21 would like for you to look at. He read me the, you know,
22 the thing -- I don't know what it is called.

23 Q Yes, ma'am.

24 A And then he was sitting like way over there
25 (motioning). And I was sitting right here (motioning).

1 And he turned on the tape recorder and handed me the
2 file.

3 Q Yes, ma'am.

4 A And then that was when he said you can take it out
5 of the file. And then I was just looking like
6 (motioning).

7 Q Okay.

8 A And I went through it and I was like, oh, that son
9 of a bitch -- well, I will be honest -- everybody saying
10 that is the last thing -- the -- of course being a lot of
11 it is the recorder doesn't -- I was like (pointing). I
12 just felt like that was him. You don't forget a face
13 when somebody is holding a gun to your head.

14 Q Okay. So when you said I think it is him to
15 Detective Jarrell you were saying that you are certain it
16 was him?

17 A Yes, ma'am.

18 Q Okay. And I guess at the time you were working at
19 Substation and Substation closed around 8:30, correct?

20 A We closed at 8:00 and locked the door, and that
21 way ---

22 Q It takes you 30 minutes to clean up?

23 A Yeah, we hurry. We hurry, hurry, hurry to try to
24 get out of there.

25 Q And you left with your coworker -- you left at the

1 same time as your coworker?

2 A I did.

3 Q But she pulled off before you left?

4 A Left me. Well, her boyfriend picked her up and
5 they, phew, left me. And I was like (motioning).

6 Q And that is when you got into your car, correct?

7 A So ---

8 Q Or were you already in your car when they left?

9 A Oh, no, no, no, I was still up on the stoop by
10 Substation II.

11 Q Okay. But it was after -- it was maybe around 8:30
12 at night that this happened do you think?

13 A By the time I walked across the parking lot and got
14 in my car and threw everything in the passenger seat it
15 had to have been about 8:35.

16 Q Okay. And there's no question the sun had already
17 set, right; because you testified on direct ---

18 A It did. Yes. It was -- it was January and it is
19 dark -- you know, ---

20 Q Okay.

21 A --- dark around 8:30.

22 Q And you parked in the back of the parking lot kind
23 of away from the business, correct?

24 A Well, like if the store is here (motioning) and like
25 here (motioning) is the front, we have to park across the

1 parking lot. It is still in the same.

2 Q But you are still -- you are parked away from the
3 businesses?

4 A Right, because so customers can have these
5 (motioning) parking slots.

6 Q And I think you told Detective Jarrell that it was
7 so dark it was right there by the tree where there isn't
8 light?

9 A I don't remember it was like so dark. It was
10 just -- no, I could see my car. I could see my car.

11 Q I'm sorry?

12 A I could see my car fine.

13 Q Oh, I am not asking if you could see your car. But
14 it was dark outside, correct?

15 A It was nighttime. Getting -- getting to be
16 nighttime.

17 Q And there weren't -- you didn't see any other cars
18 in the parking lot?

19 A No, sir. I mean, no, ma'am.

20 Q That's okay. And I think you told the police that
21 once you got in your car you wanted to kind of take a
22 minute before driving home; is that correct?

23 A I just put the stuff down and I remember putting my
24 head back going phew. Because we had just got done
25 running around. And I was just like phew.

- 1 Q So you were kind of tired from the workday, correct?
- 2 A Tired but awake and alert.
- 3 Q Okay.
- 4 A Just physically, you know, tired. That's all.
- 5 Q Yes, ma'am. And the State asked you if you -- how
- 6 your vision is. Do you wear glasses or contacts?
- 7 A No, ma'am.
- 8 Q Okay. And part of what was taken during the robbery
- 9 was some of your medication, correct?
- 10 A That is correct.
- 11 Q The detective kept asking you about the medication
- 12 and why did you have so much medication. But the
- 13 medication that was taken was hydrocodone, correct?
- 14 A Yes, it was.
- 15 Q And that is medication that I think you said that
- 16 you took three times a day usually, for your back?
- 17 A For my back.
- 18 Q Okay.
- 19 A But not until I get home after work.
- 20 Q Okay.
- 21 A I had just picked that up that day, so it was full.
- 22 There were no ---
- 23 Q So you ---
- 24 A --- one pill missing.
- 25 Q So when you -- when you went through this incident

1 you had not taken the medication?

2 A No, ma'am. No, not at all. No, I don't want to go
3 to work and -- no, I have to go home and then ---

4 Q Okay. When you -- you called 911 and the police
5 responded; you spoke initially to a responding officer
6 and I think you said you were still real shaken up at
7 that point?

8 A Yeah.

9 Q Okay. Then you spoke to a Detective Deming?

10 A Right.

11 Q And that is the officer that you told -- gave a
12 description, an initial description to; correct?

13 A Yes, ma'am.

14 Q And in that description you thought the agents
15 were -- that both suspects was -- were 20 to 25, at that
16 time?

17 A At that time.

18 Q Okay. That the weights were approximately 150 to
19 160 pounds?

20 A Right.

21 Q That the hoodie was up?

22 A Yes, ma'am.

23 Q On both suspects?

24 A Yes, ma'am.

25 Q Okay. And you told that investigator that you were

1 kind of in shock and very upset?

2 A Oh, absolutely.

3 Q Okay. I think you told him your head was spinning
4 from going through the ordeal?

5 A I don't remember saying that. But if he wrote that
6 down then I can't -- I am not going to lie. I don't
7 remember saying that but.

8 Q Okay. The next time you gave a description to the
9 police was several days later when you met with Detective
10 Jarrell?

11 A Right.

12 Q And that is when you changed your description as far
13 as ages from 20 to 25 to 17 to 25, correct?

14 A That's correct. That's correct.

15 Q And when they asked you if you could recognize the
16 person again, you said maybe; right?

17 A Well, before I saw the lineup?

18 Q Yeah. I am not ---

19 A I don't remember -- I don't remember saying maybe.

20 Q Okay. You had a conversation where you told the
21 detective that you wished they had done a sketch that
22 night because your memory was getting foggy; do you
23 remember that?

24 A I don't remember saying that my memory was getting
25 foggy. In fact it was getting clearer.

1 Q Okay. Do you -- would looking at a transcript of
2 your interview with the detective potentially refresh
3 your memory?

4 A With the detective?

5 Q Uh-huh.

6 A No. Or looking at a

7 Q I'm sorry?

8 A That was a tape recorder. I don't remember looking
9 at that transcript.

10 Q It is -- no, if I showed you a transcript would it
11 refresh your memory that you said that your memory was
12 getting foggy?

13 A Yes.

14 MS. EHRLICH: Court's indulgence.

15 THE COURT: Okay.

16 MS. EHRLICH: May I approach, Your Honor?

17 THE COURT: Ms. Ehrlich, you can -- you can just --
18 I mean -- do it a different -- trial -- for the purposes
19 you just tell her -- show it to her and say this --
20 didn't you say this.

21 MS. EHRLICH: Yes, Your Honor. Yes, sir. Sorry.
22 May I approach the witness?

23 Q Ma'am, do you remember saying things were just
24 getting foggy?

25 A Like I said, if it is on the paper then I believe

1 you.

2 Q Yes, ma'am.

3 A It was just a traumatic thing. But I have had a
4 long time to -- you know how you remember things. When
5 something traumatic happens to you - and God forbid it
6 doesn't - your mind like protects you and it -- I was
7 scared. I mean I was -- I have never been more scared in
8 my life.

9 But when you can breathe and you think and you can
10 settle down, a lot of things come back to you.

11 Q Yes, ma'am. I don't have ---

12 A Except for his face. I haven't forgotten his face.
13 I think about it every morning.

14 Q Yes, ma'am.

15 MS. EHRLICH: I don't have any other questions, Your
16 Honor.

17 THE COURT: Okay. Redirect.

18 MR. WARING: Thank you, Your Honor. Just one
19 question.

20 **REDIRECT EXAMINATION BY MR. WARING OF CHRISTINA HOOKS**

21 **(IC):**

22 Q Ms. Hooks, in between the two descriptions that you
23 gave initially that night when you said that the
24 defendant was twenty to twenty-five and then you changed
25 it about eight days later and narrowed it down more to

1 seventeen to twenty-five - in fact he was almost had to
2 be seventeen is what you said - during that time what
3 changed to necessitate that change in the age and inch or
4 two in the height here and there?

5 A Progression of time and myself calming down and
6 everything coming back together to -- coming back to me.

7 Q Did you have a chance to reflect?

8 A Yes, that's it. Thank you. I couldn't think of the
9 word. Like progression and I am trying to think of the
10 word. I had time to reflect and think. Believe me, that
11 is all I do is think about that day -- think about that
12 night I mean.

13 MR. WARING: No further questions, Your Honor.

14 THE COURT: Re-cross?

15 MS. EHRLICH: No, Your Honor.

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

17 THE WITNESS: Thank you.

18 THE COURT: Thank you.

19 Are there any additional witnesses?

20 MR. WARING: Your Honor, we would like to recall
21 briefly Detective Jarrell just to go into some of this
22 reliability stuff.

23 THE COURT: Okay. That is fine. Really if you want
24 to. I don't know that you need to.

25 But I remind you you are still under oath.

1 THE WITNESS: Yes, Your Honor.

2 **RECALL - DIRECT EXAMINATION BY MR. WARING OF DETECTIVE**

3 **JARRELL (IC):**

4 Q Detective, mainly just one question.

5 A Yes, sir.

6 Q During this investigation did you pull the

7 defendant's DMV report?

8 A I did.

9 Q And on that report does it contain useful

10 information such as height, weight, etc.?

11 A It does.

12 Q Do you recall what at that time the defendant's DMV

13 report labeled his height and weight and age as?

14 A He at that time he was 17 years old and 5'6" and 120

15 pounds.

16 MR. WARING: Please answer any questions the defense

17 has.

18 THE COURT: Do you have any questions?

19 MS. EHRLICH: No questions.

20 THE COURT: You can come down. Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: Anything else, Solicitor?

23 MR. WARING: No, Your Honor.

24 THE COURT: Any evidence the defendant wishes to

25 present on this issue?

1 MS. EHRLICH: No, Your Honor.

2 THE COURT: I will be happy to hear from you in
3 argument if you wish.

4 MS. EHRLICH: I don't have any further argument,
5 Your Honor.

6 THE COURT: Anything else?

7 MR. WARING: Your Honor, just that we don't think
8 the lineup is suggestive, and based on the case law we
9 don't think we get to the second prong.

10 But if we do I think nevertheless the victim's ID is
11 still reliable based on the five factors of Biggers, Your
12 Honor.

13 THE COURT: Well, I would agree that -- in this
14 particular situation I have now heard all of the
15 testimony.

16 I have also looked at a couple of cases or notes
17 from a couple of cases and I find this case -- if any of
18 these cases pass -- it pass muster, because that -- could
19 I also see two?

20 (WHEREUPON, Court's Exhibit 2 was provided to the Court.)

21 THE COURT: For the record I need to note this is
22 part of my reasoning and discretion. When I saw this
23 lineup the first time I saw it actually Number 3 looks
24 more like the defendant than Number 4 does to me. And I
25 really thought, wow, that's -- that's a good picture.

1 But then it is Number 3 -- or Number 4.

2 But clearly there are several cases. State versus
3 Lyons at 164 S.E. 2d 445 is a 1968 case. But it is still
4 the law in this state. It says basically in that case
5 despite some disparity of heights and weights of persons
6 in out-of-court lineups in-court identification is
7 admissible where a witness also picked the defendant out
8 of a lineup.

9 So that is just, again, may be some contradiction;
10 but that doesn't make it inadmissible and not to admit
11 it.

12 This one I find to be also important where defendant
13 was the only person to appear in both photographic
14 lineups and the only person to have a beard in a physical
15 lineup identification was suggestive but still reliable
16 pursuant to the factors of Neil v. Biggers. Well, that
17 takes care of our little PNG as far as I am concerned.

18 If you have got a person -- the only person in there
19 has a beard and everybody else doesn't have, if that
20 isn't suggest- -- that is more suggestive than having a
21 capital letter. So I am comfortable now with my decision
22 on that.

23 So given all of that. And it is clear from the
24 testimony that the witness had the opportunity, extreme
25 opportunity, to view. I find it unique and interesting

1 the testimony about the hoodie, and it makes perfect
2 sense from a common sense standpoint. The only thing she
3 has seen is his face.

4 And I thought her testimony was very impressive and
5 persuasive that if I made it out of this ordeal I want to
6 be able to identify this person. And I think that shows,
7 first, clarity of her thought process.

8 And the court also notes and I find credibility of
9 the witness concerning the hydrocodone. And no question
10 hydrocodone could have an effect; but here is a person
11 who has worked all day long and who has performed the
12 functions of an employee of Subway and done that and then
13 is in her car, has the wherewithal to say wait a minute I
14 want to move my stuff.

15 Which was very -- again, somebody that is aware of
16 what is going on so it doesn't fall off the seat. We
17 have all had that happen.

18 Shows that she is certainly clear as to what is
19 going on. And the attention to detail was quite evident
20 to me. And I would find that it is convincing to me as
21 to the reliability of the identification.

22 She really except for some discrepancies in age and
23 height. The eyes thing, that really depends on lighting
24 and everything else; but that really is not a factor that
25 would cause me to say that it is not reliable and

1 accurate.

2 No question she said it is certainty. And I think
3 the fact that she paused shows again her deliberate
4 attempt to make sure that her selection is accurate. And
5 I -- so I find that to be further.

6 And the time between the crime and the confrontation
7 quite frankly I think it is quite significant that she
8 would be able to even in a state where it would be
9 perfectly normal for her to still be under the influence
10 of this, where the photographs are so similar to be able
11 to pick out the correct person is again indicative of the
12 reliability and supportive of reliability.

13 So for all of those reasons I would allow -- I would
14 permit the testimony.

15 Thank you.

16 All right. Anything else?

17 MS. EHRLICH: Your Honor, I think any other issues
18 those ---

19 THE COURT: Would be trial issues?

20 MS. EHRLICH: Would have to come up during the
21 trial.

22 THE COURT: All right. We are off the record then.

23 (WHEREUPON, scheduling was discussed 8/4/17, 12:30 p.m.)

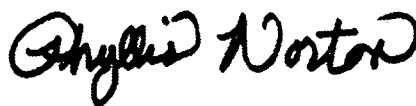
24 (WHEREUPON, pretrial motions concluded.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on August 4, 2017.

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



PHYLLIS NORTON, CVR

Date: December 2, 2017

Certified Transcript Provided For: SCCID
Certification Reference #120217 Original

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2016-GS-10-2106
	)	2016-GS-10-2116
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	
	)	
DEVANTE ANTONIO GRANT	)	
	)	
Defendant	)	
	)	
	)	
_____	)	TRANSCRIPT OF RECORD
		August 7, 2017
		Charleston, South Carolina

VOLUME 1 (OF 2)

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR., JUDGE

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

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JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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STATE

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STATE

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>
25	Visitation video log	
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28	(withdrawn)	
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41	(withdrawn)	
42	(withdrawn)	
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45	(withdrawn)	
46	(withdrawn)	
47	(withdrawn)	
48	(withdrawn)	

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STATE

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>
49	(withdrawn)	
50	(withdrawn)	
51	(withdrawn)	
52	(withdrawn)	
53	(withdrawn)	
54	(withdrawn)	
55	Letter from Df to Chisolm	
56	Envelope from Df to Chisolm	
57	Left handed writing sample	
58	Right handed writing sample	
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PROCEEDINGS

THE COURT: Ladies and gentlemen thank you very much. I'm sorry for the close quarters but we're trying again to accommodate you. We're going to do something -- typically we qualify one case at a time but I'm going to qualify two and from you we will select our jury. It will take a little bit longer and you'll have to endure a few more names that you customarily do.

The first one, there are two cases. One, I'm going to tell you how they are styled and the parties involved. First of all in every single case in a criminal dispute one of the parties is the State of South Carolina; that's the charging party.

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Voir Dire
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VOIR DIRE

THE COURT: This case is captioned the State of South Carolina versus Devante Antonio Grant. Mr. Grant is seated at the table here to my left. Mr. Grant if you would please, stand and face the jury panel for me.

[Whereupon, the defendant complies]

THE COURT: Thank you. You may be seated. Are there any members of the jury panel related by blood or marriage or have any business dealings with socially or casually acquainted with, have any connection with Mr. Grant? If so, please stand.

[Whereupon, no one stands]

THE COURT: Thank you. There appear to be none. Mr. Grant is being represented in this matter by Ms. Ehrlich. If you will, identify yourself and anyone who will be assisting you, please.

MS. EHRLICH: Thank you, Judge. My name is Megan Ehrlich. I'm an attorney at the Public Defender's office. Assisting me will be Jessica Birt who is also an attorney in our office. You may see a really tall guy with glasses coming in and out of the courtroom and that's my investigator and his name is Dale --

THE COURT: I'm sorry, Dale who?

MS. EHRLICH: Wilson.

THE COURT: Wilson. Thank you. Are there any

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1 members of the jury panel related by blood or marriage or
2 have any business dealings with, socially or casually
3 acquainted with, ever been represented by Ms. Ehrlich or
4 Ms. Birt? If so, please stand.

5 [Whereupon, a juror stands]

6 THE COURT: Yes?

7 MS. ANTLEY: Ms. Birt worked at the law firm who was
8 representing my son in a family child custody case.

9 THE COURT: Is presently representing?

10 MS. ANTLEY: No sir, previously.

11 THE COURT: Formerly. The fact that she -- was she
12 directly involved in that case?

13 MS. ANTLEY: She was.

14 THE COURT: Would that influence or affect you in
15 this matter?

16 MS. ANTLEY: No, sir.

17 THE COURT: Will you base your decision on the
18 evidence and the law and will the decision be fair to
19 both sides?

20 MS. ANTLEY: Yes.

21 THE COURT: And your name and number please?

22 MS. ANTLEY: Barbara Antley, number 3.

23 THE COURT: Thank you, Ms. Antley. Anyone else?

24 [Whereupon, no one stands]

25 THE COURT: Thank you. There appear to be none.

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1 Ms. Ehrlich and Ms. Birt are part of the Public
2 Defender's Office for the 9th Circuit. The public
3 defender for the 9th Circuit is Ashley Pennington. Are
4 any members of the jury panel related by blood or
5 marriage, have any business dealings with, socially or
6 casually acquainted, ever been represented by Mr.
7 Pennington? If so, please stand.

8 [Whereupon, a juror stands]

9 THE COURT: Yes?

10 MS. WISH: He was a neighbor of mine.

11 THE COURT: Was?

12 MS. WISH: Was, yes.

13 THE COURT: Would that affect or influence you in
14 any way?

15 MS. WISH: No.

16 THE COURT: Will you base your decision on the
17 evidence and the law and will your decision be fair to
18 both sides?

19 MS. WISH: Yes.

20 THE COURT: Your name and number please?

21 MS. WISH: Camille Wish and I don't remember my
22 number, I'm sorry.

23 THE COURT: Thank you, Ms. Wish. Do you have her
24 number?

25 CLERK OF COURT: 345.

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1 THE COURT: Thank you very much. Are there any
2 others?

3 [Whereupon, no one stands]

4 THE COURT: Thank you. There appear to be none.
5 Any member of the jury panel who you or a member of your
6 family is employed with the Public Defender's office. He
7 has offices in Berkeley and in Charleston County? If so,
8 please stand.

9 [Whereupon, no one stands]

10 THE COURT: Thank you. There appear to be none.
11 The State of South Carolina is represented throughout the
12 State by Solicitors. Solicitors as you know are elected
13 officials and we have in our circuit, the 9th Circuit,
14 Ms. Scarlett Wilson. Are there any members of the jury
15 panel related by blood or marriage, have any business
16 dealings with, socially or casually acquainted, with Ms.
17 Wilson or ever been represented by her? If so, please
18 stand.

19 [Whereupon, no one stands]

20 THE COURT: Thank you. There appear to be none.
21 Are there any members of the jury panel related by blood
22 or marriage to anyone employed with the Solicitor's
23 Office? She has offices also in Berkeley and in
24 Charleston County. If so, please stand.

25 [Whereupon, no one stands]

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1 THE COURT: Thank you. There appear to be none.
2 She also has Deputy Solicitors that assist her and in
3 this case Mr. Waring is one of those deputies. If you
4 will identify yourself and anyone who will be assisting
5 you please, sir.

6 MR. WARING: Good morning everybody. My name is
7 Richard Waring. I'm an Assistant Solicitor for the State
8 of South Carolina. Helping me is my co-counsel, David
9 Osborne who is also an Assistant Solicitor. Thank you.

10 THE COURT: Thank you. Are any members of the
11 jury panel related by blood or marriage, have any
12 business dealings with, socially or casually acquainted
13 with, ever been represented by Mr. Waring or Mr. Osborne?
14 If so, please stand.

15 [Whereupon, no one stands]

16 THE COURT: Thank you. There appear to be none.
17 Now I want to introduce to you the second dispute is the
18 State of South Carolina versus Laquetta Meggett. Ms.
19 Meggett is seated behind here in front -- if you would
20 stand please and face the jury panel.

21 [Whereupon, Ms. Meggett complies]

22 THE COURT: Thank you Ms. Meggett, you may be
23 seated. Are there any members of the jury panel related
24 by blood or marriage or have any business dealings with,
25 socially or casually acquainted with, ever have any

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1 connection at all with Ms. Meggett? If so, please stand.

2 [Whereupon, no one stands]

3 THE COURT: Thank you. There appear to be none.

4 Ms. Meggett is represented by Mr. Smiley and Ms. Hensley.

5 If you will identify yourselves and your office please?

6 MS. HENSLEY: Good morning. My name is Laree

7 Hensley. I'm an attorney in private practice in North

8 Charleston. My office is on Remount Road. My practice

9 consists mostly of criminal defense and family law and it

10 is my honor and privilege to represent Laquetta Meggett.

11 MR. SMILEY: My name is Jim Smiley. I've been a

12 member of the Charleston County Bar since 1993. I have

13 an office here on Broad Street. And I will be assisting

14 Ms. Hensley representing Ms. Meggett this week. Thank

15 you.

16 THE COURT: Thank you. Are there any members of

17 the jury panel related by blood or marriage or have any

18 business dealings with, socially or casually acquainted

19 with or ever been represented either by Ms. Hensley or

20 Mr. Smiley? If so, please stand.

21 [Whereupon, no one stands]

22 THE COURT: Thank you. There appear to be none.

23 The State of South Carolina as I mentioned is represented

24 by Assistant Solicitors. Mr. Corvey, if you will

25 identify yourself and anyone who will be assisting you

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1 please sir.

2 MR. CORVEY: Thank you, Your Honor. Good morning
3 ladies and gentlemen. My name is Ted Corvey. I'm an
4 Assistant Solicitor here in Charleston County. Assisting
5 me with this case is Ms. Lauren Frierson. She is also an
6 attorney in my office. You will probably also see my
7 investigator coming in and out of the courtroom. He's a
8 very tall man and his name is Chuck --

9 THE COURT: Chuck who?

10 MR. CORVEY: Jowell [phonetic].

11 THE COURT: Jowell [phonetic]. Are there any
12 members of the jury panel related by blood or marriage or
13 have any business dealings with, socially or casually
14 acquainted with Ms. Frierson or Mr. Corvey or Mr. Jowell
15 [phonetic] or ever been represented by Ms. Frierson or
16 Mr. Corvey? If so, please stand.

17 [Whereupon, a juror stands]

18 THE COURT: Yes, ma'am?

19 MS. BALDWIN: I am a friend of Lauren Frierson.

20 THE COURT: Would that affect or influence you in
21 this dispute?

22 MS. BALDWIN: No.

23 THE COURT: Will you base your decision on the
24 evidence and the law and will your decision be fair to
25 both sides?

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1 MS. BALDWIN: Yes.

2 THE COURT: Your name and number, please?

3 MS. BALDWIN: Angela Baldwin, number 7.

4 THE COURT: Thank you, Ms. Baldwin. Anyone else?

5 [Whereupon, no one stands]

6 THE COURT: Thank you. There appear to be none.

7 In the dispute involving Mr. Grant I'm going to share
8 with you what has been alleged. What these documents I
9 hold in my hand are called indictments. They are just
10 formal charging, the charging of Mr. Grant. It's not
11 evidence. The evidence of course you will hear during
12 the trial of the case but I need to ask you some
13 questions about his case as well as Ms. Meggett's case.

14 It is alleged that Mr. Grant did on January the
15 26th, 2016 in Charleston County by use of force, threats,
16 or intimidation and while armed with a deadly weapon
17 while alleging either by actions or words that he was
18 armed while using a representation of a deadly weapon or
19 any object which a person present during the commission
20 of a robbery believed to be a deadly weapon did take and
21 carry away goods and or monies from the person in the
22 immediate possession of Kristina Hooks with the intent to
23 deprive Ms. Hooks of that property permanently.

24 And it is further alleged that at the time he did
25 have a firearm, possess a firearm during the commission

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1 or attempted commission of a violent crime namely armed
2 robbery. I share that with you first of all to find out
3 if any member of the jury panel has read anything, heard
4 anything or have any prior knowledge of this dispute? If
5 so, please stand.

6 [Whereupon, no one stands]

7 THE COURT: Thank you. There appear to be none.
8 Ms. Meggett is accused in this indictment, and again this
9 piece of paper is not evidence, but the allegations
10 against Ms. Meggett are that she did in Charleston County
11 at [REDACTED] in the city of North Charleston on
12 or about February the 10th, 2016 did torture, torment,
13 needlessly mutilate, cruelly kill or inflict excessive or
14 repeated excessive and unnecessary pain and suffering
15 upon an animal in violation of the law that prescribes
16 that conduct.

17 I share that with you to find out if any member of
18 the jury panel has heard anything, read anything or have
19 any prior knowledge of this dispute? If so, please
20 stand.

21 [Whereupon, no one stands]

22 THE COURT: Thank you. There appear to be none.
23 I'm going to identify a number of persons ladies and
24 gentlemen if you will bear with me. If you are related
25 by blood or marriage, have any business dealings with,

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1 socially or casually acquainted with, have any connection
2 at all with any of these persons or entitles you need to
3 stand and share that information. If you will just wait
4 until I complete the list, they are rather lengthy, then
5 you can stand and we'll deal with you one at a time.

6 Officer Matthew Jahngen, Tonia Mallette, Kristina
7 Hooks, Investigator Adam Deming, Officer Abril
8 Washington-Saunders, Lisa Bloodworth, Melissa Bryant,
9 Officer Jerry Roberts, Michael Allen, Chandra White,
10 Rodney Davis, Investigator Dan Eckert with the 9th
11 Circuit Solicitor's Office, Gaile Heath who is with SLED,
12 Saivon Chisolm, Investigator Amanda Hiouel with the 9th
13 Circuit Solicitor's office, Detective Jason Jarrell,
14 Sergeant Louis Staggers, Lieutenant Michael Thomas,
15 Justin Elliot, Detective Joseph Harvill with the
16 Charleston Police Department, CST Nada Kerstein with the
17 Charleston Police Department, Detective Gladwell; all of
18 these are with the Charleston Police Department,
19 Detective Casey Havers, CST Luke Spratt, Detective Tonya
20 Duby-Gritzuk, Officer Kyle Rough with the North
21 Charleston Police Department, Detective James Richardson,
22 Charleston Police Department, Linda Wilson also with
23 Charleston Police Department, Christine Andrews, Dean
24 Ladson, Investigator Eric Jourdan with the 9th Circuit
25 Solicitor's office, Officer Kevin Sherbine with the

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1 Charleston County Detention Center, Sergeant John
2 Reynolds with North Charleston Police Department,
3 Jennifer Clayton with SLED, Sergeant Jeremy Ledford,
4 North Charleston Police Department, Doris Yarborough with
5 SLED, John Jamieson with SLED. Dawn McQuiston, Ph.D,
6 Amelia Hurd, anyone -- there may be person with crime
7 scene technician or Crime Scene Technician Spratt with
8 Charleston County Police Department, Investigator C.A.
9 Broadwater with Charleston Police Department, Officer
10 Sarah Gladwell with Charleston Police Department,
11 Sergeant Kruger with the North Charleston Police
12 Department, Agent Louis Moore, Department of Probation
13 and Parole, Cheni Ballon [phonetic] with the CPD Animal
14 Control formally known as North Charleston Animal
15 Control, Carrie Stout, North Charleston P.D. Animal
16 Control; Baldwin Roman, Doctor Lucy Fuller, a
17 veterinarian, David Ayers, Joyce Joans, Joel Norman,
18 Officer Matt Reese with the North Charleston Police
19 Department; Alexis Johnson; Doctor Katherine Benton, DVM,
20 a veterinarian; Marie Waring, South Carolina Department
21 of Motor Vehicles, possible custodians of the records of
22 Charleston County RMC; and possible representative from
23 Enterprise Rental Car.

24 Any member of those persons -- or anyone related by
25 blood or marriage or have any business dealings with any

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1 of those individuals? If so, please stand.

2 [Whereupon, no one stands]

3 THE COURT: Thank you. There appear to be none.

4 Is there anything about the nature of these disputes;
5 someone accused of ill treatment of animals or somebody
6 accused of committing armed robbery while armed with a
7 weapon that would give you because of something that has
8 happened in your life, something that has happened to a
9 personal friend or family member, some strong philosophy
10 you think that would affect your ability to fairly and
11 impartially apply the law in either of these cases? If
12 so, please stand.

13 [Whereupon, a juror stands]

14 THE COURT: Yes. I'll ask you to come forward.
15 Attorneys may approach as well.

16 [Whereupon, the juror and all counsel come forward]

17 THE COURT: Good morning. Your name please?

18 MS. GRUDOWSKI: Kelly Grudowski.

19 THE COURT: Do you know your number?

20 MS. GRUDOWSKI: 116.

21 THE COURT: Yes, ma'am. What's your situation?

22 MS. GRUDOWSKI: I just love animals. I saw an
23 article in the paper about this happening --

24 THE COURT: And I appreciate that. Would that
25 affect you in the charge of the case involving the armed

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1 robbery?
2 MS. GRUDOWSKI: No.
3 THE COURT: You could be fair and impartial?
4 MS. GRUDOWSKI: Yes.
5 THE COURT: Okay. And your number again?
6 MS. GRUDOWSKI: 116.
7 THE COURT: 116?
8 MS. GRUDOWSKI: 116.
9 THE COURT: 116 will not participate in the case
10 involving Ms. Meggett. Thank you.
11 [Whereupon, the juror returns to the audience]
12 THE COURT: Are there any others?
13 [Whereupon, no one stands]
14 THE COURT: Thank you. There appear to be none.
15 Has any member of the jury panel now or formerly a member
16 of your immediate family connected with law enforcement
17 or including animal control officers or that type of
18 officer? If so, please stand.
19 [Whereupon, no one stands]
20 THE COURT: Thank you. There appear to be none.
21 Any member of the jury panel ever been involved in a
22 criminal dispute in any capacity? If you were a witness
23 for the State or a witness against or a witness for the
24 person accused of the crime, you were the person accused
25 of the crime or you were the person against who the crime

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1 was allegedly committed if you've had any involvement at
2 all with any criminal disputes? If so, please stand.

3 [Whereupon, jurors stand]

4 THE COURT: Okay. I'd ask y'all to come forward
5 please one at a time.

6 THE BAILIFF: 191.

7 [Whereupon, the juror comes forward]

8 THE COURT: Good morning, sir. If you would give
9 me your name and number, please.

10 MR. MATNEY: Douglas Matney, 191.

11 THE COURT: Yes, sir?

12 MR. MATNEY: I'm a banker and we prosecuted a bad
13 check.

14 THE COURT: Okay. Would that affect you in any
15 way or influence you in either one of these disputes?

16 MR. MATNEY: No.

17 THE COURT: Could you apply the law fairly and
18 impartially?

19 MR. MATNEY: Yes, sir.

20 THE COURT: And will you be fair to all parties?

21 MR. MATNEY: Yes, sir.

22 THE COURT: Thank you, sir. 191 will remain.

23 [Whereupon, the juror returns to the audience]

24 THE BAILIFF: 320.

25 [Whereupon, the juror comes forward]

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1 THE COURT: Yes, sir.
2 MR. VANE: Dennis Vane.
3 THE COURT: Yes, sir.
4 MR. VANE: I gave a deposition in a child abuse
5 case.
6 THE COURT: Would that affect or influence you in
7 either of these cases?
8 MR. VANE: No.
9 THE COURT: Will you apply the law fairly and
10 impartially in either case?
11 MR. VANE: I will.
12 THE COURT: And your decision will be based on the
13 evidence and the law and fair to all parties?
14 MR. VANE: It will.
15 THE COURT: Thank you, sir. 320 will remain.
16 [Whereupon, the juror returns to the audience]
17 THE BAILIFF: Mr. Palus; he doesn't know his
18 number.
19 MR. PALUS: Brian Palus.
20 [Whereupon, the juror comes forward]
21 THE COURT: Mr. Palus, thank you. Its 229.
22 MR. PALUS: I have been a witness in a construction
23 property case against me and I have also been charged
24 with simple possession of marijuana.
25 THE COURT: Were any of those charges handled by

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1 the Solicitor's office in this area?

2 MR. PALUS: No, sir.

3 THE COURT: Would that influence or affect you in
4 any way, sir?

5 MR. PALUS: No, sir.

6 THE COURT: Will you base your decision on the
7 evidence and the law and be fair to both sides; all
8 parties?

9 MR. PALUS: Yes, sir.

10 THE COURT: Thank you so much. 229 will remain.
11 Thank you.

12 [Whereupon, the juror returns to the audience]

13 THE BAILIFF: 222.

14 [Whereupon, the juror comes forward]

15 THE COURT: Yes, sir. And your name please?

16 MR. O'DONNELL: Daniel O'Donnell.

17 THE COURT: Yes, sir.

18 MR. O'DONNELL: There was an assault case in college
19 and I was convicted of assault.

20 THE COURT: You were convicted of assault. Would
21 that affect you at all in this dispute?

22 MR. O'DONNELL: No.

23 THE COURT: And that was not in this circuit, is
24 that right?

25 MR. O'DONNELL: No.

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1 THE COURT: And you would be able to base your
2 decision on the evidence and the law and be fair to all
3 parties?

4 MR. O'DONNELL: Yes, sir.

5 THE COURT: Thank you so much. 222 will remain.

6 [Whereupon, the juror returns to the audience]

7 THE COURT: Has any member of the jury panel ever
8 had any disputes with law enforcement agencies or a law
9 enforcement officer? If so, please stand.

10 [Whereupon, no one stands]

11 THE COURT: Thank you. There appear to be none.
12 Is any member of this jury panel a member of an animal
13 advocacy group or foster group of animals such as Belly
14 Rubs for Bassets, Lucky Dog, Animal Rescue, Best Friends
15 Animal Society, Leash, L-E-A-S-H Squad, Dirt Roads, Bully
16 for -- Charleston Animal Society or any similar group?
17 If so, please stand.

18 [Whereupon, a juror stands]

19 THE COURT: Yes?

20 MR. EVERETT: Charleston Animal Society --

21 THE COURT: Would that affect you or influence you
22 sir?

23 MR. EVERETT: No, sir.

24 THE COURT: Will you base your decision on the
25 evidence and the law and will that decision be fair to

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1 both sides?

2 MR. EVERETT: Yes, sir.

3 THE COURT: Thank you, sir. And your number and
4 name please?

5 MR. EVERETT: 84, Robert Everett.

6 THE COURT: Thank you, sir.

7 [Whereupon, a juror stands]

8 THE COURT: Yes, ma'am.

9 MS. JACKSON: I have done volunteer work with the
10 Charleston Animal Society.

11 THE COURT: Would that affect or influence you?

12 MS. JACKSON: No.

13 THE COURT: And will you base your decision on the
14 evidence and the law and will you be fair to both sides?

15 MS. JACKSON: Yes, sir.

16 THE COURT: Your name and number?

17 MS. JACKSON: Susan Jackson, 150.

18 THE COURT: Thank you, Ms. Jackson.

19 [Whereupon, a juror stands]

20 THE COURT: Yes, sir.

21 MR. METTS: My family fosters pets that have been
22 abused.

23 THE COURT: Okay. Would that affect or influence
24 you?

25 MR. METTS: No.

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1 THE COURT: Will you base your decision on the
2 evidence and the law and will you be fair to both sides?
3 MR. METTS: Yes, sir.
4 THE COURT: And your name and number?
5 MR. METTS: Chris Metts, 206.
6 THE COURT: Thank you, Mr. Metts. Anyone else?
7 [Whereupon, a juror stands]
8 THE COURT: Yes, sir.
9 MR. PALUS: I knew someone who adopted a dog from
10 the Pet Helpers and my family --
11 THE COURT REPORTER: I'm sorry; I'm having a hard
12 time hearing you.
13 THE COURT: You need to speak up.
14 MR. PALUS: My family volunteers for rescues.
15 THE COURT: Okay. Would that affect or influence
16 you, sir?
17 MR. PALUS: No.
18 THE COURT: Will you base your decision on the
19 evidence and the law and will it be fair to both sides?
20 MR. PALUS: Yes.
21 THE COURT: Your name and number again?
22 MR. PALUS: Brian Palus, 229.
23 THE COURT: Thank you, sir.
24 [Whereupon, a juror stands]
25 THE COURT: Yes, ma'am.

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1 MS. WISH: I volunteer for Charleston Animal Society
2 as well.

3 THE COURT: Would that affect or influence you in
4 any way?

5 MS. WISH: No.

6 THE COURT: Will you base your decision on the
7 evidence and the law?

8 MS. WISH: Yes.

9 THE COURT: And will that decision be fair to both
10 sides?

11 MS. WISH: Yes.

12 THE COURT: Your name and number please?

13 MS. WISH: Camille Wish, 345.

14 THE COURT: Thank you, Ms. Wish.

15 [Whereupon, a juror stands]

16 THE COURT: Yes?

17 MS. MCCORKLE: I have two rescue dogs from
18 Lowcountry lab rescue.

19 THE COURT: Would that affect you?

20 MS. MCCORKLE: No, sir.

21 THE COURT: Will you base your decision on the
22 evidence and the law and will you be fair to both sides?

23 MS. MCCORKLE: Yes, sir.

24 THE COURT: Your name and number?

25 MS. MCCORKLE: Page McCorkle and I think it's 197.

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1 THE COURT: Thank you.

2 [Whereupon, a juror stands]

3 MR. LOVE: I have two adopted dogs from the animal
4 society.

5 THE COURT: Okay. Would that affect or influence
6 you in any way?

7 MR. LOVE: No.

8 THE COURT: Will you base your decision on the
9 evidence and the law and will you be fair to both sides?

10 MR. LOVE: Yes.

11 THE COURT: Your name and number please?

12 MR. LOVE: Mark Love, 183.

13 THE COURT: Thank you, Mr. Love. Anyone else?

14 [Whereupon, no one stands]

15 THE COURT: Thank you. There appear to be none.

16 Is there any member of the jury panel a member of any
17 victim's rights or law enforcement organizations such as
18 Darkness to Light, Citizens Against Violent Crime known
19 as CAV, People Against Rape known as PAR, Mothers Against
20 Drunk Driving, MADD, Save the Teens, PEST or similar
21 organizations? If so, please stand.

22 [Whereupon, no one stands]

23 THE COURT: Thank you. There appear to be none.

24 We covered this when I asked if you had been involved
25 with any criminal prosecution in any fashion on either

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1 side. Has any member of the jury panel been the victim
2 or the person that suffered from a violent crime? If so,
3 please stand; that hasn't already spoken.

4 [Whereupon, no one stands]

5 THE COURT: Thank you. There are none. The
6 incident involving Mr. Grant allegedly occurred at 821
7 Orleans Road in West Ashley at the Sub Station II. Does
8 any member of the jury panel frequent that Sub Station or
9 ever worked in the Sub Station? If so, please stand.

10 [Whereupon, no one stands]

11 THE COURT: Thank you. There are none. The law
12 as I mentioned to you downstairs it will be my
13 responsibility to give you the law. Does any member of
14 the jury panel have any reason to believe that any of
15 their feelings, strong feelings with regard to either of
16 these crimes specifically or conditionally the treatment
17 of animals if you will follow the law as I give it to you
18 consistent with the law and what the statutes permit so
19 far as owners of animals are concerned?

20 If you feel you will have difficulty following that
21 and disregarding your personal feelings of what you think
22 the law should be or you wanted the law to be if you feel
23 you will have difficulty please stand.

24 [Whereupon, no one stands]

25 THE COURT: Thank you. There appear to be none.

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1 And the same is true with respect to Mr. Grant in so far
2 as persons accused of committing armed robbery and
3 possession of weapons with violent crimes anything about
4 your beliefs that would cause you to have any problem
5 applying the law that I will give you concerning both of
6 those crimes fairly and impartially and make a decision
7 in what the evidence proves and what the law says
8 involved in that law and applying that law fairly and
9 impartially. If you feel you would have difficulty
10 please stand.

11 [Whereupon, no one stands]

12 THE COURT: Thank you. There appear to be none.
13 In each case one of the elements that I will share with
14 you that is fundamental in not only this state but as far
15 as I know in the United States a person accused of
16 committing a criminal defense have no burden to prove or
17 disprove anything.

18 The law says that a charging agency that is the
19 State of South Carolina in this case has the sole burden
20 of proof. And they have to prove the elements of the
21 crime charged each element beyond a reasonable doubt.
22 And if they fail to meet that standard, and I will define
23 that for you those persons that will serve, then if they
24 fail to meet any element then you as a juror must return
25 a verdict of not guilty. And that's what a verdict in a

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1 criminal dispute not guilty means. That agency did not
2 convince that jury that the State established or the
3 charging agency charge proved each element of that
4 standard.

5 Does any member of the jury panel who believe that
6 their philosophy strong feelings would give them any
7 concern about their ability to follow the law with
8 respect to the burden of proof? If so, please stand.

9 [Whereupon, no one stands]

10 THE COURT: Thank you. Any additional questions
11 from the State in the Grant case?

12 MR. WARING: No, Your Honor.

13 THE COURT: Any additional questions from the
14 defendant in the Grant case?

15 MS. EHRLICH: No, Your Honor.

16 THE COURT: Any additional questions from the State
17 in the Meggett case?

18 MR. CORVEY: No, Your Honor.

19 THE COURT: Any additional questions from the
20 defendant in the Meggett case?

21 MS. HENSLEY: We'd just ask that you ask number 12,
22 Your Honor.

23 THE COURT: I think I asked that. You mean about
24 law enforcement? No, excuse me, I'm sorry. Just one
25 second.

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1 [Whereupon, the court reviews documents]
2 THE COURT: Any member of the jury panel ever now
3 or formerly had an animal that lived outside, an outside
4 animal? If so, please stand.
5 [Whereupon, jurors stand]
6 THE COURT: Okay. Yes, sir?
7 MR. EVERETT: I have two dogs that live outside.
8 THE COURT: Okay. Would that affect or influence
9 you?
10 MR. EVERETT: No.
11 THE COURT: Your name and number?
12 MR. EVERETT: Robert Everett --
13 THE COURT REPORTER: I'm sorry; I didn't hear your
14 number.
15 MR. EVERETT: 84.
16 THE COURT: Okay. Yes, ma'am?
17 MS. BUNKEM: I did have a dog that used to live
18 outside?
19 THE COURT: Would that affect or influence you?
20 MS. BUNKEM: No.
21 THE COURT: Your number?
22 MS. BUNKEM: Number 32.
23 THE COURT: Thank you. Yes, ma'am?
24 MS. BRIDGES: I grew up with dogs outside.
25 THE COURT: Would it affect you at all?

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1 MS. BRIDGES: No.
2 THE COURT: And your number?
3 MS. BRIDGES: 27, Bridges.
4 THE COURT: Thank you. Yes, ma'am?
5 MS. HATFIELD: We always had dogs outside.
6 THE COURT: Would that affect or influence you?
7 MS. HATFIELD: No, sir.
8 THE COURT: And your number?
9 MS. HATFIELD: 128.
10 THE COURT: Okay. Yes, ma'am?
11 MS. MACCOY: I have a cat who lives outside.
12 THE COURT: Would that affect or influence you?
13 MS. MACCOY: No.
14 THE COURT: Your number?
15 MS. MACCOY: I don't know. Kate Maccoy.
16 THE COURT: Thank you, Ms. Maccoy. Yes, sir?
17 MR. TILLMAN: I also have an outdoor cat.
18 THE COURT: Okay. Would that affect or influence
19 you?
20 MR. TILLMAN: No, sir.
21 THE COURT: And your number?
22 MR. TILLMAN: 317.
23 THE COURT: Thank you. Any additional questions
24 from the defendant?
25 MS. HENSLEY: No, Your Honor. Thank you.

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1 THE COURT: As to any of the cases, each of the
2 cases I mentioned to you downstairs, what will happen is
3 we're going to -- one of the first acts will be the Clerk
4 will administer an oath to you where you will make a
5 promise to decide the case based on the evidence and the
6 law.

7 Is there anything that you've heard here today in
8 either case that would give you any concern about your
9 ability to make the commitment to the court and each of
10 the parties involved or their attorneys that you would at
11 the appropriate time apply your common sense, your sense
12 of logic and reason fairly and impartially and analyze
13 the evidence in that particular case.

14 Then once you're instructed apply that and make a
15 decision on what you believe to be the true facts and
16 take the law as I give it to you and apply that law
17 fairly and impartially. If you feel you cannot make that
18 commitment in either case for any reason please stand.

19 [Whereupon, no one stands]

20 THE COURT: Thank you. What's going to happen now
21 ladies and gentlemen your names have been drawn at random
22 and you're going to be called and asked to come forward.
23 I'm going to move this back so you can see. I'm going to
24 position this podium. Come up to the podium and stand
25 here [indicates] stand as I'm standing and face the

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1 attorneys and face your fellow jurors. First, the State
2 will have an opportunity to say seat the juror or excuse
3 the juror. If they say seat the juror then it will
4 switch over to this side.

5 And then they will have the opportunity to say seat
6 the juror or excuse the juror. Whatever they say if they
7 say seat the juror then you will take a seat in the jury
8 box. If they say excuse the juror then that means go
9 back and take your seat. Don't be offended by that.
10 That's just the way the process works.

11 We'll do the Grant case first. I'm going to
12 probably ask the -- and we'll go through the process
13 until we seat 12 jurors and one alternate. Once we do
14 that we'll get that jury and that jury will go to lunch.
15 Then we'll start the process of taking the second jury
16 which will be tried after the first case. Thank you for
17 your patience. I'll turn it over to the Clerk.

18 MR. SMILEY: Your Honor, before we begin it's my
19 understanding if they get chosen on the first jury they
20 won't be available for the second?

21 THE COURT: That is correct.

22 MR. SMILEY: I was just making sure.

23 THE COURT: We'll have enough hopefully to get two
24 juries.

25

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Striking of the Jury
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1 STRIKING OF THE JURY

2 CLERK OF COURT: As the Judge said we'll start the
3 striking process now. When I call your name please come
4 to the front, turn and face the attorneys and bring all
5 of your belongings. Juror number 116, Kelly Grudowski
6 please come forward.

7 [Whereupon, the juror comes forward]

8 CLERK OF COURT: What say you for the State?

9 MR. WARING: Please seat the juror.

10 CLERK OF COURT: What say you for the defendant?

11 MS. EHRLICH: Please seat the juror.

12 CLERK OF COURT: You've been selected for service.
13 Please have a seat in the jury box, ma'am.

14 [Whereupon, the juror is seated in the jury box as a
15 juror]

16 CLERK OF COURT: Juror number 311, Michele
17 Sullens, please come forward.

18 [Whereupon, the juror comes forward]

19 CLERK OF COURT: What say you for the State?

20 MR. WARING: Please seat the juror.

21 CLERK OF COURT: What say you for the defendant?

22 MS. EHRLICH: Please excuse the juror.

23 CLERK OF COURT: You've been excused. Please have
24 a seat back in the audience ma'am. Thank you.

25 [Whereupon, the juror returns to the audience]

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1 CLERK OF COURT: Juror number 117, Elizabeth Gush,
2 please come forward.

3 [Whereupon, the juror comes forward]

4 CLERK OF COURT: What say you for the State?

5 MR. WARING: Please seat the juror.

6 CLERK OF COURT: What say you for the defendant?

7 MS. EHRLICH: Please seat the juror.

8 CLERK OF COURT: You've been selected for service.
9 Please have a seat in the jury box.

10 [Whereupon, the juror is seated in the jury box as a
11 juror]

12 CLERK OF COURT: Juror number 130, Gregory Haynes
13 please come forward

14 [Whereupon, the juror comes forward]

15 CLERK OF COURT: What say you for the State?

16 MR. WARING: Please seat the juror.

17 CLERK OF COURT: What say you for the defendant?

18 MS. EHRLICH: Please seat the juror.

19 CLERK OF COURT: You've been selected for service.
20 Please have a seat in the jury box.

21 [Whereupon, the juror is seated in the jury box as a
22 juror]

23 CLERK OF COURT: Juror number 222, Daniel O'Donnell
24 please come forward.

25 [Whereupon, the juror comes forward]

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1 CLERK OF COURT: What say you for the State?
2 MR. WARING: Please seat the juror.
3 CLERK OF COURT: What say you for the defendant?
4 MS. EHRLICH: Please seat the juror.
5 CLERK OF COURT: You've been selected for service
6 on this jury. Please have a seat in the jury box.
7 [Whereupon, the juror is seated in the jury box as a
8 juror]
9 CLERK OF COURT: Juror number 295, Darius Singleton
10 please come forward.
11 [Whereupon, the juror comes forward]
12 CLERK OF COURT: What say you for the State?
13 MR. WARING: Please seat the juror.
14 CLERK OF COURT: What say you for the defendant?
15 MS. EHRLICH: Please seat the juror.
16 CLERK OF COURT: You've been selected for service.
17 Please have a seat in the jury box.
18 [Whereupon, the juror is seated in the jury box as a
19 juror]
20 CLERK OF COURT: Juror number 84, Robert Everett
21 please come forward.
22 [Whereupon, the juror comes forward]
23 CLERK OF COURT: What say you for the State?
24 MR. WARING: Please seat the juror.
25 CLERK OF COURT: What say you for the defendant?

State v Devante Antonio Grant
Striking of the Jury
August 7, 2017

1 MS. EHRLICH: Please seat the juror.
2 CLERK OF COURT: You've been selected for service.
3 Please have a seat in the jury box.
4 [Whereupon, the juror is seated in the jury box as a
5 juror]
6 CLERK OF COURT: Juror number 332, Amelia
7 Whisenhunt please come forward.
8 [Whereupon, the juror comes forward]
9 CLERK OF COURT: What say you for the State?
10 MR. WARING: Please seat the juror.
11 CLERK OF COURT: What say you for the defendant?
12 MS. EHRLICH: Please excuse the juror.
13 CLERK OF COURT: You've been excused from service.
14 Please have a seat back in the audience ma'am.
15 [Whereupon, the juror returns to the audience]
16 CLERK OF COURT: The defendant has exhausted two
17 strikes; eight remaining. Juror number 271, Briana Rouse
18 please come forward.
19 [Whereupon, the juror comes forward]
20 CLERK OF COURT: What say you for the State?
21 MR. WARING: Please seat the juror.
22 CLERK OF COURT: What say you for the defendant?
23 MS. EHRLICH: Please seat the juror.
24 CLERK OF COURT: You've been selected for service.
25 Please have a seat in the jury box.

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1 [Whereupon, the juror is seated in the jury box as a
2 juror]
3 CLERK OF COURT: Juror number 7, Angela Baldwin
4 please come forward.
5 [Whereupon, the juror comes forward]
6 CLERK OF COURT: What say you for the State?
7 MR. WARING: Please seat the juror.
8 CLERK OF COURT: What say you for the defendant?
9 MS. EHRLICH: Please excuse the juror.
10 CLERK OF COURT: You've been excused from service.
11 Please have a seat back in the audience ma'am.
12 [Whereupon, the juror returns to the audience]
13 CLERK OF COURT: Juror number 27, Whitney Bridges
14 please come forward.
15 [Whereupon, the juror comes forward]
16 CLERK OF COURT: What say you for the State?
17 MR. WARING: Please seat the juror.
18 CLERK OF COURT: What say you for the defendant?
19 MS. EHRLICH: Please seat the juror.
20 CLERK OF COURT: You've been selected for service.
21 Please have a seat in the jury box.
22 [Whereupon, the juror is seated in the jury box as a
23 juror]
24 CLERK OF COURT: Juror number 320, Dennis Vane
25 please come forward.

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Striking of the Jury
August 7, 2017

1 [Whereupon, the juror comes forward]
2 CLERK OF COURT: What say you for the State?
3 MR. WARING: Please seat the juror.
4 CLERK OF COURT: What say you for the defendant?
5 MS. EHRLICH: Please seat the juror.
6 CLERK OF COURT: You've been selected for service.
7 Please have a seat in the jury box.
8 [Whereupon, the juror is seated in the jury box as a
9 juror]
10 CLERK OF COURT: Juror number 284, Gregory Sharpe
11 please come forward.
12 [Whereupon, the juror comes forward]
13 CLERK OF COURT: What say you for the State?
14 MR. WARING: Please excuse the juror.
15 CLERK OF COURT: You've been excused from service.
16 Please have a seat back in the audience, sir.
17 [Whereupon, the juror returns to the audience]
18 CLERK OF COURT: Juror number 294, Bryan Sineath.
19 [Whereupon, the juror comes forward]
20 CLERK OF COURT: What say you for the State?
21 MR. WARING: Please seat the juror.
22 CLERK OF COURT: What say you for the defendant?
23 MS. EHRLICH: Please seat the juror.
24 CLERK OF COURT: You've been selected for service.
25 Please have a seat in the jury box.

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Striking of the Jury
August 7, 2017

1 [Whereupon, the juror is seated in the jury box as a
2 juror]
3 CLERK OF COURT: Juror number 158, Teague Jones
4 please come forward.
5 [Whereupon, the juror comes forward]
6 CLERK OF COURT: What say you for the State?
7 MR. WARING: Please excuse the juror.
8 CLERK OF COURT: You've been excused from service.
9 Please have a seat.
10 [Whereupon, the juror returns to the audience]
11 CLERK OF COURT: The State has exhausted two
12 strikes; three remaining. Juror number 16, James
13 Bloomingburg please come forward.
14 [Whereupon, the juror comes forward]
15 CLERK OF COURT: What say you for the State?
16 MR. WARING: Please excuse the juror.
17 CLERK OF COURT: You've been excused from service.
18 Please have a seat back in the audience.
19 [Whereupon, the juror returns to the audience]
20 CLERK OF COURT: Juror number 197, Page McCorkle
21 please come forward.
22 [Whereupon, the juror comes forward]
23 CLERK OF COURT: What say you for the State?
24 MR. WARING: Please seat the juror.
25 CLERK OF COURT: What say you for the defendant?

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Striking of the Jury
August 7, 2017

1 MS. EHRLICH: Please seat the juror.
2 CLERK OF COURT: You've been selected for service.
3 Please have a seat in the jury box.
4 [Whereupon, the juror is seated in the jury box as a
5 juror]
6 CLERK OF COURT: Juror number 91, Heather Ford
7 please come forward.
8 [Whereupon, the juror comes forward]
9 CLERK OF COURT: What say you for the State?
10 MR. WARING: Please seat the juror.
11 CLERK OF COURT: What say you for the defendant?
12 MS. EHRLICH: Please seat the juror.
13 CLERK OF COURT: You've been selected for service.
14 Please have a seat in the jury box.
15 [Whereupon, the juror is seated in the jury box as a
16 juror]
17 CLERK OF COURT: That makes 12. Now selecting the
18 alternate.
19 THE COURT: Strikes will be one and two.
20 CLERK OF COURT: Juror number 61, Brent Demarest
21 please come forward.
22 [Whereupon, the juror comes forward]
23 CLERK OF COURT: What say you for the State?
24 MR. WARING: Please seat the juror.
25 CLERK OF COURT: What say you for the defendant?

State v Devante Antonio Grant
Striking of the Jury
August 7, 2017

1 MS. EHRLICH: Please seat the juror.

2 CLERK OF COURT: You've been selected for service.
3 Please have a seat in the jury box.

4 [Whereupon, the juror is seated in the jury box as
5 an alternate juror]

6 CLERK OF COURT: Your Honor, that makes 13.

7 THE COURT: Thank you very much. Any motions from
8 the State regarding the selection of this jury?

9 MR. WARING: No, Your Honor.

10 THE COURT: Any motions from the defendant?

11 MS. EHRLICH: No, Your Honor.

12 THE COURT: Thank you. Ladies and gentlemen those
13 of you who were selected thank you very much. It is now
14 noon. I'm going to let you go to lunch. I'm going to
15 ask you since we have to select another jury you'll get a
16 little bit longer today than we customarily will have;
17 generally is about an hour or an hour and half. But I'm
18 going to let you come back at 2:00. That will give the
19 staff an opportunity to have a decent lunch hour as well.

20 Please remember something. You know nothing about
21 this case from the standpoint of factual issues because
22 that's what you will decide when we try the case. So do
23 not discuss this case among yourselves. Do not allow
24 anybody to talk with you when you're out or talk about it
25 in your presence. When you exit if you will exit through

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Striking of the Jury
August 7, 2017

1 the door there to your left they will show you where you
2 need to return. Come directly to your jury room. Do not
3 come back in the courtroom. Have a good lunch and I'll
4 see you at 2 o'clock. Thank you.

5 [Whereupon, the jury exits at 11:59 a.m.]

6 THE COURT: Anything from the State in this case
7 before we recess?

8 MR. WARING: No, Your Honor.

9 THE COURT: Anything from the defendant?

10 MS. EHRLICH: No, Your Honor.

11 THE COURT: Thank you. I'll see y'all at 2
12 o'clock.

13 MR. WARING: Thank you, Your Honor.

14 [Whereupon, court is in recess from 12:00 until 1:55
15 p.m.]

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1 THE COURT: While we're waiting are there any
2 matters that we need to deal with before the jury comes
3 in right now before opening statements?

4 MR. OSBORNE: I don't think so, Your Honor. The
5 only thing was that quick Denno hearing; it's like an
6 eight minute interview.

7 THE COURT: Well, why do we need a Denno hearing?
8 You had wanted to put in -- I thought I had already
9 addressed his statement.

10 MS. EHRLICH: I think originally they were only
11 going to want to play a portion muted of my client using
12 his right hand. And I think now they want to bring in a
13 ten minute statement.

14 THE COURT: I'm standing by my ruling on that with
15 respect to the muted portion. That depends on what he --
16 it depends on a lot of things. That would be better
17 served I think in a reply testimony, which I think is
18 going to be created. And my thought is this. I
19 understand they announced an expert. There are all sorts
20 of things that that is going to open the door for.

21 So once they do that then I've got a basis to
22 articulate a reason for playing that notwithstanding the
23 prejudice. I'm not going to allow you to play anything
24 of his statement in chief. Now I don't know what I'm
25 going to do when it comes to the other side because it

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1 depends on what comes in. So I stand by my ruling
2 previously. I appreciate your additional information.
3 As I understand you want the biographical information.
4 For what reason? What's the probative value of that?

5 MR. WARING: Your Honor, I don't know how much I
6 missed. I was going ---

7 THE COURT: --- I just said I'm going to stand by
8 my ruling. I'm not going to allow because he invokes his
9 right I'm not going to allow anything of the video to
10 come in. Period.

11 MR. WARING: Yes, Your Honor.

12 THE COURT: Now as I just stated -- as I understand
13 you want to play it that shows him signing off on some
14 things. Well, that may be open by going in and
15 challenging that's not his handwriting so it comes in in
16 reply and there is a basis for it now, okay.

17 MR. WARING: Yes, Your Honor. If I could put on
18 the record that there is more of a basis than just the
19 handwriting that we wanted ---

20 THE COURT: --- you briefed it. I'll be happy to
21 hear from you but that's the reason you submitted the
22 memo I think. But I'll be happy to hear from you Mr.
23 Waring.

24 MR. WARING: Your Honor, we would just argue that
25 he did not invoke his silence, Your Honor, based on what

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1 we briefed before and that his statement is important for
2 a few different reasons.

3 THE COURT: Are you telling me that -- I thought --
4 maybe I need to look at it fully. I thought you said he
5 said I don't want to make any statement; I want my
6 lawyer.

7 MR. WARING: Your Honor, that's what he says at the
8 end of the statement and they cease all questions.
9 Before that he does give a statement.

10 THE COURT: What does he say?

11 MR. WARING: He essentially denies but he does give
12 some things that turned out to be false. He says that he
13 hadn't seen the co-defendant Saivon Chisolm in a few
14 months. Ms. Chisolm's wife -- excuse me, mother is
15 prepared to testify that they actually lived together at
16 that time. So there is some useful information in there
17 that we think should come in, Your Honor.

18 THE COURT: When do you plan to play the statement?

19 MR. WARING: During the case in chief, Your Honor,
20 with the case agent ---

21 THE COURT: --- I know, but when?

22 MR. WARING: With the case agent.

23 THE COURT: When? Today ---

24 MR. WARING: --- he's our last witness, Your Honor,
25 probably Wednesday.

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1 THE COURT: That's fine. We'll do it. I'll look
2 at it. Do I have a copy of it?

3 MR. WARING: Yes, Your Honor.

4 THE COURT: Okay. I'll look at it and see; that's
5 fine. Thank you. I appreciate it.

6 MR. WARING: Yes, Your Honor.

7 THE COURT: Other than that do we have any other
8 issues?

9 MR. WARING: No, Your Honor.

10 THE COURT: Anything from the defendant?

11 MS. EHRLICH: Judge, I think things will come up as
12 we progress through the trial and I'll see who testifies
13 and I'll just raise those issues at that time.

14 THE COURT: I appreciate it. No problem. Thank
15 you. I think we're still waiting on one. That's fine.
16 We'll be at ease.

17 [Off the record momentarily awaiting a juror]

18 THE COURT: Is the State ready?

19 MR. WARING: Yes, Your Honor.

20 THE COURT: Is the defendant ready?

21 MS. EHRLICH: Yes, Your Honor.

22 THE COURT: Let the record reflect the defendant is
23 present. Okay, let's bring them in please.

24 [Whereupon, the jury enters at 2:12 p.m.]

25 THE COURT: Thank you very much ladies and

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1 gentlemen. I hope you had a good lunch. We're ready to
2 continue. Let me discuss the seating arrangement with
3 you for a moment before I ask the Clerk to administer
4 your oath. You'll note that there are 14 seats up there.
5 And there is nothing really sacred about any of them but
6 it just helps us -- the two end seats this end on the
7 second row are usually occupied by our alternate juror.
8 Mr. Demarest, you happen to be an alternate juror and so
9 you have two seats and you can take either one of those
10 as long as you're the alternate.

11 The alternate really doesn't have any significance
12 other than to give you a seat at this point. The only
13 thing is at the end of this trial if the first 12
14 selected are able to continue then you will not
15 participate in the final deliberations. But it is not an
16 uncommon occurrence for an alternate to have to move into
17 the jury during a trial. It happens from time to time.

18 So please don't let that detract from your attention
19 or distract you in any fashion because -- and I know that
20 it won't. You've very much a part of the jury until you
21 are excused. But while you are the alternate you may
22 occupy either of those chairs. And I'll ask the rest of
23 you to leave those two chairs for Mr. Demarest. The only
24 other seat is on the first row on this [indicates] end.
25 That will be occupied by any of the first 12 of you as I

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1 call them presiding jurors. They are also called
2 foreman, foreperson, forelady. Any of you are eligible
3 to serve in that capacity. The statute allows me to
4 select the presiding juror. But for 23 years I've let
5 the jury pick their presiding juror. It doesn't have to
6 be done right away. At some point if you will among
7 yourselves select your presiding juror. Once you've done
8 that I'd ask that that individual occupy that chair but
9 until that is accomplished it's available to anyone.

10 Presiding juror, foreperson it has been my
11 observation over the years it really doesn't have any
12 greater power. It doesn't give you overriding authority.
13 But you and I both know that some people are better
14 facilitators than others and that to me is what a
15 presiding juror does. They help facilitate the
16 discussion. And you maybe can glean that from talking
17 among each other and you select your presiding juror.
18 Whatever methodology is fine but if you will take care of
19 that at some point in time I would appreciate it.

20 Other than that all seats are available. You don't
21 have to occupy the same seat but it has been my
22 observation over the years interesting, I'd like to go
23 back and take sociology as to what dynamic takes place
24 and some jurors just prefer to keep a seat and if that be
25 you, that's fine. The only thing I would ask is if it

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1 happens to be one of the end seats make sure you position
2 yourself so you can come out first and not have everybody
3 cross over you to get to that seat -- or you have to
4 cross over everybody else. Thank you very much. I would
5 appreciate it now if you will give your attention to Mr.
6 Uricchio as he administers the oath.

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State v Devante Antonio Grant
Jury Sworn
August 7, 2017

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JURY SWORN

CLERK OF COURT: Ladies and gentlemen of the jury
please stand and raise your right hands to be sworn.

[Whereupon, the jurors stand]

CLERK OF COURT: Do you swear or affirm that you
shall well and truly try and a true deliverance make
between the state of South Carolina and the defendant at
the bar whom you shall have in charge and a true verdict
render according to the evidence and the law so help you
God? Please indicate by saying I do and having a seat.

[Whereupon, all jurors comply]

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Court's Instructions to Jury
August 7, 2017

1 THE COURT: Thank you ladies and gentlemen. You
2 now have become a judge with me. And as I mentioned to
3 you this morning when I qualified you that's a very
4 important responsibility and a very important role and
5 now you and you alone have the responsibility to decide
6 the true facts of this dispute.

7 And I will assure you and remind you of something I
8 said this morning. No one is more capable of doing that
9 than you are. And you brought everything you're going to
10 need when you walked through your door. You brought your
11 life's experience and your sense of logic and reason and
12 you will be expected to use that when you're instructed
13 to begin your deliberations.

14 You also brought something else that is equally
15 important. And I stress this because as human beings
16 it's a temptation and some of us are more tempted than
17 others. If you're a detail person then you're probably
18 not one but if you're a person that -- and I'm accused of
19 being somewhat impatient. When somebody tells me, tell
20 me what it is you want me to do but don't give me all the
21 details; I can ask a few details. But if you're kind of
22 that I call it a bottom line person if you're one of
23 those you're going to have to make every effort to
24 consciously prevent you from jumping to a conclusion.
25 Don't do that; don't make that mistake because this

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Court's Instructions to Jury
August 7, 2017

1 process of a trial, a criminal dispute resolution has
2 four distinct parts and each one is very important to the
3 ultimate process and the ultimate determination. So keep
4 something else that you brought with you and that is an
5 open mind because if you heard me ask some, and maybe you
6 responded and you had to answer one of the questions in
7 the affirmative you heard me ask will that influence your
8 decision. And every one said no. And will you base your
9 decision on the evidence and the law and will it be fair
10 to both sides and they said yes. And they stayed on the
11 jury and they were available to serve.

12 And if you answered that then you certainly
13 acknowledged that yes, that doesn't influence me; I have
14 an open mind about this dispute. And I would urge you to
15 keep that open mind and not change it until something
16 happens. At the end of this trial the last phase of this
17 process is when I will give you the law. And the last
18 instruction I will give you at that point is when you may
19 commence your deliberations.

20 So until you've been instructed to begin your
21 deliberations do not under any circumstances change that
22 open mind. Certainly make mental notes. Certainly make
23 available to yourself and most of this is really just
24 what we do in life. We listen to something and you know
25 and I know we may say that doesn't sound right or I'm not

State v Devante Antonio Grant
Court's Instructions to Jury
August 7, 2017

1 sure or that body language gives me some concern. Make
2 that notation, make that mental observation and then when
3 you begin your deliberations discuss it with your fellow
4 jurors. They may be able to allay your concerns or it
5 may end up your concluding as you have typically done in
6 your life I believe that strongly or I disbelieve that.
7 But just don't reach that conclusion until you're
8 instructed to decide this case.

9 Now I mentioned four parts. In just a moment the
10 attorneys will have their first opportunity to speak to
11 you. They speak to you twice; once before you hear the
12 evidence and then after you've heard the evidence. We
13 call the first time opening statements. And they will
14 give you an overview and discuss with you some of the
15 evidence that they expect that you will hear.

16 And then following that opening statement we'll have
17 the evidentiary portion. And then after the evidentiary
18 portion will come the closing remarks where unlike
19 opening statement you will have heard the evidence and
20 now it's appropriate for them to discuss that evidence
21 with you and suggest reasonable inferences that you may
22 draw from that evidence.

23 I'm confident that you will find those remarks
24 extremely important and very helpful in deciding this
25 case so please give them your attention as I know that

State v Devante Antonio Grant
Court's Instructions to Jury
August 7, 2017

1 you will. But while they are extremely important please
2 remember something else; they should never be considered
3 evidence at all. Just as my remarks should never be
4 considered evidence in any fashion because the evidence
5 will come through the testimony of witnesses that you
6 will have the chance to see and observe.

7 And you will make those notations that are necessary
8 because your decision will be to decide what you believe
9 at the appropriate time as being true because that's what
10 the jury's ultimate determination is; we believe these
11 are the true facts of this dispute. And then once you've
12 decided that you will take and apply the law that I will
13 give you at the conclusion and apply it fairly and
14 impartially and decide what really occurred.

15 In this case Mr. Grant is faced with two charges.
16 One is armed robbery which has distinct elements and I
17 will define those for you at the conclusion of this trial
18 and possession of a firearm during the commission of a
19 violent crime. Again, there are definite elements which
20 I will likewise define.

21 As I told you when we qualified you it is the law of
22 this state, and certainly applies to Mr. Grant in this
23 case, when a person is accused of committing a criminal
24 offense that person has no responsibility whatsoever.
25 They don't have to prove anything. In fact, we'll talk

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Court's Instructions to Jury
August 7, 2017

1 about presumption of innocence which applies to Mr. Grant
2 and any person accused of committing an offense. The
3 only person and the only party that has any burden of
4 proof in this case is the state of South Carolina.
5 Because of that they go first. You will hear from the
6 State first. And they have the burden of presenting
7 evidence which convinces you; I mentioned the standard
8 beyond a reasonable doubt that what they have said and
9 what they have presented is true.

10 Now what is beyond a reasonable doubt? I'll define
11 it for you but I will tell you kind of in a nutshell
12 would be a reasonable doubt is a doubt that would make an
13 honest conscientious juror who is searching for the truth
14 in a case hesitate to act or take some action. And
15 that's the standard that you will be applying. I'll give
16 you the elements and you'll go back and you'll discuss
17 each one of them.

18 And each of you as to each element say yes, I'm
19 convinced by the evidence that I am firmly convinced that
20 the State has met its burden of proof as to that
21 particular element and then you go to the next one and so
22 on until you've covered all of them. If your answer to
23 any one is well, you know it could be, it might be, it
24 probably is; not sufficient. It has to be more than
25 probability. It has to be proof that leaves you firmly

State v Devante Antonio Grant
Court's Instructions to Jury
August 7, 2017

1 convinced that the State has met its burden of proof.
2 And that's what you will be doing. If at that point if
3 you've collectively said I'm not satisfied as to that one
4 that ends it for that particular crime because why?
5 Because the State has to prove each element to that
6 requisite standard so your verdict would be not guilty.

7 If on the other hand you've gone through all of them
8 and your conclusion is yes I'm convinced beyond a
9 reasonable doubt as to each element then your verdict
10 must be guilty. Why? Because the State met its burden
11 and established each element to the requisite standard.

12 The State has the sole burden. The defendant
13 doesn't have to present any evidence. The defendant has
14 no obligation to say anything or to do anything. So do
15 not look to that table to provide anything for you. But
16 at the conclusion of the State's case if the defendant
17 chooses to the defendant has the right to present
18 additional testimony for your consideration.

19 A very logical reason why in addition to having --
20 you should go through all four parts you certainly
21 shouldn't decide anything until you've heard all the
22 evidence. So please remember that while he doesn't have
23 a responsibility to do anything you need to complete the
24 evidentiary portion. But more importantly you need to
25 complete all four parts. And I'll remind you of this.

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Court's Instructions to Jury
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1 You'll probably get tired of me reminding you of that but
2 it bears repeating because it's so critical to this
3 overall process. You were selected to be a fair and
4 impartial judge and I'm confident that each one of you
5 will do that. At the conclusion I'll define as I
6 mentioned to you the elements of each crime. I'll give
7 you definitions for the other aspects and then you will
8 undertake the process of deciding this case.

9 It's a privilege and an honor to serve with each one
10 of you as a judge. And I thank you very much for your
11 attention to my remarks and I ask you now to give that
12 same attention to the attorneys as they give their
13 opening statements. Solicitor, you may proceed.

14 MR. WARING: Thank you, Your Honor. May it please
15 the court?

16 THE COURT: Yes, sir.
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2 BY MR. WARING:

3 Good afternoon. Everything is connected and
4 everything has meaning if you look for it; and that's
5 true in this case. No detail is too small to be
6 considered. On January 26, 2016 around 8:30 in the
7 evening the victim, Kristina Hooks, who is sitting over
8 there in the gallery she was working at Sub Station II.
9 It's a sandwich shop and she was a server there. She was
10 a prep; she prepared sandwiches.

11 She closed up for the night, had a few sandwiches
12 herself to take home to her family, had her purse with
13 her walked to her vehicle, got in the driver's seat put
14 her stuff down and took a deep breath. It had been a
15 long day. The next thing she knew she looked over to her
16 left and there was a banging on the window and she looked
17 over and this defendant who is on trial today had a gun
18 pointed right at her and told her to get out of the car.

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State v Devante Antonio Grant
Opening Statements-Remarks by Mr. Waring
August 7, 2017

1 driver's seat the rummage around and they take off. And
2 they leave Kristina Hooks scared and demoralized and
3 alone on that January night in an empty parking lot.
4 She's terrified. She runs across the street. There is a
5 Panera Bread Company there, goes inside and calls 911.
6 The police arrive. She tells them what happened and gave
7 a description. And at some point she was shown a
8 photographic lineup of six different individuals and
9 guess who she picked out? This defendant out of all
10 these individuals as being the one who pointed the gun at
11 her and had taken her car.

12 Now you're going to hear and see a lot of evidence
13 in this case. You're going to hear from Ms. Hooks. You
14 may or may not hear from the other guy, the other robber,
15 Chisolm. That's going to be up to him. You're going to
16 hear some other evidence as well. And the important
17 thing to remember as I mentioned is and as the Judge
18 mentioned keep an open mind. Everything is connected and
19 all this evidence against the defendant has meaning if
20 you look for it and you keep an open mind.

21 Now the Judge also mentioned our burden. We've got
22 that burden to prove the defendant guilty. And in this
23 case for armed robbery that means we've got to prove that
24 he took and carried away personal property of another
25 with the use of force, threats, or intimidation while

State v Devante Antonio Grant
Opening Statements-Remarks by Mr. Waring
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1 armed with a deadly weapon. For the gun charge you've
2 got to prove that he possessed a deadly weapon such as a
3 gun during the commission of a violent crime such as
4 armed robbery. I'm confident that if you do keep that
5 open mind and you do look for the connection and meaning
6 in the evidence you'll determine we've carried our burden
7 and you'll find the defendant guilty.

8 THE COURT: Thank you Mr. Waring. Ms. Ehrlich or
9 Ms. Birt?

10 MS. BIRT: May it please the court?

11 THE COURT: Yes.

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State v Devante Antonio Grant
Opening Statements-Remarks by Ms. Birt
August 7, 2017

OPENING STATEMENT

BY MS. BIRT:

Good afternoon. As you heard earlier myself and Ms. Ehrlich we represent the defendant in this case, Devante Grant and it's our honor to be here. We do appreciate the time that you have given to be here as well.

Members of the jury, people see what they want to see. The State just told you a series of events and that is a connection he's talking about that he wants you to see. Now the thing is your job here today though isn't to see what you want to see, isn't to see what the State wants you to see. As the Judge said your job today is to look at all the evidence, listen to all the testimony that will come from this witness stand and apply what the Judge said is your logic, reasoning, and common sense to determine could this have happened? Did this happen? What are the true facts?

So even though you might hear some stories, accounting of the facts in a way that the witness might want you to believe and the way that they truly see the facts that happened that does not necessarily mean you have to also believe what they see. You don't have to believe what they want you to believe. So that's what we're going to ask you to do today is just keep that open mind. That is something that we agree about; keep an

State v Devante Antonio Grant
Opening Statements-Remarks by Ms. Birt
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1 open mind. But just because you keep an open mind that
2 doesn't always mean that there is a connection. It
3 doesn't always mean that things will fit so keep that in
4 mind as you're listening to everything that is said.

5 Now I want to go through a few things especially
6 just so you can kind of keep these ideas in the back of
7 your mind as you listen to some of the testimony that
8 will come from the witness stand today. First, I want
9 you to think as you're listening is this what is just
10 handing you a lens. Are they handing you something that
11 they want you to put on with blinders and only see and
12 hear and think in the way that they say it happened. Are
13 they asking you to do that? They might not directly ask
14 you to do that but are they saying it in a way that
15 they're only seeing it from their perspective.

16 When you listen to the detective or as the State
17 might call him a case agent listen to see if they were
18 just looking for someone, did they hear several names,
19 pick one name and run with it? Did they do that? Did
20 they see what they wanted to see?

21 When Ms. Hooks takes the stand and tells you what
22 happened to her that evening think about what she says.
23 Is she trying to tell you this is what I wanted to see?
24 I wanted to fix this; I wanted to get contentment and
25 peace. Did she have any individual that come up to her

State v Devante Antonio Grant
Opening Statements-Remarks by Ms. Birt
August 7, 2017

1 and maybe have some bias and direct her into seeing what
2 they wanted her to see? Did that happen? And finally at
3 the end of the day, at the end of the trial does the
4 State present what they want you to see even without DNA
5 evidence, fingerprints or anything else? Are they trying
6 to present a story that they want you to see, that they
7 want you to believe that this is supported by the facts
8 and evidence you will see over the course of the next
9 couple of days.

10 Now I know I talked a little bit about lens and
11 filters and judges too as far as your personal
12 experiences, biases, prejudices. We all have them. But
13 we're going to ask you today to set that aside. But
14 there is one lens I want you to keep in mind that the
15 Judge did mention that I do think by law is important
16 that you put on and that's the presumption of innocence.

17 And just briefly since the Judge went over it and I
18 won't go over it again but that lens is that as you're
19 looking through everything from right now through the end
20 of the trial Devante is presumed innocent. That means
21 you have to start there. You don't eventually get to
22 that point. You have to start there. That's not what we
23 as the defense want you to see but that's actually how
24 you need to see this; the lens you do need to view this
25 through. And we're competent that at the end of the day

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August 7, 2017

1 you can do that. You can put aside bias and prejudice
2 that you can look past what maybe a witness wants you to
3 see and what they want to see and make a true
4 determination in this case and find Mr. Grant not guilty.
5 Thank you.

6 THE COURT: Thank you, Ms. Birt. You may call your
7 first witness, Solicitor.

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State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 MR. OSBORNE: The State calls Officer Jahngen.
2 [Whereupon, Officer Jahngen comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: State your full name for the
6 record and spell out your last name for me.
7 THE WITNESS: My name is Matthew Jahngen. My last
8 name is spelled J-A-H-N-G-E-N.
9 - - - - -
10 MATTHEW JAHNGEN,
11 Having been first duly sworn,
12 Was examined and testified as follows:
13 DIRECT EXAMINATION
14 BY MR. OSBORNE:
15 Q. Good afternoon officer, where do you work?
16 A. City of Charleston Police Department.
17 Q. And how long have you worked there?
18 A. Seven years.
19 Q. All right. Any other previous law enforcement
20 experience?
21 A. Yes, sir.
22 Q. And where is that?
23 A. City of Goose Creek as well as Greenville County
24 Sheriff's office.
25 Q. And how long did you work for each of those

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 agencies?

2 A. A couple of years with Goose Creek and about a year
3 with Greenville County Sheriff's office. I also spent a
4 number of years as a correctional officer in another
5 state.

6 Q. Okay. So over a decade of law enforcement
7 experience?

8 A. Easily, yes.

9 Q. Okay. With CPD and North Charleston Police
10 Department what have been some of your various
11 assignments?

12 A. I've actually been on patrol my entire time.

13 Q. All right. Have you been assigned to one area of
14 patrol or throughout the State?

15 A. Team Four which is West Ashley and I remain in that
16 same location.

17 Q. Okay. Well, just go ahead and I think it's pretty
18 obvious but explain to the jury what are some of your
19 duties and responsibilities as a patrol officer?

20 A. Primarily to answer calls for service as they come
21 in; a variety of calls for service whatever they may be
22 as well as actively patrol assigned beats in
23 neighborhoods that we have, conduct traffic enforcement
24 and things like that as necessary.

25 Q. So proactive work as well as responding to calls for

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 service?
2 A. That's right.
3 Q. And when you respond to a call for service is part
4 of your duty to write incident reports?
5 A. Should the need arise, yes.
6 Q. Okay. Do you ride by yourself or with a partner?
7 A. I ride by myself primarily and I am a training
8 officer so at times I do have another individual with me.
9 Q. Okay. So let's get right into it. On January the
10 16th of 2016 did you have the occasion to respond to a
11 call for service at the Panera Bread on Sam Rittenberg?
12 A. I did, yes.
13 Q. And what was the nature of that call?
14 A. The nature of the call was an armed robbery in which
15 a victim's vehicle was stolen.
16 Q. Okay. Do you know about what time you were
17 dispatched?
18 A. Just before 8:55 p.m.
19 Q. Okay. So you're riding by yourself, you're in West
20 Ashley. You said it was about 8 what time?
21 A. Just before 8:55 p.m. is when I got the call.
22 Q. Okay. You get the call and you're dispatched. How
23 do you respond to this type of call?
24 A. That particular incident I responded what we refer
25 to as a code two.

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 Q. And what does that mean code two?

2 A. Code two is basically utilizing lights and sirens as
3 necessary but it is still an accelerated response.

4 Q. Okay. So you want to get there quick?

5 A. Get there quick and utilize lights and sirens at
6 your own discretion.

7 Q. And it's obvious but why are you trying to get there
8 fast in particular with this type of call?

9 A. Because of the nature of the call we want to get
10 there quickly.

11 Q. A gun being used?

12 A. That's correct. And because of my proximity to
13 where the incident was at the time that's why I chose a
14 code two response instead of all out lights and sirens
15 because I was already very close to the incident
16 location.

17 Q. Do you know about how long it took you to get there?

18 A. About a minute or so or maybe even less than that.

19 Q. Okay. When you arrived on the scene did you meet
20 with the complainant or the victim?

21 A. I did.

22 Q. What was her name?

23 A. Kristina Hooks.

24 Q. All right. Without getting into what Ms. Hooks said
25 specifically describe what her demeanor was like when you

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 spoke with her.

2 A. She was very upset, also very nervous; sort of in
3 shock.

4 Q. Okay. And this was within minutes I assume after
5 the incident.

6 A. Yes.

7 Q. Did you notice that she was intoxicated in any way
8 while you were speaking to her?

9 A. Not at all.

10 Q. After speaking with Ms. Hooks where did you learn
11 that the robbery actually occurred? I understand that
12 you're at Panera at this time.

13 A. Correct. I learned that the incident has occurred
14 at the Sub Station II restaurant which is directly across
15 the street from that location, 821 Orleans Road.

16 Q. 821 Orleans. Is that the city and county of
17 Charleston?

18 A. It is.

19 MR. OSBORNE: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q. [Mr. Osborne] I'm showing you what has been marked
23 as State's exhibits 5, 6, and 7. Can you take a look at
24 those and tell me if you recognize them and if so what
25 are they?

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 [Whereupon, the witness is shown photographs]

2 A. I do recognize them. This is the location of the
3 incident in question; the Sub Station II restaurant
4 parking lot at 821 Orleans Road.

5 Q. So 5, 6, and 7 depict the scene on that night?

6 A. Yes, they do.

7 MR. OSBORNE: Your Honor, at this time we would
8 seek to admit 5, 6, and 7 I believe without objection.

9 THE COURT: Any objection?

10 MS. EHRLICH: No objection, Your Honor.

11 THE COURT: Without objection State's 5, 6, 7 these
12 being photographs are admitted.

13 MR. OSBORNE: Thank you.

14 [Whereupon, State's exhibit numbers 5, 6, and 7 are
15 entered into evidence by the court]

16 Q. [Mr. Osborne] I'm going to start by showing you
17 State's exhibit 5. Can you tell the jury what we are
18 looking at here?

19 [Whereupon, the photograph is shown]

20 A. This is a photograph looking directly at the
21 businesses from about where the incident would have taken
22 place.

23 Q. Okay. And I think we see Sub Station over here
24 [indicates]?

25 A. Correct.

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
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1 Q. And so Panera would be if I've got my back to Sub
2 Station Panera is sort of like across the street and to
3 the left?
4 A. Correct.
5 Q. Now I'm showing you State's exhibit 6. Is that just
6 another photograph showing the scene?
7 [Whereupon, the photograph is shown]
8 A. That's correct.
9 Q. Okay. This SUV over here [indicates] is that a
10 police vehicle?
11 A. That is a vehicle of one of our crime scene
12 technicians.
13 Q. Okay. So crime scene was called to the scene as
14 well?
15 A. They were.
16 Q. Do you happen to know in an incident like this
17 through your experience do you often find crime -- do you
18 often find evidence associated with the crime like around
19 the area or is that a better question for a case agent?
20 A. I'd say that would be a better question for a case
21 agent.
22 Q. I'm going to show you State's exhibit 7. Do you
23 know what that picture is depicting there?
24 [Whereupon, the photograph is shown]
25 A. Yes.

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Matthew Jahngen-Direct Examination by Mr. Osborne
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- 1 Q. And what is that?
- 2 A. That would be the incident location; very
3 specifically the exact parking space which Ms. Hooks said
4 the vehicle was taken from.
- 5 Q. Okay. From the location of which she said her
6 vehicle was taken?
- 7 A. Correct.
- 8 Q. You can actually mark on that tablet right there
9 [indicates]. Could you mark on there where her vehicle
10 was parked?
- 11 A. That parking space there [indicates].
- 12 Q. Okay. And what do we see right here at the top?
- 13 A. Those are lights in the parking lot.
- 14 Q. Did you get a description of Ms. Hooks' vehicle?
- 15 A. I did.
- 16 Q. Do you recall what that was?
- 17 A. Yes. It was a white 2015 Ford Fusion.
- 18 Q. What?
- 19 A. A Ford Fusion white in color.
- 20 Q. Okay. Did you get the license plate?
- 21 A. I did.
- 22 Q. Do you recall what that was?
- 23 A. Yes. [REDACTED] [REDACTED]
- 24 Q. And you've had the opportunity to refresh your
25 memory and look at your incident report ---

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

- 1 A. --- of course ---
- 2 Q. --- prior to testifying, okay. Now that you have
- 3 that information of the stolen vehicle what do you do
- 4 then?
- 5 A. I contact individuals with our department to have
- 6 the vehicle placed into NCIC as stolen.
- 7 Q. Okay. Explain to the jury what does NCIC stand for
- 8 and what is that?
- 9 A. NCIC is the National Crime Information Center and
- 10 its run by the FBI. We provide information such as
- 11 information regarding a stolen vehicle and when it is
- 12 placed in that computer system law enforcement across the
- 13 country can identify it as stolen should they run the
- 14 tag.
- 15 Q. Okay. Should they run the tag?
- 16 A. Correct.
- 17 Q. Okay. So once you put it on if another officer in
- 18 another agency runs that tag it will alert that officer
- 19 as that vehicle having been reported as stolen?
- 20 A. Correct.
- 21 Q. Did I understand that correctly? And wanted people
- 22 that can also be entered into NCIC so if they run a name
- 23 that will also come back as wanted?
- 24 A. Yes.
- 25 Q. Okay. Did other officers, and you've already

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 pointed out that crime scene responded, did any other
2 officers respond to the scene?

3 A. There were numerous responding officers who did not
4 respond directly to the scene but were looking for Ms.
5 Hooks' vehicle. Also Investigator Deming did respond to
6 the scene and interview Ms. Hooks a little further ---

7 THE COURT REPORTER: --- I'm sorry, who else
8 responded to the scene?

9 A. Investigator Deming as well as supervisors.

10 Q. [Mr. Osborne] Okay. So is it or is it not fair to
11 say that as a responding officer you're getting
12 information quick?

13 A. Yes.

14 Q. And you're putting it out to responding officers?

15 A. Yes.

16 Q. Investigator Deming who is a detective or
17 investigator he did a more thorough interview with the
18 victim?

19 A. That's correct.

20 [Whereupon, Mr. Waring and Mr. Osborne confer]

21 Q. [Mr. Osborne] I'm sorry, did you say the incident
22 date was January 16th or January the 26th?

23 A. I didn't say.

24 Q. That's okay. Do you remember today?

25 A. It was the 26th.

State v Devante Antonio Grant
Matthew Jahngen-Direct Examination by Mr. Osborne
August 7, 2017

1 Q. Okay. No further questions.
2 THE COURT: Cross-Examination?
3 MS. EHRLICH: Thank you, Your Honor.
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State v Devante Antonio Grant
Matthew Jahngen-Cross-Examination by Ms. Ehrlich
August 7, 2017

1	CROSS-EXAMINATION
2	BY MS. EHRLICH:
3	Q. Good afternoon, officer.
4	A. Good afternoon.
5	Q. You actually escorted Ms. Hooks from Panera back to
6	the Sub Station II, correct?
7	A. Yes.
8	Q. And so you were able to observe the conditions in
9	that parking lot for yourself?
10	A. Yes.
11	Q. The pictures that Mr. Osborne showed the jury you
12	didn't take these pictures did you?
13	A. No.
14	Q. Those would have been taken by crime scene?
15	A. I would assume so, yes.
16	Q. Okay. And you don't know if the officers involved
17	in taking these pictures used flash when they were taking
18	the pictures do you?
19	A. No, I would not know.
20	Q. Okay. And again State's exhibit 7 this is the
21	picture of the parking spot where Ms. Hooks' car would
22	have been?
23	A. Yes.
24	Q. So we can agree it was a pretty dark parking lot,
25	correct?

State v Devante Antonio Grant
Matthew Jahngen-Cross-Examination by Ms. Ehrlich
August 7, 2017

- 1 A. That's relative I believe.
- 2 Q. Okay. Was your observation that it was a dark
3 parking lot when you were out there?
- 4 A. I would not say it was an overly dark parking lot.
5 It did have lighting.
- 6 Q. Okay. There were no other cars there besides
7 police cars correct?
- 8 A. There were very few cars but there were other cars.
- 9 Q. Okay. And you got there pretty close in time to
10 when the incident would have occurred correct?
- 11 A. Yes.
- 12 Q. I believe you said that you arrived around 8:55?
- 13 A. Yes.
- 14 Q. And when you got besides Ms. Hooks there were no
15 witnesses around that area for you to interview as part
16 of your investigation, correct?
- 17 A. That's correct.
- 18 Q. There were no co-workers from the Sub Station II to
19 speak to, correct?
- 20 A. No.
- 21 Q. And you didn't find or locate any witnesses in that
22 parking lot did you?
- 23 A. Not as far as my response, no.
- 24 Q. And without saying what Ms. Hooks told you you did
25 obtain some sort of description from her, correct?

State v Devante Antonio Grant
Matthew Jahngen-Cross-Examination by Ms. Ehrlich
August 7, 2017

1 A. Very little but yes.

2 Q. Okay. And that's the type of information that you
3 all would then put out over dispatch radio to try to
4 locate the suspect.

5 A. Correct. Mostly the vehicle in this case.

6 Q. Okay.

7 MS. EHRLICH: Court's indulgence.

8 THE COURT: Certainly.

9 [Whereupon, Ms. Ehrlich and Ms. Birt confer]

10 MS. EHRLICH: No further questions, Your Honor.

11 THE COURT: Redirect?

12 MR. OSBORNE: Just one question, Your Honor.

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State v Devante Antonio Grant
Matthew Jahngen-Redirect Examination by Mr. Osborne
August 7, 2017

1 REDIRECT EXAMINATION

2 | BY MR. OSBORNE:

3 Q. You said you were more interested in the vehicle
4 description. Is it or is it not fair to say the reason
5 why you were more interested in that is because it had
6 just happened?

7 A. That's correct. It had just happened and it's also
8 the most identifiable piece of information we had.

9 | Q. Thank you.

10 THE COURT: Recross?

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State v Devante Antonio Grant
Matthew Jahngen-Recross-Examination by Ms. Ehrlich
August 7, 2017

1 RECROSS EXAMINATION

2 BY MS. EHRLICH:

3 Q. And other officers by you providing that description

4 of the car would be able to potentially locate the car as

5 they are responding to the scene, correct?

6 A. It's possible.

7 Q. Thank you.

8 THE COURT: You may come down. Thank you. Do you

9 wish the witness to be excused?

10 MR. OSBORNE: Yes, Your Honor.

11 THE COURT: Any objection?

12 MS. EHRLICH: Your Honor, we still have him under

13 subpoena and may recall him.

14 THE COURT: That's fine. Stay in touch with

15 defense counsel. Thank you.

16 [Whereupon, the witness is excused and exits the

17 witness stand]

18 THE COURT: Okay. Call your next witness please.

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State v Devante Antonio Grant
Tonia Mallette-Direct Examination by Mr. Osborne
August 7, 2017

1 MR. OSBORNE: The State calls Tonia Mallette.
2 [Whereupon, Ms. Mallette comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: State your full name for the
6 record and spell out your last for me. Thank you.

7 THE WITNESS: Tonia Mallette, M-A-L-L-E-T-T-E.

8 - - - - -
9 TONIA MALLETTTE,

10 Having been first duly sworn,
11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OSBORNE:

14 Q. Ms. Mallette, this won't take long. Tell the jury
15 what you do for a living.

16 A. Currently I am the analyst for the Charleston County
17 Consolidated 911 Center.

18 Q. All right. And what are some of your duties and
19 responsibilities in the center?

20 A. Those duties and responsibilities include I am the
21 FOIA, Freedom of Information Act compliance officer. I
22 deal with 911 calls whether it be for the media, through
23 subpoenas for attorneys, through the internal agencies
24 that we service. I also compile a monthly report of
25 activities that occurs within the center but primarily I

State v Devante Antonio Grant
Tonia Mallette-Direct Examination by Mr. Osborne
August 7, 2017

1 work with 911 calls.

2 Q. Okay. So with 911 calls sometimes law enforcement
3 agencies request a copy of the actual 911 caller, is that
4 correct?

5 A. Yes.

6 Q. So tell the jury how when someone calls 911 that
7 process or that call is recorded.

8 A. Sure. Once a call comes into a center it is
9 answered by a call taker. That call taker verifies --
10 excuse me they request the address, they verify the
11 address, they request the caller's information from the
12 name also the number in which that caller is coming from.

13 Then they go down and they ask a list of protocol
14 questions that we have already set forth. So once that
15 information is taken that information is shipped to a
16 dispatcher and that dispatcher in turn dispatches an
17 officer to the incident requested by the actual
18 complainant.

19 Q. And as part of your job -- well, let me ask you.
20 These 911 calls I guess are stored on a server of some
21 sort?

22 A. Yes, they are.

23 Q. And as part of your job a law enforcement agency can
24 issue you a subpoena and ask you to make a copy of a
25 specific 911 call?

State v Devante Antonio Grant
Tonia Mallette-Direct Examination by Mr. Osborne
August 7, 2017

1 A. That's correct.

2 Q. And was that done in reference to an armed robbery
3 investigation that occurred on January the 26th of 2016
4 in the City of Charleston?

5 A. Yes, it was.

6 Q. And did you have an occasion to copy that 911 call?

7 A. Yes, I did.

8 MR. OSBORNE: Your Honor, may I approach?

9 THE COURT: You may.

10 Q. [Mr. Osborne] I'm showing you what has been marked
11 as State's exhibit 20. Can you take a look at that and
12 tell me if you recognize it?

13 A. Certainly.

14 [Whereupon, the witness is shown exhibit]

15 A. Yes, I do.

16 Q. And what is that?

17 A. It is the 911 call initialed by myself of the
18 incident city of Charleston with the case number and
19 there is not a date. But there is a case number and my
20 initials of the actual 911 call that I made and placed on
21 the disk.

22 Q. Okay. Thank you.

23 MR. OSBORNE: Your Honor, at this time we would
24 seek to admit State's exhibit 20 but will publish it
25 through another witness.

State v Devante Antonio Grant
Tonia Mallette-Direct Examination by Mr. Osborne
August 7, 2017

1 THE COURT: Very well. Any objection?

2 MS. EHRLICH: No, Your Honor.

3 THE COURT: State's exhibit 20 is admitted without
4 objection.

5 [Whereupon, State's exhibit number 20 is entered
6 into evidence by the court]

7 MR. OSBORNE: No further questions, Your Honor.

8 THE COURT: Cross-Examination?

9 MS. EHRLICH: No questions, Your Honor.

10 THE COURT: Thank you. You may come down. May
11 this witness be excused?

12 MR. OSBORNE: Yes, Your Honor.

13 THE COURT: Any objection?

14 MS. EHRLICH: No, Your Honor.

15 THE COURT: You're also free to leave. Thank you.

16 [Whereupon, the witness is excused and exits the
17 witness stand]

18 THE COURT: Call your next witness please.
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State v Devante Antonio Grant
Kristina Hooks-Direct Examination by Mr. Waring
August 7, 2017

1 MR. WARING: Thank you, Your Honor. The State
2 calls Kristina Hooks.

3 [Whereupon, Ms. Hooks comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: State your full name for the
7 record spelling your last.

8 THE WITNESS: My name is Kristina Hooks, H-O-O-K-S.

9 - - - - -

10 KRISTINA HOOKS,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Ms. Hooks, can you tell the jury where you're from?

16 A. Charleston, South Carolina.

17 Q. And where do you live today?

18 A. Ladson.

19 Q. Okay. Can you tell them what your education level
20 is?

21 A. A little college --

22 Q. Where did you go to college?

23 A. I went to Trident Tech. Well, I got my Associate's
24 degree.

25 Q. Do you have a significant other?

State v Devante Antonio Grant
Kristina Hooks-Direct Examination by Mr. Waring
August 7, 2017

- 1 A. I'm sorry?
- 2 Q. A significant other; boyfriend?
- 3 A. Yes.
- 4 Q. And what's his name?
- 5 A. Dean Parker.
- 6 Q. Do you have any children?
- 7 A. Yes, I do.
- 8 Q. And how many do you have?
- 9 A. One.
- 10 Q. And boy or girl?
- 11 A. Boy.
- 12 Q. And how old is he?
- 13 A. Twenty-four.
- 14 Q. Were you working back in January of 2016?
- 15 A. I was.
- 16 Q. And where were you working?
- 17 A. At Sub Station II.
- 18 Q. Can you tell the jury what that is?
- 19 A. It's a sub place. We make sandwiches for customers
- 20 like you of whatever you want. It's sliced like it's not
- 21 like -- it's fresh and it's sliced to your liking. And
- 22 then we put whatever toppings you want on it and we have
- 23 chips and soda and things like that. I just take care of
- 24 the customers whatever they want.
- 25 Q. So you were a server, is that right?

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- 1 A. Customer service.
- 2 Q. Okay. Did you make sandwiches?
- 3 A. I did.
- 4 Q. Can you tell the jury what your hours were?
- 5 A. I had different hours. Are you talking about the
6 night of the incident?
- 7 Q. January 26th could you tell them what your hours
8 were?
- 9 A. I believe that one was 5:00 to 8:30 I believe. It
10 was a short one.
- 11 Q. 8:30 a.m. or p.m.?
- 12 A. P.M.
- 13 Q. And do you recall that night about what time you got
14 off work?
- 15 A. 8:30.
- 16 Q. P.M.?
- 17 A. Yes.
- 18 Q. Okay. Had you driven to work that day?
- 19 A. Yes, sir.
- 20 Q. What kind of car had you driven?
- 21 A. A Ford fusion.
- 22 Q. What color?
- 23 A. White.
- 24 Q. What did you do as soon as you got off work?
- 25 A. As soon as I got off work I grabbed my sub, my

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1 sandwiches I had made for my family, my apron, my cup of
2 ice, my purse and we locked up. And I watched my co-
3 worker leave me. She just got in a car with her
4 boyfriend and just left me and I was alone and like way
5 across the parking lot was my car. So I went to my car.

6 MR. WARING: May I approach the witness, Your
7 Honor?

8 THE COURT: Yes.

9 Q. [Mr. Waring] Ms. Hooks, I'm showing you what has
10 been marked for identification purposes as State's
11 exhibits 1 through 4 and 8 through 17. Would you mind
12 taking a look at these please?

13 [Whereupon, the witness views photographs]

14 Q. And when you get a minute will you tell the jury
15 what you're looking at?

16 A. Okay.

17 Q. Would you tell the jury what you saw in there?

18 A. Mainly the Sub Station restaurant, the entrance; two
19 entrances, my car; two pictures of my car -- well three,
20 four pictures of my car and then a picture with my
21 driver's license. I mean not my driver's license my tag
22 number.

23 Q. Overall are you seeing your car in Sub Station II
24 and the surrounding area?

25 A. Overall, yes.

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1 Q. Is that what you're saying? And do those photos
2 fairly and accurately depict those things?

3 A. Yes, sir.

4 MR. WARING: Your Honor, at this point the State
5 would move to have exhibits 1 through 4 and 8 through 17
6 admitted into evidence.

7 THE COURT: Any objection?

8 MS. EHRLICH: No objection, Your Honor.

9 THE COURT: Without objection State's 1 through 4
10 and 8 through 17 is admitted; these being photographs.

11 [Whereupon, State's exhibit numbers 1 through 4 and
12 8 through 17 are entered into evidence by the court]

13 Q. [Mr. Waring] Kristina, I'm just going to put a
14 couple of these on here. Is this where you worked?

15 [Whereupon, a series of photographs are shown]

16 A. Yes, sir.

17 Q. And was this your car?

18 A. Yes, sir.

19 Q. And was that the license plate at the time?

20 A. Yes, sir.

21 Q. Now, I'm going to show you State's exhibit 7. Can
22 you tell us where you were parked?

23 A. Right by that tree [indicates] to the right of the
24 tree.

25 Q. You can actually on there if you want.

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- 1 A. With my finger?
- 2 Q. Yes. Were you backed in or were you facing?
- 3 A. I was facing.
- 4 Q. Okay. Now you mentioned you were alone, is that
- 5 right?
- 6 A. Yes.
- 7 Q. What about the parking lot itself? Was it empty or
- 8 were there cars around?
- 9 A. I didn't see any other cars around at all. All the
- 10 other shops were closed so there wasn't any cars; so it
- 11 was just me.
- 12 Q. Okay. What about weather? Was it raining that
- 13 night?
- 14 A. No, sir.
- 15 Q. What about as far as lighting? Was there any
- 16 lighting?
- 17 A. There was lighting.
- 18 Q. Where was the lighting coming from?
- 19 A. The parking lot. There are lights right over here
- 20 [indicates]. Can I touch it?
- 21 Q. You can touch it.
- 22 A. There were lights right here [indicates]. And I
- 23 remember the moon was out so it was bright.
- 24 Q. Were there also lights coming from the surrounding
- 25 businesses?

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1 A. Yes.

2 Q. Can you tell us what happened next? You got off
3 work. You had your sandwiches and what happened next?

4 A. I walked to my car and I got in my car. And I sort
5 of like threw everything to the passenger side or
6 passenger seat and shut my door, put on my seatbelt and
7 cranked my car.

8 And since I had like a pretty good drive I was
9 trying to to my left organize -- I mean to my right
10 organize everything so if I hit the brake everything
11 wouldn't slide onto the floor board so I was facing this
12 way [indicates].

13 I'm fixing the sandwiches and my purse and I put my
14 apron in the back seat and put my cup of ice up and I was
15 just arranging everything. I remember I put my head back
16 and I went whew because we raced to get out of there and
17 then I caught my breath.

18 And then I looked to where I was going to put my
19 cigarettes because if those go flying on the floor when I
20 could get those. And as I'm looking that's when I hear
21 bam, bam, bam, bam on my window and I looked.

22 Q. What did you see?

23 A. I saw him tapping on my window with a gun, the
24 defendant tapping on my window with a gun yelling at me
25 to get out the damn car.

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1 Q. Can you tell us, tell the jury what the gunman
2 looked like?

3 A. When he was back a little ways after being at my
4 window, just back a little ways I could see his face
5 because he was holding the gun and he had a skinny face.
6 He wasn't charcoal black but he wasn't mulatto. He was
7 like medium. He had a thin face. He had on a white
8 hoodie which was pulled up.

9 At the time I said he was 5'6 to 5'8 but he was
10 standing up on the mound right here [indicates] so that
11 made him a little bit taller. So when I got out the car
12 I was more paying attention to his face. And I said he
13 weighed about 150 or 160 pounds.

14 Q. Now Ms. Hooks, on the night of the incident you told
15 Detective Deming that the gunman had a dark hoodie.

16 A. Yes, he was wearing a black hoodie.

17 Q. Is that right?

18 A. Yes, sir.

19 Q. So now it's a white hoodie?

20 A. Did I say white?

21 Q. I thought you said white.

22 A. No, I'm sorry. He did have a black hoodie. The
23 other guy had a white hoodie. I'm sorry.

24 Q. And you mentioned 5'6 to 5'8. Is it true that on
25 the night of the incident you actually said he was 5'6 to

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1 5'7?

2 A. Right.

3 Q. Okay. Is it also true that a few days later on
4 February 1st, 2016 you said that he was 5'7 or 5'8 max,
5 is that right?

6 A. Yes, sir. I believe when I met with Detective
7 Jarrell that's when I had time to think and you know
8 reflect.

9 Q. Now what about age? How old did he look?

10 A. He looked 20 to 25.

11 Q. Okay. And do you recall that on February 1, 2016
12 you changed your assessment and said perhaps more he was
13 like 17 to 25 and actually more like 17 years old. Do
14 you remember that?

15 A. I do, yes sir.

16 Q. Now Ms. Hooks have you ever had contact with members
17 of the African American race?

18 A. All the time.

19 Q. Can you tell the jury in what way?

20 A. My next door neighbor he's African American. I love
21 him and we've lived next door to each other for seven
22 years. My best friend of 22 years he's African American
23 and her son and my son are best friends. They've been
24 best friends for 22 years. I actually have more African
25 American friends than I do white friends. But I talk to

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1 them at the grocery store; they know me. At the
2 convenience store down the street they know me. And
3 every day -- when I went to school I actually had two
4 study buddies, two guys, and we would all sit together
5 and study for Biology and we were like a team; so yes.

6 Q. So in other words this wasn't the first time that
7 you encountered African American, is that right?

8 A. No, sir.

9 Q. How soon after the defendant tapped on the window
10 did you see his face?

11 A. Like a couple of seconds. That's when he backed up
12 a little bit from the window after banging on the window
13 he backed up from the window and he had the gun and I
14 could see his face.

15 Q. Okay. And you did this motion [indicates]. You
16 said he had a hoodie. What's this [indicates] all about?
17 What's that motion all about?

18 A. The hoodie actually helped. It didn't help him hide
19 his description. What it actually did was help me just
20 focus on his face without any background, any hair. With
21 the hoodie on around his face I could give a good
22 description of his face so it helped.

23 Q. Okay. Ms. Hooks, were you scared?

24 A. That's the scariest thing that has ever happened to
25 me in my life. I can't think of anything that was more

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1 scarier.

2 Q. Can you tell us what the defendant's demeanor was at
3 that point?

4 A. Angry.

5 Q. Now was there anybody else with the defendant?

6 A. When I got out the car that's when I noticed Chisolm
7 walking up.

8 Q. Now you said the name Chisolm. Did you know that
9 name at that time?

10 A. No, I didn't. I saw some guy walk up. I didn't
11 know the name at the time.

12 Q. Okay. What did this other individual look like?

13 A. That one he was almost like as tall as me so
14 probably like 5'6. He had on a white hoodie. I really
15 didn't get a good -- I know he was darker in color but I
16 really didn't study his face that well.

17 I was kind of -- when I got back up a little bit and
18 he yelled -- the defendant yelled at the other guy to get
19 her -- he said F'ing [phonetic] cell phone; he said the
20 word, he walked up to me but I was more looking at Grant
21 because I didn't know what he was going to do with that
22 gun and I knew that the other guy didn't have a gun ---

23 MS. BIRT: --- objection, Your Honor.
24 Nonresponsive.

25 THE COURT: Overruled.

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1 Q. [Mr. Waring] You can continue.

2 A. He was just coming up and he didn't have a gun and
3 he didn't seem as scary to me as the defendant.

4 Q. Let's talk about that for a second. What does that
5 mean? What led you to believe this person ---

6 A. --- well, he didn't have a gun.

7 Q. What was his demeanor? Not the defendant, the other
8 guy?

9 A. He was actually -- I could tell he was just taking
10 orders from Grant, the defendant.

11 MS. BIRT: Objection, Your Honor. We'd like to
12 renew our pretrial motion in Biggers this morning.

13 THE COURT: I'll sustain the objection under 602.
14 Strike that. Disregard that statement ladies and
15 gentlemen. You can lay the foundation but otherwise move
16 on to something else, Solicitor.

17 MR. WARING: Yes, Your Honor.

18 Q. [Mr. Waring] Okay, Ms. Hooks let's turn to the gun
19 itself. Did you actually see the gun?

20 A. I did.

21 Q. And what color was it?

22 A. It was black.

23 Q. Where was Grant pointing the gun?

24 A. At my head.

25 Q. Now it's okay for you to say what he said. What did

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1 he say to you?

2 A. When he was sitting there holding the gun at me and
3 I looking at him this way [indicates] about five or six
4 times he said I swear to God I am going to fucking hurt
5 you.

6 And then he said it again I swear to God I will
7 fucking hurt you. And then he said I swear to God I will
8 fucking kill you. And then he said the same thing about
9 three more times.

10 Q. Was he whispering these things or shouting?

11 A. Shouting.

12 Q. Did his voice sound young or old?

13 A. Young.

14 Q. So you mentioned the other guy came up and took a
15 pack of cigarettes out of your hand. What happened next?

16 A. He just dropped the cigarettes and walked off.

17 Q. And what did they do?

18 A. Grant was, the defendant, I'm sorry, he was going
19 through my car and the other guy walked around and got in
20 the passenger seat. The defendant got in the driver's
21 seat and it was like a couple of seconds and then they
22 finally backed off and left.

23 Q. Can you tell us where this defendant was standing
24 most of the time during the incident? Can you point on
25 there where he was standing?

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- 1 A. While he was going through my car or when he was
2 doing the gun?
- 3 Q. At the beginning when you got out of the car where
4 was he standing?
- 5 A. He was standing right here [indicates] in my
6 doorway.
- 7 Q. Is that on the curb or is that ---
- 8 A. --- he was standing right there on the curb.
- 9 Q. During this incident how far away from you was he
10 the whole time?
- 11 A. When he had the gun? About a foot a foot and half
12 or two feet.
- 13 Q. Was he close enough to see his face clearly?
- 14 A. He was.
- 15 Q. Did you in fact get a good look at his face?
- 16 A. I did.
- 17 Q. During the whole incident could you still see his
18 face as he was moving back and forth?
- 19 A. When he was going through my car his back was to me
20 so not the whole time.
- 21 Q. Did you see his face again other than the first
22 initial incident when you got out of the car and were
23 face to face?
- 24 A. Yes, I did.
- 25 Q. Were you alert and attentive at that time?

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- 1 A. Yes, sir.
- 2 Q. Were your senses functioning properly?
- 3 A. They were. I was scared but they were functioning.
- 4 Q. Now can you tell the jury did you focus on anything
- 5 specific during this incident?
- 6 A. His face.
- 7 Q. Whose face?
- 8 A. The defendant's.
- 9 Q. How is your vision?
- 10 A. It's good.
- 11 Q. Do you wear glasses?
- 12 A. No, sir.
- 13 Q. Did you see where these two men had come from
- 14 initially?
- 15 A. I didn't. I did not.
- 16 Q. Now as far as like the time can you tell us about
- 17 how long you think the whole incident lasted?
- 18 A. Ten minutes, maybe.
- 19 Q. So they got back in the car and what happened next?
- 20 A. I watched them leave. They backed up and left.
- 21 Q. Other than your cigarettes and your car did you have
- 22 any other property taken?
- 23 A. Everything that was in my purse. My...
- 24 Q. Can you tell the jury what was in your purse?
- 25 A. My debit card, a driver's license, my social

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1 security card; everything that was important. I got my
2 paycheck that day and my W-2 and so that was gone. I had
3 taken off my engagement ring because we have to wash
4 dishes at Sub Station II. We don't have a dishwasher.

5 It almost slipped off one time so I put it in my
6 apron. We were in such a hurry, or she was in such a
7 hurry to get out I put it in the backseat and I didn't
8 put it back on. I forgot to put it back on. I was in a
9 hurry trying to get this stuff. I already said debit
10 card, right?

11 Q. Yes.

12 A. And then the ring that was worth about 8,000
13 dollars, my cell phone.

14 Q. Okay. And what did you do once they left?

15 A. I looked around. I looked around to see if anything
16 was open or how I could -- I felt helpless. I didn't
17 know what to do.

18 Q. Was anything open?

19 A. I looked over across the street and I saw lights.
20 You can't go straight like across here [indicates]
21 because that's kind of like a ravine.

22 I had to walk all the way down that way [indicates]
23 and then go across the eight lanes of traffic to get to
24 that shopping center.

25 Q. Would it help if I showed a picture of what is

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1 across the street?

2 [Whereupon, the photograph is shown]

3 Q. Did you go that way [indicates] to that building
4 beyond the green building?

5 A. No sir, I didn't go that way.

6 Q. So you didn't go to Panera Bread?

7 A. I went to Panera Bread. I thought you meant the
8 exit that I went out of.

9 Q. So how exactly did you get to Panera Bread?

10 A. I got out from the exit from Sam Rittenberg Highway;
11 that entrance. Then I ran across Sam Rittenberg Highway
12 and then went there [indicates]. There's [indicates]
13 Panera Bread.

14 Q. What did you do once you got there?

15 A. I ran inside and I asked for a phone, a cell phone
16 and four people told me they didn't have a cell phone;
17 four people. I said can you just call 911 for me and
18 they said they didn't have a phone.

19 So I just went around to the counter and took it
20 upon myself and found the landline and went outside and
21 called 911.

22 Q. Now Ms. Hooks I'm going to play for you what has
23 already been put into evidence. It's exhibit 20, the
24 actual 911 call.

25 [Whereupon, the audio call plays]

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1 [Whereupon, the audio call ends]

2 [Not taken down]

3 Q. Ms. Hooks, did you describe to the police what
4 happened?

5 A. Yes, sir.

6 Q. Had you ever seen the defendants before?

7 A. No, sir.

8 Q. Do you recall meeting with Detective Jarrell on
9 February 1st, 2016?

10 A. I do.

11 Q. And do you recall being shown a photographic lineup?

12 A. I do.

13 Q. At that point in your life had you ever done one of
14 these before?

15 A. No, sir.

16 MR. WARING: Court's indulgence.

17 THE COURT: Yes, sir.

18 Q. [Mr. Waring] Ms. Hooks, I'm now going to show you
19 what has been marked for identification purposes as
20 State's exhibit 18 and 19. Could you please take a look
21 at those?

22 [Whereupon, the witness is shown photographs]

23 Q. And would you tell the jury what those are?

24 A. This is my signature that I did the photo lineup.

25 And this is the photo lineup where I picked out the

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1 defendant and I circled it and initialed it underneath.
2 Q. Is your signature on there as well?
3 A. On this [indicates] piece of paper but my initials
4 are underneath and he is circled.
5 Q. And do those documents fairly and accurately depict
6 the lineup you were shown of the defendant?
7 A. Yes, sir.
8 MR. WARING: Your Honor, at this point State moves
9 to have exhibits 18 and 19 admitted into evidence.
10 THE COURT: Any objection?
11 MS. BIRT: We'd like to renew our objections at
12 pretrial, Your Honor.
13 THE COURT: Subject to objections raised and argued
14 in pretrial my ruling is they be admitted subject to
15 those objections. Thank you.
16 MR. WARING: Thank you, Your Honor.
17 [Whereupon, State's exhibit numbers 18 and 19 are
18 entered into evidence by the court]
19 Q. [Mr. Waring] Ms. Hooks, just so the jury can see
20 what we're talking about is this the form that you
21 signed?
22 [Whereupon, the photograph is shown]
23 A. Yes, sir.
24 Q. And is this what you were read?
25 A. Yes.

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1 Q. And is that the lineup you were shown?

2 A. It is.

3 Q. And are those your initials under picture number
4 four?

5 A. Yes, sir.

6 Q. And did you circle that picture?

7 A. I did.

8 Q. How many different people are in that?

9 A. Six.

10 Q. Are there six different people?

11 A. Yes, six different people.

12 Q. Did you make a positive identification?

13 A. I did.

14 Q. Who did you identify?

15 A. I didn't know his name but number four.

16 Q. Do you recall if you said anything at that time when
17 you picked that person out?

18 A. I said I think it's him. I remember I think that's
19 him. And then if you listen to the tape there is like a
20 long pause because I wanted to be certain. And I did the
21 thing, that stupid thing I do if I put like the hoodie
22 over his head so I could just concentrate on his face.

23 I wanted to make sure I had the right person. And
24 then we were done with the tape recorder and I circled
25 and put my initials and then the tape was off. And then

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- 1 I was like yes, that's definitely him.
- 2 Q. What does that mean when you said you put the hoodie
3 on like that? What -- tell the jury ---
- 4 A. --- I try to just concentrate on his face like this
5 [indicates] like I saw that night.
- 6 Q. Can you show the jury? I don't know if they can see
7 behind that monitor what you're talking about.
- 8 A. Like his picture I went like that [indicates] just
9 to look at his face. Cover up his hair just so I can
10 look at his face because he was wearing a hoodie and so I
11 could just concentrate on his face.
- 12 Q. Do you recall whether you made any comments about
13 physical characteristics at that time about his eyes?
- 14 A. Oh, I said that I thought they were brown but with
15 the light they almost looked bluish. But it was like the
16 light.
- 17 Q. So you said they almost didn't look brown, they
18 almost looked bluish, is that right?
- 19 A. Yes, sir.
- 20 Q. And do you have any explanation for that?
- 21 A. No. I was just being honest. I think the moon made
22 them look kind of bluish, dark blue.
- 23 Q. Now didn't you mention at an earlier point in time
24 something about the moon made you say that?
- 25 A. Yes, the moon was out and it was glowing and I

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1 thought that's what made probably his eyes light blue.

2 Q. Now did Detective Jarrell or anybody at Charleston
3 Police Department or anybody at all influence your
4 decision to pick number four?

5 A. No, sir.

6 Q. Nobody hinted at all in any way that you should pick
7 that person out?

8 A. No, sir.

9 Q. Do you see that person in the courtroom today?

10 A. I do.

11 Q. Can you point him out to the jury?

12 A. [Indicates]

13 MR. WARING: Your Honor, let the record reflect the
14 witness has identified the defendant.

15 THE COURT: It so reflects.

16 Q. [Mr. Waring] Did you ever get any of your property
17 back?

18 A. No, sir.

19 Q. Not the ring, not the engagement ring?

20 A. No, sir.

21 Q. What about your car?

22 A. I got the car back.

23 Q. What did you do with the car?

24 MS. BIRT: Objection. Relevance.

25 THE COURT: I'll allow it. Overruled.

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1 A. It was covered in police dust so I had to go get it
2 detailed and driving it just wasn't the same. It just
3 wasn't the same and it scared me ---

4 MS. BIRT: --- objection. Relevance.

5 THE COURT: I'll allow it. Overruled.

6 A. And so we ended up trading it.

7 Q. [Mr. Waring] Ms. Hooks, can you tell the jury how
8 this incident has affected you?

9 A. I don't like to leave my house. I left the
10 residence and tried to go to the grocery store one time
11 and I was parked and I had ---

12 MS. BIRT: --- Your Honor, relevance and improper
13 witness ---

14 THE COURT: --- sustained. I sustain the objection
15 as to how it's affected her.

16 A. Anyway I just stay at home ---

17 THE COURT: --- no ma'am, wait on another question.

18 MR. WARING: I'll withdraw the question, Your
19 Honor. Court's indulgence.

20 [Whereupon, Mr. Waring and Mr. Osborne confer]

21 Q. [Mr. Waring] Ms. Hooks, can you tell us who was
22 driving the car when they left? When they got in the car
23 and they fled the scene who was driving?

24 A. The defendant.

25 Q. So not the other guy?

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1 A. No, sir.

2 MR. WARING: No further questions, Your Honor.

3 THE COURT: Let's take a break at this point.

4 Ladies and gentlemen I'll let you go to your jury room.

5 Do not begin your deliberations. Don't discuss the case.

6 We'll be with you in about 10 or 15 minutes.

7 [Whereupon, the jury exits at 3:29 p.m.]

8 THE COURT: Anything from the State before we
9 recess?

10 MR. WARING: No, Your Honor.

11 THE COURT: Anything from the defendant before we
12 recess?

13 MS. EHRLICH: No, Your Honor.

14 THE COURT: Ms. Hooks, during this break you may
15 step down if you wish. I would ask that you not have any
16 conversation with any of the attorneys during the break,
17 please. We'll be at ease.

18 [Whereupon, court is in recess from 3:30 p.m. until
19 3:43 p.m.]

20

21

22

23

24

25

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1 THE COURT: Is the State ready to continue?
2 MR. WARING: Yes, Your Honor.
3 THE COURT: Is the defense ready?
4 MS. BIRT: Yes, Your Honor.
5 THE COURT: Let the record reflect that Mr. Grant
6 is present.
7 [Whereupon, the jury enters at 3:46 p.m.]
8 THE COURT: Thank you ladies and gentlemen. We're
9 ready to continue. You may cross-examine the witness.
10 MS. BIRT: Thank you, Your Honor.
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State v Devante Antonio Grant
Kristina Hooks-Cross-Examination by Ms. Birt
August 7, 2017

1 CROSS-EXAMINATION

2 BY MS. BIRT:

3 Q. Good afternoon, Ms. Hooks. My name is Jessica Birt.
4 I work for the Public Defender's Office and I'm just
5 going to ask you a few questions.

6 If you're ever confused at any point just let me
7 know. I want to just ask you a few clarifying questions
8 about the incident so remembering it the night of January
9 26, 2016, okay. That night you said you got off work
10 about 8:30?

11 A. Uh Huh.

12 THE COURT: Was that a yes?

13 A. Yes, ma'am.

14 Q. [Ms. Birt] And just so you know the court reporter
15 next to you is taking down what you say so you have to
16 verbally say yes or no. And you had been working about
17 three to three and half hours that night?

18 A. About four.

19 Q. About four hours?

20 A. Yes. We close at 8 but it takes about 30 minutes
21 cleaning up.

22 Q. Okay. You would say you're probably pretty tired
23 after working a shift like that, right?

24 A. Yes, ma'am.

25 Q. And after your shift was over you went to your car.

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- 1 A. I did.
- 2 Q. And you had to cross the entire parking lot to get
3 to your car.
- 4 A. Yes, ma'am.
- 5 Q. Now the Solicitor showed you a photograph of the
6 parking lot where your car was located right?
- 7 A. Yes, ma'am.
- 8 Q. And you said that your vehicle was actually pulled
9 in kind of the normal way into the parking space?
- 10 A. Right.
- 11 Q. So it wasn't backed in.
- 12 A. No.
- 13 Q. So in order for you to have left the parking space
14 just so we're all clear you would actually have to back
15 out of the spot.
- 16 A. Yes, ma'am.
- 17 Q. And when an individual approached your car that
18 individual approached from the right side, is that right?
19 I'm sorry, the left side of the car.
- 20 A. The left side.
- 21 Q. Because you were sitting in the driver's seat.
- 22 A. Right.
- 23 Q. And you said this individual came up kind of from
24 behind you?
- 25 A. Well, I was looking this way [indicates].

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1 Q. You're not sure which direction the individual came
2 from ---

3 A. --- I know they came from this way [indicates], from
4 the left.

5 Q. So they came from the left but you're not sure
6 whether they came from the front of the car or the back
7 of the car?

8 A. If they had come from the front of the car I would
9 have seen them.

10 Q. So they came from behind you on the left.

11 A. Right.

12 Q. But you were looking down to your right in the car
13 at the time.

14 A. Yes, I was.

15 Q. And it wasn't until you heard that tap on the window
16 that you turned to look.

17 A. Right. Yes, ma'am.

18 Q. Now at first you weren't suspecting anything to
19 happen that night, right?

20 A. Right.

21 Q. You thought maybe it was your co-worker?

22 A. Like coming back to ask me a question or something
23 like that or we forgot to do this or something like that?
24 Is that what you inferring?

25 Q. Right. You thought that maybe could have been the

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- 1 situation, right?
- 2 A. Not really because she was gone.
- 3 Q. You weren't expecting anyone to knock on your
4 window.
- 5 A. No, I wasn't.
- 6 Q. And you don't believe you've ever testified that you
7 believed it might have been your co-worker knocking to
8 see if something else was going on?
- 9 A. No.
- 10 Q. Now I think you testified on direct, and correct me
11 if I'm wrong, you said you were racing to get out of
12 there. Did you mean you were racing to get out of work
13 that night?
- 14 A. Right. We raced from 8:30 to try to -- we locked
15 that door at 8:00 and started to get it cleaned up.
- 16 Q. As quick as you could.
- 17 A. Right so we could go home.
- 18 Q. Right. And you got in your car after the cleaning
19 up that evening?
- 20 A. After locking up.
- 21 Q. And you lit a cigarette?
- 22 A. I did.
- 23 Q. And then prepared to drive home.
- 24 A. Yes.
- 25 Q. Now Ms. Hooks you suffer from a bad back, right?

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1 A. I do.
2 Q. Now would working a shift like that exacerbate your
3 back problems?
4 A. Yes, ma'am.
5 Q. Because you're on your feet the whole time, right?
6 A. Right, and bending over and washing dishes.
7 Q. Right. And you take medication for that condition,
8 correct?
9 A. I did, yes ma'am.
10 Q. Now was that medication on you that evening?
11 A. It was. It was in my purse.
12 Q. Now the items you listed on direct you didn't list
13 any medication. What medication did you have in your
14 purse that night?
15 A. Pain medicine for my back.
16 Q. Do you know what kind?
17 A. Hydrocodone.
18 Q. And do you know how much was in your purse at that
19 time?
20 A. I hadn't taken a pill and I forget the quantity but
21 all of it was there.
22 Q. Can you give us a ballpark of how many you think?
23 A. Three a day -- 90.
24 Q. That means 90 pills?
25 A. Yes. That's 3 a day right. Sorry, I'm horrible

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- 1 with math.
- 2 Q. That's okay.
- 3 A. The reason I had it in my purse, I usually leave it
4 at home, is because I had to go to work and I went to
5 Walmart and picked it up because I knew when I got home I
6 was going to need something for my back.
- 7 Q. Right. And you didn't take your medicine that day.
- 8 A. Right. And I wouldn't have had time -- we would
9 have been closed for me to go to the pharmacy. That's
10 the only reason I had it on me that night.
- 11 Q. Now Ms. Hooks I kind of want to shift gears a little
12 bit. I know that after this incident occurred you spoke
13 to several different individuals at several different
14 times so I kind of want to go through one at a time with
15 you, okay? Now immediately after the incident occurred
16 you called 911?
- 17 A. Right.
- 18 Q. And that's the recording we heard just a little
19 while ago.
- 20 A. Yes, ma'am.
- 21 Q. Now during that recording, it was brief but you
22 identified two black males.
- 23 A. Yes, ma'am.
- 24 Q. They were both wearing hoodies.
- 25 A. Yes, ma'am.

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1 Q. And that there was a gun.

2 A. Yes.

3 Q. You didn't provide any other description of the
4 individuals at that time.

5 A. Not at that time. I just wanted the police to get
6 there.

7 Q. Right, because you were worried about your car.

8 A. And my safety. I just wanted law enforcement there
9 so I could feel safe. I didn't feel safe.

10 Q. So you just provided just a bare bones description
11 of the individuals at that time just to get the cops
12 there.

13 A. Right. And the car because if they got the car they
14 would have gotten them.

15 Q. So you didn't think they were anywhere around you at
16 that time because they were in the car somewhere.

17 A. Right. But I still felt unsafe and scared.

18 Q. Well as soon as the police arrived you spoke with I
19 believe it was the first officer, Officer Jahngen?

20 A. I didn't remember his name but I did. He was very,
21 very nice.

22 Q. Okay. And you gave an identification of the two
23 males to him as well.

24 A. I believe so.

25 Q. You indicted that they were both black.

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1 A. [Nods affirmatively]
2 THE COURT REPORTER: Is that a yes?
3 A. Yes, ma'am.
4 Q. [Ms. Birt] That they were both male.
5 A. Yes, ma'am.
6 Q. That the one holding the firearm had a skinny face?
7 A. Yes, ma'am.
8 Q. And that he himself was rather skinny?
9 A. Yes, he was thin.
10 Q. I'm sorry?
11 A. He was thin, yes ma'am.
12 Q. And at that time you told that officer that he was
13 5'6 or 5'7?
14 A. Yes, ma'am.
15 Q. And you didn't to that first officer you didn't
16 provide any additional information at that time.
17 A. Like what happened? Like the steps or like what
18 happened after work? I don't understand the question.
19 Q. About the description of the two individuals. You
20 gave him again just the basics of the height this time
21 and that's all that you gave him at that time.
22 A. I guess so. It was a long time ago so I guess so.
23 Q. Okay. And that conversation you had with that
24 first officer happened maybe 15 minutes or so after your
25 car had been taken, right?

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1 A. About 15 minutes.

2 Q. So pretty close in time after what happened.

3 A. Right. He said that he got there at 8:55. I got
4 out of there at 8:30 and it happened about 8:45. That
5 gives about 10 minutes and then time for me to run across
6 the road so that makes sense.

7 Q. So about ten minutes after that that's the
8 description you gave.

9 A. Right, uh huh.

10 Q. Now after speaking with him you spoke to a second
11 officer. That officer's name was Officer Deming?

12 A. Yes, ma'am.

13 Q. And you actually sat in Officer Deming's patrol car
14 and gave him a more detailed description about what
15 happened that night?

16 A. I did.

17 Q. Again, this is all occurring I think he spoke with
18 you around 9:21 that evening?

19 A. Right. We had already driven over to -- the other
20 officer?

21 Q. Yes, ma'am.

22 A. Drove me over to Sub Station II and then like
23 everybody kind of shifted and went over to Sub Station II
24 so they could see the parking lot and where I was parked.

25 Q. So just to clarify that happened about 9:20 that

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1 evening so that was about 20 minutes after you had spoken
2 to the first officer.

3 A. Yes. We talked for a while. The police were
4 talking and then we had to have time to get over there.
5 So by the time I got into Inspector Deming's car, he had
6 a regular car, he said he was going to tape me, tape
7 record me.

8 Q. You said a tape record?

9 A. Like a tape player.

10 Q. I apologize. I thought you said take you and I
11 wanted to make sure he wasn't transporting you anywhere.
12 He was tape recording the conversation.

13 A. Yes. The other officer transported me.

14 Q. Now I want to talk to you specifically with that
15 conversation you had with him. Again, you describe the
16 incident occurring with two black males.

17 A. Yes, ma'am.

18 Q. That the first individual with the gun was 5'6, 5'7?

19 A. Yes, ma'am.

20 Q. Again, you told him about the skinny face.

21 A. Yes, ma'am.

22 Q. And this time you included that you believed to the
23 best of your knowledge that the person with the gun was
24 about 150 to 160 pounds.

25 A. I did.

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1 Q. You also informed him that you believed that person
2 was 20 to 25 years old.

3 A. Yes, ma'am.

4 Q. Now do you remember that when Mr. Deming asked if
5 you got a look at the face you said a little bit? Do you
6 remember you kind of were trying to let him know about
7 the information you said yes, I saw it a little bit?

8 A. I don't remember saying that. I'm being honest.

9 Q. He then asked you about the second individual that
10 you saw. Do you remember that?

11 A. That's the one I saw. I do remember saying I only
12 remember a little bit of him. I remember saying that
13 about the second.

14 Q. And you thought the second person was maybe a little
15 bit younger than the first person with the gun?

16 A. A little bit; maybe a year or so.

17 Q. And you thought that the second person was about 150
18 pounds.

19 A. Yes, ma'am.

20 Q. You also told Officer Deming that at that time that
21 your head was just spinning, right?

22 A. It probably was.

23 Q. That it was kind of like a dream.

24 A. I knew what I was doing and saying; you know doing.

25 Q. Right. That's how you described how you were

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1 feeling at that time.
2 A. I was in disbelief.
3 Q. All right. Now I kind of want to move ahead a
4 little bit in time. After that evening there was a few
5 about six days gap and you met with Detective Jarrell on
6 February 1st.
7 A. Yes, ma'am.
8 Q. And this time you went down to the police station to
9 speak with Detective Jarrell.
10 A. I did.
11 Q. And he informed you that he was going to also record
12 your conversation with him.
13 A. Yes, ma'am.
14 Q. And he told you that it was both audio and video
15 recorded.
16 A. Yes, ma'am.
17 Q. Now during that conversation you told Officer
18 Jarrell -- I'm sorry, Detective Jarrell that the age was
19 more 17 to 25, right?
20 A. Yes.
21 Q. So the age range shifted to younger at that time.
22 A. It did but I don't think it was a huge shift. You
23 have to figure my recollection of the little details. I
24 remember the big details like wait a minute he was a
25 little bit younger but I remembered his face.

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1 Q. My question was your age range shifted from 20 to 25

2 ---

3 A. --- it did. I'm sorry, it did. Yes, it did.

4 Q. Now also during that interview with Detective
5 Jarrell you said you wish they had done a sketch the
6 night of the actual incident, right?

7 A. I think -- I believe so, yes ma'am.

8 Q. Because and actually you said that because your
9 memory was getting a little foggy.

10 A. I believe you, yes ma'am. I saw the transcript.

11 Q. But at that time that's what you actually told
12 Detective Jarrell, right?

13 A. In his office?

14 Q. During that interview you told him that your memory
15 was getting a little foggy at that point.

16 A. Yes, ma'am but I don't -- yes, ma'am.

17 Q. You were also asked if any of the two individuals
18 had any facial hair, right?

19 A. I would have to see the transcript. It's just so
20 long ago.

21 Q. Okay. Would seeing a copy of that help refresh
22 your memory as to whether or not you were asked that
23 question?

24 A. I believe you but if it's there it's there.

25 Q. Well, unfortunately you took an oath to tell the

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1 truth.
2 A. Right.
3 Q. So I need to make sure that just because I say it
4 and you believe me I need you to say it because it's the
5 truth. So I need to know were you asked whether or not
6 the two individuals you studied their faces that evening
7 had any facial hair.
8 A. Yes, ma'am.
9 Q. And do you remember saying to Detective Jarrell no,
10 they did not?
11 A. Yes, ma'am.
12 Q. You also said during that interview specifically
13 with regard to the facial hair that no, it was so dark
14 that night. It was just so dark. Do you remember saying
15 that?
16 A. No, ma'am.
17 Q. Would seeing a copy of the transcript help refresh
18 that memory?
19 A. I don't remember saying it was dark. It was not
20 airport like bright but it was light. It was light and I
21 could see.
22 Q. You also told the detective during that interview
23 that I wish I would have been thinking about ID'ing
24 [phonetic] them but I was just trying not to get shot.
25 Do you remember saying that?

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1 A. I must have.

2 Q. Now a few days after that recorded interview with
3 Detective Jarrell Detective Jarrell came to your house,
4 right?

5 A. Yes, ma'am.

6 Q. And he came to your house because he wanted to show
7 you some documents.

8 A. That's right.

9 Q. Now before he got to your house he informed you that
10 they may have found someone involved in the incident,
11 didn't he?

12 A. Are you talking about Chisolm? I don't...

13 Q. So Detective Jarrell came to your house because he
14 wanted you to identify someone, right?

15 A. Right.

16 Q. He told you that a second suspect had been
17 identified.

18 A. Oh, okay. Yes, ma'am.

19 Q. And that's what he wanted you to do, he wanted you
20 to identify if you could that second suspect.

21 A. Right.

22 Q. So he came to your house.

23 A. He did. I'm just trying to keep this straight in my
24 mind. What I said was just so long ago.

25 Q. That's all right. Now when he came to your house

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1 you spoke to him just briefly, right?
2 A. Right.
3 Q. And then he informed you he was going to record the
4 procedure.
5 A. Yes, ma'am.
6 Q. But you spoke to him before he recorded the
7 procedure, right?
8 A. Just how you been doing and just stuff like that.
9 Q. So that's yes you spoke beforehand.
10 A. Yes, just a little bit. Just stuff like that for a
11 minute.
12 Q. And when the Solicitor was asking you questions
13 about that procedure earlier today you indicated that
14 there was kind of a pause before you made a circling on
15 the page.
16 A. I did.
17 Q. And at the end when you confirmed everything you
18 said I think that's him.
19 A. I did and then later I said that's definitely him.
20 Q. You qualified that a little bit though by saying
21 that the eyes almost didn't look brown, right?
22 A. That night they almost didn't look -- it was like
23 the moon was shining on his eyes and he was just angry.
24 Q. Well, I'm not focused on the eyes specifically but
25 the eyes looked a little bluish to you from what you

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1 remembered about that night.

2 A. Yes, ma'am.

3 Q. But in the photograph you saw none of the
4 individuals had blue eyes, right?

5 A. Right.

6 Q. And the individual you circled didn't have blue
7 eyes.

8 A. No ma'am, he didn't.

9 Q. Now Ms. Hooks you previously testified last week
10 about the same procedure you went through, right?

11 A. Yes, ma'am.

12 Q. In identifying the individual possibly responsible
13 for this incident.

14 A. Right.

15 Q. And at that time you didn't indicate anything about
16 holding your hand like so to indicate a hoodie over their
17 face.

18 A. Okay.

19 Q. So today is the first time you've indicated under
20 oath that that is something you did in order to help you
21 better identify the individual on the page.

22 A. I told my Solicitor.

23 Q. My question was when you testified under oath last
24 week you didn't indicate anything about holding your
25 hands in this manner but you are testifying to that

State v Devante Antonio Grant
Kristina Hooks-Cross-Examination by Ms. Birt
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1 today, that's correct right?
2 A. Yes, ma'am.
3 Q. And Ms. Hooks you've met with Detective Jarrell
4 since February of last year, right?
5 A. I believe he took me to one of the bail hearings.
6 Q. So that's yes you met with him after February of
7 last year. You've met with him since then, right?
8 A. Yes, ma'am.
9 Q. You've also met with a Solicitor since that time,
10 right?
11 A. Yes, ma'am.
12 Q. And before today you and I have never met.
13 A. Right.
14 Q. And you've never met my co-counsel Ms. Ehrlich?
15 A. No.
16 Q. And Ms. Hooks you did attend another hearing with
17 another individual involved in this case right?
18 A. Yes, it was a sentencing.
19 Q. Back in May of this year?
20 A. Yes, ma'am.
21 MS. BIRT: Court's indulgence.
22 THE COURT: Certainly.
23 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
24 Q. [Ms. Birt] Ms. Hooks, I promise I only have a few
25 more questions. I'm going to go, and I'm going to try my

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1 best to make sure this isn't confusing. I want to go
2 back to when Detective Jarrell was at your house giving
3 you the information to make an identification, okay?

4 A. Okay.

5 Q. When you testified about that last week you
6 indicated that once the recording was over you said yes,
7 that's definitely the person I identified, correct?

8 A. Right.

9 Q. And that was after the recording that Detective
10 Jarrell had been doing had stopped.

11 A. Yes, I didn't even know he had turned it off.

12 MS. BIRT: No further questions, Your Honor.

13 THE COURT: Any redirect, Mr. Waring?

14 MR. WARING: Thank you, Your Honor.

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State v Devante Antonio Grant
Kristina Hooks-Redirect Examination by Mr. Waring
August 7, 2017

1	REDIRECT EXAMINATION
2	BY MR. WARING:
3	Q. Ms. Hooks, Ms. Birt referred to a banging on the
4	window as a little tap. Was it a tap or was it a
5	banging?
6	A. It was a bang.
7	Q. Were you intoxicated when you got off work?
8	A. No, sir.
9	Q. Had you picked up the medicine that day?
10	A. I did.
11	Q. A fresh prescription.
12	A. Yes, sir.
13	Q. When you were on the 911 call were you still in
14	shock and nervous from the incident?
15	A. Yes, sir.
16	Q. Was it at that point was your objective to tell
17	every little detail that happened that night or were you
18	trying to get help?
19	A. I was trying to get help.
20	Q. Did the initial officer go through every single
21	little piece of detail or was that more with the
22	detectives?
23	A. That was more with the detectives.
24	Q. Are these lights on up here?
25	[Whereupon, the photograph is shown].

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Kristina Hooks-Redirect Examination by Mr. Waring
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1 A. Yes, sir.
2 Q. Is there light in the background and otherwise light
3 at all in the parking lot?
4 A. It looks bright to me or you know...
5 Q. Now you said it was dark out.
6 A. I mean dark but it looks...
7 Q. It was nightttime ---
8 A. --- I can see.
9 Q. It was nightttime?
10 A. Right, but I can see.
11 Q. Was there enough light to see the defendant's face?
12 A. Yes, sir.
13 Q. Did Detective Jarrell suggest in any way that you
14 should pick out this defendant's photo from that lineup?
15 A. He did not.
16 Q. Was this prescription from a doctor?
17 A. Yes, sir.
18 Q. Are you a drug dealer?
19 A. No, sir.
20 MR. WARING: Court's indulgence.
21 THE COURT: Certainly.
22 [Whereupon, Mr. Waring and Mr. Osborne confer]
23 Q. [Mr. Waring] One other question, Ms. Hooks. During
24 this hearing Ms. Birt keeps referring to did I or anybody
25 else ask you about the cupping motion when you looked at

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Kristina Hooks-Redirect Examination by Mr. Waring
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1 the defendant's photo?
2 A. Nobody asked me about that. I volunteered that.
3 MR. WARING: No further questions, Your Honor.
4 THE COURT: Recross, Ms. Birt?
5 MS. BIRT: Just briefly, Your Honor.
6 THE COURT: Certainly.
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State v Devante Antonio Grant
Kristina Hooks-Recross Examination by Ms. Birt
August 7, 2017

1 RE CROSS EXAMINATION

2 BY MS. BIRT:

3 Q. Ms. Hooks, the two photos the Solicitor just showed

4 you indicating the parking lot that night those are

5 photographs, right?

6 A. They are.

7 Q. You didn't take those photographs?

8 A. No, ma'am.

9 Q. And those are photographs taken after the incident

10 occurred?

11 A. Yes, ma'am.

12 Q. And Ms. Hooks you don't dispute the fact that it was

13 dark as in there was no sunlight?

14 A. Right. It was nighttime. It was in January. It

15 was nighttime.

16 Q. Thank you.

17 MS. BIRT: No further questions, Your Honor.

18 THE COURT: Thank you, Ms. Hooks. You may step

19 down.

20 [Whereupon, the witness is excused and exits the

21 witness stand]

22 THE COURT: Call your next witness, please.

23

24

25

State v Devante Antonio Grant
Adam Deming-Direct Examination by Mr. Waring
August 7, 2017

1 MR. WARING: The State calls Detective Deming.
2 [Whereupon, Detective Deming comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: Detective, please state your full
6 name for the record spelling your last.
7 THE WITNESS: Adam Deming, its spelled D-E-M-I-N-G.
8 - - - - -
9 ADAM DEMING,
10 Having been first duly sworn,
11 Was examined and testified as follows:
12 DIRECT EXAMINATION
13 BY MR. WARING:
14 Q. Good afternoon, Detective. Detective can you tell
15 the jury where you work?
16 A. I work for the City of Charleston Police Department.
17 Q. And how long have you worked there?
18 A. October will be exactly ten years.
19 Q. What's your role there?
20 A. Currently I'm assigned as the school resource
21 officer out at St. Johns High School.
22 Q. At the time of the incident January 26, 2016 what
23 was your role then?
24 A. I was the on-call central detective to go out and
25 actually speak with victims, witnesses and suspects for

State v Devante Antonio Grant
Adam Deming-Direct Examination by Mr. Waring
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1 major crimes.

2 Q. Were you involved in this case, the Devante Grant
3 case?

4 A. I was.

5 Q. How did you get brought into this case?

6 A. Being the on-call detective I was requested by the
7 supervisor out in West Ashley who requested the central
8 detective respond and actually spoke with the victim in
9 this case.

10 Q. Do you recall what time you got the call?

11 A. It was approximately 8:45 p.m., 8:50 p.m.

12 Q. Would it refresh your recollection if I showed you a
13 copy of the report?

14 A. Yes, sir.

15 [Whereupon, the witness is shown document]

16 A. The time was 8:48 p.m.

17 Q. So what happened when you got the call?

18 A. At the time of the call I was not at the police
19 headquarters. I was at my substation office off of
20 Meeting Street Road.

21 At that time I got into my vehicle and was on my way
22 via I-26 to the Cosgrove exit to go towards West Ashley
23 because that was the quickest route.

24 Q. What happened when you got there?

25 A. While in route I had a vehicle white color four door

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- 1 sedan that passed me at a high rate of speed travelling
2 in the same direction as me towards Spruill towards
3 Cosgrove on 26.
- 4 Q. You said it passed you so it was coming up from
5 behind you?
- 6 A. That's correct.
- 7 Q. And y'all were both travelling in the same
8 direction?
- 9 A. That's correct.
- 10 Q. And down which road, I-26 west?
- 11 A. We were on I-26 westbound towards North Charleston
12 just before the Spruill Avenue exit; at that time the
13 Spruill Avenue exit.
- 14 Q. What happened at that point?
- 15 A. At that point I ended up radioing my dispatch. I
16 knew the victim's vehicle in question that was reported
17 as being stolen matched that similar description so I
18 gave that information to my dispatcher for them to
19 forward it on to the surrounding jurisdictions North
20 Charleston county as well as Highway Patrol.
- 21 Q. Is this car going slow or fast?
- 22 A. In excess of 100 miles per hour I would assume.
- 23 Q. Approximately how much time had passed when you got
24 the call and when you saw this car?
- 25 A. Normally the way these calls -- this particular call

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1 was handled the supervisor would get on scene, he would
2 assess the situation and then at that point he would
3 decide whether he needed to call a central detective or
4 not.

5 I would assume it would be around ten minutes from
6 the time that we were dispatched to the time that I was
7 requested.

8 Q. And so you relayed this information?

9 A. I did.

10 Q. How come you didn't try to chase after him?

11 A. Because he was going in excess of 100 miles per
12 hour. I was driving a vehicle that was not equipped with
13 -- per our policy I was unable to pursue at that point.

14 Q. Can you describe what that means?

15 A. Our policy requires 360 degree coverage as far as
16 blue lights go. At the time of this call I was not
17 equipped with that. Also, our policy requires us to be
18 in a marked police car and I was in an unmarked silver
19 Ford Fusion.

20 Q. Did you end up going to the crime scene itself?

21 A. I did.

22 Q. What did you do when you got there?

23 A. I initially spoke with a sergeant who was on scene
24 and kind of got briefed as to what was being reported at
25 that time. There was only one person to speak with and I

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1 spoke with the victim.

2 Q. Can you tell the jury what her demeanor was like?

3 A. Very upset, in shock, kind of disbelief that this
4 would happen to her.

5 Q. Did she tell you what happened?

6 A. She did.

7 Q. Did she give you a description of the defendant?

8 A. She did.

9 Q. What did you do with that information?

10 A. I created a BOLO, a be on the lookout after I
11 returned from speaking with her just to forward it out to
12 other officers as well as not just in the city but also
13 in surrounding jurisdictions just in case they came
14 across a similar suspect.

15 Q. Were you involved in any other capacity in this
16 case?

17 A. I was.

18 Q. And to what extent?

19 A. After I ended up finishing speaking with the victim
20 I transported her back to her residence to give her a
21 vehicle escort and then returned back to the station
22 where I used an ALPR -- system to actually track her
23 vehicle.

24 THE COURT REPORTER: Tell me the name of the system
25 again.

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1 A. ALPR.

2 Q. [Mr. Waring] Now for the jury can you explain what
3 this whole ALPR thing is?

4 A. ALPR stands for Automated License Plate Recognition.
5 So I can take her license plate put it into the system
6 and it shows where she has been driving at any particular
7 -- or her vehicle has been at any particular time.

8 Q. Did you in fact get a hit?

9 A. I did.

10 Q. And what was the exact location of that hit?

11 A. I believe it was on Dorchester Road. I believe the
12 address is 3750 Dorchester Road and there sporadically
13 through the Tricounty area.

14 Q. Do you recall what the time of the hit was?

15 A. I believe it was 9:09 p.m.

16 Q. Does this ALPR system do anything else that is
17 useful other than just track it?

18 A. It captures a photograph actually of the vehicle and
19 the license plate at the same time and gives you the date
20 and time of when it was captured.

21 Q. So in this case did you check that yourself?

22 A. I did.

23 MR. WARING: May I approach the witness, Your
24 Honor?

25 THE COURT: You may.

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1 Q. [Mr. Waring] Detective I'm showing you what has been
2 marked for I.D. purposes as State's exhibit 21. Do you
3 recognize that?

4 [Whereupon, the witness is shown photograph]

5 A. I do.

6 Q. Can you tell the jury what it is?

7 A. That's the victim's vehicle.

8 Q. And is that the ALPR hit photo?

9 A. That's correct, along with the license plate.

10 Q. Does that fairly and accurately depict the ALPR hit
11 photo?

12 A. That's correct. Yes, sir.

13 MR. WARING: Your Honor, at this point the State
14 would move to have exhibit 21 admitted into evidence.

15 THE COURT: Any objection?

16 MS. EHRLICH: No objection.

17 THE COURT: Without objection State's exhibit 21 is
18 admitted for the record.

19 [Whereupon, State's exhibit number 21 is entered
20 into evidence by the court]

21 Q. [Mr. Waring] Detective, I just want to put this on.

22 [Whereupon, the photograph is shown]

23 Q. Is this the photo?

24 A. That is.

25 [Whereupon, Mr. Waring and Mr. Osborne confer]

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1 Q. Please answer any questions the defense has.

2 THE COURT: Cross-examine?

3 MS. EHRLICH: Thank you, Your Honor.

4 THE COURT: Yes, ma'am.

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State v Devante Antonio Grant
Adam Deming-Cross-Examination by Ms. Ehrlich
August 7, 2017

1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Detective Deming, you were kind of the responding
4 detective on scene that night?

5 A. Yes ma'am, one of them.

6 Q. And so part of your job would be to gather
7 information as far as a suspect description, correct?

8 A. Yes, ma'am.

9 Q. And you would then let all the other officers know
10 hey, be on the lookout for somebody this age and this
11 description.

12 A. That's correct.

13 Q. To try to help locate suspects.

14 A. Yes, ma'am.

15 Q. And you did that in this case?

16 A. I did.

17 Q. Based on information provided by Ms. Hooks.

18 A. That's correct.

19 Q. Okay. And Mr. Waring was asking you some questions
20 about when you were driving on I-26 and saw a car that
21 matched the description of the car taken during the
22 incident, correct?

23 A. Yes, ma'am.

24 Q. And that was I think in your report you described
25 the car as driving recklessly.

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1 A. That's correct.
2 Q. Over 100 miles per hour.
3 A. Approximately, just a guesstimate.
4 Q. And because of CPD policy even if you had wanted to
5 you couldn't chase that car?
6 A. Not per our policy, no ma'am. I don't believe my
7 car would have been able to catch up to it at that time
8 either.
9 Q. And you were driving what?
10 A. I was driving a 2011 I think Ford Fusion.
11 Q. Okay. And even if you wanted you can't chase that
12 car, correct?
13 A. Correct.
14 Q. All you can do is let dispatch know so maybe other
15 officers can try to locate the car.
16 A. That's correct.
17 Q. And you don't know what other officers did with that
18 information you provided do you? You just provided it?
19 A. Yes, ma'am. I forwarded that information to our
20 dispatchers to get the word out.
21 Q. But you don't know what other officers did after
22 that with that information.
23 A. No, ma'am.
24 Q. Okay. This vehicle hit where you're talking about
25 the ALPR.

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1 A. Yes, ma'am.

2 Q. This was on Dorchester Road in North Charleston,
3 correct?

4 A. That's correct.

5 Q. And you found out about this at what time?

6 A. It was after the fact after I had already dropped
7 off the victim and come back to the police station so it
8 would have been the next day, early the next morning.

9 Q. And you were not the lead detective on this case,
10 correct?

11 A. That's correct.

12 Q. So it wouldn't be your job to follow up on different
13 leads in the case, correct? You would wait for
14 instruction from Detective Jarrell?

15 A. That's correct.

16 Q. So you wouldn't be able to just tell North
17 Charleston hey, go look for this car. I had a hit on
18 Dorchester Road last night at 9:09.

19 A. The information that I ended up having the night of
20 this incident I actually gathered information for the
21 suspect of the defendant's information as well as her
22 vehicle.

23 I comprised a BOLO, be on the lookout to include the
24 suspect's description and her vehicle information to tell
25 exactly where and what time it was actually captured.

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1 Q. So you share that information but what other people
2 do with that information is not up to you, correct?

3 A. That's correct.

4 Q. And is it accurate that you are the actual officer
5 who drove Ms. Hooks from Panera to the Sub Station is
6 that what you said or did you drive her home?

7 A. I drove her home.

8 Q. Did you ever go to the Sub Station parking lot?

9 A. Yes, ma'am. That's where I actually spoke with her.

10 Q. Okay. And your observations were that it was an
11 empty parking lot correct, besides law enforcement.

12 A. Correct. For the most part.

13 Q. And you were able to see where the car had been
14 parked, correct?

15 A. Where she pointed it out, yes ma'am.

16 Q. And you made a police report in your case, correct?

17 A. I did a supplemental report.

18 Q. A supplemental report and in the supplemental report
19 you would document what you observed and what you did as
20 part of this case, correct?

21 A. That's correct.

22 Q. And there is nothing in your report about it being a
23 bright night because the moon was out, correct?

24 A. I don't recall.

25 Q. If you looked at your report would that help refresh

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1 your memory about whether or not it's in your report?
2 A. Yes, ma'am.
3 MS. EHRLICH: May I approach the witness, Your
4 Honor?
5 THE COURT: You may.
6 [Whereupon, the witness is shown document]
7 A. I don't see where I put the lighting condition
8 outside.
9 Q. Okay. So there is nothing documented in that
10 report about the moon being out, correct?
11 A. No, ma'am.
12 Q. You also tried to do some sort of request through
13 Charleston County dispatch to ping the stolen phone?
14 A. Yes, ma'am. I believe my partner actually did that.
15 Q. And that request was ultimately denied by them?
16 A. It was denied I believe by the supervisor of
17 consolidated dispatch.
18 Q. Okay. So the phone wasn't able to be pinged.
19 A. No, ma'am.
20 Q. And did you ever do any sort of additional request
21 to try to ping the phone after this?
22 A. No, ma'am.
23 Q. And you gathered information from Ms. Hooks about
24 what was stolen during this incident, correct?
25 A. I did.

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1 Q. There was no -- part of the property stolen was a
2 ring.

3 A. I'd have to look at my report. I can't recall right
4 off. I believe so.

5 Q. You didn't do any additional investigation after
6 this to try to locate stolen property, correct?

7 A. I did not.

8 MS. EHRLICH: Court's indulgence.

9 THE COURT: Yes, ma'am.

10 [Whereupon, Ms. Ehrlich and Ms. Birt confer]

11 MS. EHRLICH: No further questions, Your Honor.

12 THE COURT: Redirect?

13 MR. WARING: Just a few questions.

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State v Devante Antonio Grant
Adam Deming-Redirect Examination by Mr. Waring
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1 REDIRECT EXAMINATION

2 BY MR. WARING:

3 Q. Detective, did you get the call at 8:48 p.m.?

4 A. Yes, sir.

5 Q. A few minutes later did you see a vehicle matching

6 the description of the victim's vehicle fly by you on I-

7 26 west?

8 A. I did.

9 Q. And did the victim's vehicle itself hit off the

10 Dorchester Road ALPR at 9:09 p.m. approximately 20

11 minutes later after you got the call?

12 A. Yes sir, it did.

13 MR. WARING: No further questions, Your Honor.

14 THE COURT: Recross?

15 MS. EHRLICH: No, Your Honor.

16 THE COURT: Thank you. You may step down. Do you

17 wish the witness to be excused?

18 MR. WARING: Yes, Your Honor.

19 THE COURT: Any objection?

20 MS. EHRLICH: No, Your Honor.

21 THE COURT: You're also free to leave.

22 [Whereupon, the witness is excused and exits the

23 witness stand]

24 THE COURT: Call your next witness.

25 MR. OSBORNE: Thank you, Your Honor.

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1 MR. OSBORNE: The State calls Officer Washington-
2 Saunders.

3 [Whereupon, Officer Washington-Saunders comes
4 forward]

5 [Whereupon, the witness is duly sworn by the Clerk
6 of Court]

7 CLERK OF COURT: State your full name for the
8 record spelling your last please.

9 THE WITNESS: Officer Abrial Washington-Saunders,
10 W-A-S-H-I-N-G-T-O-N apostrophe [sic] S-A-U-N-D-E-R-S.

11

12 ABRIAL WASHINGTON-SAUNDERS,
13 Having been first duly sworn,
14 Was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. OSBORNE:

17 Q. Good afternoon officer.

18 A. Afternoon, sir.

19 Q. Where do you work?

20 A. North Charleston Police Department.

21 Q. And how long have you worked there?

22 A. Two years.

23 Q. During that two year period what are some of the
24 duties or various assignments that you've had?

25 A. I do active patrol and I answer service for calls

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1 [sic].
2 Q. Okay. And where are you assigned now?
3 A. I'm actually assigned over the city of North
4 Charleston.
5 Q. I don't know, do you have a particular beat that you
6 work or an area?
7 A. When I first started I was down south which is
8 located in Cosgrove Dorchester Waylyn area.
9 Q. Okay. Back in 2016 did you have the occasion to
10 arrest a Saivon Chisolm?
11 A. Yes, sir.
12 Q. Do you remember the date of that?
13 A. Yes sir, February 2, 2016.
14 Q. Okay. February 2nd; what were you doing on that
15 day? Were you just on routine patrol?
16 A. Yes, sir.
17 Q. Tell the jury how you came about arresting Mr.
18 Chisolm.
19 A. On February 2nd we have an automatic license plate
20 reader that alerts the computer system and had an officer
21 identify a BOLO which is be on the lookout. So a stolen
22 vehicle came through the ALPR.
23 The vehicle turned on the same road that I was on at
24 that time. So I followed the vehicle until another car
25 came behind me and I conducted a felony traffic stop on

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- 1 that vehicle.
- 2 Q. Okay. That was a little bit to unpack there.
- 3 Where did you stop the car?
- 4 A. On Gary Street near -- in Dorchester Waylyn which is
- 5 located in North Charleston city.
- 6 Q. Okay. Dorchester Waylyn is that off Dorchester
- 7 Road?
- 8 A. Yes sir, it's a neighborhood.
- 9 Q. Okay. Whereabouts on Dorchester Road; about? Is
- 10 that near I-26 and Gerald's?
- 11 A. That's affirmative.
- 12 Q. Okay. And I think there is actually an elementary
- 13 school over there or maybe there used to be.
- 14 A. There used to be.
- 15 Q. Was it Sanders Clyde?
- 16 A. Burns.
- 17 Q. Burns; that's right. All right, so you said that
- 18 the vehicle hit on ALPR.
- 19 A. Yes, sir.
- 20 Q. And that I think is called automated license plate
- 21 reader.
- 22 A. Yes, sir.
- 23 Q. Or recognition?
- 24 A. Yes, sir.
- 25 Q. But you didn't have an ALPR camera in your car, is

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1 that correct?

2 A. No sir, I did not.

3 Q. But another officer who was with you in the area

4 did?

5 A. Yes, sir.

6 Q. So explain to the jury how that works. He's got a

7 camera -- he or she has a camera in their car and they

8 can read plates or how does that work?

9 A. There are cameras posted on Dorchester Road and when

10 they pass through that camera it hits the license plate

11 reader and it alerts that officer's computer.

12 Q. Okay. So it's a stationary camera that it hit off

13 of?

14 A. Yes, sir.

15 Q. And then you were in the area so you received the

16 alert?

17 A. Yes, sir.

18 Q. And you mentioned a BOLO. Were you already familiar

19 to be on the lookout for that particular car?

20 A. Yes, sir.

21 Q. And that was via a BOLO?

22 A. Yes, sir.

23 Q. Do you remember what agency issued that BOLO?

24 A. CPD, City of Charleston Police Department.

25 Q. Okay. So you were kind of already on the lookout

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1 for that car?

2 A. Yes, sir.

3 Q. Okay. So you said it was a white Ford Fusion?

4 A. Yes, sir.

5 Q. All right. You say you conducted a felony car stop.

6 A. Yes, sir.

7 Q. So what is the difference between a felony car and a

8 regular traffic stop?

9 A. A felony car stop is when I order that subject out

10 of the car with my gun drawn.

11 Q. And you had backup?

12 A. Yes, sir.

13 Q. Okay. Who was in the car?

14 A. Mr. Saivon Chisolm.

15 Q. Was he the only occupant in the car?

16 A. Yes, sir.

17 Q. I'm going to show you some photographs now. I'm

18 going to show you State's exhibit 8 that has already been

19 marked and admitted.

20 [Whereupon, the photograph is shown]

21 Q. Do you recognize that?

22 A. Yes, sir.

23 Q. And what is that?

24 A. The white Ford Fusion Mr. Saivon Chisolm was

25 driving.

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1 Q. Okay. And here's another one; it's a side photo of
2 it.
3 [Whereupon, the photograph is shown]
4 Q. Is that correct? That's State's exhibit 10.
5 A. Yes, sir.
6 Q. And State's exhibit 11.
7 [Whereupon, the photograph is shown]
8 Q. Another side profile of the car?
9 A. Yes, sir.
10 Q. And then State's exhibit 12 just showing the license
11 plate.
12 [Whereupon, the photograph is shown]
13 A. Yes, sir.
14 Q. Okay. So he gets out of the car. Didn't give you
15 any problems or anything?
16 A. No, sir.
17 Q. Tell the jury what happened.
18 A. At that time I ordered him back and made him do a
19 360 to make sure he was clear of weapons and at that time
20 he was detained.
21 Q. Okay. And detained you mean what?
22 A. He was placed in handcuffs.
23 Q. Okay. What happened after that?
24 A. He was placed into a patrol car and at that time a
25 search of the vehicle was conducted where we located a

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1 firearm under the passenger seat.

2 Q. Okay.

3 MR. OSBORNE: Your Honor, may I approach?

4 THE COURT: You may.

5 Q. [Mr. Osborne] I'm showing you what has been marked
6 as State's exhibit 22. Can you take a look at that and
7 tell me if you recognize it?

8 [Whereupon, the witness is shown exhibit]

9 A. Yes, sir.

10 Q. And what is that?

11 A. The firearm that was located under the seat where
12 Mr. Saivon Chisolm was sitting.

13 Q. Okay. When you recovered the firearm are you the
14 one that packaged it like this?

15 A. Yes, sir.

16 MR. OSBORNE: Your Honor, request permission to
17 publish to the jury?

18 THE COURT: You may. But has it been introduced
19 yet?

20 MR. OSBORNE: I believe it has.

21 MS. EHRLICH: I don't have an objection. I don't
22 know if it has been moved in.

23 THE COURT: I don't think it has.

24 MR. OSBORNE: No, it hasn't.

25 THE COURT: State's 22?

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1 MR. OSBORNE: Yes, Your Honor. I'm sorry.
2 THE COURT: It's admitted without objection.
3 [Whereupon, State's exhibit number 22 is entered
4 into evidence by the court]
5 Q. [Mr. Osborne] I noticed that there are some bullets
6 that are with State's exhibit 22. Where did these come
7 from?
8 A. Out of the firearm.
9 Q. And it looks like there is going to be six bullets
10 in total does that sound right?
11 A. Yes, sir.
12 Q. And this is a .380 firearm, is that correct?
13 A. I don't recall. I have the package labeled on the
14 top of the box. It's a Beretta.
15 Q. And this is a semi-automatic handgun?
16 A. Yes, sir.
17 Q. Dark in color, wood handle?
18 A. Yes, sir.
19 Q. So when you -- and the magazine?
20 A. Yes, sir.
21 Q. When you find a gun is it standard procedure then to
22 check the gun to see if it is stolen or anything like
23 that?
24 A. Yes, sir.
25 Q. Did you do that in this case?

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1 A. Yes, sir.
2 Q. Did the gun come back as stolen?
3 A. Yes, sir.
4 Q. Did you place Mr. Chisolm under arrest?
5 A. I detained him. He was transported to CPD.
6 Q. Okay. Where he was subsequently charged?
7 A. Yes, sir.
8 Q. Stolen gun, stolen car?
9 A. Yes sir, and unlawful carrying.
10 Q. And unlawful carrying and whatever Charleston Police
11 do. What did you end up doing with the car?
12 A. The car was also turned over to CPD for
13 fingerprinting.
14 Q. Okay. So any processing of evidence that would
15 have been done by CPD?
16 A. Yes, sir.
17 Q. Did that end your involvement with this
18 investigation?
19 A. Yes, sir.
20 Q. Okay. Thank you. No further questions.
21 THE COURT: Cross-Examination?
22
23
24
25

State v Devante Antonio Grant
Abrial Washington-Saunders-Cross-Examination by Ms. Ehrlich
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1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Good afternoon officer.

4 A. Good afternoon ma'am.

5 Q. You first saw the white Ford Fusion on Gary and

6 Rusty Street?

7 A. No, ma'am.

8 Q. Where?

9 A. On Dorchester Road.

10 Q. Okay. And is this kind of your normal area at the

11 time that you were patrolling?

12 A. Yes, ma'am.

13 Q. And is Forsman Street located within minutes of

14 where you stopped the car?

15 A. Yes, ma'am.

16 Q. Is that the address that you had for Mr. Chisolm, A

17 Forsman ---

18 A. --- I don't recall his address.

19 Q. If I showed you a copy of your report would that

20 help refresh your memory?

21 A. Yes, ma'am.

22 MS. EHRLICH: May I approach the witness, Your

23 Honor?

24 THE COURT: Yes.

25 [Whereupon, the witness is shown document]

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- 1 A. Yes, ma'am.
- 2 Q. So you had a Forsman Street address for Mr. Chisolm,
3 correct?
- 4 A. Yes, ma'am.
- 5 Q. And that's the person that got out of the car and
6 that you placed under detention status?
- 7 A. Yes, ma'am.
- 8 Q. Before he was transported to CPD, correct?
- 9 A. Yes, ma'am.
- 10 Q. And nobody else was in the car?
- 11 A. No, ma'am.
- 12 Q. And the gun that has been entered into evidence was
13 found in that car, correct?
- 14 A. Yes, ma'am.
- 15 Q. And you also located Hydrocodone pills, correct?
- 16 A. Yes, ma'am.
- 17 Q. Inside of that car?
- 18 A. Yes, ma'am.
- 19 Q. And you placed those pills into evidence?
- 20 A. Yes, ma'am.
- 21 Q. And the gun itself was that placed into evidence
22 with North Charleston or CPD?
- 23 A. With North Charleston.
- 24 Q. And you submitted that for processing, correct?
- 25 A. It was placed in there for evidence for safe keeping

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1 until it was transported over to CPD.
2 Q. Okay. The gun?
3 A. Yes, ma'am.
4 Q. Was it then transported to CPD?
5 A. I'm not aware.
6 Q. Okay. So you don't know what happened to the gun
7 after it went into evidence?
8 A. Correct.
9 Q. Or whether or not it was processed for prints or
10 DNA, correct?
11 A. Correct.
12 MS. EHRLICH: Court's indulgence.
13 THE COURT: Yes, ma'am.
14 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
15 MS. EHRLICH: I don't have any further questions
16 for the witness at this time.
17 THE COURT: Redirect?
18 MR. OSBORNE: No, Your Honor.
19 THE COURT: You can come down. Do you wish the
20 witness to be excused?
21 MR. OSBORNE: I do, Your Honor.
22 THE COURT: Any objection?
23 MS. EHRLICH: Your Honor, we still have her under
24 subpoena.
25 THE COURT: You're free to step down. Just stay in

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Abrial Washington-Saunders-Cross-Examination by Ms. Ehrlich
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1 touch with defense counsel concerning the subpoena.

2 THE WITNESS: Thank you.

3 THE COURT: Thank you.

4 [Whereupon, the witness is excused and exits the
5 witness stand]

6 THE COURT: Call your next witness.

7 MR. WARING: Your Honor, may we approach?

8 [Whereupon, an off the record bench conference is
9 held]

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1 THE COURT: Ladies and gentlemen at this point
2 there are some matters of law that I'm going to need to
3 take up that is going to take a little bit of time to
4 accomplish that. So I'm going to let you go ahead and
5 take our recess for the evening. Please do not of course
6 discuss this case among yourselves and do not begin your
7 deliberations in any capacity.

8 When you go home tonight if there is somebody there
9 I imagine the first question is going to be what are you
10 doing and what's this case about. If you start talking
11 about it you will have commenced your deliberations.
12 Tell them you can't talk about it yet. When you've
13 finished it you can talk about it till your heart's
14 content. But right now talk about something else.

15 Please do not do any independent research as I
16 mentioned to you when we had the general qualifications.
17 Do not allow anyone to talk with you about it outside of
18 the courtroom and do not read any newspaper accounts
19 about it. Again, you're free to read it after it's over
20 but we promised everyone we will decide this case based
21 on what we learned in this courtroom. And that is very
22 critical that you honor that commitment. So thank you
23 very much. I would ask you to be in your jury room
24 please by 9:30 in the morning. Don't call the number
25 tonight; that message does not apply to you. Thank you.

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1 Have a good evening.

2 [Whereupon, the jury exits at 4:42 p.m.]

3 THE COURT: Anything from the State before we
4 recess?

5 MR. WARING: No, Your Honor.

6 THE COURT: Anything from the defendant?

7 MS. EHRLICH: Your Honor, just for scheduling
8 purposes we do have that witness, our identification
9 witness that is going to be coming up from Spartanburg.
10 I anticipated calling her on Wednesday. I'm trying to
11 figure out...

12 THE COURT: Y'all talk among yourselves. Y'all
13 share how many. We're going to have to have a hearing.
14 Probably we need to plan to do the Jackson v Denno
15 hearing sometime between lunchtime -- I'll give the jury
16 a little bit of time so that would probably be -- I have
17 the tapes and I'll be viewing those tonight. We can take
18 up those. Y'all talk and let's plan to be here between 9
19 and 9:15 in the morning and we'll discuss the logistical
20 issues. Is there some problem with coming before
21 Wednesday?

22 MS. EHRLICH: I need to speak -- I'll speak with
23 her this evening ---

24 THE COURT: --- just see what the schedule is and
25 we'll try to accommodate you.

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1 MS. EHRLICH: Yes, sir. Thank you.
2 MR. WARING: Thank you, Judge.
3 THE COURT: Thank you very much. We'll be at ease.
4 [Whereupon, court adjourns at 4:50 p.m.]
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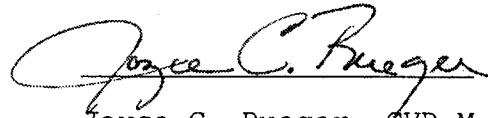
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Certificate of the Court Reporter
August 7, 2017

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 7th day of August, 2017.

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

November 30, 2017



Joyce C. Rueger, CVR-M

Court Reporter

Certified Transcript provided to SCCID

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2016-GS-10-2106
	)	2016-GS-10-2116
	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	
	)	
	)	
DEVANTE ANTONIO GRANT	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD
		August 8, 2017
		Charleston, South Carolina

VOLUME 2 (OF 2)

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR., JUDGE

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45	(withdrawn)	
46	(withdrawn)	
47	(withdrawn)	
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1 PROCEEDINGS

2 THE COURT: Good morning. Was there a video of the
3 handwriting?

4 MR. WARING: Your Honor, there was a video.

5 THE COURT: That I didn't see.

6 MS. EHRLICH: No, there is no video of the
7 handwriting.

8 THE COURT: There is no video? Okay.

9 MR. WARING: I mean we agreed on that not coming in
10 just in that isolated video.

11 MS. EHRLICH: I think he's asking if there was a
12 video ---

13 THE COURT: --- if there was a video of the
14 process?

15 MR. WARING: No, Your Honor.

16 THE COURT: That's what I'm saying, okay. That's
17 no problem. Let the record reflect that Mr. Grant is
18 present. I had a chance to review what I had. I had the
19 interview and then one that says clips which looks like
20 it starts with -- I mean there is a period of time, there
21 is a lapse between him sitting in the room and then
22 somebody walks in. I assume this interview clip it
23 looked like it started right there. I didn't watch that
24 because it looked like the same thing. It ends when he
25 says I want my lawyer I assume.

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1 MR. WARING: Yes, Your Honor.

2 THE COURT: Okay. That's what I assumed was the
3 case. I viewed that. If there is going to be any
4 challenge to the accuracy of that then I guess I have to
5 have testimony. If not I viewed it; I know what it says.

6 MS. EHRLICH: I don't have a challenge to the
7 accuracy.

8 THE COURT: All right. Then I'll be happy to hear
9 from you with respect to why I should not admit it.

10 MS. EHRLICH: Thank you, Judge.

11 THE COURT: I mean why I should exclude it rather
12 than say not admit it.

13 MS. EHRLICH: When Detective Jarrell starts
14 speaking to Devante he's taking the biographical
15 information. And then he says I really don't want to
16 talk to you without my mother present or something along
17 those lines. I'd argue that that is an assertion of his
18 right to remain silent.

19 He doesn't have to assert his right to counsel; he
20 just has to assert his right to remain silent. The
21 State's position is that using the word really somehow
22 makes it ambiguous and I don't think it does. If you
23 look up the word really in the dictionary it's almost
24 like emphasizing I don't want to speak to you.

25 THE COURT: Let me ask you -- not to interrupt you

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1 but I heard that part. And he said several times I don't
2 know anything about it. I really don't have anything to
3 say during -- which coupled with he starts out I don't
4 want to talk to you and then -- but the key to me is he
5 says I don't think I want to talk to you anymore without
6 my lawyer, which this didn't just -- this isn't suddenly
7 a revelation. He understood fully in my opinion because
8 he then makes a conscious statement I don't want to talk
9 to you without my lawyer.

10 So I think that is the distinction between that. I
11 think he wants -- I think he's trying to avoid that. You
12 know one of the things that you learn and I was thinking
13 about this this morning thinking about guilty pleas
14 versus trials and what happens in a trial. You start
15 developing your own meaning the Judge's own concept and
16 position of people and who they are and what they are.

17 And there is no question when I viewed the videos,
18 which by the way are admissible in my opinion. He's in a
19 setting where he knows they are and he even comments on
20 that they videoed this. He's a savvy young man when it
21 comes to this side of it. He's clearly demonstrated he
22 understands what is going on and he's playing games in
23 those videos.

24 That's my opinion. The jury doesn't know that and
25 that will be up to the jury to conclude. But if they

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1 conclude that I concur 110 percent. I'm developing my
2 own picture of Mr. Grant and that will be factored in if
3 he is convicted. So you need to think about those things
4 with respect to how you want to proceed. But I'll be
5 happy to admit the part up until he invokes that. With
6 respect to the videos I'll wait to hear from you and I'll
7 be happy to hear from you fully as to why they should be
8 excluded but clearly they aren't.

9 The transcript I think the best way to handle that
10 frankly is I agree with you in the sense that the
11 transcript is really somebody else's interpretation. But
12 I think it's helpful in following along what is being
13 said because some of the times the speech is so fast it
14 will be helpful in that respect.

15 But it will be a cautionary instruction given that
16 your job is to determine what the person is saying. This
17 is really to help you and to aid you. But I'm sharing
18 that with you now so that you can address those points
19 when you object to its admissibility because obviously
20 you're going to object to it I'm sure.

21 But I'm trying to lay something of what you can
22 address in your argument at that time. And I want you to
23 understand clearly Ms. Ehrlich I'm sharing this as sort
24 of speaking out loud. I'm thinking along to give you the
25 opportunity to address some of what I; you may persuade

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1 me to do otherwise. But the video itself comes in. The
2 other thing was the interpretation of the letter. I'm
3 not going to allow somebody else's translation of what
4 that letter is. It is -- I don't know what it says to be
5 candid with you; I'm not familiar with that.

6 But the letter is what it is. To allow somebody to
7 interpret that is a mistake because -- and the difference
8 in distinction to me is I have at least the phone
9 conference to listen to. The person can hear that and
10 make a decision for themselves. And the video of course
11 they can see it and listen to it as well. So I think if
12 there is a distinction between that and the letter itself
13 with the interpretation coming in.

14 But from the standpoint of the letter at least at
15 this stage there is enough to begin. I think based on
16 what I -- the conversation with Mom gives some inference
17 that there is a possibility of culpability there. And I
18 don't know what other evidence is coming in but certainly
19 there is enough there to at least give me some concern as
20 to its admissibility being corroborated by the video from
21 your client so.

22 MR. OSBORNE: Your Honor?

23 THE COURT: Yes sir, Mr. Osborne.

24 MR. OSBORNE: If I may say one thing in reference
25 to the letter because I have Saivon's mother as a

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1 witness.

2 THE COURT: Okay.

3 MR. OSBORNE: So this was the State's game plan on
4 how to introduce that letter. What we were going to do
5 and I'm going to share this with the defense if we
6 haven't already, the mother would come in. I would have
7 her I.D. the letter and she would say that this is a
8 letter that my son provided to me, okay. She then
9 photographed the letter and that's what we have.

10 THE COURT: That's fine.

11 MR. OSBORNE: The photograph of the letter. And
12 what I was going to do is talk about some excerpts from
13 that letter with her so I will move it in subject to
14 104(b); at that point just the letter. Then we would get
15 if need be Rodney Davis to say he delivered the letter to
16 our office.

17 Then we would have Gaile Heath who is the SLED
18 analyst who would then authenticate it as tying the
19 letter into this defendant through handwriting samples.
20 So it's a 104(b) I.D. although we are publishing it and
21 then we would complete the authentication through Gaile
22 Heath.

23 THE COURT: Well, we'll deal with the process, Mr.
24 Osborne. How you choose to approach it that's up to you.
25 I won't get involved in that part of it. You will lay

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1 whatever you think is necessary to support my
2 admissibility and provide defense counsel with sufficient
3 aspects so that you can address those as to why they
4 shouldn't -- what's missing so to speak if there is
5 anything missing. So that's fine.

6 MS. EHRLICH: Your Honor?

7 THE COURT: Yes ma'am, Ms. Ehrlich?

8 MS. EHRLICH: Just for clarification when we were
9 discussing the transcripts related to the calls and video
10 and I know you will make a final ruling when we are going
11 through this but were you anticipating allowing them to
12 admit it as an exhibit or just to use as a demonstrative
13 guide as the jury is listening and watching the calls.

14 THE COURT: Are you talking about the transcripts?

15 MS. EHRLICH: The transcripts of those calls.

16 THE COURT: The transcripts are nothing more than
17 what -- to me it's likened to what we've used and what
18 I've seen in criminal trials but more likely in civil
19 trials where you've got blow ups of I'm thinking of mal
20 practice cases where the lawyers blow up the chart to
21 show what the letter is saying that has been introduced
22 so that when they're reading the letter the person can
23 see that. That blowup is not an exhibit. It's merely,
24 it's really -- they will be marked as exhibits but for
25 I.D. only so the reviewing court will have an opportunity

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1 to see what it is they were looking at. There needs to
2 be 13 copies of them made and we'll make those and we'll
3 pass them out and then we will collect them. They will
4 turn them back in. They will not accompany them to the
5 jury room. If they want to hear that -- if during
6 deliberations they need to rehear it they'll have to come
7 in here and we'll play it for them again. Does that
8 answer your question?

9 MS. EHRLICH: Yes, sir. Thank you.

10 THE COURT: Anything else that we need to do
11 preliminarily?

12 MR. WARING: Not from the State, Your Honor.

13 THE COURT: Ms. Ehrlich?

14 MS. EHRLICH: Judge, just with regard to our expert
15 witness so much is up in the air as far as how long I
16 think the State's case will take depending on whether Mr.
17 Chisolm testifies. I've been in touch with my expert.
18 She would need four hours to get here.

19 THE COURT: Okay.

20 MS. EHRLICH: So I know I can have her here
21 tomorrow at 9 or 9:30. And what I wouldn't want to have
22 happen is the State ends their case at 2:00 and we'd call
23 her at noon to be here at 4:00 and then the jury is
24 sitting around.

25 THE COURT: Is she your -- do you have any other

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1 witnesses at this point?

2 MS. EHRLICH: I think in speaking to the Solicitor
3 the other witnesses that I anticipated calling one could
4 be somebody to impeach Mr. Chisolm if he testifies and
5 denies making certain statements to the North Charleston
6 officer who arrested him. That would be two minutes of
7 testimony.

8 THE COURT: Okay.

9 MS. EHRLICH: The other witnesses would potentially
10 be a fingerprint or a crime scene but I think I'm going
11 to be able to get through that with their lead detective
12 and they're not going to object to me going into that
13 with them. So I think I can ---

14 THE COURT: --- pretty much cover your ---

15 MS. EHRLICH: --- yes, sir.

16 THE COURT: What's your best guess of your case?

17 MR. WARING: Your Honor, realistically our case
18 agent is going to take the longest.

19 [Whereupon, Mr. Waring and Mr. Osborne confer]

20 MR. WARING: Just after lunch probably, Your Honor.

21 THE COURT: Then you will be finished?

22 MR. WARING: It appears that way, Your Honor.

23 THE COURT: Okay. I'd suggest the person come on
24 down. And if they come down I'll stay as long as we need
25 to to complete that testimony.

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1 MS. EHRLICH: Thank you, Judge.
2 THE COURT: That way they won't have to come back
3 tomorrow.
4 MS. EHRLICH: I'll ask her to be here at 2:00?
5 THE COURT: That will be fine. We'll try to keep
6 things moving. Thank you very much.
7 MR. WARING: Thank you, Your Honor.
8 THE COURT: Anything else then. We'll be at ease
9 then.
10 [Whereupon, court is in recess from 9:20 a.m. until
11 9:30 a.m.]
12 THE COURT: Is the State ready?
13 MR. WARING: Yes, Your Honor.
14 THE COURT: Is the defense ready?
15 MS. EHRLICH: Yes, Your Honor.
16 THE COURT: Let the record reflect that Mr. Grant
17 is here. Thank you. If you'll bring them in please.
18 [Whereupon, the jury enters at 9:38 a.m.]
19 THE COURT: Good morning ladies and gentlemen. I
20 hope you had a restful evening. We appreciate you being
21 punctual in being back. Mr. Vane, I noticed that you've
22 occupied that seat now twice. That seems to confirm that
23 you were selected as the presiding juror, is that correct
24 sir?
25 MR. VANE: Yes, Your Honor.

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1 THE COURT: Thank you very much ladies and
2 gentlemen for taking care of that and thank you sir and
3 that will be your seat for the balance of the trial.
4 Solicitor good morning, you may call your next witness.

5 MR. WARING: Thank you, Your Honor.
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State v Devante Antonio Grant
Lisa Bloodworth-Direct Examination by Mr. Waring
August 8, 2017

1 MR. WARING: The State calls Lisa Bloodworth.
2 [Whereupon, Ms. Bloodworth comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: Please state your full name for
6 the record spelling your last name.
7 THE WITNESS: My name is Lisa Bloodworth, last name
8 B-L-O-O-D-W-O-R-T-H.
9 - - - - -
10 LISA BLOODWORTH,
11 Having been first duly sworn,
12 Was examined and testified as follows:
13 DIRECT EXAMINATION
14 BY MR. WARING:
15 Q. Good morning Lisa, how are you doing today?
16 A. Good morning.
17 Q. Lisa, can you tell the jury where you work?
18 A. I work downtown at the Sheriff Al Cannon Detention
19 Center.
20 Q. Can you tell the jury what you do there?
21 A. I'm part of the security threat analysis division.
22 We do a lot of internal stuff. We do Intel, we do
23 subpoenas, we work with outside agencies in gathering
24 information to help solve crimes.
25 Q. Can you tell the jury what video visitation is?

State v Devante Antonio Grant
Lisa Bloodworth-Direct Examination by Mr. Waring
August 8, 2017

1 A. Video visitation is when a family member or an
2 attorney or a clergy member would like to come and see
3 their family. The inmates are up in the unit and we have
4 like three video stations and they come in and they check
5 in downstairs, the family member.

6 And then they go to one of the units, one of the
7 video visit stations downstairs and then they connect so
8 that they can visit with their family member through the
9 video.

10 Q. And are those visits recorded?

11 A. Yes. Every visit is recorded except clergy and
12 professional.

13 Q. Are inmates told they are being recorded?

14 A. Yes, they are.

15 Q. How so?

16 A. There is a thing at the bottom of the screen as they
17 are going on that you can see that it is recording.

18 Q. So do you deal with these videos on a daily basis?

19 A. Yes, I do.

20 Q. Can you describe what happens when you personally
21 get a subpoena for a video visitation?

22 A. When I get a subpoena for that is what I do is I
23 look up the inmate that in question. I usually have a
24 date arranged that they are looking for. So I will put
25 it into my system, I'll pull up the inmate, pull up the

State v Devante Antonio Grant
Lisa Bloodworth-Direct Examination by Mr. Waring
August 8, 2017

1 date that they are looking for and then I run the log.
2 So every time somebody comes to check in to see that
3 inmate there is a log generated for that person, their
4 name, what their acquaintance to that friend, family
5 member and the time they checked in.

6 So I'll run the log and then I'll download all of
7 the videos. Once I have all of the videos downloaded I
8 will transfer them onto a disk and then I send them back
9 with a log and the disk completed to who has asked for
10 the subpoena.

11 Q. Are these videos generated at or near the time of
12 the actual video visitation session?

13 A. Yes, they are recorded as they are in progress.

14 Q. At that point or after that point can they be
15 altered in any way by anybody?

16 A. No, not at all.

17 MR. WARING: May I approach the witness, Your
18 Honor?

19 THE COURT: Yes, you may.

20 Q. [Mr. Waring] Lisa, I'm showing you what has been
21 marked for identification purposes as State's exhibits 23
22 through 26. Do you mind taking a look at those please?

23 [Whereupon, the witness is shown exhibits]

24 Q. Do you recognize those?

25 A. Yes, I do.

State v Devante Antonio Grant
Lisa Bloodworth-Direct Examination by Mr. Waring
August 8, 2017

1 Q. Can you tell the jury what those are?

2 A. This is the actual video visitation activity report,
3 the log that I had explained to you earlier the one where
4 it tells who the inmate is, who's visiting, the time they
5 checked in. And then there is the actual videos that
6 correspond with each of the logs.

7 Q. So is that the format in which you respond to these
8 subpoena requests?

9 A. Yes, it is.

10 Q. Is it a regularly conducted business activity to
11 generate these video visitation videos and logs?

12 A. Yes, it is.

13 Q. And do you know what the date range is for the
14 subpoena request?

15 A. The date range on -- yes, it is 2/6/16 through
16 1/1/17. And then the other one is 1/1/17 to 5/23/17
17 because we have two separate ones.

18 Q. Is your handwriting on those disks?

19 A. Yes, it is.

20 Q. And is your name on there?

21 A. Yes, it is.

22 Q. And Lisa do those disks and logs fairly and
23 accurately depict this particular defendant's video
24 visitation recordings and logs?

25 A. Yes, it does.

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1 Q. Have you had a chance to watch the video visitation
2 recordings specifically from August 23, 2016 at 6 to 6:30
3 p.m., March 9, 2017 at 1:30 p.m. and April 5, 2017 at
4 1:35 to 1:52 p.m.?
5 A. Yes, I have.
6 Q. Can you tell the jury who visited the defendant on
7 those dates and times?
8 A. I'm going to look at my notes real quick.
9 MS. BIRT: Objection, Your Honor. Relevance and
10 also lack of foundation at this point.
11 THE COURT: Overruled.
12 A. Michael Allen.
13 Q. [Mr. Waring] Okay.
14 A. I believe I wrote the dates -- yes.
15 Q. Did he visit for each one of those?
16 A. I have that he -- what were the dates one more time?
17 Q. August 23, 2016 at 6 to 6:30 p.m.
18 [Whereupon, the witness reviews document]
19 A. Yes.
20 Q. Okay. And you're referring to your notes and log?
21 A. Yes.
22 MR. WARING: Your Honor, at this point the State
23 moves to have just the logs, exhibits 25 and 26 admitted
24 into evidence.
25 THE COURT: Any objection?

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1 MS. BIRT: Yes, Your Honor. Just the objection of
2 relevance, lack of authentication, and we still believe
3 lacks foundation and personal knowledge.

4 THE COURT: She's already testified to how the logs
5 are generated so I think that has been established by the
6 evidence to support it. I don't know what 25 and 26 --
7 are 25 and 26 both for the August the 23rd because I'm
8 not sure which one was -- is there -- why don't you take
9 one at a time, Solicitor. Maybe that would be the
10 easiest thing to do.

11 MR. WARING: Yes, Your Honor. So ---

12 THE COURT: --- at this point I will sustain the
13 objection to its admissibility until I know what they all
14 reference.

15 MR. WARING: Yes, Your Honor.

16 Q. [Mr. Waring] So we're going to one by one. The
17 video for August 23, 2016 at 6 to 6:30 p.m.

18 A. Okay, is that 26 or 25?

19 Q. I'm sorry?

20 A. 26 or 25?

21 Q. That would be 25.

22 MS. BIRT: And Your Honor, if I might indicate to
23 Solicitor what page number he's referring to in this
24 exhibit.

25 Q. [Mr. Waring] Lisa, could you give the page number

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1 please.

2 THE COURT: Have you seen this?

3 MS. BIRT: Yes, sir.

4 THE COURT: Okay. And we're talking about exhibit
5 25 right now?

6 MR. WARING: Yes, Your Honor.

7 THE COURT: State's 25 for I.D. only.

8 A. And the date being 8/23/2016 from 6 p.m. until 6:30
9 p.m., correct?

10 Q. Yes. And could you tell us who visited on that day.

11 A. Yes. Samone Grooms [phonetic].

12 Q. Okay. And now the next one is from exhibit 26.

13 THE COURT: If you want to move the introduction of
14 that exhibit let's take one at a time, okay.

15 MR. WARING: Yes, Your Honor. At this point State
16 moves to have exhibit 25 admitted into evidence.

17 THE COURT: And you object to that?

18 MS. BIRT: To relevance Your Honor and lack of --

19 THE COURT: Lack of what?

20 MS. BIRT: Authentication.

21 THE COURT: Okay. She's the custodian, overruled.
22 And the relevance at this point it's significant because
23 I'm assuming something and we've talked about it there is
24 going to ultimately be a publication of the video. So in
25 order to establish the foundation for it it's a proper

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1 part of it so it is relevant for the purposes of further
2 publication. So I'll overrule your objection for that
3 reason.

4 [Whereupon, State's exhibit number 25 is entered
5 into evidence by the court]

6 Q. [Mr. Waring] Now Lisa we're going to be referring to
7 exhibit 26.

8 A. Okay.

9 Q. And the specific call we're talking about now is
10 March 9th, 2017 at 1 to 1:30 p.m.

11 A. Okay.

12 Q. Can you tell us who visited on that date?

13 A. Yes. Michael Q. Allen.

14 Q. Okay. And also on exhibit 26 referring to the
15 specific date of April 5, 2017 at 1:35 to 1:52 p.m. can
16 you tell us who visited then?

17 A. Yes. Michael Q. Allen.

18 MR. WARING: Your Honor, at this point the State
19 moves to have exhibit 26 admitted into evidence.

20 THE COURT: Objection?

21 MS. BIRT: Same objection as to exhibit 25, Your
22 Honor.

23 THE COURT: I've overruled the objection for the
24 reasons previously stated on exhibit 25.

25 [Whereupon, State's exhibit number 26 is entered

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1 into evidence by the court]

2 Q. [Mr. Waring] Is there a procedure Lisa for when you
3 go to visit somebody at the jail and do a video
4 visitation session?

5 A. Yes, there is.

6 Q. Can you tell the jury what that is?

7 A. Yes. They can do it a couple of different ways.
8 They can actually go online and schedule the visit so
9 like if you're at your house you just go online and
10 schedule your visit. You put in your information, you
11 have to put in your I.D., the inmate you're going to
12 visit and then you can schedule it like that.

13 If you don't have access to do that you can actually
14 come into the jail and in the front lobby we have a kiosk
15 where you can take your I.D. and you can slide it and
16 then it's the same thing; you fill it out, find your
17 inmate, pick your time and then schedule your visit.

18 Q. Okay. Lisa, I'm now showing you State's exhibit 27.
19 Do you recognize that?

20 [Whereupon, the witness is shown exhibit]

21 A. Yes, I do.

22 Q. And can you tell the jury what it is?

23 A. It is a disk of video visitation.

24 Q. Is your name and handwriting on that disk as well?

25 A. Yes, it is.

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1 Q. Have you watched the contents of that disk?

2 A. Yes, I have.

3 Q. And are they taken from the same video visitation
4 recordings that I referenced earlier that are on the
5 other disks we talked about already?

6 A. Yes, they are.

7 Q. Are they the same video recordings?

8 A. Yes.

9 Q. Does that disk fairly and accurately depict the
10 defendant's video visitation recordings?

11 A. Yes, it does.

12 Q. Lisa, can you tell the jury how many times a man
13 named Michael Allen visited the defendant based on the
14 logs you have?

15 A. Yes, based on the logs that I have he visited him
16 three times.

17 Q. Now switching gears a little bit Lisa do you deal
18 with jail calls?

19 A. Yes, I do.

20 Q. To what extent?

21 A. I do -- I listen to them to do subpoenas. The same
22 type of thing if somebody needs the jail calls they can
23 subpoena and I do the subpoena for those. As we listen
24 to a lot of jail calls if we feel like we're having like
25 an issue within the jail and we know what inmates are we

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1 use it for intel point of view as well.

2 Q. Can you explain how you maintain inmate calls?

3 A. The inmates when they first arrive they get booked
4 into the jail and then when they get over into the
5 processing area they get their prints and their photos
6 done.

7 Once they complete their prints and their photos
8 they are issued a pin number and that pin number is the
9 number that they use to use the phone, to get on the
10 kiosk, to like order their canteen. So the pin number is
11 just -- each person has their very own.

12 So when they go to make a phone call they have to
13 use that pin number to call. Once they're up in the unit
14 they are all collect calls.

15 Q. How are these calls stored?

16 A. They are stored -- we have like all the big I don't
17 even know what the big machines down there I don't know
18 what the name of them are. The software, the big hard
19 drives; we have a big room and they are all stored in
20 there.

21 Q. Are inmates told that they are being recorded?

22 A. Yes. At the very beginning of the -- before like
23 when the first recording comes on it says you have a call
24 from the Charleston County Detention Center and then the
25 inmate has to say their name. So it will say from and

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1 then the inmate says their name and then you have to
2 either accept or decline the call.

3 Q. Can those calls after they are made be altered in
4 any way by you or anybody?

5 A. No, they cannot.

6 Q. Are these calls generated at or near the time of the
7 actual calls?

8 A. Yes.

9 Q. Is the storage of the calls a regularly conducted
10 business activity?

11 A. Yes.

12 Q. And can you describe what happens when you get a
13 subpoena for those calls?

14 A. It's about the same process. I get the subpoena for
15 the calls. The same kind of thing they will let me know
16 what the inmate is and what the date range is as well.

17 So it's the same thing I'll go into the system, I'll
18 pull up that inmate, pull up the date range that they're
19 looking for and then I'll download the log. It will give
20 me a log that shows everything.

21 It will show where they're at when they called, what
22 time they called, was the call accepted, was it not
23 accepted, was it a three-way call. And then if they did
24 connect how long they talked. So it gives everything on
25 it. And then I will run that log and then I will import

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1 the calls that were connected over and then I'll burn the
2 disk for that.

3 Q. Okay. Now Lisa I'm going to show you what has been
4 marked as State's exhibit 28 through 31 for
5 identification purposes only. Would you mind taking a
6 look at those.

7 [Whereupon, the witness reviews exhibits]

8 Q. Do you recognize those?

9 A. Yes, I do.

10 Q. Can you tell the jury what those are?

11 A. They are two call logs and they are the call logs
12 that give all the information about the phone calls that
13 were completed. And then there are two disks that have
14 the actual calls recorded onto them.

15 Q. And are these for this defendant?

16 A. Yes, they are.

17 Q. Is that the format in which you respond to subpoena
18 requests?

19 A. Yes, it is.

20 Q. Can you tell us what the subpoena requests were for
21 each of those two disks?

22 A. The first one there was a date range of 2/6/16 to
23 5/23/16. And the second one was 1/1/17 to 5/31/17.

24 Q. Okay. Is there is a phone number of interest are
25 y'all able to isolate that number to get all calls?

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1 A. We can. We can actually look it up a couple of
2 different ways. We can look up a call by inmate number
3 or we can look it up by actual phone number. So
4 sometimes inmates get numbers wrong and people will call
5 and say hey, I've got somebody from the jail that keeps
6 calling me; I don't know anybody there.

7 So I can actually take that person's number and then
8 I can put that in to see who's calling it, which we don't
9 before because I go back to the inmate and say look, you
10 have the wrong number please check your number; this
11 person doesn't know you. So, yes we can do it a couple
12 of different ways.

13 Q. Based on your experience have you ever seen
14 defendants use a different defendant pin numbers?

15 A. Yes.

16 Q. Is your handwriting on those disks?

17 A. Yes, it is.

18 Q. Is your name on there?

19 A. Yes, it is.

20 Q. Do they fairly and accurately depict the subpoena
21 requests for both the defendant's jail calls and all
22 calls going to the specific number of [REDACTED]-0204?

23 A. Yes, it does.

24 Q. Based on the logs has the defendant's pin number
25 called that number before? I can give you the call again

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1 if you need it.
2 A. Is it 30 or 31?
3 Q. It will be 31.
4 [Whereupon, the witness reviews document]
5 A. Yes.
6 Q. Any way of telling approximately how many times he
7 called that number?
8 A. Well, there is 12 pages here.
9 [Whereupon, the witness reviews document]
10 A. Yes, 458.
11 Q. And those logs you are referring to do they fairly
12 and accurately depict the defendant's logs and call logs
13 going to that specific number?
14 A. Yes.
15 MR. WARING: Your Honor, at this time the State
16 moves to have exhibits 30 and 31 admitted into evidence.
17 THE COURT: Any objection?
18 MS. BIRT: Objection to relevance and
19 authentication as before, Your Honor.
20 THE COURT: Authentication she is here testifying.
21 She is responsible for it. As to the relevance at this
22 point it has relevance with sufficient probative value.
23 I'm going to overrule your objection. It's admitted
24 subject to the objection.
25 MR. WARING: Yes, Your Honor.

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1 [Whereupon, State's exhibit numbers 30 and 31 are
2 entered into evidence by the court]
3 Q. [Mr. Waring] Lisa, have you had a chance to listen
4 to the jail calls on those disks specifically from
5 February 8, 2016 at 19:50:18?
6 A. Yes.
7 Q. What about March 28, 2016 at 15:03:25?
8 A. Yes.
9 Q. And lastly one from May 17, 2017 at 22:07:22?
10 A. Yes.
11 Q. I'm now showing you what has been marked for
12 identification purposes as State's exhibit 32. Do you
13 recognize that?
14 [Whereupon, the witness is shown exhibit]
15 A. Yes, I do.
16 Q. And can you tell the jury what it is?
17 A. It is another disk of the jail calls.
18 Q. Is your name and handwriting on that?
19 A. Yes, it is.
20 Q. Have you actually listened to the calls on that
21 disk?
22 A. Yes, I have.
23 Q. Are they taken from the same jail calls that you
24 referenced earlier in the other disks?
25 A. Yes, they are.

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1 Q. Are they the same jail calls?
2 A. Yes, they are.
3 Q. And does that disk fairly and accurately depict the
4 jail calls from the dates I previously mentioned?
5 A. Yes, it does.
6 Q. I'm now showing you what we're going to mark as a
7 court's exhibit. Could you take a look at that please?
8 [Whereupon, the witness is shown exhibit]
9 THE COURT: What are those? The transcripts?
10 MR. WARING: Yes, Your Honor.
11 THE COURT: They're not court's exhibits; they will
12 be State's exhibits for purposes of identification
13 purposes only. They can collectively be one because I
14 assume they're all the same thing aren't they?
15 MR. WARING: They're different calls but they're
16 all transcripts, Your Honor.
17 THE COURT: It's one page with different
18 transcripts?
19 MR. WARING: Each page has a different
20 transcription call on it, Your Honor.
21 THE COURT: Okay. I see. Then we'll probably
22 have to mark them individually as State's exhibits, but
23 State's not court's exhibits for identification purposes
24 only.
25 MR. WARING: Yes, Your Honor.

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Lisa Bloodworth-Direct Examination by Mr. Waring
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1 Q. [Mr. Waring] Can you tell us what those are?

2 A. Yes. They are the jail call transcripts.

3 Q. And have you had a chance to listen to both the jail
4 calls and the video visitation videos while following
5 along with those transcripts?

6 A. Yes, I have.

7 Q. And do those transcripts fairly and accurately
8 depict what is being said on both the jail calls and the
9 videos?

10 A. Yes, they do.

11 MR. WARING: Your Honor, I don't know if you want
12 us to label these with specific identification purposes
13 numbers.

14 THE COURT: What we're going to have to do if and
15 when you plan to play the videos they need to be so that
16 -- I mean the disk needs to correspond to that disk. My
17 feeling would be to have the transcript for purposes of a
18 record it would seem to me the most practical thing would
19 be to have the disk being an exhibit and then the
20 transcripts they could be of that disk A and then that
21 way it's tied to the disk for purposes of review should
22 that become necessary.

23 MR. WARING: Yes, Your Honor.

24 THE COURT: So we can do that at a later date. Do
25 you plan to play them right now?

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1 MR. WARING: No, Your Honor.

2 THE COURT: Okay. We'll get that done. But
3 that's the way I think for purposes of clarity would be
4 easier to follow I think from a record standpoint.

5 MR. WARING: Yes, Your Honor.

6 [Whereupon, Mr. Waring and Mr. Osborne confer]

7 Q. [Mr. Waring] Please answer any questions the defense
8 has.

9 THE COURT: Ms. Birt, you may cross-examine.

10 MS. BIRT: May it please the court?

11 THE COURT: Yes.
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State v Devante Antonio Grant
Lisa Bloodworth-Cross-Examination by Ms. Birt
August 8, 2017

1	CROSS-EXAMINATION
2	BY MS. BIRT:
3	Q. Good morning.
4	A. Good morning.
5	Q. Ms. Bloodworth, I just want to go through a little
6	bit about what you testified to the Solicitor.
7	A. Okay.
8	Q. You indicated that every inmate that comes to the
9	Charleston County Detention Center gets a pin for a
10	personal identification number, correct?
11	A. Correct.
12	Q. And that would mean that anyone who was ever booked
13	and lodged gets a pin?
14	A. Yes.
15	Q. Is there ever an instance when someone wouldn't get
16	one?
17	A. No.
18	Q. So the defendant here, Devante Grant, he was
19	assigned a pin when he was originally booked?
20	A. Yes.
21	Q. Now you indicated that any inmate would have to use
22	a pin in order to make a phone call.
23	A. Correct.
24	Q. So you can't just walk into a room and pick up a
25	phone and make a call whenever they want?

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- 1 A. No.
- 2 Q. You also have to have some kind of money or funds in
3 an account in order to use that pin?
- 4 A. Correct.
- 5 Q. Now you also said to the Solicitor that someone else
6 could possibly use the pin of another inmate.
- 7 A. Correct.
- 8 Q. You've personally seen that happen before?
- 9 A. Yes.
- 10 Q. You say it happens frequently?
- 11 A. Yes.
- 12 Q. Now other than an individual typing in a pin there
13 is no other verification required other than that, right?
- 14 A. No, there is a voice verification when they say
15 their name. They have to say their name and it has to
16 match.
- 17 Q. So if someone were to use somebody else's pin they
18 would also then have to have that voice authentication?
- 19 A. Yes.
- 20 Q. But that's also done at the same time.
- 21 A. Not necessarily. If there is somebody that comes to
22 jail all the time -- when the very first time you come to
23 jail you have to set it up and then you'll say your name.
24 But then each time it's already recorded. You get the
25 same pin number. If you come back repeatedly you get the

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1 same pin number each time. And it's already set up so

2 you still just have to say your name.

3 Q. But you've seen in your time at the detention center
4 you've seen other people use a pin assigned to somebody
5 else.

6 A. Yes.

7 Q. So even when you see a pin being used there is no
8 way to verify that is actually the person making the
9 call.

10 A. No.

11 Q. You spoke with the Solicitor about the phone number
12 [REDACTED]-0204?

13 A. Yes.

14 Q. They had you pull all the calls for that specific
15 phone number from January of 2017 through May of 2017?

16 A. Yes.

17 Q. Now I wanted to ask a little bit about you were
18 shown a few documents that were indicated as possible
19 transcripts for a phone call that you listened to.

20 A. Yes.

21 Q. You didn't type those transcripts did you?

22 A. No.

23 Q. You didn't verify them for accuracy.

24 A. I listened to them against the actual recordings.

25 Q. But you yourself didn't make any edits to those

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- 1 transcripts?
- 2 A. No.
- 3 Q. And you yourself didn't type those transcripts?
- 4 A. No.
- 5 Q. Now the purpose of recording calls at the jail is
- 6 for safety, right?
- 7 A. Correct.
- 8 Q. But you also use those calls to potentially assist
- 9 in investigating cases.
- 10 A. Correct.
- 11 Q. So when you receive a subpoena from someone like a
- 12 police officer or the State you can use those recorded
- 13 calls.
- 14 A. Yes.
- 15 Q. And those calls assist in helping the State or
- 16 police officers look for evidence.
- 17 A. Correct.
- 18 Q. And the jail records phone calls for all inmates,
- 19 right?
- 20 A. Yes.
- 21 Q. They wouldn't specifically select certain ones to
- 22 record, right?
- 23 A. Nope.
- 24 Q. So it's a blanket policy.
- 25 A. Yes.

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Lisa Bloodworth-Cross-Examination by Ms. Birt
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1 Q. You've never met the defendant Devante Grant have
2 you?
3 A. I don't recall. I go in and out of a lot of the
4 units.
5 Q. But you don't recall?
6 A. No.
7 Q. So you can't really recall if you've ever heard his
8 voice before.
9 A. No.
10 Q. So you were told to select certain calls but you
11 yourself couldn't verify whether or not that was Devante
12 Grant or someone else?
13 A. No.
14 Q. You've also never met an individual named Michael
15 Allen?
16 A. Not that I recall.
17 Q. And I wanted to ask you a quick question about
18 State's exhibit 25 and 26, the visitation activity
19 reports?
20 A. Uh Huh.
21 Q. Now on these reports it indicates that there is a
22 visitor name, right?
23 A. Uh Huh.
24 THE COURT: Is that yes?
25 A. Yes.

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Lisa Bloodworth-Cross-Examination by Ms. Birt
August 8, 2017

1 Q. [Ms. Birt] So there is a visitor's name.
2 A. Yes.
3 Q. And also it has a section for relationship to the
4 inmate.
5 A. Correct.
6 Q. There is no verification done by the detention
7 center to verify that that is in fact the person that is
8 claiming to be that individual, right?
9 A. Correct.
10 Q. So they could basically call themselves an aunt or
11 an uncle but you'd have no way of knowing if that's true.
12 A. Right.
13 MS. BIRT: Court's indulgence.
14 THE COURT: Certainly.
15 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
16 MS. BIRT: Nothing further of this witness.
17 THE COURT: Redirect?
18 MR. WARING: Thank you, Your Honor.
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State v Devante Antonio Grant
Melissa Bryant-Direct Examination by Mr. Osborne
August 8, 2017

1 MR. OSBORNE: The State calls Melissa Bryant.
2 [Whereupon, Ms. Bryant comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: State your full name for the
6 record spelling your last.

7 THE WITNESS: Melissa Smith Bryant.

8 - - - - -

9 MELISSA BRYANT,
10 Having been first duly sworn,
11 Was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. OSBORNE:

14 Q. Good morning, Ms. Bryant. Where do you work?

15 A. I work for the South Carolina Department of Motor
16 Vehicles.

17 Q. And what is your job there?

18 A. I'm the branch manager.

19 Q. And what are some of the duties and responsibilities
20 as a branch manager?

21 A. I supervise 30 employees. I can process all
22 transactions that we do in our field office and I can
23 help all the general public that comes into our office.

24 Q. Okay. And is part of your job to honor requests
25 for subpoenas maybe from law enforcement?

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Melissa Bryant-Direct Examination by Mr. Osborne
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1 A. Yes, sir.

2 Q. And might one of those requests be for DMV
3 information?

4 A. Yes, sir.

5 Q. So how does your office store that DMV information?

6 A. We store it in a secure database.

7 Q. Okay. So when you get a request for specific
8 information you go to the database and then retrieve it?

9 A. Yes sir, by entering the information from whom is in
10 front of us that is requesting that information.

11 Q. Okay. In reference to this investigation did
12 someone with my office request biographical information?

13 A. Yes, sir.

14 Q. Okay.

15 MR. OSBORNE: Your Honor, may I approach?

16 THE COURT: You may.

17 Q. [Mr. Osborne] I'm showing you what has been marked
18 as State's exhibit number 36. Do you recognize this?

19 [Whereupon, the witness is shown document]

20 A. Yes, sir.

21 Q. And what is that?

22 A. This is a DMV report.

23 Q. How do you know?

24 A. Because I do it every single day.

25 Q. Okay. And did you actually generate that report?

State v Devante Antonio Grant
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1 A. Someone in my office did at headquarters.
2 Q. Okay. And is it certified in any way?
3 A. Yes, sir.
4 MR. OSBORNE: Your Honor, at this time we'd seek to
5 admit State's exhibit 36.
6 THE COURT: Any objection?
7 MS. EHRLICH: No, Your Honor.
8 THE COURT: Without objection State's exhibit 36 is
9 admitted.
10 [Whereupon, State's exhibit number 36 is entered
11 into evidence by the court]
12 Q. [Mr. Osborne] I just want to show you a couple of
13 things from 36. So just to familiarize the jury, where
14 does this information that we're looking at right here
15 come from?
16 A. It comes from the DMV database. It gets submitted
17 onto the record when a customer comes in and fills out a
18 form. We type in their name, date of birth, height,
19 weight.
20 All suspensions and things are reported from the
21 courts to us but as far as any violations and things that
22 are on their record that comes from the court. All
23 height, weight, date of birth, social comes from the
24 individual.
25 Q. Okay. And I suppose most of that is generated when

State v Devante Antonio Grant
Melissa Bryant-Direct Examination by Mr. Osborne
August 8, 2017

1 a driver's license is generated?

2 A. Yes, sir.

3 Q. Okay. Or obtained in this case?

4 A. Yes, sir.

5 Q. And what is the name of the individual on this
6 record?

7 A. The name is Devante Antonio Grant.

8 Q. Okay. And his date of birth?

9 A. His date of birth is [REDACTED].

10 Q. His height?

11 A. Five six.

12 Q. And his weight?

13 A. One twenty.

14 MR. OSBORNE: No further questions, Your Honor.

15 THE COURT: Cross-examine?

16 MS. EHRLICH: Just briefly.

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State v Devante Antonio Grant
Melissa Bryant-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 CROSS-EXAMINATION
2 BY MS. EHRLICH:
3 Q. Ms. Bryant, what date was this issued?
4 A. It was issued 8-19-2015.
5 Q. Okay. And so the information regarding weight and
6 height would have been entered at that time?
7 A. Well, it also gets entered when he comes in to apply
8 for another credential. If you see on this record
9 another credential is issued on 11-19-2015.
10 Q. Okay.
11 A. Each time the individual comes in and applies for
12 any type of credential they fill in the application and
13 then we take what is on that application and enter it
14 into the system.
15 Q. So the 11-19-2015 date is when the height and weight
16 would have potentially been updated?
17 A. Yes, ma'am.
18 Q. And the weight there is 120?
19 A. Yes, ma'am.
20 MS. EHRLICH: No further questions, Your Honor.
21 THE COURT: Redirect?
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State v Devante Antonio Grant
Melissa Bryant-Redirect Examination by Mr. Osborne
August 8, 2017

1 REDIRECT EXAMINATION
2 BY MR. OSBORNE:
3 Q. You said on applications so it's not like anybody is
4 putting him on a scale or measuring him. This is what he
5 is reporting?
6 A. Yes, sir.
7 Q. Okay. Nothing further.
8 THE COURT: Recross?
9 MS. EHRLICH: No, Your Honor.
10 THE COURT: Thank you. You may come down. Do you
11 wish this witness to be excused?
12 MR. OSBORNE: Yes, Your Honor.
13 THE COURT: Any objection?
14 MS. EHRLICH: No, Your Honor.
15 THE COURT: You're also free to leave. Thank you.
16 [Whereupon, the witness is excused and exits the
17 witness stand]
18 THE COURT: Call your next witness.
19 MR. WARING: Thank you, Your Honor.
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State v Devante Antonio Grant
Jerry Roberts-Direct Examination by Mr. Waring
August 8, 2017

1 MR. WARING: The State calls Jerry Roberts.
2 [Whereupon, Mr. Roberts comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: Please state your full name
6 spelling your last for the record.
7 THE WITNESS: It's William Jerry Roberts, Jr., R-O-
8 B-E-R-T-S.
9 - - - - -
10 JERRY ROBERTS,
11 Having been first duly sworn,
12 Was examined and testified as follows:
13 DIRECT EXAMINATION
14 BY MR. WARING:
15 Q. Good morning Jerry, how you doing today.
16 A. Fine sir, how are you?
17 Q. Good. Can you tell the jury where you work?
18 A. City of Charleston Police Department.
19 Q. And can you tell them what you do there?
20 A. I'm the director of the digital evidence unit and
21 I'm also an analyst there.
22 Q. Can you describe a few of the things that you do
23 there?
24 A. Basically we take in digital evidence, cell phones,
25 computers, GPS systems and analyze them for evidence from

State v Devante Antonio Grant
Jerry Roberts-Direct Examination by Mr. Waring
August 8, 2017

1 a variety of cases; narcotics, pornography, missing
2 persons, assaults and things like that.

3 Q. Did you have an involvement with this particular
4 case, Devante Grant case?

5 A. Yes sir, I did.

6 Q. How did you get brought into that case?

7 A. On April the 11th a cell phone was submitted to our
8 lab. It was an Alcatel requesting a cellular phone dump
9 from the device.

10 Q. And do you deal with cell phones on a regular
11 basis?

12 A. Yes, sir.

13 Q. What is your experience with cell phones?

14 A. I've been doing computer forensics roughly since
15 2003. I was trained by the FBI at Quantico, the law
16 enforcement training center and several vendors.

17 I'm also a technical matter expert for ASCLD lab in
18 digital evidence and I do roughly two to 400 phones a
19 year and I've been doing them for the last ten years.

20 Q. Now have you testified in court before?

21 A. Yes sir, I have.

22 Q. And specifically can you tell the court what a phone
23 dump is.

24 A. Basically when they submit a request for us they're
25 looking for just the contents of a device. Then they

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Jerry Roberts-Direct Examination by Mr. Waring
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1 will have a search warrant or a consent from the owner
2 for the device. And we have forensically designed
3 hardware and software that we utilize to hook the device
4 to that pulls that information off and then catalogs it
5 for us into a human readable type package report that we
6 provide back to the investigator.

7 Q. Does it require any special knowledge to do this?

8 A. Yes sir, it does.

9 Q. And have you had training?

10 A. Yes, sir. I've had training from those vendors.

11 Also we are proficiency tested annually by a vendor that
12 is approved by ASCLD lab for our proficiency.

13 THE COURT REPORTER: What's the name of the lab
14 again?

15 THE WITNESS: ASCLD Lab.

16 THE COURT REPORTER: ASCLD?

17 THE WITNESS: Yes, ma'am. That's an accrediting
18 body for forensic laboratories in the United States and
19 abroad.

20 Q. [Mr. Waring] Have you ever testified in court before
21 about phone dumps?

22 A. Yes, sir.

23 Q. Have you ever been declared an expert in this field?

24 A. Yes sir, several times in this court as well.

25 Q. Approximately how many times overall?

State v Devante Antonio Grant
Jerry Roberts-Direct Examination by Mr. Waring
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1 A. Half a dozen I guess.

2 Q. Can you tell the jury how you actually go and
3 conduct a phone dump?

4 A. To what extent?

5 Q. Say you get a subpoena request for a phone dump.
6 How does that work out?

7 A. Basically when we receive that we go to the
8 department or we get it from the person that is
9 requesting the dump. We bring the phone in. There are
10 some things that we do to the phone to prepare just like
11 anything else.

12 There is a checklist that the vendor requires us to
13 do to the phone, non invasive. Say for instance turn
14 airplane off. If you have a cell phone with airplane
15 phone where you can get signals in we turn that off so it
16 cannot receive signals in and out.

17 Do a couple of other things then it actually is in
18 detail enough to give us the proper cable to use. That's
19 pretty much touch screen and it's kind of a one, two,
20 three, four, five, six methodology; you just follow the
21 rules and it dumps it. And then we have a reader that
22 reads it like I said and catalogs it into the different
23 categories that they are interested in.

24 MR. WARING: Your Honor, at this point the State
25 would move to have Jerry Roberts declared an expert in

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Jerry Roberts-Direct Examination by Mr. Waring
August 8, 2017

1 the field of phone dumps, Your Honor.
2 THE COURT: Do you care to examine as to his
3 qualifications?
4 MS. EHRLICH: No, Your Honor.
5 THE COURT: Very well. He can render testimony in
6 that area.
7 MR. WARING: Yes, Your Honor.
8 THE COURT: He can render opinions in that area.
9 MR. WARING: Thank you, Your Honor.
10 Q. [Mr. Waring] Now Jerry, what kind of phone were you
11 given in this case? You said it was an Alcatel?
12 A. Yes. This was an Alcatel one touch, model 5054-N on
13 the Metro PCS service provider.
14 Q. Was a search warrant done on that?
15 A. Yes, sir.
16 Q. Was that particular phone able to be dumped?
17 A. Yes, sir. It was able to be successfully dumped
18 three different types of dumps; a physical, logical, and
19 a file system.
20 Q. Do you recall whose phone that was?
21 A. I do not know. A lot of times we don't get that
22 information in exactly whose phone it is. We just
23 identify it by the device and the phone serial number.
24 Q. Did you in fact for this phone dump was there a
25 report?

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Jerry Roberts-Direct Examination by Mr. Waring
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1 A. Yes, sir.

2 Q. Okay. And can you tell the jury what might be
3 covered in a report like that?

4 A. Yes. In a physical dump which this one was it would
5 catalog everything that is in the phone. So if you had
6 pictures, movies, emails, text messages, certain
7 applications, map coordinates if you used Google maps to
8 go find where a coffee shop is at and things like that.

9 Q. Did this particular phone contain any of that stuff?

10 A. Yes sir, it did.

11 Q. Okay. Was that report generated in the normal
12 course of business?

13 A. Yes.

14 Q. Is it a regularly conducted business activity to
15 generate these reports?

16 A. Yes sir, and provided to the investigator or the
17 requesting agency.

18 Q. Okay. Jerry, I'm going to show you what has been
19 marked for identification purposes only as State's
20 exhibit 37 and 38. Do you recognize those?

21 [Whereupon, the witness is shown exhibits]

22 A. Yes, sir.

23 Q. And can you tell the jury what those are?

24 A. Yes. These are extraction reports from Cellebrite
25 UFED which is one of the forensic hardware devices that

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Jerry Roberts-Direct Examination by Mr. Waring
August 8, 2017

1 we use to dump cell phones.
2 Q. And do those fairly and accurately depict a phone
3 dump reports from that phone?
4 A. Yes sir, they do.
5 Q. And what exactly is covered in that report? Not the
6 contents but ---
7 A. --- this is a report reporting on instant messages
8 from the Facebook application.
9 MR. WARING: Court's indulgence.
10 THE COURT: Yes, sir.
11 [Whereupon, Mr. Waring and Mr. Osborne confer]
12 Q. [Mr. Waring] Please answer any questions the defense
13 has.
14 THE COURT: Cross-examination?
15 MS. EHRLICH: Yes, Your Honor.
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State v Devante Antonio Grant
Jerry Roberts-Cross-Examination by Ms. Ehrlich
August 8, 2017

1	CROSS-EXAMINATION
2	BY MS. EHRLICH:
3	Q. Good morning. Is it Officer Roberts?
4	A. It used to be but now I'm luckily retired and I run
5	the lab as a civilian.
6	Q. So it's Mr. Roberts?
7	A. That would be okay.
8	Q. Okay. You completed this phone dump in April of
9	2016?
10	A. Yes, I believe that's correct.
11	Q. And so the results of that phone dump have been
12	available since you did that in April of 2016, correct?
13	A. Yes.
14	Q. And just in talking about phones and phone dumps all
15	you can do is extract data from the phone, correct?
16	A. Yes.
17	Q. You can't tell who is using the phone?
18	A. Explain that a little more.
19	Q. Well, if you extract messages ---
20	A. --- I cannot tell if you are using the phone?
21	Q. Right. So let's say we extract messages from my
22	phone. You don't know if I sent the messages or somebody
23	else did, correct?
24	A. No. Depending upon the application that you use the
25	application authenticates the user.

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Jerry Roberts-Cross-Examination by Ms. Ehrlich
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- 1 Q. Okay. But if I'm logged into somebody else's
2 application -- let's say I'm logged into Facebook on my
3 phone and I hand it to somebody else and they start using
4 it you can't tell if I sent the messages or somebody
5 else, right?
- 6 A. No, only from that user account.
- 7 Q. Okay. So you can tell what account something maybe
8 has been sent -- through what account something was sent
9 but not necessarily who did it.
- 10 A. Correct.
- 11 Q. And the same would be true for really most even text
12 messages on a phone, correct?
- 13 A. Yes.
- 14 Q. You can say that the messages were exchanged but not
15 necessarily by who?
- 16 A. Right. It is authenticated by device so I can say
17 this message came from this phone number or this user
18 I.D. to this user I.D. or this phone number which the
19 application or the device resolves to whatever name is
20 there.
- 21 Q. Right. So it is linked to the device.
- 22 A. Correct.
- 23 Q. And an account.
- 24 A. Correct.
- 25 Q. But necessarily a person. Somebody else can use

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Jerry Roberts-Cross-Examination by Ms. Ehrlich
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1 other people's accounts, correct?

2 A. Yes, that's correct.

3 MS. EHRLICH: Court's indulgence.

4 THE COURT: Certainly.

5 [Whereupon, Ms. Ehrlich and Ms. Birt confer]

6 Q. [Ms. Ehrlich] Mr. Roberts, you haven't had any
7 further involvement with this case but this phone dump,
8 correct?

9 A. No, ma'am.

10 Q. Thank you.

11 THE COURT: Redirect?

12 MR. WARING: No further questions, Your Honor.

13 THE COURT: You can step down. Do you wish the
14 witness to be excused?

15 MR. WARING: Yes, Your Honor.

16 THE COURT: Any objection?

17 MS. EHRLICH: No, Your Honor.

18 THE COURT: You are free to leave, sir. Thank you.

19 [Whereupon, the witness is excused and exits the
20 witness stand]

21 THE COURT: Call your next witness.
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State v Devante Antonio Grant
Chandra White-Direct Examination by Mr. Osborne
August 8, 2017

1 MR. OSBORNE: The State calls Chandra White.
2 [Whereupon, Ms. White comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: Please state your full name for
6 the record and can you spell your first and last name for
7 me as well.
8 THE WITNESS: My name is Chandra Yvonne White.
9 First name is spelled C-H-A-N-D-R-A.
10 - - - - -
11 CHANDRA WHITE,
12 Having been first duly sworn,
13 Was examined and testified as follows:
14 DIRECT EXAMINATION
15 BY MR. OSBORNE:
16 Q. All right Ms. White, what is your relationship to
17 Saivon Chisolm?
18 A. That is my son.
19 THE COURT: Could you sit up closer to that mic and
20 speak into it please.
21 A. He's my son.
22 Q. Okay. Mr. Chisolm pled guilty to armed robbery?
23 A. He did.
24 Q. So is it fair to say that you're not really all that
25 thrilled about being here?

State v Devante Antonio Grant
Chandra White-Direct Examination by Mr. Osborne
August 8, 2017

1 A. No, I would rather not be here. Me and him have had
2 our discussions in regards to this.

3 Q. You don't have to get into that. But I certainly
4 understand. So Saivon and yourself are y'all from the
5 Charleston area?

6 A. Yes.

7 Q. Okay. So he was born and raised here?

8 A. Yes.

9 Q. Now he was arrested sometime in February of 2016,
10 does that sound about right?

11 A. Yes.

12 Q. How did you first become aware that he had been
13 charged?

14 A. He worked with me. We were supposed to be to work.
15 Mother's intuition I looked him up on Charleston County
16 website and saw him there and that he was incarcerated.

17 Q. Okay. So when he didn't show up you were nervous
18 about his whereabouts?

19 A. Uh Huh.

20 THE COURT: Was that a yes?

21 A. Yes.

22 Q. [Mr. Osborne] So at the detention center after his
23 arrest did you have the occasion to speak to him?

24 A. I -- when he first got locked up he didn't know I
25 showed up to bond court. I spoke to him after that.

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Chandra White-Direct Examination by Mr. Osborne
August 8, 2017

1 Q. Okay. So you visited him while he was in jail?
2 A. Yes.
3 Q. Talked to him on the phone?
4 A. Yes.
5 Q. Wrote him?
6 A. Yes.
7 Q. And did he write you?
8 A. Yes.
9 Q. Okay. Now do you recall receiving a correspondence
10 from Saivon in the mail in which he sent a letter to you
11 that he received?
12 A. Yes.
13 Q. And he received that letter while he was in jail ---
14 MS. EHRLICH: --- objection. Hearsay.
15 THE COURT: I will sustain the objection.
16 Q. [Mr. Osborne] Did you have the occasion to look at
17 the letter that was sent to you?
18 A. Yes.
19 Q. Did you read it?
20 A. Yes.
21 Q. Before I go into any detail concerning the letter
22 what did you do after you saw this letter or what did you
23 do with it I should say?
24 A. I gave the letter to Mr. Davis. I don't remember if
25 I sent it in email. I know I didn't mail it -- or took a

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Chandra White-Direct Examination by Mr. Osborne
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1 picture of it but I know I didn't mail it.

2 Q. Okay. You didn't mail it but you got the letter
3 and you took a picture of it and you sent it to Mr.
4 Davis. Is that Rodney Davis?

5 A. Yes.

6 Q. Okay. And was that Saivon's attorney?

7 A. Yes.

8 Q. Okay.

9 MR. OSBORNE: May I approach the witness, Your
10 Honor?

11 THE COURT: You may.

12 Q. [Mr. Osborne] I'm showing you what has been marked
13 as State's exhibit number 55 and number 56. We'll start
14 with 56. Can you take a look at that and tell me if you
15 recognize it?

16 [Whereupon, the witness reviews exhibit]

17 A. This is the envelope that the letter came in.

18 Q. Okay. That's the envelope.

19 A. Uh Huh.

20 THE COURT REPORTER: Is that yes?

21 A. Yes.

22 Q. [Mr. Osborne] So she is going to be writing out
23 everything that you're saying so you have to answer yes
24 or no. Now I'm showing you State's exhibit 55. Can you
25 take a look at that and tell me if you recognize it?

State v Devante Antonio Grant
Chandra White-Direct Examination by Mr. Osborne
August 8, 2017

1 [Whereupon, the witness is shown document]
2 A. Yes.
3 Q. And what is that?
4 A. This is the actual letter.
5 Q. Okay. So 55 is the envelope -- I'm sorry, 56 is
6 the envelope, is that correct?
7 A. Yes.
8 Q. And then 55 was the letter that was contained in 56?
9 A. Yes.
10 Q. Okay. But that is a photograph of both the letter
11 and the envelope not the original, is that correct?
12 A. Correct.
13 Q. And then you sent that to Saivon's attorney,
14 correct?
15 A. I sent the photograph?
16 Q. The photograph, yes.
17 A. Yes.
18 Q. Okay. In regards to the original what happened to
19 the original letter and envelope?
20 A. After it was determined to the best of my knowledge
21 that the letter was not needed it was discarded. I no
22 longer have it. I threw away a lot of his things. This
23 is a negative aspect of the situation gone. So I went...
24 Q. Okay. So is it fair to say that you discarded it
25 then after his plea?

State v Devante Antonio Grant
Chandra White-Direct Examination by Mr. Osborne
August 8, 2017

1 A. After his plea.

2 Q. Okay. And we did or Investigator Dan Eckert with
3 our office he did make an attempt to try to retrieve the
4 letter from you; he came to your house.

5 A. They came to get it.

6 Q. That was like around July the 12th of this year I
7 think.

8 A. Correct.

9 Q. But at that point you didn't know where the letter
10 was; it had already been destroyed.

11 A. Correct.

12 Q. Now, you looked at the letter, you looked at the
13 envelope; the original, and now you're looking at a
14 photograph of the letter and the envelope.

15 Does that fairly, this copy right here or this
16 duplicate does it fairly and accurately depict the
17 original letter and envelope? In other words it is
18 appreciably the same?

19 A. Yes.

20 Q. Did you do anything to alter the image or the
21 photograph or the letter itself before you took a picture
22 of it?

23 A. No.

24 MR. OSBORNE: Your Honor, at this time we would
25 seek to admit State's exhibit 55 and 56 subject to

State v Devante Antonio Grant
Chandra White-Direct Examination by Mr. Osborne
August 8, 2017

1 104(b) .

2 THE COURT: Any objection?

3 MS. EHRLICH: Your Honor, I'd renew the prior
4 objections related to relevancy. Also, may we approach
5 on a matter ---

6 THE COURT: --- I would sustain the objection at
7 this point. It's been identified but I'm not going to
8 admit it for publication at this point. Thank you.

9 Q. [Mr. Osborne] All right. When you communicated
10 with your son and you wrote him a letter and he was in
11 the jail and you put his name on the outside of the
12 letter did you address the letter to him specifically?

13 If you had to write a letter to your son would you
14 write it to Saivon Chisolm? Is that the way you would
15 address it?

16 A. Yes.

17 Q. Would you put anything else on the envelope to get
18 it to him or would it just be his name?

19 A. No, just his name and his inmate number.

20 Q. His inmate number?

21 A. Yes.

22 Q. Let's talk about at the time that you received this
23 letter did you have any difficulties or any disagreement
24 with anyone that was at the jail?

25 A. No.

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Chandra White-Direct Examination by Mr. Osborne
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- 1 Q. Do you have any idea why anyone would say who was at
2 the jail at that time say anything derogatory about you?
3 A. No.
4 Q. Okay. Do you know this man [indicates] Devante
5 Grant?
6 A. Yes, I do.
7 Q. How do you know him?
8 A. Well, me and his mother were best friends. I'm
9 married to his first cousin. They lived with me.
10 Q. They lived with you?
11 A. They.
12 Q. Devante and his mom?
13 A. Uh Huh.
14 THE COURT: Is that a yes?
15 A. Yes.
16 Q. [Mr. Osborne] Where did y'all live?
17 A. [REDACTED] Forsman [phonetic] Street.
18 Q. Okay. [REDACTED] Forsman [phonetic]. Is that off
19 Dorchester Road?
20 A. It is.
21 Q. Is it near I-26?
22 A. It is.
23 Q. Is it near I think the old Burns Elementary?
24 A. Yes.
25 Q. Okay. Did -- well Saivon lived with you and so did

State v Devante Antonio Grant
Chandra White-Direct Examination by Mr. Osborne
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- 1 Devante so I assume they knew each other. Is that fair
2 to say?
3 A. Yes.
4 Q. And how would you describe their relationship?
5 A. They were very close.
6 Q. Very close. Okay. How did you learn that Devante
7 was arrested?
8 A. I don't recall off the top of my head.
9 Q. Okay. At the time that Devante was arrested was he
10 still residing with you on Forsman [phonetic]?
11 A. No.
12 Q. Okay. How long prior to his arrest did he not live
13 on Forsman [phonetic]?
14 A. I can't give you an exact timeframe.
15 Q. Was it days?
16 A. I can't give you an exact.
17 Q. Okay. But to the best of your knowledge the
18 relationship between Devante and Saivon was good?
19 A. Oh, yes.
20 Q. They were tight?
21 A. Very.
22 Q. At the time of Saivon's arrest were you aware of any
23 difficulty between the two?
24 A. No.
25 Q. Did you ever encourage Saivon to cooperate in this

State v Devante Antonio Grant
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1 investigation?

2 A. My encouragement more so for Saivon was to do what
3 he felt was best. He's of age. I let him know that I
4 would support him in whatever his decisions were.

5 I was already proud of the decisions that he made
6 even in the circumstances. So I can't tell you that I
7 swayed him one way or the other to -- I left it on him.

8 Q. And you said you were already proud of the decisions
9 that he had made?

10 A. Yes.

11 Q. In reference to his actions in this investigation
12 post arrest -- after his arrest? Certainly not what he
13 did during the robbery?

14 A. Yes, after his arrest.

15 Q. Okay.

16 MR. OSBORNE: No further questions, Your Honor.

17 THE COURT: You may cross-examine.

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State v Devante Antonio Grant
Chandra White-Cross-Examination by Ms. Ehrlich
August 8, 2017

1	CROSS-EXAMINATION
2	BY MS. EHRLICH:
3	Q. Good morning, Ms. White.
4	A. Good morning.
5	Q. Mr. Osborne was asking you if your son knew Devante
6	Grant. Did you son also know anybody named Michael Allen
7	that you are aware of?
8	A. The name is very familiar.
9	Q. Okay. Did you know Michael Allen?
10	A. No, ma'am.
11	Q. Did you know anybody named Tyrese [phonetic]?
12	A. I've heard the name but I don't know him.
13	Q. Okay. And the letter do you still have the letter?
14	A. Yes.
15	Q. May I see that for a second?
16	[Whereupon, Ms. Ehrlich reviews document]
17	Q. Exhibit 55 is that the photograph you took or is
18	that a different version of the photograph you took, do
19	you know?
20	A. A different version?
21	Q. Is that the actual photograph you took?
22	A. I'm pretty sure that this -- I'm very positive that
23	this is the photograph.
24	Q. Okay. And this is also the photograph that you
25	took?

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1 A. That's the envelope.
2 Q. That's State's exhibit 56?
3 A. Yes, ma'am.
4 Q. Okay. The Solicitor's office has reached out to
5 you at times to speak to you about this case, correct?
6 A. Correct.
7 Q. And while you may not be happy about it you have
8 been willing to speak to them, correct?
9 A. I have spoken to them, yes.
10 Q. And you received a phone call from my investigator
11 Dale Wilson within the past two weeks, correct?
12 A. Within the past week.
13 Q. Week.
14 A. Uh Huh.
15 THE COURT: Was that a yes?
16 A. Yes.
17 Q. [Ms. Ehrlich] And you declined to speak to him about
18 the case, correct?
19 A. Correct.
20 MS. EHRLICH: Court's indulgence.
21 THE COURT: Certainly.
22 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
23 MS. EHRLICH: No further questions, Your Honor.
24 THE COURT: Redirect?
25 MR. OSBORNE: None, Your Honor.

State v Devante Antonio Grant
Chandra White-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 THE COURT: Thank you. You may step down. Do you
2 wish Ms. White to be excused?

3 MR. OSBORNE: Yes, Your Honor.

4 THE COURT: Any objection?

5 MS. EHRLICH: No, Your Honor.

6 THE COURT: You are free to leave, Ms. White.
7 Thank you.

8 [Whereupon, the witness is excused and exits the
9 witness stand]

10 THE COURT: Call your next witness please.
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State v Devante Antonio Grant
Rodney Davis-Direct Examination by Mr. Osborne
August 8, 2017

1 MR. OSBORNE: The State calls Rodney Davis.
2 [Whereupon, Mr. Davis comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: Please state your full name and
6 spell your last name for the record please.
7 THE WITNESS: Rodney Duane [phonetic] Davis,
8 D-A-V-I-S.
9 - - - - -
10 RODNEY DAVIS,
11 Having been first duly sworn,
12 Was examined and testified as follows:
13 DIRECT EXAMINATION
14 BY MR. OSBORNE:
15 Q. Hello Mr. Davis. Tell the jury what you do for a
16 living?
17 A. I'm an attorney.
18 Q. And where is your office located?
19 A. North Charleston in Faber Place.
20 Q. And how long have you been an attorney?
21 A. Twenty one years.
22 Q. Okay. You handle criminal and civil?
23 A. Yes, mostly criminal.
24 Q. Okay. Did you have the occasion to represent one
25 Saivon Chisolm?

State v Devante Antonio Grant
Rodney Davis-Direct Examination by Mr. Osborne
August 8, 2017

1 A. I did.

2 Q. And during your representation of Mr. Chisolm did
3 you have the occasion to come into possession of a letter
4 that was sent to him?

5 A. Yes.

6 Q. And how did that come about?

7 A. When it was made known to me I sought to obtain it
8 during our negotiations with the State when his charges
9 were still pending. He did not have it but I obtained a
10 photograph pictures that were emailed to you of the
11 envelope and the letter.

12 MR. OSBORNE: May I approach the witness, Your
13 Honor?

14 THE COURT: You may.

15 Q. [Mr. Osborne] I'm showing you what has been marked
16 as State's exhibit 56. Can you tell me if you recognize
17 this?

18 [Whereupon, the witness is shown exhibit]

19 A. That appears to be the envelope, the photo of the
20 envelope.

21 Q. Okay. And State's exhibit 55.

22 [Whereupon, the witness is shown exhibit]

23 A. That appears to be a photo of the letter.

24 Q. Okay. And these digital images were provided to
25 you by Ms. White and at some later date I assume you

State v Devante Antonio Grant
Rodney Davis-Direct Examination by Mr. Osborne
August 8, 2017

1 forwarded to Mr. Waring involved in this case.

2 A. And Ms. Ehrlich.

3 Q. And Ms. Ehrlich, okay.

4 MR. OSBORNE: No further questions, Your Honor.

5 THE COURT: Cross-examine?

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State v Devante Antonio Grant
Rodney Davis-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 CROSS-EXAMINATION

2 BY MS. EHRLICH:

3 Q. Mr. Davis, you represented Saivon Chisolm?

4 A. I was appointed to represent him, yes.

5 Q. And he was cooperating with the State, correct, for

6 some time?

7 A. While I represented him we had at least two meetings

8 with the Solicitors.

9 Q. And at some point those negotiations stopped?

10 A. Yes.

11 Q. And that was the State's choice not your client's

12 choice, correct?

13 MR. OSBORNE: Objection, Your Honor. I think we

14 are teetering into attorney client privilege.

15 THE COURT: I would sustain the objection on that

16 basis at this point. Thank you.

17 Q. [Ms. Ehrlich] Your client went to court and pled

18 guilty, correct?

19 A. Correct.

20 Q. And in court, in open court you argued that he had

21 attempted to cooperate, correct?

22 A. Correct.

23 Q. And you also argued that the State had chosen not to

24 have his continue to cooperate, correct?

25 A. I don't remember my exact words at the guilty plea

State v Devante Antonio Grant
Rodney Davis-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 but I know that we did not -- I was unable to obtain the
2 result for him I had hoped for.

3 Q. I understand that. But your position in court was
4 that your client had attempted to cooperate ---

5 MR. OSBORNE: --- objection, Your Honor.
6 Relevance.

7 THE COURT: What's your question again?

8 MS. EHRLICH: His position in court was that his
9 client had attempted to cooperate.

10 THE COURT: I'll allow that.

11 A. Yes.

12 Q. [Ms. Ehrlich] Okay. And at no point did you --
13 your client pled guilty, correct?

14 A. Correct.

15 Q. That was in May of 2017?

16 A. Yes, the second week I think.

17 Q. And he was sentenced at that time.

18 A. Yes.

19 Q. And so after that your representation of him ended,
20 correct?

21 A. Yes, my appointment would have been through the
22 beginning of the appeal if an appeal was requested. He
23 did not request it. I appealed the conviction and the
24 sentence so it ended at the end of that day.

25 Q. And part of your job as an attorney, and I'm not

State v Devante Antonio Grant
Rodney Davis-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 criticizing you trust me, is to try to work out the best
2 resolution possible for your client.
3 A. Absolutely.
4 Q. And sometimes that's done through cooperation?
5 A. Yes.
6 Q. And sometimes the State follows through and
7 sometimes they don't, correct?
8 A. Correct.
9 MR. OSBORNE: Objection, Your Honor.
10 THE COURT: I sustain the objection. That's
11 inappropriate.
12 MS. EHRLICH: I'll withdraw the question. No
13 further questions, Your Honor.
14 THE COURT: Redirect?
15 MR. OSBORNE: No, Your Honor.
16 THE COURT: Mr. Davis, thank you. You may come
17 down. May this witness be excused?
18 MR. OSBORNE: Yes, Your Honor.
19 THE COURT: Any objection?
20 MS. EHRLICH: Your Honor, we still have him under
21 subpoena.
22 THE COURT: Mr. Davis, if you will stay in touch
23 with defense counsel about your pending subpoena.
24 THE WITNESS: Yes, Your Honor.
25 THE COURT: Thank you very much.

State v Devante Antonio Grant
Rodney Davis-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 [Whereupon, the witness is excused and exits the
2 witness stand]

3 THE COURT: At this point ladies and gentlemen
4 we're going to take a recess for about ten or fifteen
5 minutes. Do not begin your deliberations or discuss the
6 case among yourselves. Thank you.

7 [Whereupon, the jury exits at 10:45 a.m.]

8 THE COURT: Anything from the State before we
9 recess?

10 MR. WARING: No, Your Honor.

11 THE COURT: Anything from the defense?

12 MS. EHRLICH: No, Your Honor.

13 THE COURT: Thank you. We'll be at ease for about
14 ten or fifteen minutes.

15 [Whereupon, court is in recess from 10:46 a.m. until
16 11:03 a.m.]

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State v Devante Antonio Grant
Proceedings
August 8, 2017

1 THE COURT: Thank you. Is the State ready?
2 MR. WARING: Yes, Your Honor.
3 THE COURT: The defendant ready?
4 MS. EHRLICH: Yes, Your Honor.
5 THE COURT: Let the record reflect Mr. Grant is
6 present. Bring them in please. Thank you.
7 [Whereupon, the jury enters at 11:06 a.m.]
8 THE COURT: Thank you ladies and gentlemen. We're
9 ready to continue. Solicitor, you may call your next
10 witness.
11

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

1 MR. WARING: Thank you, Your Honor. The State
2 calls Michael Allen.

3 [Whereupon, Mr. Allen comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your full name for
7 the record and then spell your last name for us.

8 THE WITNESS: Michael A-L-L-E-N.

9 - - - - -

10 MICHAEL ALLEN,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Hello Mr. Allen. Mr. Allen, can you tell the jury
16 what your relation is to the defendant over here
17 [indicates]?

18 A. A childhood friend.

19 Q. So a childhood friend. And how long have y'all been
20 friends? How old are you?

21 A. Eighteen.

22 Q. Okay. Do you know Saivon Chisolm?

23 A. Not like that.

24 Q. What does that mean?

25 A. I know him through Devante.

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

- 1 Q. But you know him?
- 2 A. Yes.
- 3 Q. And how long have you known Saivon?
- 4 A. For about maybe like a year before the incident or
- 5 whatever.
- 6 Q. So you've known him for a little while?
- 7 A. Right.
- 8 Q. Okay. And did the three of y'all hang out?
- 9 A. Right.
- 10 Q. Were y'all friends?
- 11 A. Right.
- 12 Q. Does that mean yes?
- 13 A. Yes.
- 14 Q. Okay. Did the three of y'all hang out on January
- 15 26, 2016?
- 16 A. I can't really remember a day like that.
- 17 Q. On the day that Saivon and this defendant supposedly
- 18 committed this armed robbery did y'all hang out that day?
- 19 A. No, I don't recall.
- 20 Q. Do you not recall telling Detective Jarrell over
- 21 here [indicates] in your interview that you had been
- 22 hanging out with them earlier that day?
- 23 A. I said I don't recall them doing no crime or
- 24 whatever.
- 25 Q. But as far as y'all hanging out that day do you

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

- 1 remember that?
- 2 A. Right.
- 3 Q. Is that a yes?
- 4 A. I mean I'm saying like if we hung out that day there
5 wasn't nothing going on like that. We hung out around my
6 house.
- 7 Q. Okay.
- 8 A. When I said I didn't remember I really don't know
9 what date it was on January 26th because it was a while
10 ago.
- 11 Q. Okay. Now do you know that they were arrested that
12 day?
- 13 A. No.
- 14 Q. Did you know they were arrested at all?
- 15 A. Not until a while afterwards.
- 16 Q. But you are aware that they got arrested?
- 17 A. Right.
- 18 Q. For allegedly committing armed robbery?
- 19 A. Right, now I do.
- 20 THE COURT: You got to speak up, sir.
- 21 A. Right, now I do.
- 22 Q. [Mr. Waring] And were you present in the car during
23 the robbery?
- 24 A. No.
- 25 Q. Did you drive the car after the fact?

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

1 A. No.

2 Q. Did you communicate with either the defendant or
3 Saivon Chisolm about the incident or the car at all?

4 A. No.

5 Q. Now did you know that there are text messages and
6 Facebook messages that we have that has your name on them
7 that involve conversations between yourself, the
8 defendant, and Saivon Chisolm talking about the car?

9 A. Right. I think the detective told me about it but
10 like I told him my whole Facebook was hacked so I don't
11 have no access to it.

12 MR. WARING: Your Honor, at this point the State
13 would ask permission to use leading questions?

14 THE COURT: You may do so under Rule 611.

15 MR. WARING: Thank you, Your Honor.

16 Q. [Mr. Waring] So you're admitting that you found out
17 about some messages, right?

18 A. Right.

19 Q. But you're saying you weren't actually on those
20 messages.

21 A. Right.

22 Q. And you're saying that on January 31st -- excuse me
23 on February 2, 2016 you weren't on Facebook messages
24 giving Saivon Chisolm a hard time along with this
25 defendant for not putting gas in the car?

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

1 A. No.

2 Q. And you didn't tell them what's the reason you
3 didn't put gas in it.

4 A. No.

5 Q. And you weren't otherwise angry or upset that
6 Chisolm hadn't put gas in the victim's car?

7 A. No.

8 Q. Now you mentioned something about your Facebook
9 being hacked.

10 A. Right.

11 Q. Your Facebook name at that time was Michael Allen,
12 correct?

13 A. Right.

14 Q. And are you suggesting that somebody hacked into
15 your account and then carried on an intelligent
16 conversation about the victim's vehicle out of the blue?

17 A. I mean when you hack someone's Facebook you I guess
18 you are trying to be them, not going to say I'm so and so
19 on so and so page. You don't -- that's what hack means I
20 guess.

21 Q. So you're saying not only did somebody hack your
22 account but somebody in fact was impersonating you?

23 A. Right.

24 Q. And somehow knew about this topic of the victim's
25 car being taken and was able to carry on a conversation

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

- 1 about it.
- 2 A. I wouldn't say knew about it but right.
- 3 Q. What about your phone number? Do you recall having
- 4 communications with Saivon Chisolm via text message about
- 5 the victim's car?
- 6 A. No.
- 7 Q. Was that hacked too?
- 8 A. I lost my phone. That was my old phone with
- 9 Facebook on it and everything. And me I really don't put
- 10 locks on -- I used not put locks on my phone; now I do
- 11 though.
- 12 Q. And what's your number at that time?
- 13 A. I don't remember. I changed it like three times
- 14 already.
- 15 Q. Okay. So similar with the Facebook your position
- 16 today is that somebody stole your phone or you lost your
- 17 phone and somebody picked it up and carried on an
- 18 intelligent conversation about the victim's car?
- 19 A. Right.
- 20 Q. So you weren't asking a few days after this incident
- 21 about the key to this car and wanting Chisolm to come
- 22 pick you up?
- 23 A. No.
- 24 Q. You haven't changed your nickname, right?
- 25 A. Right.

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

- 1 Q. Is that what you go by or do you go by Michael?
- 2 A. M.J.
- 3 Q. M.J. You wouldn't by any chance have anything to do
4 with the destruction of Facebook evidence in this case
5 would you?
- 6 A. No.
- 7 Q. So there is no reason at all that you would be on
8 jail calls talking with this defendant about you erasing
9 these Facebook messages would you?
- 10 A. No.
- 11 Q. So if we put those on later that's not going to be
12 you?
- 13 A. Speaking about what?
- 14 Q. If we put that jail call on that was called to your
15 current number [REDACTED]-0204 that's not going to be you is it?
- 16 A. How you mean?
- 17 Q. What I'm asking you is have you made the call? Have
18 you talked to the defendant about destroying Facebook
19 evidence?
- 20 A. No. If it was evidence it wasn't no evidence on
21 this or whatever.
- 22 Q. That's not what I'm asking you. I'm asking you if
23 you erased Facebook evidence, these messages that I'm
24 referring to?
- 25 A. No.

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

- 1 Q. Where the defendant and you were giving Saivon a
2 hard time about not putting gas in the car.
- 3 A. No.
- 4 Q. Okay. So is your current phone number [REDACTED]-0204?
- 5 A. Correct.
- 6 Q. So if we pull the jail call log and link up that
7 that number was called by the defendant by his pin number
8 that's not going to be you on the other end?
- 9 A. Of course it's going to me; it's my phone.
- 10 Q. Okay. So again, it's your phone but you're saying
11 that you didn't make that statement on the phone that you
12 were going to delete Facebook messages?
- 13 A. If I made a statement it wasn't about this crime.
- 14 Q. It was about the crime?
- 15 A. It wasn't about this crime. I didn't knew anything
16 about this crime.
- 17 Q. Are you saying that somebody was impersonating you
18 at that time if they were talking on your phone number
19 with the defendant about deleting Facebook messages?
- 20 A. I don't get what you're saying.
- 21 Q. You said that you didn't talk about it but you said
22 that was your phone number. So if he's calling you ---
- 23 A. --- I'm saying if I did talk about these Facebook
24 messages it wasn't about that.
- 25 Q. You got a couple of different Facebook accounts,

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

- 1 right?
- 2 A. Right.
- 3 Q. And the current one is Sip T.J. Betty Whoop
- 4 [phonetic], right?
- 5 A. Right.
- 6 Q. And your current phone number what you said [REDACTED]-0204
- 7 that links to that account, right?
- 8 A. Right.
- 9 Q. Now do you recall the defendant telling you on a
- 10 jail call not to talk and not to slip up and say
- 11 anything?
- 12 A. No.
- 13 Q. So if we play that call if it was called to this
- 14 number as well you're saying that's not going to be you
- 15 either?
- 16 A. What you mean not to slip up and say anything?
- 17 Q. On a jail call where he's telling you not to be
- 18 foolish and slip up and say anything about the case to
- 19 any law enforcement.
- 20 A. He shouldn't have to tell me that because I don't
- 21 know anything about the case.
- 22 Q. So he did tell you that?
- 23 A. No.
- 24 Q. You just said he did.
- 25 A. I said he shouldn't.

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

1 Q. Okay. Do you not recall on May 17, 2017 on a jail
2 call with the defendant where you said that's how you
3 getting off on the charge with this case by not saying
4 anything?

5 A. I'm sorry, what did you say?

6 Q. Do you not recall saying on a jail call that you
7 were going to get off on being charged in this case by
8 not saying anything; by not slipping up and saying
9 something to the police?

10 A. About what -- you just say anything.

11 Q. Information ---

12 A. --- everybody knows that detention center calls are
13 recorded so me or him shouldn't have to say not slip up.
14 I don't get what you're saying about it.

15 Q. So that conversation never took place?

16 A. Conversation already took place.

17 Q. I'm saying that -- you just said a second ago that
18 you wouldn't need to talk about that.

19 A. Right.

20 Q. So it's your position today that that conversation
21 didn't take place.

22 A. I'm saying what I said about the first thing. If we
23 was to talk -- if we did say any of those things it
24 wasn't about the criminal case. It probably would be
25 about something else.

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

1 Q. You're pretty much today you're going to stick by
2 the defendant whether he's guilty or not, correct?

3 MS. EHRLICH: Objection.

4 THE COURT: I sustain the objection. It's
5 argumentative.

6 Q. [Mr. Waring] Would coming in here to court today be
7 a violation of the street code in talking?

8 A. They can call it what they want.

9 Q. But you've never broken street code, right?

10 A. What's a street code?

11 Q. Of coming in here and talking.

12 A. All I know --

13 THE COURT REPORTER: I'm sorry, repeat your answer.

14 A. All I know is the truth. I don't go by street code.

15 Q. [Mr. Waring] Did you not mention on February 2nd on
16 Facebook on your page you've never broken street code?

17 A. Right.

18 Q. At the end of the day the defendant on trial today
19 is your friend, right?

20 A. Right.

21 Q. You don't want to see him get convicted, correct?

22 A. Right.

23 Q. And that's why you're covering for him, right?

24 A. It's not that. It's that the bond we have is like
25 he wouldn't come to me with a situation like that because

State v Devante Antonio Grant
Michael Allen-Direct Examination by Mr. Waring
August 8, 2017

1 he know I wouldn't let him do nothing like that is all
2 I'm saying. I look at him as a brother and he look at me
3 as a brother. Like not getting off topic or whatever but
4 we wouldn't let one another go down for something we
5 don't have to do. Both of us have jobs working. So I
6 don't get into no situation.

7 Q. MR. WARING: Please answer any questions the
8 defense has.

9 THE COURT: Cross-examination?

10 MS. BIRT: May it please the court?

11 THE COURT: Certainly.

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State v Devante Antonio Grant
Michael Allen-Cross-Examination by Ms. Birt
August 8, 2017

1	CROSS-EXAMINATION
2	BY MS. BIRT:
3	Q. Good morning, Mr. Allen. I just have a few
4	questions for you, okay?
5	A. Yes, ma'am.
6	Q. You go by M.J.?
7	A. Right.
8	Q. M.J. it's your testimony you have no involvement in
9	this action, right?
10	A. Right.
11	Q. You weren't there before any of this happened?
12	A. No.
13	Q. And you weren't there after?
14	A. No.
15	Q. You did however meet with an officer named Detective
16	Jarrell, right?
17	A. Right.
18	Q. You met with him for quite a while at the police
19	station?
20	A. Right.
21	Q. And you talked for maybe an hour?
22	A. Right.
23	Q. And during that time you maintained you weren't
24	there, didn't you?
25	A. That's right.

State v Devante Antonio Grant
Michael Allen-Cross-Examination by Ms. Birt
August 8, 2017

1 Q. Is that a yes?
2 A. Yes.
3 Q. And you knew nothing about what was going on?
4 A. No.
5 Q. And you walked into that room a free man, right?
6 A. Right.
7 Q. Even after you talked to him you walked out of that
8 room a free man.
9 A. Right.
10 Q. You've never been charged with any crime in this
11 case?
12 A. No.
13 Q. Mr. Allen, how tall would you say you are?
14 A. Five seven.
15 Q. Okay. How much would you say you weigh?
16 A. One forty or fifty.
17 Q. Okay. And how old are you?
18 A. Eighteen.
19 MS. BIRT: Court's indulgence.
20 THE COURT: Certainly.
21 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
22 MS. BIRT: Nothing further, Your Honor.
23 THE COURT: Redirect, Solicitor.
24 MR. WARING: No further questions, Your Honor.
25 THE COURT: Thank you. You may step down Mr.

State v Devante Antonio Grant
Michael Allen-Cross-Examination by Ms. Birt
August 8, 2017

1 Allen. Thank you. May this witness be excused?
2 MR. WARING: Yes, Your Honor.
3 THE COURT: Any objection?
4 MS. EHRLICH: No, Your Honor.
5 THE COURT: You're also free to leave, sir.
6 [Whereupon, the witness is excused and exits the
7 witness stand]
8 THE COURT: Call your next witness.
9 MR. WARING: Thank you, Your Honor.
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State v Devante Antonio Grant
Gaile Heath-Direct Examination by Mr. Waring
August 8, 2017

1 MR. WARING: The State calls Gaile Heath.
2 [Whereupon, Ms. Heath comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Please state your full name and
6 spell your last name for the record.

7 THE WITNESS: My name is Brenda Gaile Heath,
8 H-E-A-T-H.

9 - - - - -

10 GAILE HEATH,

11 Having been first duly sworn,

12 Was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. WARING:

15 Q. Hello Gail, how are you?

16 A. Fine. How are you?

17 Q. Good. Would you tell the jury where you work?

18 A. I work at the South Carolina Law Enforcement
19 Division commonly referred to as SLED.

20 Q. How long have you worked there?

21 A. Thirty three years.

22 Q. That's a long time. What have you been doing there
23 the whole time?

24 A. I am a forensic document examiner.

25 Q. Can you tell the jury what that means?

State v Devante Antonio Grant
Gaile Heath-Direct Examination by Mr. Waring
August 8, 2017

1 A. Basically a handwriting expert. Somebody submits an
2 item that they say is questioned they don't know who
3 wrote it. And I determine whether they wrote it or they
4 didn't.

5 Q. Is there a more common term for your role?

6 A. A lot of people say a handwriting expert or a
7 question document examiner.

8 Q. Are you certified in any way?

9 A. Yes, I am.

10 Q. By whom?

11 A. By the American Board of Forensic Document
12 Examiners.

13 Q. Can you describe a little bit the nature and extent
14 of your training and experience?

15 A. I completed the two-year internship at the SLED lab
16 under another qualified examiner. At the time that I
17 trained there was no degree in question document. There
18 is now from the University of Oklahoma but back in the
19 dark ages there wasn't a degree in it.

20 So I have two undergraduate degrees from the
21 University of South Carolina; one in History and one in
22 Secondary Education.

23 I trained at the SLED lab and learned to use the
24 equipment, read the literature, did test study cases and
25 trained under the other qualified examiner that SLED had

State v Devante Antonio Grant
Gaile Heath-Direct Examination by Mr. Waring
August 8, 2017

1 at that particular time.

2 Q. Can you describe a little bit about how you prepare
3 your work?

4 A. Yes. We look through a microscope and will examine
5 the questioned document first. We will look through the
6 microscope and try to determine any similarities or any
7 differences and we make notes of those.

8 At some point I usually make a photocopy of the
9 evidence or the item and I actually mark on the item with
10 a yellow highlighter. If I see similarities then I use a
11 red pen if I see differences.

12 After microscopically examining the questioned
13 document I then go to any known samples that I might
14 receive because I need a known comparison so that I can
15 determine if a particular writer wrote something or not.

16 Then I microscopically examine the known writing,
17 again looking for any similarities or any differences
18 that I might find. I then mark on my copies with a
19 yellow highlighter if I see similarities or a red pen if
20 I see any differences.

21 Then I do what is called a side by side comparison
22 where I actually visually put the questioned document and
23 each known sample in front of me and I look at them side
24 by side looking for any similarities or any differences
25 and I make note of those similarities or differences as I

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1 examine the document.

2 Q. Is that a generally accepted method for doing things
3 with handwriting?

4 A. Yes, it is.

5 Q. Are you a member of any professional organizations?

6 A. Yes, I am.

7 Q. Which ones?

8 A. I am a member of the American Academy of Forensic
9 Sciences Questioned Documents section and I am a member
10 of the Southeastern Association of Forensic Document
11 Examiners.

12 Q. Do you maintain a laboratory?

13 A. Yes sir, I do.

14 Q. What is your academic background?

15 A. I have two undergraduate degrees from the University
16 of South Carolina; one of them in Secondary Education and
17 one of them in History.

18 Q. Approximately how many documents have you analyzed
19 over all?

20 A. Over the last 33 years probably hundreds of
21 thousands.

22 Q. Is handwriting analysis a science?

23 A. Yes, it is.

24 Q. Have you testified before in court?

25 A. Yes, I have.

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1 Q. Approximately how many times?
2 A. Today will be 191.
3 Q. Have you ever been declared an expert before?
4 A. Yes, I have.
5 Q. And approximately how many times for that?
6 A. 190.
7 Q. And in which field would that be?
8 A. Usually they say questioned documents or forensic
9 document examination or handwriting expert.
10 MR. WARING: Your Honor, at this point the State
11 would move to declare Ms. Heath an expert in dealing with
12 handwriting analysis.
13 THE COURT: Do you care to examine as to
14 qualifications?
15 MS. EHRLICH: No, Your Honor.
16 THE COURT: Very well. She will be permitted to
17 render opinions in those areas.
18 MR. WARING: Thank you, Your Honor.
19 Q. [Mr. Waring] Now were you asked to do any work on
20 this particular case, the Devante Grant case?
21 A. Yes sir, I was.
22 Q. What were you asked to do on this case?
23 A. Submitted to the laboratory was a questioned letter
24 and two sets of known handwriting standards and I was
25 asked to compare them to see if I could determine who

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1 wrote the letter.

2 Q. Okay. I'm now going to show you what has been
3 marked for identification purposes as State's exhibit 55
4 through 58. Would you mind taking a look at those,
5 please?

6 [Whereupon, the witness is shown exhibits]

7 Q. Could you tell the jury what these are?

8 A. These are the questioned and known exhibits that I
9 received in this case.

10 Q. And have you examined those items?

11 A. Yes sir, I have. They each contain my laboratory
12 case number, my item number, and my initials on each
13 piece of evidence.

14 Q. Have you reached any conclusions on those?

15 A. Yes sir, I have.

16 Q. And would you explain the facts and circumstances
17 that led you to those conclusions and what the
18 conclusions are?

19 A. Certainly. After microscopically examining the
20 questioned document with the two sets of known
21 handwriting standards I received the first set of known
22 handwriting I received was prepared with the left hand of
23 the writer. And I detected that they were not freely and
24 naturally prepared. The investigator then went back and
25 took additional handwriting standards using the right

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1 hand and I compared both sets of handwriting standards
2 microscopically and also side by side; again picking out
3 any similarities or any differences that I might find.
4 We issue about eleven conclusions at the SLED lab. They
5 are ASTM American Standard College and we are an --
6 credited laboratory.

7 So these are terminologies that are used in the
8 field of questioned documents for all of the State and
9 federal laboratories in the United States and Europe. As
10 a matter of fact Europe also used them.

11 We can issue an identification which would mean that
12 the writer wrote the particular item in question. A
13 strong probability which would mean there were one or two
14 features that were missing, a probable which would mean
15 that there were a few features that were missing, an
16 indications that the writer wrote it would mean there
17 were several features that might have been missing from
18 the known standards we have, a no conclusion and then we
19 have a negative side of the scale which would have
20 indications that a person didn't write it, probable that
21 a person didn't write it, a strong probability that a
22 person didn't write it and a total elimination.

23 In this particular case after examining the
24 questioned with both sets of known handwriting standards
25 I determined that Devante Grant probably wrote the

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1 questioned document in question here.

2 Q. Now you mentioned something about attempts to
3 disguise or evidence of disguising handwriting. Is a
4 probably wrote the document assessment is that common
5 with evidence of disguising?

6 A. Yes, sir. I was not able to fully identify it
7 because of the standards not being freely and naturally
8 given.

9 However, there were features in both sets of
10 writings of that I could compare back to Devante Grant
11 and determine that indeed those were similarities in
12 common with his writing that I also found on the
13 questioned document.

14 Q. Do those exhibits you have there do they fairly and
15 accurately depict the letter, envelope, and handwriting
16 exemplars from both the left and right hand from this
17 defendant?

18 A. That is correct, yes sir.

19 MR. WARING: Your Honor, at this time the State
20 moves to have exhibits 55 through 58 ---

21 THE COURT: --- Solicitor, first of all I
22 appreciate -- we had testimony discussing 55 and 56. 57
23 and 58 have been handed and I don't know what those are
24 so we've got to distinguish what each one of those are
25 please before I can address that. Thank you, sir.

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1 MR. WARING: Yes, Your Honor.
2 Q. [Mr. Waring] Now Ms. Heath, exhibit 55 is that the
3 letter?
4 A. Exhibit 55 is the letter, yes sir.
5 THE COURT: That's already been established. The
6 ones I don't have any testimony about is 57 and 58.
7 MR. WARING: Yes, Your Honor.
8 Q. [Mr. Waring] Ms. Heath, exhibit 57 can you tell us
9 what that is?
10 A. Exhibit 57 are known handwriting standards from the
11 left hand of Devante Grant. And exhibit number 58 are
12 known handwriting standards from Devante Grant using his
13 right hand.
14 Q. Does exhibit 57 fairly and accurately depict the
15 defendant's exemplars from his left hand?
16 A. They do not appear to be freely and naturally given.
17 I detect that there is no internal consistency with them
18 and that could be his left hand writing. But it does not
19 follow suit with the handwriting from the right hand.
20 Q. Is exhibit 58 fairly and accurately depicting the
21 defendant's right hand?
22 A. I did detect a little bit of unnaturalness and
23 variation in it but it does have more of the
24 characteristics that I found in the questioned letter in
25 the right handed writing sample.

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1 MR. WARING: Your Honor, at that point the State
2 moves to have exhibits 55 through 58 admitted into
3 evidence.

4 THE COURT: Any objection?

5 MS. EHRLICH: Your Honor, I just need to see them.

6 THE COURT: Oh absolutely. I thought you had. I
7 apologize. I'm sorry.

8 MR. WARING: That's my fault, Your Honor.

9 THE COURT: That's okay. No problem, no fault.

10 [Whereupon, Ms. Ehrlich reviews exhibits]

11 MS. EHRLICH: No objection to those just all prior
12 objections ---

13 THE COURT: --- I understand. 55, 56, 57, and 58
14 are admitted subject to any previous arguments concerning
15 those documents that are part of the record in this
16 proceeding.

17 MR. WARING: Yes, Your Honor.

18 [Whereupon, State's exhibit numbers 55, 56, 57, and
19 58 are entered into evidence by the court]

20 Q. [Mr. Waring] Now Ms. Heath, we've talked about
21 disguised handwriting. How can you tell if somebody is
22 trying to disguise or throw off a sample?

23 A. Usually a disguised handwriting a writer will
24 usually try to change the size of their writing, the
25 slant of their writing, their capital letters, connecting

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1 strokes. And there will also be instead of a round
2 smooth movement there will be kind of jagged and awkward
3 movements in forming their letters.

4 Q. Which procedures do you specify are commonly used
5 and which ones do you recommend when an investigator goes
6 in and conducts one of these exemplar sessions?

7 A. We usually recommend that an investigator take
8 handwriting standards from both the left and the right
9 hand. Some people are ambidextrous and can write with
10 both hands with fairly good skill.

11 We also like to usually suggest that they find
12 normal course of business writings that were not written
13 under duress that were from maybe their school
14 environment or work environment so that we have their
15 natural range of variation in their writing.

16 Q. As far as how they actually conducted how many lines
17 they do etcetera what do you normally recommend?

18 A. Textbook usually calls for an entire letter to be
19 duplicated anywhere from one to three times so that we
20 get the range of variation of that writer. And then we
21 usually suggest that they pick two or three or four lines
22 of text and have them duplicate that three or four times
23 again so that we get the range of variation.

24 Not all writers write the same way twice so we want
25 to be able to make sure that we get the range of

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1 variation that the writer is capable of.

2 Q. Now Ms. Heath, based on what you have seen with
3 those exemplars would you say or not say that those
4 procedures were complied with?

5 A. Well, the investigator did it as I instructed.

6 Q. Did you do a report for this?

7 A. Yes, I did.

8 Q. Ms. Heath, at this point I'm showing you what has
9 been marked for I.D. purposes as State's exhibit 60. Do
10 you recognize that?

11 [Whereupon, the witness is shown document]

12 A. Yes, sir. This is the copy of my SLED laboratory
13 report.

14 Q. And was that report generated in the normal course
15 of business?

16 A. Yes sir, it was.

17 Q. Is it a regularly conducted business activity to
18 generate those reports?

19 A. Yes sir, it is.

20 Q. And does that report fairly and accurately depict
21 your findings for this case?

22 A. Yes sir, it does.

23 MR. WARING: Your Honor, at this point the State
24 moves to have exhibit 60 admitted into evidence.

25 THE COURT: Any objection?

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1 MS. EHRLICH: Subject to prior objections regarding
2 this total line of testimony.
3 THE COURT: All right. Subject to any prior
4 objections concerning this procedure but no specific
5 objection as to the report itself?
6 MS. EHRLICH: No, Your Honor.
7 THE COURT: Very well. The report is admitted as
8 59, is that correct?
9 MR. WARING: It's 60.
10 THE COURT: 60; I'm sorry. Thank you.
11 [Whereupon, State's exhibit number 60 is entered
12 into evidence by the court]
13 Q. [Mr. Waring] Ms. Heath, I'm now showing you what has
14 been marked for I.D. purposes as State's exhibit 61. Do
15 you recognize that?
16 [Whereupon, the witness is shown document]
17 A. Yes sir, I do.
18 Q. And can you tell us what that is?
19 A. It's a photographic enlargement of the questioned
20 document and a known sample from the left hand and a
21 known sample from the right hand of Devante Grant.
22 Q. And does that blowup exhibit fairly and accurately
23 depict the defendant's left hand, right hand exemplars
24 and the letter itself?
25 A. That's correct, yes sir.

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1 MR. WARING: Your Honor, at this time the State
2 moves to have exhibit 61 admitted into evidence.

3 THE COURT: Is there any objection to 61 being
4 admitted?

5 MS. EHRLICH: Your Honor, I think it's marked up so
6 I think it needs to be more foundation derived as to why
7 it is actually marked up and not just a blown up copy.
8 There are marks on it.

9 THE COURT: Let me see it.

10 [Whereupon, the court reviews the exhibit]

11 MR. WARING: Your Honor, I can ask a few more
12 questions if you would like.

13 THE COURT: I'll sustain the objection at this
14 point without establishing what the markings are. Thank
15 you.

16 MR. WARING: Yes, Your Honor.

17 Q. [Mr. Waring] Ms. Heath, what are all these markings
18 on here?

19 A. The markings on there are marking any similarities
20 that I saw between the questioned document and the known
21 samples.

22 Q. Did you do these markings?

23 A. Yes, I did.

24 MR. WARING: Your Honor, at this point the State
25 moves to admit 61.

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1 THE COURT: Any objection?

2 MS. EHRLICH: No, Your Honor.

3 THE COURT: Without objection State's exhibit 61 is
4 admitted.

5 [Whereupon, State's exhibit number 61 is entered
6 into evidence by the court]

7 Q. [Mr. Waring] Ms. Heath, at this point would you mind
8 coming around and showing a few examples on there as far
9 as the similarities are concerned?

10 A. Certainly.

11 THE COURT: Just keep your voice please. Thank you.

12 [Whereupon, the witness steps down from the stand]

13 A. I looked at the D formation in the questioned and I
14 found that same D formation using his left hand and also
15 using his right hand.

16 The K formation this particular writer makes an H
17 and then he makes a stroke to form the K. I found that
18 in the questioned. I also found it in the known writing
19 here [indicates]. And there are several instances; I
20 didn't mark each and every one of them but I found that
21 there.

22 A retrace on a lower case F got that in the
23 question. I also found that in the writing of the word
24 funny. A closed E instead of having the open loop inside
25 of the E several times within the questioned document we

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1 have the closed E and we have a closed E in several
2 letters in the known writing as well. A retrace on the M
3 we have in the questioned and we have it pretty much each
4 time the M is made in the known writing as well. The R
5 coming up over the top with a retrace we have it in the
6 word four and we have it in the word never here.

7 The Y in Y-O-U the Y sits above the baseline in
8 almost every instance in the questioned so it's not
9 actually on the line it's like inbetween a capital letter
10 and a lower case letter.

11 He puts the Y kind of mid-range and we have that in
12 the questioned and we have that each time he writes Y-O-U
13 in the known. But he puts it not on the baseline but
14 inbetween the two.

15 And so these are unconscious handwriting habits that
16 an individual has that once they get through school and
17 they learn to write and they develop their own uniqueness
18 to their handwriting then they do these things as a
19 common habit in the course of business. So these are
20 features that a handwriting expert would look for to
21 determine whether someone wrote something or not.

22 And then when we're looking at the D formation up
23 here in the questioned we had it in the left hand writing
24 as well as the known writings. In the K formation he
25 makes and H and then puts a staff on it we have that over

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1 here [indicates] in the known writing as well. And we
2 were just talking about the Y-O-U sitting up above the
3 baseline we have that here [indicates] where the Y
4 doesn't come it sits up inbetween where the capital
5 letter would be and where the lower case letter would
6 form on the line.

7 Q. Thank you Ms. Heath.

8 [Whereupon, the witness returns to the stand]

9 Q. Please answer any questions the defense has.

10 THE COURT: Cross-examine?

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Gaile Heath-Cross-Examination by Ms. Ehrlich
August 8, 2017

1	CROSS-EXAMINATION
2	BY MS. EHRLICH:
3	Q. Good morning Ms. Heath.
4	A. Good morning.
5	Q. You were talking about your training. You trained
6	under Mickey Dawson, right.
7	A. That is correct, yes ma'am.
8	Q. And when you're looking at analyzing documents and
9	issuing an opinion your opinion is subjective, correct?
10	A. My opinion is based on my education and experience
11	and the observations that I've made, yes.
12	Q. And so what you do is you express a level of
13	confidence in your opinion based on that training,
14	correct?
15	A. That's correct, yes.
16	Q. And you talked a little bit earlier on direct but
17	there is a nine point scale or there is nine possible
18	opinions I guess that you could issue when you're looking
19	at documents?
20	A. That's correct, yes.
21	Q. The highest degree of confidence would be
22	identification.
23	A. That's correct.
24	Q. And then the least confident I guess would be
25	elimination?

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- 1 A. That's correct.
- 2 Q. And in this case you issued an opinion that it was
3 probable.
- 4 A. That's correct.
- 5 Q. That the document in question was written by Devante
6 Grant, correct?
- 7 A. That's correct.
- 8 Q. And so that's not the same as an identification,
9 correct?
- 10 A. That's correct.
- 11 Q. And the letter that you reviewed was a machine copy
12 like a photocopy of the letter?
- 13 A. That's correct.
- 14 Q. So in some ways it had been enhanced through a
15 machine to make it more readable for you, correct?
- 16 A. That's correct.
- 17 Q. The original photograph that was sent to you was
18 darker than that photocopy, correct?
- 19 A. That's correct.
- 20 Q. It's also correct that if a documents are of poor
21 quality it can affect your ability to analyze them,
22 correct?
- 23 A. In certain instances, yes.
- 24 Q. And you talked a little bit earlier but there are
25 two types of exemplars you can do, collected or

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1 requested, correct?

2 A. That's correct.

3 Q. Collected would mean things maybe that were written
4 before the case or the dispute came up?

5 A. That's correct.

6 Q. And that's when you were talking about maybe looking
7 at school notes or notebooks or journals; things like
8 that, correct?

9 A. That's correct.

10 Q. And then requested are exemplars that come in after
11 the dispute has already arisen?

12 A. That's correct.

13 Q. And that what you were able to look at in this case,
14 correct?

15 A. That's correct.

16 Q. And you were not present for the collection of those
17 handwriting exemplars, were you?

18 A. That's correct.

19 Q. And you did not observe how they were taken either,
20 correct?

21 A. That's correct.

22 Q. I mean you gave instructions to the State on how to
23 collect them but you don't know if all the instructions
24 were followed?

25 A. That's correct.

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Gaile Heath-Cross-Examination by Ms. Ehrlich
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- 1 Q. And when you are looking at the document in question
2 and the exemplar you don't have to have a certain number
3 of points to say aha this person wrote the letter, right?
- 4 A. That's correct.
- 5 Q. And there is no mathematical scale that you use in
6 issuing your opinion, correct?
- 7 A. That's correct.
- 8 Q. And it's basically a visual comparison as you
9 demonstrated to the jury earlier.
- 10 A. That's correct.
- 11 Q. And in this case before you even looked at the
12 documents you were aware that Devante Grant was a suspect
13 in this case, correct?
- 14 A. Well, his name was on the submission form.
- 15 Q. As a suspect?
- 16 A. Correct.
- 17 Q. Okay. And the request was made by the Solicitor's
18 office for you to look at the document?
- 19 A. That's correct.
- 20 Q. And in your report you work for SLED and that's a
21 law enforcement agency, correct?
- 22 A. That's correct.
- 23 Q. And in your report you have two parts of your
24 report. One is your findings, correct?
- 25 A. Correct.

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1 Q. And then the second section you inserted an
2 investigative purposes only section.

3 A. That's a part of my report format.

4 Q. Okay. And that's where you made some comments on
5 the samples that were provided to you.

6 A. That's correct.

7 Q. It's not a finding; it's kind of further explaining
8 your finding?

9 A. Yes and it's for like investigative purposes if they
10 wanted to -- a lot of times people will go back and get
11 additional standards and maybe find normal course of
12 business writing, take additional exemplars from the
13 suspect.

14 Q. And no other samples were provided to you after you
15 issued your report, correct?

16 A. That's correct.

17 MS. EHRLICH: Court's indulgence.

18 THE COURT: Certainly.

19 [Whereupon, Ms. Ehrlich and Ms. Birt confer]

20 MS. EHRLICH: No further questions, Your Honor.

21 THE COURT: Redirect?

22 MR. WARING: Thank you, Your Honor, just briefly.

23

24

25

State v Devante Antonio Grant
Gaile Heath-Redirect Examination by Mr. Waring
August 8, 2017

1	REDIRECT EXAMINATION
2	BY MR. WARING:
3	Q. Ms. Heath, has the Solicitor's office ever asked you
4	or tasked you with doing a handwriting analysis where you
5	found out or you came to the conclusion that it didn't
6	match?
7	A. That is correct, yes.
8	Q. And lastly in this case are there strong indications
9	that the defendant disguised his handwriting?
10	A. Yes, there are.
11	MR. WARING: No further questions, Your Honor.
12	THE COURT: Recross?
13	MS. EHRLICH: Just briefly.
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State v Devante Antonio Grant
Gaile Heath-Recross Examination by Ms. Ehrlich
August 8, 2017

1 REDIRECT EXAMINATION
2 BY MS. EHRLICH:
3 Q. Ms. Heath, the Solicitor just asked you if there
4 were strong indications of disguise. You did not use the
5 word strong in your report. You just said that there
6 were indications of disguise, correct?
7 A. There are indications of disguise and that they are
8 not freely and naturally prepared.
9 Q. Thank you.
10 THE COURT: You may come down. Thank you. Do you
11 wish this witness to be excused?
12 MR. WARING: Yes, Your Honor.
13 THE COURT: Any objection?
14 MS. EHRLICH: No, Your Honor.
15 THE COURT: You are also free to leave. Thank you.
16 [Whereupon, the witness is excused and exits the
17 witness stand]
18 THE COURT: Call your next witness.
19 MR. WARING: Thank you, Your Honor.
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State v Devante Antonio Grant
Daniel Eckert-Direct Examination by Mr. Waring
August 8, 2017

1 MR. WARING: The State calls Dan Eckert.
2 [Whereupon, Mr. Eckert comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: Please state your full name
6 spelling your last name for the record.
7 THE WITNESS: Daniel Eckert, first name is D-A-N-I-
8 E-L and last name is E-C-K-E-R-T.
9 - - - - -
10 DANIEL ECKERT,
11 Having been first duly sworn,
12 Was examined and testified as follows:
13 DIRECT EXAMINATION
14 BY MR. WARING:
15 Q. Dan, can you tell the jury where you work?
16 A. Yes. I work for the 9th Circuit Solicitor's office
17 here in Charleston County.
18 Q. What is your job there?
19 A. I'm an investigator.
20 Q. Where did you work before you got here?
21 A. Prior to coming to the Solicitor's office I did 15
22 years with the Mount Pleasant Police Department.
23 Q. And what did you do there?
24 A. I had a wide range of jobs. I started out as a
25 telecommunications dispatcher. From there I was a

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1 community service officer where we handle calls for
2 service where no suspects were present. From there I
3 went to the police academy in 2005 and 2006 where I
4 became a sworn police officer.

5 I did five years on patrol and my last five years
6 were spent in the criminal investigations division as a
7 supervisor supervising a staff of nine detectives.

8 Q. Were you involved in the taking of a handwriting
9 sample for this defendant?

10 A. I was.

11 Q. Do you recall which day it took place?

12 A. We did two sets of samples. The first set was taken
13 on the 27th of July; the second set was the following day
14 on July the 28th, which was a Thursday and a Friday.

15 Q. And what was the location of these?

16 A. They were taken here at the courthouse.

17 Q. Who was present during each one of those?

18 A. During each session was myself, Ms. Ehrlich, her co-
19 counsel and the defendant.

20 Q. Can you go into how exactly you conducted the
21 sample?

22 A. Well, prior to taking the samples I had reached out
23 to Gail Heath who is a questioned document examiner at
24 the South Carolina Law Enforcement Division. Ms. Heath
25 provided me with direction on how to take said documents.

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Daniel Eckert-Direct Examination by Mr. Waring
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1 I'm not a handwriting expert. I knew that she is out
2 there and that she is available so our office reached out
3 to her. She gave us step by step directions on how to
4 take the samples and that's the directions that I
5 followed.

6 Q. How did it go down that first day?

7 A. On the first day we went in. I followed the
8 directions. I read the question document and the
9 defendant started the process of writing the document.

10 As he started writing the document it just seemed
11 that it was uncomfortable to him how he was writing at
12 which point it drew me to ask him do you normally write
13 with -- the question was something do you normally write
14 with your left hand, are you left handed something to
15 that effect because it looked uncomfortable to him.

16 Q. And approximately how long did it take you to notice
17 this?

18 A. I noticed it right off the get go once he started
19 writing.

20 Q. Did he say anything?

21 A. He told me that he normally used his left hand so I
22 let him write on. I had no -- I didn't want to make
23 things more difficult for him. He told me he was left
24 handed and I took him at his word.

25 Q. How long did that first session last?

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Daniel Eckert-Direct Examination by Mr. Waring
August 8, 2017

1 A. Approximately an hour and 45 minutes.

2 Q. Now after that was concluded did you find anything
3 out interesting?

4 A. I was able to determine that he wasn't left handed
5 that he was right handed. We had evidence related to
6 this case that showed that he wrote with his right hand.

7 Q. Did you conduct another sample?

8 A. The following day.

9 Q. And where was that one?

10 A. That was also taken here at the county courthouse.

11 Q. Which hand did he use that day?

12 A. On that day he used his right hand.

13 Q. Now can you tell the jury how it went down that day?

14 A. It was clearly a tense environment. He clearly was
15 unhappy that he was having to write again.

16 MS. EHRLICH: Objection, Your Honor. Just renew
17 prior objections related to this line of questioning.

18 THE COURT: I overrule the objection and there is
19 further evidence -- further indications in support of my
20 decision. Thank you.

21 MR. WARING: Thank you, Your Honor.

22 Q. [Mr. Waring] So how did it go down?

23 A. What leads me to say that there was a point where he
24 slammed the pen on the floor and then I heard him mutter
25 under his breath that it was -- and I quote it was his

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1 statement he will fucking write it how he wants. And at
2 that point I had to stop him and say no, you need to go
3 by the directions that we've outlined.

4 If you need me to read it to you and then we will
5 walk it out line by line because I didn't want to go too
6 fast for him. I wanted him to be able to hear and
7 understand what I was asking him to write.

8 Q. What did you end up ultimately doing with the
9 handwriting samples from those sessions?

10 A. That following Monday I transported those to the
11 South Carolina Law Enforcement Division in Columbia.

12 Q. Please answer any questions the defendant has?

13 THE COURT: Cross-examine.
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State v Devante Antonio Grant
Daniel Eckert-Cross-Examination by Ms. Ehrlich
August 8, 2017

1	CROSS-EXAMINATION
2	BY MS. EHRLICH:
3	Q. Good morning.
4	A. Good morning.
5	Q. I'm going to call you Dan because we know each
6	other, right?
7	A. We do, for a while now.
8	Q. For a long time; I knew you as a police officer
9	before you came to the Solicitor's office.
10	A. Correct.
11	Q. And you worked for Mount Pleasant.
12	A. Correct.
13	Q. And I've known you as you've worked at the
14	Solicitor's office.
15	A. Correct.
16	Q. And your role at the Solicitor's office is to help
17	them investigate cases?
18	A. Correct. We -- you know what I like to say is we
19	take it a step further. As a police officer and I knew
20	this first hand from being a police officer there are
21	times that you couldn't explore every avenue when working
22	a case.
23	And my role here at the Solicitor's office is to
24	sometimes go deeper in and explore things that maybe got
25	left behind when cases were being handled by officers on

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1 the street.

2 Q. Okay. But make no mistake about it you work for
3 the Solicitor's office.

4 A. I work for the Solicitor's office; the State.

5 Q. Okay. And you're not Mr. Waring's normal
6 investigator, correct?

7 A. His normal investigator is out on leave so for the
8 last 12 weeks -- it's not 12 yet; August 25th will be 12
9 weeks, I've been assigned to work with Mr. Waring.

10 Q. So you haven't been with him on this case from the
11 very beginning, correct?

12 A. No, not from the very beginning.

13 Q. And you were the investigator tasked to do the
14 handwriting exemplar with Devante Grant?

15 A. I was there and you were there, yes.

16 Q. Okay. And it's correct that prior to the meeting
17 nobody gave you any information as to which hand to ask
18 him to write with, correct?

19 A. No. There was no questions on asking which hand to
20 write with. No one told me what hand he was I guess
21 would be the correct answer.

22 Q. And let's talk a little bit about the process. When
23 you take the handwriting sample from him you actually
24 read the entire letter before any writing occurs,
25 correct?

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- 1 A. Correct.
- 2 Q. So you do your best to read what is on the paper.
- 3 A. That's correct.
- 4 Q. And then after that you actually dictate maybe
- 5 sentence by sentence and sometimes you break down even
- 6 smaller.
- 7 A. Correct.
- 8 Q. And have the person write what you are dictating.
- 9 A. Correct.
- 10 Q. And you did that on the 27th.
- 11 A. I did.
- 12 Q. And then we did that again on the 28th.
- 13 A. We did.
- 14 Q. And it's safe to say the 27th was a long morning.
- 15 A. Afternoon.
- 16 Q. Afternoon, correct.
- 17 A. We spent some time together.
- 18 Q. And we were back here at 8:30, 8:45 the next day.
- 19 A. We sure were.
- 20 Q. And you, following the directions of SLED, had to
- 21 start all over and read the entire letter again before
- 22 dictating it.
- 23 A. That's correct.
- 24 Q. And in addition to dictating the letter in both
- 25 sessions you had him write five different sentences ten

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1 times.
2 A. That's correct. That was part of the directions
3 that the South Carolina Law Enforcement Division asked
4 for.
5 Q. Now that morning on the 27th you were trying to read
6 the letter and he was already starting to write.
7 A. That was the 28th, yes ma'am.
8 Q. Sorry, the 28th.
9 A. Yes.
10 Q. That was a Friday.
11 A. Friday.
12 Q. So you were trying to read it and he was already
13 starting to write.
14 A. Correct.
15 Q. And so there was some irritation attention about him
16 not putting the pen down.
17 A. Correct.
18 Q. And you kept instructing him I need you to listen,
19 put the pen down, I have to follow this; these words,
20 correct?
21 A. Correct.
22 Q. And that's the point where the pen gets slammed
23 down.
24 A. That's correct.
25 Q. And at that point you're still trying to read the

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1 letter.

2 A. Correct.

3 Q. The pen is slammed down and you're still trying to
4 read and stop him from writing, correct.

5 A. Correct.

6 Q. And that's the point during the process where you
7 said that he said something along the lines of it's my
8 fucking letter.

9 A. Correct.

10 Q. And you testified earlier that he muttered that.

11 A. What I thought I heard him say is what I testified
12 to, yes ma'am.

13 Q. Okay. And he did complete the entire letter on
14 that Friday and do the 50 sentences, correct?

15 A. Correct.

16 Q. This took up a bunch of your time.

17 A. That's my job though.

18 Q. But it did.

19 A. An hour and 45 minutes, two hours and maybe a little
20 bit longer by the time we got done running around and
21 uncovering that he used the wrong hand the first day and
22 then a good hour and half the next morning.

23 I mean I work normally for three attorneys. I work
24 for four now so I have things that I have to do, yes. It
25 took up a good bit of time.

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1 Q. You felt your time had been wasted to a certain
2 extent on Thursday.
3 A. On Thursday clearly it had been wasted.
4 Q. And this whole thing occurred here at the
5 courthouse.
6 A. Correct.
7 Q. And the courthouse is equipped with cameras
8 throughout, correct?
9 A. Correct, closed circuit television.
10 MS. EHRLICH: Court's indulgence.
11 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
12 Q. [Ms. Ehrlich] And Dan you didn't audio record the
13 sessions did you?
14 A. No, I did not.
15 Q. And you didn't request any of the video footage from
16 the courthouse did you?
17 A. No, I did not.
18 Q. Thank you.
19 THE COURT: Redirect?
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State v Devante Antonio Grant
Daniel Eckert-Redirect Examination by Mr. Waring
August 8, 2017

1	REDIRECT EXAMINATION
2	BY MR. WARING:
3	Q. Dan, was the defendant's attorney present?
4	A. She was.
5	Q. Was I present for either one of those?
6	A. No sir, you were not.
7	MR. WARING: No further questions, Your Honor.
8	THE COURT: Any recross?
9	MS. EHRLICH: No, Your Honor.
10	THE COURT: Thank you. You may step down.
11	[Whereupon, the witness is excused and exits the
12	witness stand]
13	THE COURT: Call your next witness.
14	MR. WARING: Thank you, Your Honor. The State
15	calls Saivon Chisolm.
16	THE COURT: Okay.
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1 CCSO DEPUTY: Judge, that's going to take a few
2 minutes because he is still downstairs.

3 THE COURT: Why don't we do this? Why don't we go
4 ahead and recess for -- how many witnesses do you have
5 after this?

6 MR. WARING: After this one, one more.

7 THE COURT: All right. Why don't we go ahead and
8 recess for lunch at this point and then we can have Mr.
9 Chisolm available when we come back at 1:30. Ladies and
10 gentlemen I'm going to let you go to lunch. Do not begin
11 your deliberations. Do not discuss the case. Do not
12 permit anyone to talk about this case in your presence
13 and I'd ask you to be back in your jury room please by
14 1:30. Thank you.

15 [Whereupon, the jury exits at 12:04 p.m.]

16 THE COURT: Anything from the State?

17 MR. WARING: No, Your Honor.

18 THE COURT: Anything further from the defendant?

19 MS. EHRLICH: No, Your Honor.

20 THE COURT: Just further with respect to overruling
21 the motion concerning the handwriting exemplar clearly at
22 the time that I previously heard I had supposition that
23 there was going to be testimony that it was not -- it was
24 basically deceit involved in his handwriting but I didn't
25 have that. I have that testimony now. Clearly the

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1 witness's opinion, the expert witness's opinion
2 concerning deceptive acts further allows and further
3 supports I think the totality of the circumstances and
4 clearly sets forth a reason for having everything that
5 occurred at the exemplar meeting is admissible.

6 The observations of Mr. Eckert, I'm not suggesting
7 that you need to testify but you were present at all
8 times and therefore the process I think by virtue of your
9 presence has creditability. And I think considering all
10 the totality of this and the reaction of the defendant
11 described that could be easily construed and it has been
12 in my lifetime and I think it's a reasonable and logical
13 deduction a person is angry because he's been outed.
14 He's been found out, he's been caught. And so he is
15 ticked off about that.

16 I'm not saying that's what it was, I wasn't there,
17 but a jury could conclude that from that. That's a
18 reasonable inference to be drawn from that testimony. So
19 therefore I think it was very probative and very proper
20 and admitted proportionately. Those are the reasons in
21 addition to the reasons previously stated that I
22 exercised my discretion in allowing it. Thank you.
23 Anything else further?

24 MS. EHRLICH: No, Your Honor.

25 THE COURT: Okay. Thank you very much.

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1 MR. WARING: Thank you, Your Honor.
2 [Whereupon, court is in recess from 12:05 p.m. until
3 1:45 p.m.]
4 THE COURT: Is the State ready to proceed?
5 MR. WARING: Yes, Your Honor.
6 THE COURT: Is the defense ready to proceed?
7 MS. EHRLICH: Yes, Your Honor.
8 THE COURT: Let the record reflect Mr. Grant is
9 present. Let's bring in our jury please.
10 [Whereupon, the jury enters at 1:48 p.m.]
11 THE COURT: Thank you, ladies and gentlemen. I
12 hope you had a good lunch. We're ready to continue.
13 Solicitor you may call your next witness.
14 MR. WARING: Thank you, Your Honor.
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State v Devante Antonio Grant
Saivon Chisolm-Direct Examination by Mr. Waring
August 8, 2017

1 MR. WARING: The State calls Saivon Chisolm.
2 [Whereupon, Mr. Chisolm comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: State your full name for the
6 record spelling your last.
7 THE WITNESS: [No response]
8 THE COURT: State your name please, Mr. Chisolm.
9 THE WITNESS: Saivon Chisolm.
10 THE COURT: And spell your last name for us.
11 THE WITNESS: C-H-I-S-O-L-M.
12 THE COURT: Thank you, sir.
13 - - - - -
14 SAIVON CHISOLM,
15 Having been first duly sworn,
16 Was examined and testified as follows:
17 DIRECT EXAMINATION
18 BY MR. WARING:
19 Q. Mr. Chisolm, do you know the defendant here?
20 A. I do.
21 THE COURT: You need to speak up Mr. Chisolm. We
22 need to be sure we hear you, sir.
23 A. I do.
24 Q. [Mr. Waring] You do? And how long have you known
25 him?

State v Devante Antonio Grant
Saivon Chisolm-Direct Examination by Mr. Waring
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- 1 A. Long enough. Long -- not estimated.
- 2 Q. You're going to have to speak up just a little bit.
- 3 A. Long enough, long not estimated.
- 4 Q. Does he have any nicknames that you know of?
- 5 A. Not that I know of.
- 6 Q. You don't recall telling our office in a meeting at
7 one point that his name is Vonte [phonetic]?
- 8 A. I choose not to answer that.
- 9 THE COURT: You're going to have speak up.
- 10 A. I choose not to answer that.
- 11 Q. [Mr. Waring] Can you repeat that?
- 12 A. I choose not to answer that.
- 13 Q. Can you tell the jury what your relationship is with
14 the defendant?
- 15 A. Friendship, something like family.
- 16 Q. What does that -- does that mean cousins?
- 17 A. Sort of --
- 18 Q. Are you younger or older than the defendant?
- 19 A. Older.
- 20 Q. How much older?
- 21 A. About five years.
- 22 Q. Do you see him in the courtroom today?
- 23 A. Yes, sir.
- 24 Q. Can you point him out to the jury?
- 25 A. [Indicates]

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Saivon Chisolm-Direct Examination by Mr. Waring
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1 Q. Are you referring to the gentleman in the middle
2 there [indicates]?

3 A. Yes, sir.

4 MR. WARING: Your Honor let the record reflect the
5 witness has identified the defendant.

6 THE COURT: It will so reflect.

7 Q. [Mr. Waring] Now Mr. Chisolm, were you and the
8 defendant here involved in an armed robbery?

9 A. I choose not to answer that.

10 MR. WARING: Your Honor?

11 THE COURT: Mr. Chisolm, I'm going to instruct you
12 to answer the question. If you don't answer it that will
13 be considered direct contempt and I'll have to deal with
14 that after this proceeding is concluded. You're subject
15 to a potential sentence of up to one year in jail for
16 that so I instruct you to answer the question.

17 Q. [Mr. Waring] Were you involved in an armed robbery?

18 A. I choose not to answer that.

19 THE COURT: Very well. You can take him back.
20 We'll deal with the contempt.

21 [Whereupon, the witness exits the witness stand]

22 THE COURT: Call your next witness.

23 MR. WARING: Thank you, Your Honor.
24
25

State v Devante Antonio Grant
Jason Jarrell-Direct Examination by Mr. Waring
August 8, 2017

1 MR. WARING: The State calls Detective Jarrell.
2 [Whereupon, Detective Jarrell comes forward]
3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]
5 CLERK OF COURT: Please state your full name and
6 spell your last for the record.
7 THE WITNESS: Jason Jarrell, last name is J-A-R-R-
8 E-L-L.
9 - - - - -
10 JASON JARRELL,
11 Having been first duly sworn,
12 Was examined and testified as follows:
13 DIRECT EXAMINATION
14 BY MR. WARING:
15 Q. Afternoon detective.
16 A. Afternoon.
17 Q. Can you tell the jury where you work?
18 A. Charleston City Police Department.
19 Q. How long have you worked there?
20 A. Ten years.
21 Q. What's your role there?
22 A. I'm a detective.
23 Q. Can you describe a few of your duties and
24 responsibilities?
25 A. At the time of this incident my detective role was

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1 to respond to major calls such as shootings, homicides,
2 robberies and things of that nature, cameras for video,
3 try to locate witnesses, suspects, victims, and conduct
4 interviews with those to further the investigations.

5 Q. Were you involved in the Devante Grant case?

6 A. I was.

7 Q. Do you recall what day of the week that was?

8 A. It was on a Tuesday.

9 Q. And what is the name of the other person involved in
10 this case who was charged?

11 A. Saivon Chisolm.

12 Q. Was that the gentleman who was just in here before?

13 A. It is.

14 Q. How did you initially get brought into this case?

15 A. Wednesday morning when I came into work I was
16 assigned the case.

17 Q. What did you do when you got the case?

18 A. Upon being assigned the case such as robbery the
19 first thing I like to do is go back and read and listen
20 to the interviews and read the reports of the responding
21 detectives and officers had done the night before.

22 Q. Did you go out to the crime scene?

23 A. I did.

24 Q. And what did you do when you got out there?

25 A. I canvassed the area for video and just tried to get

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1 a layout of the crime scene and what may be around.
2 Q. Did you end up interviewing the co-defendant Saivon
3 Chisolm in this case?
4 A. I did.
5 Q. How many interviews took place?
6 A. Two.
7 Q. And what was the location of those interviews?
8 A. Both were conducted at headquarters at 180 Lockwood
9 Boulevard.
10 Q. Do you know what the date was for those interviews?
11 A. The first was on February 2nd and the second
12 interview was conducted on February 9th.
13 Q. What direction did the investigation take next?
14 A. After I learned the defendant was possibly involved
15 ---
16 MS. EHRLICH: --- objection. Hearsay.
17 THE COURT: Excuse me?
18 MS. EHRLICH: Objection. Hearsay.
19 THE COURT: This question?
20 MS. EHRLICH: Well, the answer I think is hearsay.
21 THE COURT: The answer was attributed to Mr.
22 Chisolm, is that correct? 804(a)(2); he is unavailable.
23 He refused to answer the question proposed to him with no
24 basis to deny therefore he is an unavailable witness and
25 I'll allow it. It's an exception. Thank you. You may

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1 answer the question.

2 MR. WARING: Thank you, Your Honor.

3 A. I learned that Devante Grant was possibly involved
4 in the robbery and he also matched was a very close match
5 to the description that was given by the victim.

6 Therefore, I requested he be put in a six person lineup.

7 Q. [Mr. Waring] Did you personally conduct this
8 identification procedure?

9 A. I did.

10 Q. Do you recall the date and time that that was?

11 A. That was on February 3rd and that was about 1:15
12 p.m.

13 Q. What was the location of that I.D. procedure?

14 A. In Ladson at the victim's residence.

15 Q. Was it audio or video recorded?

16 A. It was audio recorded.

17 Q. Why no video?

18 A. After speaking with the victim several different
19 occasions on the phone as well as in person I personally
20 believed that she was a little shaken up still. And in
21 order to make it easier on her I would rather have driven
22 to her location to do that instead of making her drive
23 all the way --

24 THE COURT REPORTER: --- I didn't hear the last
25 thing you said.

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- 1 A. I didn't want to make her drive all the way downtown
2 so I went to her.
- 3 Q. [Mr. Waring] How many days had elapsed between when
4 the incident occurred and when you did the photographic
5 lineup?
- 6 A. There were eight days that had elapsed.
- 7 Q. Can you tell the jury the manner in which you
8 conducted this lineup?
- 9 A. What we do when we conduct a lineup like this is we
10 make contact with the victim or the witness whoever we
11 show the lineup to and there is a photo lineup admonition
12 form that is put together by the police department.
- 13 We read that. It's essentially instructions of what
14 is about to happen as far as the lineup procedure. And
15 then the lineup itself is placed in a plain folder with
16 nothing else on it and given to the victim or witness so
17 that they can open it up and view it on their own.
- 18 Q. So how many photos total?
- 19 A. Six.
- 20 Q. And where did those photos come from?
- 21 A. They were compiled from DMV through SLED.
- 22 Q. Are they shown one by one or all at the same time?
- 23 A. All at the same time.
- 24 Q. Was there any identifying information on any of
25 those photos?

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1 A. No.

2 Q. Was this defendant's photo arranged on the sheet in
3 any way as to suggest the victim should pick out his
4 photo?

5 A. No.

6 Q. Did the defendant's photo stand out in any way?

7 A. No.

8 Q. Are the other subjects in the photos similar in
9 appearance, age, and physical characteristics?

10 A. Yes, they are.

11 Q. Did you or anybody else expressly or implicitly at
12 any time suggest to the victim that she should pick out
13 that photo?

14 A. No.

15 Q. Did you comply with the procedures laid out by
16 Charleston Police Department as far as identification
17 procedures are concerned?

18 A. I did.

19 Q. What if anything was the victim told before being
20 shown the photos?

21 A. Other than just being read the admonition form which
22 again is like giving the directions she was told that
23 there was possibly a suspect that had been identified.

24 Q. Did you show any photos to her before the procedure
25 started?

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- 1 A. No.
- 2 Q. And did the victim select any photos in the lineup?
- 3 A. She did.
- 4 Q. Whose photo did she pick out?
- 5 A. Devante Grant.
- 6 Q. Do you recall in what manner she picked out his
- 7 photo?
- 8 A. She almost immediately pointed to the photo and then
- 9 paused for a while.
- 10 Q. Do you recall what she said?
- 11 A. Well holding her finger on the picture she said wait
- 12 a minute.
- 13 Q. What about when she identified him did she say
- 14 anything?
- 15 A. She said I think that's him.
- 16 Q. During all that time when she was taking more time
- 17 did you ever suggest to her that she should pick out that
- 18 particular photo?
- 19 A. No.
- 20 Q. Did she indicate whether the person she picked out
- 21 was the one who did the crime?
- 22 A. She did.
- 23 Q. And whose particular photo did she pick out?
- 24 A. Devante Grant.
- 25 Q. Now is that the same person who is in the courtroom

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1 today?

2 A. It is.

3 MR. WARING: Your Honor let the record reflect the
4 witness has indicated the defendant.

5 THE COURT: It so reflects.

6 Q. [Mr. Waring] At any point did the victim ever point
7 to any other photo?

8 A. No.

9 Q. Had the victim provided a prior description of the
10 defendant?

11 A. She did.

12 Q. Can you tell the jury what purpose getting these
13 descriptions is in the first place?

14 A. We get a description so we have an idea of who we're
15 looking for. For instance if somebody is given the
16 description of being five foot seven we're probably not
17 going to be looking real close at someone who is six foot
18 seven for instance.

19 And also getting those descriptions when we canvass
20 for video and things of that nature it helps us to
21 possibly find the person on video or through witnesses.

22 Q. In your experience in law enforcement have you ever
23 encountered defendants who were heavier or taller in real
24 life compared to their I.D.'s?

25 A. Yes.

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- 1 Q. So what happened next after that, after the I.D.
2 procedure?
- 3 A. After Devante Grant was identified arrest warrants
4 for his arrest were secured.
- 5 Q. Was the victim's vehicle ever found?
- 6 A. It was.
- 7 Q. And did Charleston Police Department ever process
8 that car for anything, evidence?
- 9 A. We did.
- 10 Q. And what type?
- 11 A. We processed for latent prints as well as DNA.
- 12 Q. Was anything like that found in the car?
- 13 A. No.
- 14 Q. Either for the defendant or Mr. Chisolm?
- 15 A. No.
- 16 Q. Did you question any other suspects in this case
17 besides the defendant or Mr. Chisolm?
- 18 A. I did.
- 19 Q. And who was that?
- 20 A. That was Michael Allen.
- 21 Q. Now earlier in this trial there was mention of the
22 ALPR hit. Can you tell the jury where that is located?
- 23 A. It is located at 3750 Dorchester Road.
- 24 Q. And do you know where Chisolm's house is located?
- 25 A. It's on Forsman [phonetic] Street.

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1 Q. Do you by any chance know what distance is between
2 those two things?

3 A. It's about point four miles.

4 MR. WARING: Your Honor, may I approach the
5 witness?

6 THE COURT: You may.

7 Q. [Mr. Waring] I'm now showing you what has been
8 marked for identification purposes as State's exhibit 35.
9 Do you recognize that?

10 [Whereupon, the witness is shown exhibit]

11 A. I do.

12 Q. Can you tell the jury what that is?

13 A. It's an overhead map of the Charleston area.

14 Q. Are you familiar with those areas and those
15 landmarks on there?

16 A. I am.

17 Q. Does that fairly and accurately depict the
18 defendant's house, Chisolm's house, the ALPR and Sub
19 Station II locations?

20 A. It does.

21 MR. WARING: Your Honor, at this point the State
22 moves to have exhibit 35 admitted into evidence.

23 THE COURT: Any objection?

24 MS. EHRLICH: No, Your Honor.

25 THE COURT: Without objection State's exhibit 35 is

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1 admitted.

2 [Whereupon, State's exhibit number 35 is entered
3 into evidence by the court]

4 Q. [Mr. Waring] Now Detective Jarrell during this case
5 have you had a chance to speak with the defendant?

6 A. I did.

7 Q. Do you know what his voice sounds like?

8 A. I do.

9 Q. And you said a while back that you interviewed
10 Michael Allen, right?

11 A. I did.

12 Q. And do you know what his voice sounds like as well?

13 A. Yes.

14 Q. Have you had a chance to listen to certain jail
15 calls on this case?

16 A. I have.

17 Q. Specifically have you listened to calls from
18 February 8th, 2016 at 19:50:18, March 20th, 2016 at
19 15:03:25 and May 17th, 2017 at 22:07:22?

20 A. I have.

21 Q. Did you recognize the defendant's voice on those
22 calls or did you not?

23 A. I did.

24 Q. And what about Michael Allen's voice? Could you
25 recognize his on some of those?

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1 A. I did.

2 Q. Have you also had a chance to watch, listen to
3 certain video visitation videos from this case?

4 A. Yes.

5 Q. And specifically have you watched and listened to
6 the video visitation videos from August 23rd, 2016, March
7 9th, 2017 and April 5th, 2017?

8 A. I have.

9 Q. Did you recognize the defendant on those videos?

10 A. Yes.

11 Q. And did you or did you not also recognize Michael
12 Allen on some of those videos?

13 A. I did.

14 MR. WARING: Your Honor, may I approach the witness?

15 THE COURT: You may.

16 Q. [Mr. Waring] I'm now showing you what has been
17 marked for I.D. purposes only State's exhibits 27 and 32.
18 Do you recognize those?

19 [Whereupon, the witness is shown exhibits]

20 A. I do.

21 Q. What are they?

22 A. State's exhibit 32 are jail calls from Devante Grant
23 and State's exhibit 27 are his visitation videos.

24 Q. Have you listened to those disks?

25 A. I have.

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1 Q. And when you did that did you identify both the
2 defendant's and Michael Allen's voices?

3 A. Yes.

4 Q. Do those disks fairly and accurately depict jail
5 calls and video visitation videos for this defendant?

6 A. They do.

7 MR. WARING: Your Honor, at this point the State
8 moves to have 27 and 32 admitted into evidence.

9 THE COURT: Subject to objections previously argued
10 any additional objection?

11 MS. EHRLICH: No additional argument, Your Honor, I
12 just renew those.

13 THE COURT: I'll admit them subject to the
14 objection previously argued on the record.

15 MR. WARING: Thank you, Your Honor.

16 [Whereupon, State's exhibit numbers 27 and 32 are
17 entered into evidence by the court]

18 MR. WARING: Your Honor, at this point the State
19 would like to pass out transcripts to the jury.

20 THE COURT: All right. We need to -- let's mark
21 them. Do you have transcripts for each one?

22 MR. WARING: Yes, sir.

23 THE COURT: Let's mark them 27 A through -- each of
24 the transcripts A through M and then 32 A through M.
25 That will be 13 different transcripts. Let's mark them

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1 first.

2 MR. WARING: Okay.

3 MS. EHRLICH: Your Honor, I just renew previously
4 argued ---

5 THE COURT: --- I'm going to do that. Y'all
6 approach. I need to talk to you about a couple of things
7 while she is doing that.

8 [Whereupon, an off the record bench conference is
9 held]

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1 THE COURT: The objection for hearsay concerning
2 the next step in the investigation and the court's ruling
3 on the unavailability of a witness, Mr. Chisolm, as I
4 understand from my bench conference that objection is now
5 withdrawn it was hearsay. Why don't we go ahead --
6 ladies and gentlemen these prepared transcripts are to
7 assist you.

8 They're not to control your judgment. It's just to
9 help you follow along the audio that you're going to
10 hear. You ultimately will decide what they say. This is
11 just to give you some help in following through the
12 transcript. They're not evidence and they will not
13 accompany you to it and you're entitled to agree with it
14 or you're entitled to disagree with it. That's your
15 ultimate decision as to what is said. You'll make that
16 determination. This is just really an aid to assist you
17 as we play the various videos. Now as I understand you
18 object to them having the transcripts?

19 MS. EHRLICH: I do, Your Honor. I think we've
20 already spoken about this outside the presence of the
21 jury. I don't need to add anything ---

22 THE COURT: --- any additional instruction or
23 caution that you wish me to give them other than what I
24 just told them about their right to disregard it entirely
25 because they are the judges of the facts.

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1 MS. EHRLICH: Okay. I do think they should be
2 instructed that they are not certified transcripts.

3 THE COURT: They are what somebody did exactly what
4 you're doing; they listened to it and they wrote it down.
5 That's all it is. You're not bound by their decision.
6 You're not bound by anything -- you make the call. It's
7 ultimately for you. It's just really to help you follow
8 through the conversation because some of it as you'll
9 hear is inaudible. I've heard it too. But you will
10 ultimately decide what you find to be credible and
11 believable and we'll talk about that at a later stage.
12 Thank you.

13 Tell you what let's do so we get all that done and
14 ready why don't we let you go to your jury room. I need
15 to take up a matter out of your presence anyway so we'll
16 be with you as quickly as we can. It shouldn't take very
17 long. Thank you. Do not being your deliberations.

18 [Whereupon, the jury exits at 2:12 p.m.]

19 [Whereupon, the court reporter and Mr. Waring review
20 the transcripts to be marked as exhibits]

21 [Off the record momentarily]

22 [Whereupon, State's exhibit number 27 A through M
23 are marked for I.D. only by the court reporter]

24 [Whereupon, State's exhibit number 27 A-1 through M-
25 1 are marked for I.D. only by the court reporter]

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1 [Whereupon, State's exhibit number 27 A-3 through M-
2 3 are marked for I.D. only by the court reporter]

3 [Whereupon, State's exhibit number 32 A-2 through M-
4 2 are marked for I.D. only by the court reporter]

5 [Whereupon, State's exhibit number 32 A-3 through M-
6 3 are marked for I.D. only by the court reporter]

7 [Whereupon, court's exhibit number 1 is marked by
8 the court reporter]

9 THE COURT: Before we get started I want to bring
10 Mr. Chisolm out too. Court's exhibit 1 the jury has sent
11 a note. The jury would like to know if we may mark on
12 the transcripts that we are given if we feel, in places
13 that we feel we cannot understand or we disagree with.
14 Because I'm sure and I would feel very uncomfortable with
15 that going back as a transcript since it is not certified
16 I am going to provide them with writing material and they
17 can make the notations in those notes.

18 And those of course will be their notes to refer to.
19 But I'm also going to share with them about a situation
20 that I had in Berkeley about three years ago that made
21 perfect sense to me of when you take notes. The jury
22 asked to rehear testimony after they started their
23 deliberations and then they got the note pads because
24 they knew what they were looking for in testimony. I'm
25 going to bring that to their attention that if you have

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1 to rehear it you can rehear it anytime you want to if you
2 can't -- but things that they are disagreeing with they
3 certainly ought to have unless y'all agree that they
4 ought to be able to write on the piece of paper and it's
5 their notes. And they would keep the -- the Foreman
6 would pick them up, deliver them to them but they go back
7 with them in the deliberations. That is the concern I
8 have.

9 MS. EHRLICH: I would not want those ---

10 THE COURT: --- I agree. I know you would like for
11 them to do that but I'm not going to do that. Let's
12 bring Mr. Chisolm out and take care of that real quickly.

13 [Whereupon, Mr. Chisolm is brought into the
14 courtroom]

15 THE COURT: Mr. Chisolm, you've been back. You
16 still maintain that you will refuse to answer the
17 questions asked of you?

18 MR. CHISOLM: Yes, sir.

19 THE COURT: And you understand that as I told you
20 that is contempt of court?

21 MR. CHISOLM: Yes, sir.

22 THE COURT: And I found you in contempt of court.
23 Do you wish to have a lawyer present before I sentence
24 you?

25 MR. CHISOLM: No, sir.

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1 THE COURT: All right. You don't want a hearing
2 any further?

3 MR. CHISOLM: [Nods negatively].

4 THE COURT: Okay. I impose a sentence of six
5 months. We'll do an order that finds him in direct
6 contempt of court. The sentence is to be served at the
7 completion of your present sentence. Thank you, sir.

8 [Whereupon, Mr. Chisolm exits the courtroom]

9 [Off the record momentarily]

10 THE COURT: Are we ready?

11 MR. WARING: Yes, Your Honor.

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

13 [Whereupon, the jury enters at 2:37 p.m.]

14 THE COURT: Thank you very much Mr. Presiding
15 juror. We have as court's exhibit 1 now the note that
16 you had. I'm going to ask you Mr. Presiding Juror if you
17 could sign that for me and date it so it's a part of the
18 record. Thank you, sir.

19 [Whereupon, the Foreperson complies]

20 THE COURT: And you are number 320, is that correct
21 Doctor Vane?

22 THE FOREPERSON: Yes.

23 THE COURT: You have been given some writing
24 material. If you will, sign your name at the top of the
25 first page inside. At the conclusion of today when we

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1 adjourn for the day if you will pass those to the
2 presiding juror and you can give them to the bailiff and
3 we'll collect them and then deliver them to you tomorrow.
4 That's a very legitimate request that you wanted because
5 if a juror had some question they can make a notation.
6 These are your notes and you understand that.

7 I want to share something with you though and I'm
8 not trying to discourage you from writing and taking
9 notes during the playing of these but about three years
10 ago and it occurred to me because a lot of judges don't
11 think jurors should take notes. I'm not one of them; I
12 think that is perfectly fine.

13 The only thing about note taking but in this case
14 you really are going to be listening more than you're
15 going to be observing. Sometimes in note taking if you
16 look down you may miss some body language that could be a
17 real cue to you as to whether or not that is a credible
18 testimony or not. But this is really a different
19 situation.

20 But I had a jury, and I thought that makes perfect
21 sense, during their deliberations they had a disagreement
22 or a discussion about what a witness said or didn't say.
23 And they as you will have the right to replay any
24 testimony you want. And it was in the replaying of the
25 testimony that they took the notes because they knew what

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1 it was they were looking for in that particular testimony
2 after their discussion. So I thought that's a really
3 productive way of taking notes. But having said that
4 those are your notes; feel free to take whatever notes
5 you want. Just at the conclusion of the day you turn it
6 over to your presiding juror and they will be returned to
7 you tomorrow. Thank you very much. We're ready to
8 proceed.

9 Now what will be handed to you are exhibits that are
10 not, and I ask that you not write on them, they are for
11 identification purposes only. They will not accompany
12 you to your jury room. I will remind you of this during
13 the charge but if you should need to hear this again you
14 certainly have the right to do that but we'll have to
15 bring you in the courtroom to accomplish that. All
16 right, you may proceed.

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1 MR. WARING: Thank you, Your Honor. Permission to
2 publish to the jury and pass out transcripts?
3 THE COURT: Yes, sir. Let's do them one ---
4 MR. WARING: --- yes, Your Honor.
5 THE COURT: Okay, that's fine.
6 MR. WARING: So this first call is February 8th,
7 2016.
8 [Whereupon, the jury is provided the transcript]
9 THE COURT: You may commence. Everyone has their
10 exhibit.
11 [Whereupon, the jail call plays]
12 [Whereupon, the jail call ends]
13 [Not taken down]
14 Q. [Mr. Waring] Detective Jarrell, who is talking at
15 the end there?
16 A. That was Mr. Grant.
17 Q. Who was telling the other person to deactivate the
18 Facebook account?
19 A. Mr. Grant.
20 Q. Who was the other person he was talking to?
21 A. That was Mr. Allen, Mr. Michael Allen.
22 Q. Next we're going to play a call from March 20, 2016.
23 THE COURT: Is that a separate -- we'll just keep
24 them.
25 MR. WARING: Yes, Your Honor.

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1 THE COURT: Why don't we so that we make sure we
2 have them when we finish that pass it forward and we'll
3 stack them on the -- you need to collect them so they
4 only have one at the time. Why don't you hand two stacks
5 and they can pass from both ends.

6 [Whereupon, the jury returns the transcript]

7 [Whereupon, the jury is provided the next
8 transcript]

9 THE COURT: Are we ready?

10 [Whereupon, the jail call plays]

11 [Whereupon, the jail call ends]

12 [Not taken down]

13 [Whereupon, the jury returns the transcript]

14 MR. WARING: The next group I'm passing out is the
15 jail call from May 17th, 2017. If you would take one
16 please and pass it along.

17 [Whereupon, the jury is provided the next
18 transcript]

19 [Whereupon, the jail call plays]

20 [Whereupon, the jail call ends]

21 [Not taken down]

22 Q. [Mr. Waring] Detective who was on that call?

23 A. That's Michael Allen and Devante Grant.

24 MR. WARING: If y'all would pass those forward?

25 [Whereupon, the jury returns the transcript]

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1 MR. WARING: The next one I'm passing out is
2 transcripts for video visitation number 302147 from March
3 9, 2017. If you will, please take one and pass it along.

4 [Whereupon, the jury is provided the transcript]

5 [Whereupon, the video plays]

6 [Whereupon, the video ends]

7 [Not taken down]

8 Q. [Mr. Waring] And Detective who was on the right in
9 that video?

10 A. Michael Allen.

11 Q. And who was on the left?

12 A. Devante Grant.

13 MR. WARING: Would y'all please pass those up as
14 well?

15 [Whereupon, the jury returns the transcript]

16 MR. WARING: The last one I'm passing out is for
17 video visitation number 313677 for April 5th, 2017.
18 Please take one and pass it down.

19 [Whereupon, the jury is provided the transcript]

20 [Whereupon, the video plays]

21 [Whereupon, the video ends]

22 [Not taken down]

23 Q. [Mr. Waring] And Detective just to be clear what are
24 Michael Allen's initials?

25 A. M.A.

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1 MR. WARING: If y'all would please pass those up?

2 [Whereupon, the jury returns the transcript]

3 Q. [Mr. Waring] Detective, have you had a chance to
4 take a look at this letter that the defendant wrote?

5 A. I have.

6 Q. I'm now showing you State's exhibit 55. Would you
7 publish that to the jury please?

8 A. State's exhibit 55 is the letter we discussed
9 earlier?

10 Q. Yes. Will you read it to the jury?

11 A. Sure. [Reading] From London Fields, damn why name
12 in your mouth. You get caught up now you want to drag me
13 in this shit like this ain't 100. Like who the kid keep
14 your mouth duct tape. I would never let not on right
15 hand, not on my family. Laughing my ass off. Never
16 thought this would happen not to you, lol. Shit for all
17 I know you probably going to show this to the police.
18 Laughing my ass off. You work with them now so that mean
19 you're an informant. Laughing my ass off. This shit
20 funny.

21 MS. EHRLICH: Your Honor, I'm sorry. May we
22 approach briefly? I don't think he's reading -- I think
23 he's interpreting something ---

24 THE COURT: --- you can cross-examine him about it.
25 Thank you.

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- 1 A. [Reading] Take the time with the man. You know
2 what they say. People get with that time and -- I'm not
3 sure what that is -- the crazy is shit is joke to me.
4 Like why you go got go -- ain't you supposed to be a G
5 for a gangsta boy you need to stop it. You ain't no G.
6 Lo Sammy say quit acting like something not ever since a
7 young'un you ain't never had -- for this you ain't
8 supposed to be a grown ass man. Check that paper. That
9 paper work doesn't lie, you hell. Oh yea by the way you
10 know what's up. You know this is. You better be home in
11 two weeks. And that bitch yo Momma tell her I say a duck
12 dick for me -- a drawn picture of middle finger -- oh
13 yea, I hope you get a good plea. No informants get good
14 deal.
- 15 Q. [Mr. Waring] Thank you. Detective, can you also
16 tell the jury who that's addressed to?
- 17 A. This is addressed to Saivon Matil [phonetic]
18 Chisolm, informant at 3841 Leeds Avenue, North Charleston
19 South Carolina 29405.
- 20 Q. Now Detective I want to switch gears briefly. Did
21 the defendant in this case give a statement?
- 22 A. Yes.
- 23 Q. And where was that taken?
- 24 A. At 180 Lockwood Boulevard, CPD headquarters.
- 25 Q. At that point did he appear to be under the

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1 influence or anything like that?
2 A. No.
3 Q. And how old was he at that time?
4 A. Seventeen.
5 Q. Do you recall how long the interview was?
6 A. It was pretty brief, less than ten minutes.
7 Q. Did you threaten him in any way?
8 A. No.
9 Q. Make any misrepresentations, promises of leniency or
10 anything like that?
11 A. No.
12 Q. Was he advised of the nature of the investigation?
13 A. He was.
14 Q. Was he read his Miranda rights?
15 A. Yes.
16 Q. Did you read them to him?
17 A. I did.
18 MR. WARING: Your Honor, may I approach the witness?
19 THE COURT: You may.
20 Q. [Mr. Waring] I'm showing you what has been marked
21 for I.D. purposes only as State's exhibit 64. Do you
22 recognize that?
23 [Whereupon, the witness is shown exhibit]
24 A. I do.
25 Q. And can you tell the jury what it is?

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1 A. It is a Miranda card issued by the Charleston Police
2 Department and signed by Devante Grant.

3 Q. Is that what you read to him?

4 A. It is.

5 Q. And does that fairly and accurately depict the
6 defendant's Miranda card in this case?

7 A. Yes.

8 MR. WARING: Your Honor, at this point the State
9 would move to have exhibit 64 admitted into evidence.

10 THE COURT: Any objection?

11 MS. EHRLICH: Your Honor, I just would like to see
12 it beforehand.

13 THE COURT: Sure, absolutely.

14 [Whereupon, Ms. Ehrlich views document]

15 MS. EHRLICH: No objection, Your Honor.

16 THE COURT: No objection?

17 MS. EHRLICH: No, sir.

18 THE COURT: Without objection State's exhibit 64 is
19 admitted.

20 [Whereupon, State's exhibit number 64 is entered
21 into evidence by the court]

22 Q. [Mr. Waring] Did the defendant appear to have any
23 trouble understanding his rights?

24 A. No.

25 Q. Did he appear alert and attentive?

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1 A. He was.
2 Q. Did he freely and voluntarily waive his rights
3 before speaking with you?
4 A. He did.
5 Q. Which hand did he use to write with?
6 A. His right hand.
7 Q. Was this interview recorded?
8 A. It was.
9 Q. I'm now showing you what has been marked for I.D.
10 purposes as State's exhibit 32. Do you recognize that?
11 [Whereupon, the witness is shown exhibit]
12 A. I do.
13 Q. And what is it?
14 A. It is Devante Grant's video visitation clips.
15 Q. And does that contain the video of his interview?
16 A. Yes.
17 Q. And are your initials on that disk?
18 A. They are.
19 Q. Have you actually watched the contents of that C.D.?
20 A. Yes.
21 Q. And does it fairly and accurately depict the
22 defendant's interview?
23 A. Yes.
24 MR. WARING: Your Honor, at this point the State
25 moves to have exhibit 32 admitted into evidence.

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1 THE COURT: Subject to objections previously argued
2 any additional objections?
3 MS. EHRLICH: I think 32 is already in evidence.
4 THE COURT: 32 is already in ---
5 MR. WARING: --- I apologize Your Honor, it's 63.
6 THE COURT: 63?
7 MS. EHRLICH: As long as he lays foundation by
8 having the detective identify it and subject to my prior
9 objections. I think he just identified the video ---
10 THE COURT: --- he did.
11 MR. WARING: Your Honor my apologies. I can go
12 through the foundational questions.
13 THE COURT: Go ahead and lay the foundation.
14 Q. [Mr. Waring] Detective, my mistake. I'm now showing
15 you a disk. Do you recognize that?
16 A. I do. This is in fact a copy of me interviewing the
17 defendant.
18 Q. So before that was not a copy of the interview?
19 A. No, it was not. That was visitation.
20 Q. Okay. And are your initials on that disk as well?
21 A. They are.
22 Q. And have you had a chance to watch the contents of
23 that disk?
24 A. Yes.
25 Q. Does it fairly and accurately depict the defendant's

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1 interview?
2 A. It does.
3 MR. WARING: Your Honor, at this point State's
4 exhibit 63?
5 MS. EHRLICH: Just my prior objection.
6 THE COURT: Subject to the objection previously
7 argued it's admitted into evidence.
8 MR. WARING: Yes, Your Honor.
9 [Whereupon, State's exhibit number 63 is entered
10 into evidence by the court]
11 [Whereupon, the video plays]
12 [Whereupon, the video pauses]
13 [Not taken down]
14 Q. [Mr. Waring] Detective, which hand is he using to
15 write with right now?
16 A. He's using his right hand.
17 [Whereupon, the video resumes]
18 [Whereupon, the video ends]
19 [Not taken down]
20 Q. [Mr. Waring] Please answer any questions the defense
21 has.
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Jason Jarrell-Cross-Examination by Ms. Ehrlich
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1	CROSS-EXAMINATION
2	BY MS. EHRLICH:
3	Q. Good afternoon detective.
4	A. Good afternoon.
5	Q. Devante Grant actually turned himself in, correct?
6	A. He did.
7	Q. He turned himself in to the station?
8	A. He did, yes.
9	Q. And the same night that you were the afternoon that
10	you were questioning him is the same day he turned
11	himself in, correct?
12	A. Correct.
13	Q. And you were aware or you got his biographical
14	information from him that he was 17 years old, correct?
15	A. Yes.
16	Q. And as we saw in the video he didn't want to speak
17	to you without a parent but you gave him the Miranda
18	warning following that statement, correct?
19	A. Correct.
20	Q. Okay. I want to talk to you a little bit about the
21	identification that was done in this case.
22	A. Okay.
23	Q. As an officer with Charleston Police Department
24	you're familiar with the field guide on identifications,
25	correct?

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- 1 A. I am.
- 2 Q. And included in that field guide it kind of gives
3 you instructions on how to conduct lineups, correct?
- 4 A. True.
- 5 Q. Because the department issues policies for you all
6 to follow to make sure that officers are consistent in
7 how they're doing things, correct?
- 8 A. Correct.
- 9 Q. They wouldn't want you to do identifications one way
10 and another detective to do it a completely different
11 way, correct?
- 12 A. Correct.
- 13 Q. And in your policy guide there is discussion about
14 the types of lineups or identifications that can be done,
15 correct?
- 16 A. Yes.
- 17 Q. And so if you show a picture -- let's say you have
18 six people; one suspect and five people that are
19 considered fillers, right?
- 20 A. Yes.
- 21 Q. The fillers are not suspects. They've just been
22 selected because they maybe resemble the suspect,
23 correct?
- 24 A. Correct.
- 25 Q. You can do what is called a sequential lineup when

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1 you would show one picture to the witness and then allow
2 them to look at each picture individually, correct?

3 A. Correct.

4 Q. That's called sequential lineup?

5 A. Yes.

6 Q. And then there is also what is called a photographic
7 lineup through CPD where you show all the pictures at the
8 same time, correct?

9 A. Correct.

10 Q. And so in this case referring to State's exhibit 19
11 when you showed this [indicates] to Ms. Hooks she looked
12 at all the pictures at the same time, correct?

13 A. Yes.

14 Q. They were all on this paper. This hasn't been
15 altered; this is what she saw?

16 A. Correct.

17 Q. And also included in the CPD policy is not to do
18 anything to influence a witness, correct?

19 A. Correct.

20 Q. You don't want to show any sort of bias towards one
21 picture over another, correct?

22 A. Correct.

23 Q. And so some agencies would have what is called an
24 independent or blind administrator show a lineup to a
25 witness, right?

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1 A. That is done.
2 Q. Okay. And when I say blind administrator I mean
3 somebody that is not involved with the case, correct?
4 A. If that's what you mean, yes.
5 Q. I'm asking you if that's your understanding of what
6 a blind ---
7 A. --- that is my understanding.
8 Q. Okay. So for example if I'm the lead detective in
9 a case and I develop a suspect I may have say you show
10 the witness the lineup because you don't know anything
11 about it, correct?
12 A. If another person is available to do so.
13 Q. And that's to try to prevent any sort of even
14 accidental bias, right?
15 A. Yes.
16 Q. Okay. And in this case though you are the lead
17 detective in the robbery case, correct?
18 A. Correct.
19 Q. And you were actually the officer who showed the
20 pictures to Ms. Hooks.
21 A. Correct.
22 Q. You didn't have another officer do that.
23 A. I did not; none were available.
24 Q. No officer in the entire police force was available
25 to do it?

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- 1 A. No detective in my robbery unit was available.
- 2 Q. Okay. What about other officers?
- 3 A. We don't typically pull uniforms street officers to
- 4 drive to Ladson to show lineups.
- 5 Q. Okay. So street officers can't do lineups or you
- 6 just don't typically do that?
- 7 A. We don't. That's not our practice.
- 8 Q. Okay. How many officers or detectives did you call
- 9 before you decided to do the lineup?
- 10 A. There were four others that were in my unit and none
- 11 of them were available at the time.
- 12 Q. So you called all of them?
- 13 A. I didn't have to call them. Most of them were there
- 14 working on other cases.
- 15 Q. Okay. So because they were working on other cases
- 16 they were unavailable.
- 17 A. Correct.
- 18 Q. In your policy there is also discussion about if
- 19 possible you may want to video or audiotape the
- 20 identification process with the witness, correct?
- 21 A. True, yes.
- 22 Q. And in this case there is no video of the
- 23 identification process with Ms. Hooks.
- 24 A. That's true.
- 25 Q. You did audio recording, correct?

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
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- 1 A. Yes.
- 2 Q. And that audio is simply once you start going
3 through State's exhibit 18 this photo lineup admonition
4 form with her, correct?
- 5 A. Correct.
- 6 Q. So you didn't record the conversation that you had
7 prior to that when you initially greet her and come into
8 the house that portion is not recorded.
- 9 A. That's correct.
- 10 Q. Okay. And prior to showing Ms. Hooks this lineup
11 you didn't show the lineup to any of your fellow
12 detectives to see if Devante Grant stood out any way, did
13 you?
- 14 A. I know I looked at it.
- 15 Q. You looked at it but you didn't show it to anybody
16 else, correct?
- 17 A. I believe my supervisor looked at it.
- 18 Q. And who was that?
- 19 A. Sergeant Bailey.
- 20 Q. Okay. When Ms. Hooks was looking at these pictures
21 she initially pointed to number four, correct?
- 22 A. Correct.
- 23 Q. And number four is Devante Grant.
- 24 A. Correct.
- 25 Q. And she pointed at that person and then paused for

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1 quite a while, right?

2 A. She did.

3 Q. I think you testified in a pretrial matter maybe
4 about a minute.

5 A. Yes.

6 Q. Continuously looking at these pictures?

7 A. Yes.

8 Q. And then she went back to number four and said I
9 think it's him, correct?

10 A. Yes.

11 Q. She didn't say it's definitely him.

12 A. She said I think it's him.

13 Q. She didn't say it's definitely him, right?

14 A. Right.

15 Q. When you showed those pictures to Ms. Hooks had you
16 already informed her that Mr. Chisolm had been arrested?

17 A. She was aware of it.

18 Q. Okay. Also, when Ms. Hooks -- after Ms. Hooks
19 identified number four there were some comments about the
20 eyes, correct?

21 A. Yes.

22 Q. And you kind of cut her off and moved on to was this
23 the person with the gun or not the person with the gun,
24 correct?

25 A. I don't know if I cut her off but I know I asked her

State v Devante Antonio Grant
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- 1 who specifically that was that she picked out.
- 2 Q. ~ You didn't further explore the issue about what
- 3 color the eyes were?
- 4 A. No, I didn't.
- 5 Q. And at the time that Devante Grant was arrested he
- 6 was 17 years old, correct?
- 7 A. Correct.
- 8 Q. And in y'all's paperwork when you do booking you
- 9 would include eye color, correct?
- 10 A. Correct.
- 11 Q. And you guys indicated brown eyes for Mr. Grant,
- 12 correct?
- 13 A. Correct.
- 14 Q. And as we had heard Mr. Chisolm was already arrested
- 15 before Devante Grant, right?
- 16 A. Yes.
- 17 Q. And his age at the time was 20 years old, right?
- 18 A. Sounds about right.
- 19 Q. And you found out about his arrest through the North
- 20 Charleston Police Department, right?
- 21 A. Correct.
- 22 Q. And it was through his arrest that you secured the
- 23 Ford Fusion, Ms. Hooks' car.
- 24 A. Yes.
- 25 Q. And you were made aware that a gun had been located

State v Devante Antonio Grant
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- 1 in the car?
- 2 A. Yes.
- 3 Q. And Hydrocodone pills.
- 4 A. Yes.
- 5 Q. Now we heard some jail calls and video visits. And
- 6 I think it's obvious from the video everybody can
- 7 identify that it is Devante Grant, correct?
- 8 A. Correct.
- 9 Q. Talking to Michael Allen who we saw earlier today.
- 10 A. Yes.
- 11 Q. Mr. Waring also had you identify Michael Allen's
- 12 voice and Devante Grant's voice on the jail calls.
- 13 A. Yes.
- 14 Q. And prior to your interview with Michael Allen in
- 15 May of 2017 you had not spoken with him, correct?
- 16 A. That's correct.
- 17 Q. And is it fair to say that the Charleston Police
- 18 Department specifically the detective division is very
- 19 busy?
- 20 A. We are quite busy.
- 21 Q. Right. You investigate probably hundreds of cases a
- 22 year?
- 23 A. Not me individually but as a unit, yes.
- 24 Q. How many cases would you say you work on per year?
- 25 A. Anywhere between probably 25 to 40; somewhere in

State v Devante Antonio Grant
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1 | there.
2 | Q. And as you're investigating those cases you come
3 | into contact with a lot of people, right?
4 | A. I do.
5 | Q. Many witnesses?
6 | A. Yes.
7 | Q. Many suspects.
8 | A. Yes.
9 | Q. Victims of crimes?
10 | A. Yes.
11 | Q. You talk to a lot of people.
12 | A. I do.
13 | Q. And those calls that we heard today those were clips
14 | of the calls, correct?
15 | A. Correct.
16 | Q. So you've had an opportunity to review the jail
17 | phone logs that has been admitted into evidence that
18 | lists the duration of calls, correct?
19 | A. I've seen it, yes.
20 | Q. As well as the video visitation logs that indicate
21 | how long a visit may have lasted, right?
22 | A. Yes.
23 | Q. But the clips that we heard were just that; clips
24 | and portions of those conversations, correct?
25 | A. Correct.

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1 Q. Okay. And in your preparation for court did you
2 listen to the clips only or to the entire call?

3 A. To the clips.

4 Q. Okay. What about the video visit?

5 A. The clips.

6 Q. And since Mr. Grant's arrest in February of 2016
7 besides the clips that have been entered into evidence
8 have you listened to any other calls involving Devante
9 Grant?

10 A. No.

11 Q. Have you watched all of his video visits?

12 A. No.

13 Q. This incident occurred on January 26th of 2016 and
14 you first made contact with Ms. Hooks on the 27th,
15 correct?

16 A. Yes.

17 Q. And that was by phone.

18 A. Correct.

19 Q. Because you had not yet met her, right?

20 A. Yes.

21 Q. Investigator Deming initially met her on the night
22 of the incident.

23 A. Correct.

24 Q. And you had wanted her to come in that following day
25 to meet with you and get further information about the

State v Devante Antonio Grant
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- 1 case, right?
- 2 A. Yes.
- 3 Q. And she did not follow up with you on that day, did
4 she?
- 5 A. No.
- 6 Q. And you eventually heard from her on the 28th,
7 correct?
- 8 A. Yes.
- 9 Q. And then you scheduled an appointment for her to
10 come in on February 1st.
- 11 A. Correct.
- 12 Q. When you were investigating this case you made
13 attempts to get video footage from the Sub Station II,
14 didn't you?
- 15 A. I made an attempt, yes.
- 16 Q. And your first attempt they couldn't do it or it
17 wasn't available.
- 18 A. Yes, I believe so.
- 19 Q. And then you did a follow up and they hadn't been
20 able to make you a copy, correct?
- 21 A. If I recall correctly there was an error and it
22 wouldn't burn onto a flash drive.
- 23 Q. You tried to do that?
- 24 A. I did.
- 25 Q. Okay. You also while you investigating this case

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 issued what is called a BOLO, right?

2 A. Yes.

3 Q. And that stands for be on the lookout, right?

4 A. I did.

5 Q. For both the car and for Devante Grant, right?

6 A. Yes.

7 Q. And Devante Grant was arrested on what day?

8 A. On February 6th.

9 Q. And so your BOLO would have been issued prior to his
10 arrest, right?

11 A. Yes.

12 Q. There would be no reason to issue a BOLO after he
13 was already in custody.

14 A. Correct.

15 Q. Okay. On your BOLO the date on there though is
16 February 12th of 2016 isn't it?

17 A. I don't recall the date.

18 Q. If I gave you a copy would that help refresh your
19 memory?

20 A. I'm sure it would.

21 MS. EHRLICH: Court's indulgence.

22 THE COURT: Certainly.

23 [Whereupon, Ms. Ehrlich reviews documents]

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

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 THE COURT: You may.
2 Q. [Ms. Ehrlich] Just let me know when you're done
3 looking at that.
4 [Whereupon, the witness reviews document]
5 A. I see the date February 12th.
6 Q. Okay. So the date on there is February 12th?
7 A. It is.
8 Q. But clearly you issued it before February 12th,
9 right?
10 A. Clearly.
11 Q. Because there would be no reason for you to do it
12 once you recovered the car and you had the car on the 2nd
13 of February, right?
14 A. Yes.
15 Q. And no reason to do it once Devante Grant has been
16 arrested.
17 A. True.
18 Q. Okay. So that's just a mistake.
19 A. It is.
20 Q. Okay. In the interview there was some discussion
21 with Devante about where he lived when you were getting
22 biographical information for the file.
23 A. Yes.
24 Q. And there was an indication of a house on Napoleon
25 [phonetic].

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

- 1 A. Yes.
- 2 Q. And there was also an indication that he had stayed
3 in Goose Creek at times?
- 4 A. Yes.
- 5 Q. The search -- there was a search warrant performed
6 on that Napoleon [phonetic] address, correct?
- 7 A. Correct.
- 8 Q. And no evidence tying Devante Grant to this crime
9 was located in that house.
- 10 A. True.
- 11 Q. You also participated in the execution of that
12 search warrant?
- 13 A. I did.
- 14 Q. You were present for it as were you when you
15 executed a search warrant on the Forsman [phonetic]
16 address where Saivon Chisolm lived, correct?
- 17 A. Correct.
- 18 Q. And in that home you found a pack of cigarettes,
19 correct?
- 20 A. Correct.
- 21 Q. That were the same brand of cigarettes you believed
22 Ms. Hooks to smoke.
- 23 A. Correct.
- 24 Q. And documents in the house or in that room linking
25 Saivon Chisolm to that room; I believe a social security

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 card.
2 A. Yes.
3 Q. Nothing belonging to Devante Grant was located by
4 CPD in that home.
5 A. Correct.
6 Q. Now you made kind of a big deal about how you're the
7 lead detective in this case and I want to ask you a few
8 questions about that. Part of your job would be to do
9 any follow up investigation, correct?
10 A. Correct.
11 Q. So you would determine what witnesses need to be
12 interviewed.
13 A. Correct.
14 Q. You would follow up any leads that you had.
15 A. Yes.
16 Q. You would decide where to do search warrants.
17 A. Yes.
18 Q. You would be the one to ask crime scene to come
19 process evidence.
20 A. Yes.
21 Q. And in this case you did have the car processed for
22 DNA.
23 A. I did.
24 Q. And you did have the gun that was recovered
25 processed for DNA.

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 A. I did not.

2 Q. You got the results. Did you not get the results of
3 the DNA?

4 A. I got negative results on all DNA that was
5 submitted.

6 Q. So there is no DNA evidence tying Devante Grant to
7 that car, correct?

8 A. There is no DNA evidence that ties anyone to that
9 car.

10 Q. Including Mr. Grant.

11 A. Including Mr. Grant.

12 Q. Or the gun.

13 A. Or the gun.

14 Q. There was also -- and you in fact got a search
15 warrant and swabbed Devante's mouth for DNA, right?

16 A. I did.

17 Q. You also as the lead detective requested evidence be
18 processed for fingerprints.

19 A. I did.

20 Q. That would include the gun.

21 A. I did not request for the gun because North
22 Charleston was in custody of the gun.

23 Q. So you didn't request any fingerprinting done on the
24 gun?

25 A. I don't remember requesting anything for the gun.

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 Q. And when I say the gun I'm talking about the gun
2 that was located in the car that Mr. Chisolm was arrested
3 in.
4 A. Right.
5 Q. The car you did request be processed for
6 fingerprints.
7 A. I did.
8 Q. And no prints belonging to Devante Grant found
9 anywhere in that car or on the exterior of that car.
10 A. I got no matches to anyone involved in this case
11 from that.
12 Q. So you're denying that Mr. Chisolm's prints were
13 found on there?
14 A. Those too were not found in there.
15 MS. EHRLICH: Court's indulgence.
16 THE COURT: Certainly.
17 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
18 Q. [Ms. Ehrlich] Detective would looking at the latent
19 print report from this case refresh your memory as to
20 who's prints may have been found where?
21 A. Sure.
22 MS. EHRLICH: Your Honor, may I approach the
23 witness?
24 THE COURT: You may.
25 Q. [Ms. Ehrlich] I'm going to show you two reports.

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 [Whereupon, the witness reviews documents]
2 A. I'm sorry, that's my mistake.
3 Q. So is it accurate that Devante Grant was eliminated
4 as any of the fingerprints on the car?
5 A. It is accurate.
6 Q. And Mr. Chisolm's prints were in fact found?
7 A. Yes.
8 Q. Thank you. Just a couple more questions. You
9 didn't interview Michael Allen until May of 2017,
10 correct?
11 A. Correct.
12 Q. And you had some indication through the phone dump
13 of a name Michael Allen?
14 A. I had M.J. I believe at that time.
15 Q. Okay. Your first contact though with him was in
16 May of 2017?
17 A. Correct.
18 Q. Was there ever a search warrant done for his DNA?
19 A. No.
20 Q. His home?
21 A. No.
22 Q. What about his phone?
23 A. No.
24 MS. EHRLICH: Court's indulgence.
25 THE COURT: Certainly.

State v Devante Antonio Grant
Jason Jarrell-Cross-Examination by Ms. Ehrlich
August 8, 2017

1 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
2 Q. [Ms. Ehrlich] Detective, I believe on direct Mr.
3 Waring asked you if you had some suspects identified.
4 Besides Mr. Grant and Mr. Chisolm nobody else has been
5 charged in this case, correct?
6 A. Correct.
7 Q. And there has not been any follow up investigation
8 into those names with the exception of speaking with Mr.
9 Allen.
10 A. Mr. Allen is the only other name that I know.
11 Q. Thank you.
12 THE COURT: Redirect?
13 MR. WARING: Thank you, Your Honor.
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State v Devante Antonio Grant
Jason Jarrell-Redirect Examination by Mr. Waring
August 8, 2017

1	REDIRECT EXAMINATION
2	BY MR. WARING:
3	Q. Detective, did you comply with Charleston Police
4	Department policy in conducting the lineup?
5	A. I did.
6	Q. Does Charleston Police Department require a blind
7	administrator?
8	A. No, it doesn't.
9	Q. Did you suggest to the victim in any way that she
10	should pick out that photo of the defendant?
11	A. No.
12	Q. And again why was there no video of this lineup
13	procedure?
14	A. Because Ms. Hooks being a victim and after meeting
15	with her a couple of times and talking to her on the
16	phone she still seemed frightened and I thought it would
17	be best for me to drive to Ladson instead of making her
18	come all the way downtown.
19	Q. Now Michael Allen's interview was that video
20	recorded?
21	A. It was.
22	Q. And did that interview assist you in recognizing his
23	voice on some of these jail calls?
24	A. It did.
25	Q. Now regarding the BOLO did that typo on the BOLO

State v Devante Antonio Grant
Jason Jarrell-Redirect Examination by Mr. Waring
August 8, 2017

- 1 mean you did anything else or somehow did something
2 improper in this case?
- 3 A. No.
- 4 Q. At Chisolm's house were y'all looking for Devante
5 Grant's stuff or were you looking for Chisolm's things?
- 6 A. We were looking for Chisolm's things.
- 7 Q. Now the defense had mentioned DNA evidence and
8 checking for DNA. Did you get buccal swabs from the
9 defendant in this case?
- 10 A. I did.
- 11 Q. And for the jury's benefit what is a buccal swab?
- 12 A. It's almost like a q-tip and we rub it on the inside
13 of the cheek to obtain DNA.
- 14 Q. Did you talk with him during that?
- 15 A. I did.
- 16 Q. So there was more than one occasion where you
17 actually spoke with the defendant, is that right?
- 18 A. Yes.
- 19 Q. Did both those occasions assist you in recognizing
20 his voice on these calls and videos?
- 21 A. They did.
- 22 Q. Do you know if they found the victim's prints in the
23 car?
- 24 A. No.
- 25 Q. And was that her car?

State v Devante Antonio Grant
Jason Jarrell-Redirect Examination by Mr. Waring
August 8, 2017

1 A. It was her car.

2 MR. WARING: No further questions, Your Honor.

3 THE COURT: Recross?

4 MS. EHRLICH: No, Your Honor.

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

6 [Whereupon, the witness is excused and exits the
7 witness stand]

8 THE COURT: Any additional witnesses?

9 MR. WARING: The State rests, Your Honor.

10 THE COURT: Ladies and gentlemen there are some
11 matters of law now that I have to take up and it's good
12 timing because it's time for our afternoon break. I'll
13 let you go to your jury room. Do not discuss this case
14 and don't begin your deliberations. We'll be with you as
15 quickly as we can. Thank you.

16 [Whereupon, the jury exits at 3:40 p.m.]

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State v Devante Antonio Grant
Motion for Directed Verdict
August 8, 2017

1 THE COURT: Are there any motions or matters from
2 the State?

3 MR. WARING: No, Your Honor.

4 THE COURT: Ms. Ehrlich, I'll be happy to hear from
5 you.

6 MS. EHRLICH: Judge, at this time we would move for
7 a directed verdict in the case. I don't feel the need to
8 put an argument on the record at this point.

9 THE COURT: And I appreciate that and thank you for
10 your professionalism. Given the testimony thus far
11 obviously there is evidence which would support a jury's
12 verdict but of course that will be up to the jury to make
13 a decision. So I would respectfully deny your motion.

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State v Devante Antonio Grant
Proceedings
August 8, 2017

1 THE COURT: Have you had an opportunity to talk
2 with your client about his desire to testify or not
3 testify?

4 MS. EHRLICH: Your Honor, we talked about it
5 throughout the process. If I could have two minutes to
6 speak with him? I would assume he is unlikely to have
7 changed his mind.

8 THE COURT: And I appreciate that. I'm going to
9 take a break for about 15 minutes and then I'll come back
10 and he understands I'll need to ask him some questions
11 about that.

12 MS. EHRLICH: Yes, sir. And should he not testify
13 we'd be ready to call our expert witness.

14 THE COURT: She's here?

15 MS. EHRLICH: She is here.

16 THE COURT: Okay. We'll be at ease for about 15
17 minutes.

18 [Whereupon, court is in recess from 3:42 p.m. until
19 3:55 p.m.]

20 THE COURT: Okay. Let the record reflect Mr.
21 Grant is present.

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State v Devante Antonio Grant
Fifth Amendment Rights
August 8, 2017

1 THE COURT: Have you had an opportunity to discuss
2 his right to testify or not to testify further, Ms.
3 Ehrlich?

4 MS. EHRLICH: Yes, sir.

5 THE COURT: And has he made a decision?

6 MS. EHRLICH: He has.

7 THE COURT: And what is that decision?

8 MS. EHRLICH: He's not going to testify.

9 THE COURT: Mr. Grant, you've had a chance to talk
10 with your lawyers about your right to testify or not to
11 testify, sir?

12 MR. GRANT: Yes, sir.

13 THE COURT: And you've had a chance to ask them any
14 questions you may have?

15 MR. GRANT: Yes, sir.

16 THE COURT: And you've made a decision for yourself
17 that you will not take the stand and not testify, is that
18 correct?

19 MR. GRANT: Yes, sir.

20 THE COURT: And your lawyers have explained to you
21 as I have already indicated to the jury and I will
22 reiterate that in my charge as I've told them they don't
23 look to you to prove or disprove anything. You have no
24 obligation to do that and I'll instruct them that they
25 can't even talk about the fact that you didn't testify,

State v Devante Antonio Grant
Fifth Amendment Rights
August 8, 2017

1 do you understand that?

2 MR. GRANT: Yes, sir.

3 THE COURT: But you also understand that you have
4 the right to testify if you wanted to.

5 MR. GRANT: Yes, sir.

6 THE COURT: Of course you would be subject to
7 cross-examination, you realize that?

8 MR. GRANT: Yes, sir.

9 THE COURT: Are you under the influence of any type
10 of medication, anything that is affecting your ability to
11 make this decision?

12 MR. GRANT: No, sir.

13 THE COURT: Have you had sufficient time to think
14 about it?

15 MR. GRANT: Yes, sir.

16 THE COURT: And you're satisfied with the manner in
17 which your lawyers have advised you concerning these
18 issues?

19 MR. GRANT: Yes, sir.

20 THE COURT: And it is your decision not to testify?

21 MR. GRANT: Yes, sir.

22 THE COURT: Okay. If you change your mind before
23 your lawyer says defense rests you let your lawyers know.
24 I'll excuse the jury and we'll come back and we'll have
25 further discussion. But if I don't hear from you and

State v Devante Antonio Grant
Fifth Amendment Rights
August 8, 2017

1 your lawyer says defense rests then your decision is
2 final. Do you understand that?

3 MR. GRANT: Yes, sir.

4 THE COURT: Okay. And you're comfortable with
5 that?

6 MR. GRANT: Yes, sir.

7 THE COURT: Very well. I find that Mr. Grant has
8 certainly had the benefit of very competent counsel.
9 He's indicated he is totally satisfied with them.
10 Concerning this issue I find that he makes his decision
11 not to testify freely, voluntarily, knowingly,
12 intelligently and we'll go forward now. Are you prepared
13 to call your expert?

14 MS. EHRLICH: I am, Your Honor.
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State v Devante Antonio Grant
Proceedings
August 8, 2017

1 THE COURT: Okay. Let's bring in our jury.

2 [Whereupon, the jury enters at 4:00 p.m.]

3 THE COURT: Thank you ladies and gentlemen. As you
4 recall when we took our recess the State had rested. As
5 I mentioned to you in my opening remarks the State of
6 South Carolina is the only party that has any burden of
7 proof but the defendant still had a right, while he has
8 no burden to prove or disprove anything or present any
9 evidence had the right to present any additional
10 witnesses for your consideration. And now Ms. Ehrlich
11 we're at that stage. Does the defendant wish to present
12 any additional testimony for the jury's consideration?

13 MS. EHRLICH: Yes, Your Honor.

14 THE COURT: You may call your first witness.
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State v Devante Antonio Grant
Dawn McQuiston-Direct Examination by Ms. Ehrlich
August 8, 2017

1 MS. EHRLICH: Your Honor, the defense calls Doctor
2 Dawn McQuiston.

3 [Whereupon, Doctor McQuiston comes forward]

4 [Whereupon, the witness is duly sworn by the Clerk
5 of Court]

6 CLERK OF COURT: Please state your full name
7 spelling your last name for the record.

8 THE WITNESS: It's Dawn McQuiston, and it's
9 M-C-Q-U-I-S-T-O-N.

10 - - - - -

11 DAWN MCQUISTON,

12 Having been first duly sworn,

13 Was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. EHRLICH:

16 Q. Good afternoon, Doctor McQuiston. What's your
17 current occupation?

18 A. I am a psychology professor at Wofford College.

19 Q. And how many years have you been doing that?

20 A. In total this fall will be my 15th year as a
21 professor.

22 Q. And why type of education do you have or your
23 degrees?

24 A. I have a Bachelor's degree in psychology; I have a
25 Master of Science degree from the University of Texas at

State v Devante Antonio Grant
Dawn McQuiston-Direct Examination by Ms. Ehrlich
August 8, 2017

1 El Paso in experimental psychology, and a Ph.D. from the
2 same school in experimental psychology.

3 Q. And what do you actually do at Wofford?

4 A. Since I'm a professor I teach and I do research.

5 Q. And what's your general area of expertise?

6 A. In general my area is psychology and law.

7 Q. And do you belong to any sort of psychological
8 organizations or professional organizations?

9 A. I do. I've been a member of several over my career
10 and as a graduate student namely the American Psychology
11 Law Society, the Society for Research and Applied Memory
12 and Cognition; those are the two main ones.

13 Q. And have you published articles?

14 A. I have.

15 Q. And have those been peer reviewed?

16 A. They have.

17 Q. And do those articles include research into
18 eyewitness identification?

19 A. It does.

20 Q. Does that research also include issues related to
21 memory?

22 A. Yes.

23 Q. And perception?

24 A. Yes.

25 Q. And photo lineups?

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1 A. Yes.

2 Q. And when I asked you if your research had been peer
3 reviewed what does that -- explain that to the jury what
4 does that mean.

5 A. Sure. All research that academics do if you want to
6 submit an article for publication it goes out to other
7 experts in the field who review it for its quality and
8 then those experts make a recommendation about whether
9 your research should be published or not.

10 Q. And so based on your experience and your expertise
11 do you also do peer review of other people's work?

12 A. I do.

13 Q. And have you presented your research at
14 psychological conferences before?

15 A. Yes.

16 Q. And have you ever been qualified as an expert in
17 eyewitness identification before?

18 A. Yes.

19 Q. Do you have an estimate of how many times you
20 believe you've been qualified?

21 A. I'd say approximately 40 to 50 times.

22 Q. And have you ever been qualified as an expert in
23 eyewitness identification in South Carolina?

24 A. I have.

25 MS. EHRLICH: Your Honor, at this time we'd ask

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1 that the court recognize Doctor McQuiston as an expert in
2 eyewitness identification.

3 THE COURT: Do you care to examine her as to
4 qualifications?

5 MR. WARING: No, Your Honor.

6 THE COURT: Very well. She will be permitted to
7 render opinions in that field. Thank you.

8 Q. [Ms. Ehrlich] Doctor McQuiston, I asked you if you
9 had ever been qualified as an expert before and you said
10 yes. Have you ever happened to have testified for the
11 prosecution before?

12 A. I have not.

13 Q. And if they sought out your services do you have any
14 sort of issues working with prosecution?

15 A. No.

16 Q. And you are compensated for your work when you
17 consult on a case, correct?

18 A. Yes.

19 Q. And what is your -- how are you compensated?

20 A. An hourly rate, 300 dollars an hour.

21 Q. Okay. And why are you here today? Why have we
22 called you as a witness?

23 A. I'm here in general to talk about eyewitness memory
24 and the circumstances under which -- the circumstances
25 that can affect an eyewitness to a crime, a victim to a

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1 crime, and to talk about memory in general.

2 Q. Okay. And the opinions or the information that you
3 provide the jury what is that based on?

4 A. It's based on empirical research.

5 Q. Okay. I want to kind of direct your attention to
6 issues related to memory and attention. Is there any
7 generally accepted theory on how memory works?

8 A. There is and it goes back to the 1960's. A couple
9 of psychologists Atkinson and Shiffrin they support the
10 theory that has been generally accepted by psychologists
11 all these years that when we process information when
12 we're confronted with information it has to go through a
13 series of stages as we process it.

14 And you may have heard some of these stages sensory,
15 memory, short term memory and long term memory. And the
16 idea is that there is a long way to go to get information
17 into long term memory. And so as the process begins
18 sensory memory has to do with information that you might
19 be thinking about right in this moment.

20 It's the things that are happening all in one moment
21 and you can only hold information in sensory memory for
22 literally a couple of seconds. Either at that point it
23 is lost or it moves on to the next stage which is short
24 term memory. So any information that you are trying to
25 hold onto then may move into short term memory. Short

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1 term memory things we can retain information there for
2 about 30 seconds. If we want to continue to hang onto it
3 you have to rehearse it sort of like learning a name or
4 learning a phone number. If you don't rehearse it,
5 rehearse it, rehearse it it's gone after about 30
6 seconds.

7 Information that you're able to hang onto then can
8 move into long term memory. And of course that is the
9 information that is available to retrieve later on. So
10 the idea is as I said that there is a lot of stages that
11 information has to pass through in order to make it into
12 long term memory.

13 Q. Because there are so many stages can details on one
14 event get lost as it is processed through those cycles?

15 A. It sure can.

16 Q. If -- do people remember basically a photograph or a
17 video of what they saw?

18 A. They do not.

19 Q. Okay. Explain that a little bit.

20 A. We don't tend to process information that way.
21 Memory doesn't work like a video tape. You may have
22 heard that; that's what some experts say. Instead when
23 we are processing information and recalling information
24 there are gaps in what we remember because we are
25 typically paying attention only to the most important

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1 things. And it's a natural process. But there are
2 typically gaps in the information that we process.

3 Q. What happens with those gaps?

4 A. So we tend to then later fill in those gaps with
5 information. Of course that information can be correct
6 or it can be incorrect. And we get that information from
7 lots of different places.

8 We can fill it in based on going over and over
9 something in our own mind based on what we might have
10 heard other people say. What our expectations might be.
11 So we tend to think of memory as being more
12 reconstructive in that way.

13 Q. What happens to memories over time?

14 A. Memories tend to fade over time.

15 Q. I'm going to turn to the term attention. What would
16 a scientist mean by the word attention?

17 A. We refer to attention as being a mechanism by which
18 we filter out irrelevant information allowing us to focus
19 on whatever the task at hand might be or the most
20 important information.

21 Q. And how would someone's attention affect their
22 memory?

23 A. We can only later remember the information that we
24 attended to.

25 Q. So under what circumstances would somebody maybe

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1 fail to remember something important?

2 A. Sure. We can really only attend to one thing at a
3 time. And so if there is a lot happening all at once we
4 tend to not have a great memory for any of those
5 individual things. And also if you don't know that you
6 will need that information later you may not attend to
7 something properly.

8 Q. I want to turn to the work perception. What does
9 that mean? What does a scientist mean when they hear the
10 word perception?

11 A. Perception is similar in that it is another
12 mechanism that we use to interact with the world. And
13 when we're thinking of perception we're really talking
14 about how we integrate, how we process the senses.

15 So anything we're seeing, or hearing, touching,
16 tasting, smelling; so perception really is just another
17 one of these ways we filter information and process
18 information that we are presented with.

19 Q. Can people make mistakes with perception?

20 A. Yes.

21 Q. Are there things that would influence the quality of
22 information that is perceived and accepted into your
23 memory?

24 A. Yes.

25 Q. Can you kind of give an example? How does time play

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1 into that?

2 A. Sure. And this is probably intuitive that the less
3 time that you have to process information the less
4 information you will get. Therefore, you probably won't
5 have a great memory for it later.

6 Q. How would the quality of your view affect your
7 memory of the event?

8 A. So similarly if it is not a great view, if it's a
9 suboptimal view and there are a lot of things that could
10 interfere with someone's view of what they are trying to
11 process.

12 And so again anything that interferes with your
13 ability to take in all the information you're just not
14 going to get it all so your memory may suffer later for
15 those details.

16 Q. If somebody is outside when an event occurs and it's
17 dark outside how would that affect things?

18 A. Sure. It could impact your ability to take in all
19 of the information; again, anything that interferes with
20 your ability to process information. So if it's dark
21 outside you're not going to get as much information
22 versus when it is light outside.

23 Q. Is it normal for people to make mistakes in their
24 perception?

25 A. Yes.

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1 Q. And does it really happen to everybody?

2 A. Yes.

3 Q. And if somebody is under a particular amount of
4 stress during an event would that affect the perception?

5 A. It can.

6 Q. Does heightened stress or fear affect an eyewitness
7 identification?

8 A. It certainly can.

9 Q. How would stress impair somebody's memory?

10 A. So what we find from the scientific research that
11 has looked at how people who are under stress then
12 perform in an eyewitness identification task you find
13 that under heightened levels of stress memory suffers.
14 So an eyewitness identification can be less accurate if
15 it's it is this physiologically arousing fearful
16 stressful type of event.

17 Q. Have you reviewed the scientific research related to
18 stress and the affect on eyewitness identification?

19 A. I did. There was a comprehensive paper published in
20 2004 by several scientists who published what we call a
21 meta-analysis.

22 And all that means is these authors pulled every
23 single study that had been published on this topic, put
24 it all together in one paper and what they do is they
25 statistically compute an average. What is the average

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1 result of all of these different studies that have been
2 done. So in this particular one they only look at
3 published studies. There were I think nearly 30 studies
4 with thousands of participants.

5 So when they compute the average over all of these
6 studies what do they find? They find that in those
7 circumstances under heightened levels of stress memory
8 tends to suffer.

9 Q. And when you were looking at the meta-analysis do
10 you know who made up the participants in the studies that
11 was based on?

12 A. Those are all adult participants over the age of 18.

13 Q. Okay. Both males and females?

14 A. Yes.

15 Q. How were the studies that examine stress conducted?

16 A. Sure. There is a lot of different methodologies
17 that are used depending on the author, depending on the
18 laboratory. For example, there would be a simulated
19 event that would be highly stressful for a participant.

20 So there would be typically two groups of
21 participants, one who undergoes some highly stressful
22 event that is simulated by a researcher and then a no
23 stress group. And then their memory for that event are
24 compared.

25 Q. Okay. And what are the results of those studies?

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1 A. Sure. You find that -- specific to eyewitness
2 identification you find that people tend to be more
3 correct in the non-stress group and in their
4 identifications as well as their descriptions or
5 descriptions of an event tend to be better in the non-
6 stress group.

7 Q. Are people particularly susceptible to making errors
8 in perception when they are experiencing something that
9 is very stressful?

10 A. They can be, yes.

11 Q. What if it is stressful and it happened pretty
12 quickly?

13 A. I see that as being an additive effect so it would
14 be particularly worrisome if it is a highly stressful
15 event and on top of that you add in some of these other
16 factors.

17 Q. And do eyewitness experts generally support these
18 same conclusions about perception, memory and stress?

19 A. They do.

20 Q. I want to talk to you now about something called the
21 cross race effect. What is that?

22 A. So the cross race effect is another well documented
23 phenomenon in the scientific research going back several
24 decades. What we find in general is that people are not
25 as good at recognizing and identifying faces that are of

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1 another ethnic group versus their own. And this has been
2 -- it's been studied all around the world with various
3 ethnic groups. And it turns out that every group is
4 susceptible to this effect.

5 Q. And so have you reviewed all of those studies?

6 A. I reviewed another meta-analysis similar to the
7 effects of stress on eyewitness memory. That meta-
8 analysis I reviewed the one looking at the cross race
9 effect and was published in 2001 about 40 studies five
10 roughly thousand participants.

11 And you find like I said that when people are trying
12 to identify and remember a face of another race they are
13 not as good at it so people tend to make more errors when
14 they are identifying a face of a different ethnic group
15 versus their own.

16 Q. I think you already said this but do you find this
17 in all racial groups?

18 A. Those that have been studied yes, all around the
19 world.

20 Q. And do you know where those studies have happened?

21 A. Sur. Canada, United States, Germany, Great Britain,
22 Australia; those are the ones I can think of off the top
23 of my head.

24 Q. And do eyewitness experts generally support the
25 conclusions regarding the cross race effect?

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1 A. They do.

2 Q. I want to talk to you now about confidence and
3 accuracy. Have eyewitness research studied the
4 confidence a witness expresses when they're making an
5 identification?

6 A. They have, yes.

7 Q. And what are scientists looking at when they are
8 considering this?

9 A. And so on this topic interestingly researchers have
10 been interested in looking at the relationship between
11 the accuracy of an identification and the level of
12 confidence in that identification that an eyewitness
13 expresses.

14 So typically a witness makes an identification and
15 then is asked on some scale how confident are you that
16 this is correct. And so researchers were interested in
17 looking at whether those two things are related because
18 we would intuitively assume that they should be.

19 Q. And what did the research find?

20 A. And so what research finds, again another meta-
21 analysis; this one published in the mid 1990's looking at
22 all these studies. And the conclusion is that
23 confidence, one's level of confidence is not a perfect
24 predictor of accuracy meaning people can display, a
25 witness can display a really high level of confidence and

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1 that doesn't mean that that person absolutely is
2 accurate. And so it turns out that it's not a terrible
3 predictor but it's not a perfect predictor of accuracy.

4 Q. And why is it that confidence and accuracy might not
5 be related?

6 A. So it turns out that confidence, a person's
7 confidence can change. We call it malleable. A person's
8 confidence can be malleable. It can shift over time.
9 How confident a person feels in their identification can
10 be at one level at one time and another level at another
11 time.

12 It can change over time due to a lot of things.
13 Thinking about your own level of confidence can modify it
14 over time. Talking to other people over time can change
15 how confident you are.

16 Hearing feedback from various people can change your
17 own feelings about how confident you are in your
18 identification. And so it's quite an unstable
19 relationship given that confidence can shift over time.

20 Q. And do eyewitness experts generally support those
21 same conclusions about the relationship between
22 eyewitness identification and confidence?

23 A. Yes.

24 Q. I want to ask you a couple more questions and this
25 time related to lineup procedure. Are there national

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1 guidelines that discuss how to compose and administer a
2 lineup?

3 A. There are. They were published by the Department of
4 Justice in the late 90's and distributed to law
5 enforcement agencies across the country.

6 Q. And has the National Academy of Sciences had an
7 impact or input on those?

8 A. Yes. The National Academy of Sciences who is made
9 up of scientists they give their input. They make policy
10 recommendations on various topics.

11 And they just published a report in the last couple
12 of years that laid out the best practices based on all
13 the research, the thousands of studies that have been
14 done looking at eyewitness identification as well as
15 input from people in the legal community.

16 They came together and wrote this report and it was
17 published a couple of years ago making recommendations
18 for best practices.

19 Q. And what are the recommendations about presenting a
20 lineup?

21 A. There are many recommendations.

22 Q. What do they say about who should administer it?

23 A. So one of the specific recommendations that has been
24 studied by researchers for years now and is beginning to
25 be implemented across the country is the idea that a

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1 lineup should be presented by an investigator who is not
2 involved in the case; meaning a person who does not know
3 which lineup member is the police suspect. We call that
4 a blind procedure or a double blind procedure.

5 Similar to medical studies where a physician isn't
6 aware of which drug or whatever is being given to a
7 patient because you want to try to avoid any sort of bias
8 that's unknowing to a person. We know from years of
9 studies that people can in terms of non-verbal behavior
10 people emit certain signals without even knowing it.

11 So that's the idea behind the administering of a
12 lineup using a blind procedure. We don't want there to
13 be any bias or admit to any sort of non-verbal cues to a
14 witness. So the best way to avoid that is to make sure
15 that the person administering the lineup doesn't know who
16 the suspect is.

17 Q. Can somebody with good intention still show bias and
18 maybe not even know they are?

19 A. And that's exactly what researchers are talking
20 about. It's not about anything intentional. It's about
21 we know from these decades of research that people can
22 give off these cues without even knowing they are doing
23 it in all kinds of studies.

24 Q. And does the blind procedure or the blind
25 administration help prevent bias?

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1 A. That's right.

2 Q. And are police departments adopting that procedure?

3 A. They are starting to, yes.

4 Q. And in preparation for your testimony did you review
5 police reports and the identification that was done in
6 this case?

7 A. I did.

8 Q. Okay. To your knowledge was this a blind
9 administration of the lineup?

10 A. To my knowledge it was not.

11 Q. Okay. A couple more questions. When someone is
12 putting together a lineup what is important about the
13 pictures or why is it important what pictures are
14 selected or how it is presented?

15 A. The whole idea behind presenting a lineup instead of
16 just showing a witness or a victim the one photo of the
17 suspect is to provide some protection against someone who
18 might be innocent. And so we assume that a witness with
19 a great memory should be able to identify the right
20 person if that person is in the lineup.

21 Similar to a multiple choice test. You can think of
22 a lineup in that way. If you have a good memory you
23 should be able to make a correct identification. And so
24 there is a little bit more to it than that though in that
25 we want for the lineup to not be biased itself. We want

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1 to make sure that every lineup number has an equal chance
2 to be chosen given the description whatever the
3 description was of the person who committed the crime.
4 You want to provide that protection.

5 So you don't want any one person, you don't want the
6 suspect to stand out in any way relative to the other
7 lineup members. You want to be careful to not draw any
8 attention to any one picture because if there is
9 something different about one person in terms of the
10 clothing or any sort of marking or anything about the
11 photograph itself.

12 If there is something different about one picture
13 versus the others and that person is identified then you
14 can never know whether that person was identified simply
15 because of this thing that was making them stand out.

16 So there has been this long time recommendation that
17 when a lineup is put together you want to make sure that
18 no one is standing out relative to the other lineup
19 members.

20 Q. And are there difficulties in accessing the
21 reliability of an in court identification?

22 A. Sure. In court identifications are tough because
23 really they don't add any independent information over
24 and above the original lineup identification. Only the
25 first one counts. That's the way eyewitness scientists

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1 think about it. Only the first one really counts in any
2 scenario where there might be multiple identifications.

3 MS. EHRLICH: Court's indulgence.

4 THE COURT: Certainly.

5 [Whereupon, Ms. Ehrlich and Ms. Birt confer]

6 Q. [Ms. Ehrlich] Following up on the in court
7 identification does it make it difficult where the person
8 is potentially sitting in court as to reliability?

9 A. Sure. Everyone in the courtroom knows where the
10 defendant is sitting.

11 Q. Please answer any questions the State has.

12 THE COURT: Cross-Examination?

13 MR. OSBORNE: Thank you, Your Honor.

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1 CROSS-EXAMINATION

2 BY MR. OSBORNE:

3 Q. Good afternoon, Doctor.

4 A. Good afternoon.

5 Q. My name is David Osborne. I'm the Assistant

6 Solicitor. Just working backwards a little bit the

7 national guidelines in reference to the best procedures

8 for lineup presentation they were published by the

9 Department of Justice?

10 A. Right.

11 Q. And I'm not trying to bad talk another agency but

12 the FBI they do work for the Department of Justice,

13 correct?

14 A. Sure.

15 Q. Was there a recommendation published by the

16 Department of Justice that the lineup presentation be

17 audio or video recorded?

18 A. I believe that was a recommendation. I'd have to go

19 back and look but I believe it was.

20 Q. And the FBI chose not to follow that recommendation,

21 isn't that correct?

22 A. The FBI? I don't know what the FBI...

23 Q. Okay. So you're not aware that they don't record

24 their lineup presentations?

25 A. I'm not aware what the FBI does in any certain case.

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1 Q. Okay. But the lineup presentation in this case was
2 recorded as followed by the recommendation. Or maybe
3 you're not aware.

4 A. I'm not aware of whether or not it was recorded.

5 Q. Okay. So let's talk about confidence versus
6 accuracy a little bit. Again, I'm going backwards.

7 A. Sure.

8 Q. So these studies that you cited is it fair to say
9 that the individual who is conducting the studies they
10 have a very good way of knowing the accuracy of the
11 identification because I guess they have -- what's the
12 word I'm thinking of -- when they're doing it they know
13 how accurate it is based on the result.

14 A. They -- right. They know because they put it all
15 together.

16 Q. So they put the study together, right?

17 A. Right.

18 Q. Okay. So in real life the way an individual would
19 know the accuracy of an identification would be based on
20 other evidence in the case, is that correct?

21 A. Presumably, sure.

22 Q. Okay. Because we're not in a laboratory setting.

23 A. Right.

24 Q. Okay, cross-racial identification. So I thought it
25 was pretty interesting, do you-- what is the rationale

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1 behind why this effect is occurring?

2 A. There have actually been a lot of theories put
3 forward to explain this effect but the one that seems to
4 have the most scientific support is what researchers
5 calls the contact hypothesis.

6 And so it has to do with how much contact someone
7 may or may not have had over their life with another
8 ethnic group.

9 Q. Okay. So isn't it fair to say that -- well, we'll
10 take me for example. If I were raised -- if my mom and
11 dad were black and I was raised in a black family that it
12 would be less likely that this effect would have much of
13 an effect on me because I see black people every day.

14 A. Yes.

15 Q. And so by that same rationale if an individual's son
16 was best friends with a black male and they were white
17 and they saw black individuals all the time and they were
18 good friends with black individuals this effect might be
19 less likely?

20 A. Right.

21 Q. Okay. Let's talk a second about attention.
22 Attention and I heard you say that attention is affected
23 -- can be affected by stress.

24 A. Right.

25 Q. And if an individual is making a concerted effort to

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1 pay specific attention to one event then that could
2 affect their ability to recall that.

3 A. Sure.

4 Q. And in reference to the accuracy and just to clarify
5 here you don't know the victim Ms. Hooks in this case.

6 A. Right.

7 Q. And you're not here proposing to tell the jury that
8 it is impossible that she made an inaccurate
9 identification, correct?

10 A. That's right.

11 Q. For all you know she may be 100 percent correct.

12 A. Sure.

13 MR. OSBORNE: Court's indulgence.

14 THE COURT: Yes, sir.

15 [Whereupon, Mr. Waring and Mr. Osborne confer]

16 MR. OSBORNE: No further questions, Your Honor.

17 THE COURT: Redirect?

18 MS. EHRLICH: One question.

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1 REDIRECT EXAMINATION

2 BY MS. EHRLICH:

3 Q. Doctor McQuiston, you're here trying to explain to
4 the jury all the issues that come into play when somebody
5 is observing an event and how that can impact making an
6 identification, correct?

7 A. Yes.

8 Q. You're not here to offer any opinion on whether or
9 not the identification in this case was accurate or
10 inaccurate?

11 A. Right.

12 Q. Thank you.

13 THE COURT: Any follow-up?

14 MR. OSBORNE: No, Your Honor.

15 THE COURT: Thank you very much. Do you wish this
16 witness to be excused?

17 MS. EHRLICH: Yes, Your Honor.

18 THE COURT: Any objection?

19 MR. OSBORNE: None, Your Honor.

20 THE COURT: Thank you very much. You are free to
21 leave.

22 [Whereupon, the witness is excused and exits the
23 witness stand]

24 THE COURT: You may call your next witness.

25 MS. EHRLICH: Court's indulgence.

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1 THE COURT: Certainly.
2 [Whereupon, Ms. Ehrlich and Ms. Birt confer]
3 MS. EHRLICH: Your Honor, the defense rests.
4 THE COURT: Very well. Is there any reply
5 testimony, Solicitor?
6 MR. WARING: No, Your Honor.
7 THE COURT: Thank you.
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1 THE COURT: Thank you. Ladies and gentlemen there
2 are some matters of law now that I have to take up out of
3 your presence and the time is fairly good because it will
4 take a little while to go through this process. It's
5 almost five so we'll go ahead and recess for the evening.

6 When you return you will not hear any more evidence.
7 This concludes the evidentiary portion of this process.
8 But you still recall there are two very important parts
9 that remain; one of course the closing arguments of the
10 attorneys which will be extremely helpful to you and then
11 of course the charge on the law which obviously is
12 necessary for you to take to apply to make a decision in
13 this case.

14 So please remember that as we said throughout you're
15 expected and I know will keep that open mind that you
16 brought in when we started this process. Don't make any
17 decisions about anything. Don't talk among yourselves
18 and don't talk to anyone and again that includes anyone
19 at home. Do no conduct any independent research.

20 I'd ask you to please return to your jury room by
21 9:30 in the morning and at that time we will return you
22 to the courtroom to commence the closing arguments which
23 will then be followed by my charge on the law. Have a
24 good evening and thank you very much. If you will leave
25 your notebooks on your chairs we will collect them and

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1 make them available to you tomorrow.

2 [Whereupon, the jury exits at 4:35 p.m.]

3 THE COURT: Any motions or any matters from the
4 State?

5 MR. WARING: No, Your Honor.

6 THE COURT: Motions from the defense?

7 MS. EHRLICH: Your Honor, we'd renew our directed
8 verdict motion and all prior objections made throughout
9 the case.

10 THE COURT: Certainly. And I stand by the rulings
11 previously made on each of the objections and I would
12 respectfully deny your motion for directed verdict. I
13 believe it is a jury issue. The jury has to conclude
14 either way. There is evidence that would support its
15 decision whatever that may be.

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State v Devante Antonio Grant
Charge Conference
August 8, 2017

CHARGE CONFERENCE

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2 THE COURT: Any specific requests for charge. I
3 obviously will charge on identification to the extent
4 about opportunity, the typical language we have. I'm
5 going to charge on the statement, that they have to
6 conclude beyond a reasonable doubt that it was freely,
7 voluntarily, knowingly, intelligently made. Charge on
8 armed robbery and charge on the weapon. I don't think
9 there is anything else that needs to be addressed frankly
10 but if you think of anything just let me know.

11 MS. EHRLICH: Your Honor, one issue and I do want
12 to look into over the evening hours is whether or not
13 there should be any limiting instruction regarding the
14 statement and Detective Jarrell's comments to the
15 defendant shouldn't necessarily be considered evidence.
16 I just thought of that as it was playing. I don't know
17 if there is any basis for it but I do want to look into
18 that over the evening hours.

19 THE COURT: Go right ahead but I think that would
20 be the case of every statement that is entered into
21 evidence in any proceeding. There would always be
22 somebody asking questions in statements. So I think
23 again the jury has to determine what they find to be
24 credible and believable.

25 MS. EHRLICH: Yes, sir.

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1 THE COURT: But I will be happy to entertain any
2 perspective. Yes sir?

3 MR. WARING: Yes, Your Honor. There were a couple
4 and I can obviously bring up tomorrow as well. One of
5 them was going to be intimidation evidence and the ---

6 THE COURT: --- I'm going to charge that ---

7 MR. WARING: --- other was disguising handwriting
8 as evidence of guilt. I don't know if that is something
9 you'd want to do.

10 THE COURT: You can give me a charge on because my
11 concern about that one is the intimidation is more of the
12 result of it. A charge on the handwriting part is really
13 borderline charge on the facts and I'm afraid that is
14 going to be constitutionally prohibited.

15 MR. WARING: Yes, Your Honor.

16 THE COURT: But if you find me a case that our
17 court has recognized I'll be happy to consider it.

18 MR. WARING: Thank you, Your Honor. The only other
19 one and I don't know how you feel about this would be the
20 hand of one. I think there was some kind of testimony
21 maybe there was confusion over who had the gun.

22 THE COURT: I don't know that there was any
23 testimony on that. What's the testimony that there was
24 anybody else other than -- and maybe if the defendant had
25 testified or the co-defendant had testified then yes I

State v Devante Antonio Grant
Charge Conference
August 8, 2017

1 would agree with you. But without his testimony that
2 they were together and acting in concert I don't see how
3 that comes in from the evidence.

4 MR. WARING: The only reason we thought that is
5 because -- the reason we brought it up is because there
6 was testimony that Chisolm did plead guilty to the armed
7 robbery.

8 THE COURT: Yes, but that's doesn't make him the
9 hand of one. He didn't say he was with him. He didn't
10 say he did anything.

11 MR. WARING: Thank you, Your Honor.

12 THE COURT: Thank you. I'll think about it but
13 I'm not inclined to do that. I think there again we're
14 going back and I'm interpreting what that would imply and
15 suggest but I'll give it some thought. Anything else?

16 MS. EHRLICH: No, Your Honor.

17 THE COURT: Thank y'all. See you in the morning at
18 9:30. Thank you.

19 MR. WARING: Thank you, Your Honor.

20 [Whereupon, court adjourns at 5:05 p.m.]
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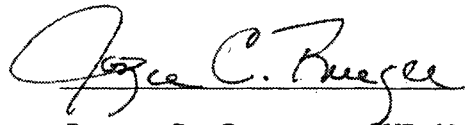
State v Devante Antonio Grant
Certificate of the Court Reporter
August 8, 2017

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of General Sessions for Charleston County,
South Carolina on the 8th day of August, 2017.

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

November 30, 2017



Joyce C. Rueger, CVR-M

Court Reporter

Certified Transcript provided to SCCID

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
State of South Carolina,	)	CASE NO. 2016-GS-10-02116
	)	2016-GS-10-2106
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	
	)	
Devante Antonio Grant,	)	
	)	
DEFENDANT.	)	
	)	

August 9, 2017

(Day Four of Trial)

Charleston, South Carolina

B E F O R E:

The Honorable R. Markley Dennis; and a Jury.

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

T. Richard Waring, II, Assistant Solicitor
For the State

David L. Osborne, Assistant Solicitor
For the State

Megan Sara Ehrlich, Esquire
For the Defense

I N D E X

Resume Trial 8/9/17	--	03
(See Previous Days 8/4/17, 8/7/17, 8/8/17)		
Closing by Mr. Waring	--	05
Closing by Ms. Ehrlich	--	14
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EXHIBITS -

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If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

1 (WHEREUPON, transcript for the first three days of trial
2 8/4/17, 8/7/17, 8/8/17, have been provided separately.)

3 (WHEREUPON, resume trial 8/9/17, 9:43 a.m., with court
4 reporter Phyllis Norton, following off-record charge
5 conference:)

6 THE COURT: Are we ready then?

7 MR. WARING: Yes, Your Honor.

8 THE COURT: And let the record reflect Mr. Grant is
9 present. Good morning, Mr. Grant.

10 MR. GRANT: Good morning.

11 THE COURT: We have them all?

12 THE BAILIFF: Yes.

13 THE COURT: Let's bring them in.

14 (WHEREUPON, jury enters courtroom 8/9/17, 9:44 a.m.)

15 THE COURT: Good morning. And we are ready now to
16 conclude this matter that we started on Monday. And I
17 appreciate so much your attention throughout.

18 And I appreciate the fact that - and I know I
19 speak on behalf of the attorneys here and the parties
20 involved - that we appreciate your honoring and keeping
21 that open mind that I am confident each one of you just
22 brought into this room.

23 And it won't be long -- much longer now before you
24 will be tasked with deciding the true facts and taking
25 the law that I will give you and applying it fairly and

1 impartially those facts. And I am confident you will
2 fulfill that obligation.

3 Have you already gotten the juror's orders?
4 (WHEREUPON, the Court confers with the clerk regarding
5 lunch.)

6 THE COURT: We have ordered your lunch. We try to
7 arrange so -- it is a guesstimate as to how long this
8 process is going to take. My guess is it is probably
9 somewhere between an hour, and hour-and-a-half,
10 thereabouts. It could be longer. It could be shorter.
11 It just depends.

12 But hopefully we will have a lunch that will
13 coincide with your deliberations and not delay you too
14 much for your lunch -- your lunching pleasures.

15 It is now proper for the attorneys to speak to you.
16 I would remind you that their statements while extremely
17 important should never be considered evidence because the
18 evidence you have heard through the testimony of the
19 witnesses and the exhibits that are introduced that you
20 will have a chance to review when you go back to your
21 jury room.

22 But please give them your attention and then
23 following the closing arguments I will give you the
24 instruction of the law.

25 Solicitor, good morning. You may proceed, sir.

CLOSING BY MR. WARING

1 MR. WARING: Good morning, Your Honor. Thank you.
2 May it please the court.

3 THE COURT: Yes, sir.

4 **CLOSING BY MR. WARING:**

5 Okay. While that is being set up, ladies and
6 gentlemen, what is going to happen next is as the judge
7 instructed closing arguments are going to happen.

8 The State is going to give a closing argument. The
9 defense is going to be able to give one. And then if we
10 feel anything needs to be replied to we have the right to
11 then come back and do a quick little rebuttal closing
12 argument. We don't have to.

13 Okay, ladies and gentlemen, at the beginning of this
14 trial I mentioned to you that everything in this case
15 that points to the defendant being guilty is connected
16 and everything has meaning if you look for it. It is all
17 here.

18 Let's go back through some of the evidence. I am
19 not going to take up too much of your time. I will try
20 to keep it as quick as possible. But we have just got to
21 go through some of this to show you what proves he is
22 actually guilty.

23 First off we have got the victim ID. We have got
24 her description of the defendant. Take a look at those
25 statistics and her descriptions. Those are accurate.

1 Especially when you consider that the victim had never
2 seen the defendant before and he was wearing a hoodie
3 which as you can imagine can add some weight to a
4 person's description.

5 She also testified she saw his face clearly and then
6 she was focusing on his face even though he was wearing a
7 hoodie. She also testified that he was standing on the
8 curb; which can account for, give or take, one or two
9 inches. So all things considered, her description is
10 accurate.

11 You have got the lineup itself. Now this lineup was
12 not suggestive. You heard testimony from the victim and
13 from Detective Jarrell who both testified that in no way
14 did anybody from the Charleston Police Department or
15 anybody else suggest to the victim that she should pick
16 out this defendant's photo.

17 There were six different photos. Nobody's photo is
18 arranged in a way that is to suggest anything. The
19 defendant's photo is not arranged in any way as to
20 suggest that she should pick out that photo.

21 Not to mention, the key point is what are the
22 odds that out of these six people the victim chose
23 and selected the one person who is related to the
24 co-defendant in this case. That is huge.

25 Not only did she pick the one person who is related

1 to the other guy involved in the case, Chisolm, but they
2 also lived together. That is important.

3 Now there was some testimony that she took her time
4 when she was selecting this photo and when she was going
5 through the identification procedure. And I think that
6 is a good thing. She wanted to make sure she picked out
7 the right person.

8 She said she cupped his photo so that she could
9 mimic what it would look like if he was wearing a hoodie
10 and that helped her determine he in fact was the right
11 person.

12 Now she testified that she said I think that is him.
13 What she didn't say is that could be him or that might be
14 him or that is not him. She said, I think it is him.
15 That is still a positive identification. And it shows
16 that she believes he is the one who did it.

17 Now I briefly want to talk about the expert
18 testimony that y'all heard about cross-racial
19 misidentification. In this case it just simply doesn't
20 work.

21 Now the victim testified that she has close friends
22 that are African-Americans, that her son has friends that
23 are African-Americans. This isn't the first time she has
24 come into contact with African-Americans. The expert
25 admitted herself that that factor alone makes it less

1 likely that she would have mistakenly identified the
2 defendant.

3 The expert testified she was paid for her testimony
4 and she has never testified for the prosecution, that she
5 has never met the victim and that in fact the victim
6 could have the right guy, she could have picked out the
7 right person.

8 Furthermore - and this is huge - the identification
9 is backed up by other evidence. It is not an isolated
10 identification, and that is it. There is other evidence
11 that proves the defendant is guilty and corroborates her
12 identification.

13 Now the big question throughout this whole trial has
14 been what is this guy going to do, is he going to testify
15 or isn't he. Well, he started to; and as you saw, he
16 refused to answer questions. I would ask that you use
17 your own common sense in coming to a conclusion about
18 what all of that means.

19 The ALPR hit. Now the armed robbery call, the
20 911 -- the 911 call took place at 8:47 P.M. Detective
21 Deming testified that a minute later at 8:48 P.M. he got
22 the call.

23 Now he testified as he was responding to the call he
24 saw a white Ford Fusion, a vehicle matching the victim's
25 vehicle, speeding up recklessly behind him on I-26 West

1 towards Dorchester Road flying down the road going
2 approximately 100 miles an hour, maybe more.

3 Now is it coincidence that at 9:09 P.M. at 3750
4 Dorchester Road that the victim's vehicle hit off of that
5 and a photograph was taken? And is it also a coincidence
6 that .4 miles away Chisolm's house sits?

7 And as was testified to by Chisolm's mom, the
8 defendant and Chisolm were living together at that time.
9 What does all of that mean? Well, the point is is that
10 the close proximity and the timing makes sense. It all
11 fits.

12 The jail calls. Now I know some of them were hard
13 to understand on the audio. But you are going to have a
14 chance to listen to those back in the jury room. I
15 encourage you to listen to those again.

16 Briefly I just want to take you through some of the
17 highlights. The defendant was arrested on February 6,
18 2016.

19 Two days later there is a jail call that y'all
20 heard - you can listen to it again back in the jury
21 room - where he is talking with Michael Allen telling him
22 to delete his Facebook, to delete his account.

23 He is essentially saying that his Facebook account
24 contains evidence of a crime because he said the police
25 are trying to get all the evidence they can on him.

1 In a different call the defendant is talking with
2 his mom about writing the jail letter to Chisolm. He
3 wrote the letter to intimidate him and silence him from
4 testifying against him. This kind of witness
5 intimidation is evidence of guilt.

6 Now in a portion of the call he tries to set up a
7 false alibi. He says Tuesday, Wednesday, Thursday, I
8 work on Tuesdays. His mom says, well, isn't that the day
9 you called out. He says, I did but I don't know how they
10 know.

11 Why is he trying to set up an alibi? Again, these
12 are all things that need to be considered when you go
13 back in the jury room and figure out whether or not he is
14 guilty.

15 At the end of another call he is back to talking
16 about the Facebook messages. He says the cops looked and
17 they couldn't find anything. Well, we know why that is.
18 Because he was on another call telling Michael Allen to
19 delete his account.

20 His final words on one of those calls are when he is
21 talking about the Facebook messages is step ahead, step
22 ahead. Are those the words of an innocent man? Why does
23 he need to be step ahead of the police?

24 On a different call he is talking to Michael Allen
25 and trying to get him to silence him from talking. He

1 said, don't slip up and say anything. Again, why is he
2 trying to tell all of these people not to talk?

3 At the end of that call the defendant is suggesting
4 that the police would try to get Michael Allen on an
5 accessory charge. Why in the world would he be saying
6 that Michael Allen would be charged with accessory if in
7 fact Michael Allen had not been an accessory after the
8 fact to this armed robbery? That just doesn't make any
9 sense.

10 Video visitation videos. In one particular video
11 the defendant is talking with Michael Allen and in a
12 cryptic way he is trying to get him to get Chisolm not to
13 go forward with his testimony. He wants them to get to
14 Chisolm to drop that or switch that thing up. And you
15 know he is talking about Chisolm because of the way he
16 says at the end how his case is automatically beat if he
17 can accomplish that.

18 Again, all of these things are not coincidental.
19 They all add up. They all connect.

20 Now you are going to have these back in the jury
21 room as well (displaying), and I ask that you study those
22 as well. I think they are important.

23 The letter. Not even a month in jail and the
24 defendant wrote Chisolm an incriminating letter from the
25 jail addressing it to Savon Chisolm, informant.

1 In the jail that is a big deal labeling somebody an
2 informant. He says in the letter this ain't 100, that in
3 other words he needs to keep his mouth shut and stick to
4 the street code like Michael Allen did when he got up
5 here.

6 The defendant said he wouldn't rat on his right
7 hand, not on his family, and that this whole thing is a
8 joke to him. He even goes on to say threatening comments
9 about Chisolm's mother.

10 Why does he write this stuff? It seems pretty
11 clear. He is trying to intimidate Chisolm or otherwise
12 suppress his testimony. And, again, this type of
13 evidence can be considered as evidence of guilt.

14 And what happened when it came time for this
15 defendant to give a handwriting sample? Well, you heard
16 what happened. Investigator Eckerd testified that he
17 said he was left-handed and he proceeded to write with
18 his left hand but looked uncomfortable. It looked
19 strange, like he wasn't comfortable writing with his left
20 hand.

21 Come to find out that wasn't his left hand -- that
22 wasn't his good hand; he is right-handed. And so what
23 happened when he got back the next day? He took up more
24 time, used his right hand. He was angry. He got upset
25 and threw the pen down and cussed at our investigator.

1 This is all important information.

2 The defendant's own interview. Right off the bat
3 the defendant says some things that are very interesting
4 to this case. He says he lives with his mom on Napoleon
5 Drive. Now the problem is Savon Chisolm's mom testified
6 that in actuality Chisolm and the defendant were living
7 at her house.

8 Now he also said he doesn't have a phone. A
9 17-year-old without a phone. At that day in age that
10 doesn't make any sense. These days everybody has a cell
11 phone.

12 When asked what his aunt's cell phone number was he
13 said he can't give that out either. Then he signs the
14 Miranda card with his right hand, showing again he is
15 right-handed.

16 He mentions he hasn't seen Savon Chisolm in a long
17 time, but in reality they have been living together all
18 along.

19 All these things add up. It all connects, and they
20 all have meaning. And the meaning is that he committed
21 this crime. We have proven these elements beyond a
22 reasonable doubt.

23 There is too much direct and circumstantial evidence
24 that shows the defendant committing these crimes. All of
25 this evidence connects. It all has meaning.

1 We are asking you to find him guilty.

2 THE COURT: Thank you, Solicitor.

3 Ms. Ehrlich.

4 **CLOSING BY MS. EHRLICH:**

5 People see what they want to see. They see things
6 from their own perspective, through their own lens, with
7 their own bias, and with their own experience and they
8 are influenced by their own wants.

9 And make no mistake, the State of South Carolina
10 sees this case one way and it is the way they want to see
11 it.

12 They see only that Davonte Grant must have committed
13 this armed robbery against Christina Hook. They are
14 incapable of seeing it any other way because they want
15 this case to be wrapped up, resolved. That way it gives
16 Ms. Hooks closure. And that way it is easy. But easy
17 isn't always right.

18 The only perspective that really matters is what you
19 see, what each one of you see when you look at the
20 evidence in the case and what you see when you see a lack
21 of evidence in the case and how you view it and what you
22 interpret from all of the evidence you see.

23 And when you truly review the evidence in the case
24 there is only one just verdict, and that is finding
25 Devante Grant not guilty.

1 Let's talk about some of the evidence in the case.
2 The State sees Christina Hook as having made a solid,
3 good identification. There's another explanation or
4 another possibility. She might have made a mistake.

5 And what evidence supports that? Testimony that her
6 mind had become foggy thinking back, that she wished they
7 had done a sketch of a suspect at the time of the
8 incident when the police first responded. And all that
9 talk about how she was focusing on some day making an
10 identification; when in reality, she told the detective I
11 wasn't really thinking about making an identification, I
12 was just thinking I don't want to get shot.

13 She gave conflicting descriptions of the robber.
14 Age 20 to 25, 150 to 160 pounds. Then later she says,
15 well, maybe he was 17 to 25.

16 We have a DMV photo and information that the State
17 provided to you where it is pretty clear 120 pounds. And
18 I don't know a 17-year-old who goes in a couple -- the
19 weight is entered in in November of 2015. I don't really
20 know a 17-year-old boy that goes in and tries to
21 underestimate his weight to make himself look lighter at
22 120 pounds.

23 There was also conflicting statements and testimony
24 offered by Ms. Hooks compared to prior things that she
25 had said.

1 She told you that when she was looking at the
2 lineup, this lineup (displaying exhibit), that she put
3 her hand over each person to simulate what a hoodie would
4 have looked like, but then admitted that she had never
5 said that before despite being under oath before and
6 discussing the identification. And there was no
7 testimony from Detective Jarrell that that ever occurred.

8 Monday was also the first time that she used the
9 words "it was definitely him" versus prior statements "I
10 think it is him".

11 And why does she say that? It is not an intentional
12 thing. But definitely sounds better to her when she
13 knows the identification is an issue and she had come to
14 court before on this case. She believes that it is him,
15 and it definitely sounds better. But we know from the
16 detective's testimony that that is not what she said.
17 She said "I think it is him".

18 It was dark out there. And the State presented
19 photographs that interestingly they presented on that
20 device that has got a light shining down (displaying
21 photo).

22 And it helps you see better because you can look at
23 the TV screen. But take a look at the pictures and tell
24 me it is not dark out there when you look at them for
25 yourselves. You imagine somebody from the Police

1 Department out there taking these pictures with flash
2 photography.

3 Look at where her car was parked and tell me it is
4 not dark out there. And the lights, they made a big deal
5 about brightening up this parking lot. They are facing
6 the other way. You can see the light reflecting on the
7 grass behind. It was dark.

8 There was also this idea that there was a bright
9 moon, the moon light was out, and that is the reason why
10 I said his eyes looked blue.

11 Again, no mention of moon light earlier. Nothing in
12 the photographs suggest some bright moon out there.
13 Nothing from Investigator Deming who was actually on the
14 scene.

15 When I asked him did you notice anything about the
16 moon, did you document anything about this bright moon
17 light, he looked at me like I was crazy.

18 If it had been a full moon that had made this
19 parking lot magically light up there would have been
20 documentation of it.

21 You also heard from Dr. McQuiston. And she didn't
22 come here to say, no, this idea is wrong or, no, this
23 idea is right. She came here to provide you with
24 information that you can use to judge the identification
25 for on your own.

1 She talked about how memory fades over time, how it
2 is normal to make mistakes in how you perceive things.
3 She also talked about how you look at things from your
4 own lens, from your own experience, that stress is
5 involved and the situation can affect how you perceive
6 things, environmental factors like the darkness.

7 And then there was a discussion about the impact of
8 this phenomenon called the cross-racial bias. And the
9 State got questions out and answers from Ms. Hooks about
10 her experience with the African-American community.

11 And, quite frankly, that was awkward. All of this
12 testimony about, oh, I know plenty of African-American
13 people, my best friend is African-American, my study
14 buddies are African-American. That is what you say when
15 you want to convince people you don't have a bias.

16 But there is bias in the words alone. If you are
17 using the words charcoal black or mulatto, there is
18 bias. When you hear the word mulatto that goes back
19 to a historical word. When we are talking about
20 African-American slaves being raped by Caucasian slave
21 owners that is where that comes from.

22 There is also testimony that confidence in your
23 identification doesn't necessarily equal accuracy.

24 And then there was discussion about a blind
25 administrator should really be administering the lineup.