

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BERKELEY COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BENJAMIN J. JACKSON,

APPELLANT

APPELLATE CASE NO. 2012-210107

SUPPLEMENTAL RECORD ON APPEAL

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OCT 14 2013

SC Court of Appeals

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1 not come out, that he would see him.

2 Q I'm going to show you some photographs now.

3 (Pause.)

4 I'm going to show you what's been marked
5 State's Exhibit 8. It's going to come up on the screen
6 behind you.

7 A So turn around?

8 Q Uh-huh. Do you recognize that photo?

9 A Uh, yes.

10 Q What is that?

11 A It's my Expedition.

12 Q Uh, what do we see here? Can you point out
13 what's different about your car?

14 A Yes, the top luggage rack thing's gone. The
15 emblem that was right here next to my license tag or
16 where my tag used to be was a silver-colored Palmetto
17 tree.

18 Q Okay.

19 A That's where my Palmetto tree was at. It was
20 silver colored. And my sandals -- blue sandals was in
21 that corner. My blue Palmetto tree was in that corner.
22 Of course, my tag's gone. That's still there. And they
23 kept my -- I forgot about that. They kept that, the
24 cover that went around my tag.

25 Q So they changed the tag out and it looks like

1 your emblem is missing and the stickers are gone?

2 A Yes.

3 Q Okay.

4 A The back of it, I think it said, uh, no
5 trespassing written on the back of it. And I took it
6 off.

7 Q I'm going to show you now what's been marked as
8 State's Exhibit 13. And do you recognize that?

9 A Yes. That's my same -- that's my vehicle.
10 That's damage done to the corner of it.

11 Q Is that the only damage you see is the corner
12 right there?

13 A Uh, as of right now, yes.

14 Q I'm going to show you now what's marked as
15 State's Exhibit 11. Do you recognize that?

16 A Uh, yes. That's the good side of it.

17 Q That's the good side?

18 A Yes, ma'am.

19 Q So there was no damage on this side that you
20 could see?

21 A Uh, none that I was aware of. I don't know
22 what the guy at the body shop found after he got it. To
23 me, it looked good.

24 Q I'm going to show you what's been marked
25 State's Exhibit 9.

1 **A** This is still my vehicle and this is the
2 driver's side. That's tore off. Dents in it. All
3 that's tore open. Dents in there. The light, the mirror
4 thing and all is all broke up on it.

5 **Q** And this damage was not on your vehicle prior
6 to the robbery?

7 **A** No, ma'am.

8 **Q** This is what it looked like once you got it
9 back?

10 **A** Yes.

11 **Q** Also let me show you what's been marked State's
12 Exhibit 10. And can you tell us what this is?

13 **A** That's the back of my vehicle. Again, that's
14 where my Palmetto tree is at. And again, my tag is gone.

15 **Q** I'm going to show you now what's been marked
16 State's Exhibit 14.

17 **A** Uh, that's my glove box console. That was one
18 of my appointment cards right back there. But other than
19 that, I don't recognize anything else that's in the
20 thing. All my stuff is gone.

21 **Q** So those things in the console aren't yours?

22 **A** No.

23 **Q** Okay. I'm also going to show you what's been
24 marked State's Exhibit 12. Do you recognize what's in
25 this photograph?

1 A Uh, I don't know if that's my book that was in
2 the glove box with my papers and stuff in it. It seems
3 like it may be, uh, --

4 Q Is that --

5 A Do what now?

6 Q Is that Wal-Mart bag yours?

7 A No. Nothing else in there -- my floor mats are
8 in there, but the bags aren't mine.

9 Q And the Sprite bottle?

10 A Oh, no. None of that stuff's mine. I don't
11 know what that book is right there.

12 Q Let me show you one more picture again. What's
13 been marked State's Exhibit 8. The, uh, back sensors on
14 the automobile --

15 A Oh, yes. Right there. That's the sensors that
16 was on the --

17 Q And the Ford emblem?

18 A That was on the trailer hitch, the trailer
19 hitch thing with the ball that was in. I had that in the
20 back. I didn't --

21 Q After you initially talked to police officers
22 the day of the incident, did you have a chance to talk to
23 the police anymore?

24 A Uh, yes, I did. I spoke with them off and on.
25 Okay. I spoke with them off and on and also the

1 Sheriff's Department.

2 Q Were you able to provide them with anymore
3 information?

4 A Yes, I did. I provided the Sheriff's
5 Department more information.

6 Q And what was that information?

7 A The information was about the trailer hitch
8 cover.

9 Q The Ford emblem one?

10 A Yes, the Ford emblem one. I did not tell them
11 about that to begin with.

12 Q Okay.

13 A And of course the tag thing, I didn't realize
14 they were going to keep that.

15 Q And did you also --

16 A And about the sensors that was on the -- how
17 many sensors that that year model had. I told them that
18 that year had that many sensors on the back of it and
19 also about the Ford emblem thing being on it.

20 Q Okay. I'm going to show you some more photos.
21 I'm going to show you what's been marked as State's
22 Exhibit 17. Is there anything that you identify in this
23 picture?

24 A Yes, ma'am. That's my roadside assistance kit
25 that I had in the back. And I think the way that it

1 looked, that's my, uh, -- it was in my vehicle or either
2 -- I don't know what that is. I just know that that is
3 mine.

4 Q All right. I'm going to show you what's been
5 marked State's Exhibit 19.

6 A My cooler is the only thing I recognize in that
7 picture.

8 Q So you can identify that that's your cooler?

9 A Yes, ma'am.

10 Q What I forgot to mention is that these are
11 photos that were taken from the defendant's residence at
12 the time of the search warrant. So these are items that
13 were found in his home.

14 A My tires are -- my tires are regular full-sized
15 tires. I don't know whose that is.

16 Q So it's just the cooler that you recognize as
17 being yours?

18 A Yes.

19 Q Okay. I'm going to show you what's being
20 marked as State's Exhibit 22 now.

21 A This bottle of medicine here, I'm pretty sure
22 that's my bottle of Motrin that I had in my console at
23 the time of the robbery. I always carry Motrin or
24 Aspirin.

25 Q Uh, I'm going to show you now State's Exhibit

1 23. That's a closer shot for you to identify.

2 A Uh, yes, that's it. That's mine.

3 Q Okay. I'm now going to show you what is marked
4 as State's Exhibit 27. Do you recognize what that is?

5 A Yes, ma'am. That's a check that I had written
6 out and had it over my sun visor.

7 Q So that was in your car at the time?

8 A Yes. It was in my car at the time.

9 Q I'm going to show you now what's been marked as
10 State's Exhibit 29. Do you recognize anything in this
11 photo belonging to you?

12 A The Palmetto throw that was in the back seat of
13 my vehicle.

14 Q And how --

15 A And I don't recall -- I don't recognize
16 anything else.

17 Q How can you tell that's your throw?

18 A Well, my son gave me that throw for Christmas
19 or birthday. I know it was a gift. I always carried it
20 in the backseat -- it was a nice heavy one -- for my two
21 puppy dogs to lay on because that's where they normally
22 ride with me.

23 Q I'm going to show you what has now been marked
24 State's Exhibit 32. Are you able to recognize what that
25 is?

1 A Yes, ma'am. That is the Palmetto tree emblem
2 that was next to my license tag on my vehicle -- that I
3 had stuck on the back of my vehicle.

4 Q And it was the one that had been removed when
5 you got your vehicle back?

6 A Yes.

7 Q Also show you what has been marked as State's
8 Exhibit 37. Can you tell me what that is?

9 A That's one of the back.

10 Q So it's a photo --

11 A Yes, where something had been removed right
12 next to my tag.

13 Q Okay. And I'm also going to show you State's
14 Exhibit 39. Do you recognize those?

15 A Yes, ma'am. That's my bottle of Motrin.

16 Q And I'm going to show you State's Exhibit 40.
17 Can you tell us what that is?

18 A And that's my check. That's my handwriting.
19 That's it that belongs to me.

20 Q Okay. I'm going to show you what's been marked
21 State's Exhibit 30 now. Do you recognize what that is?

22 A Yes, ma'am. That's my trailer hitch that I had
23 in the back with the ball on it.

24 Q How are you --

25 A And it was the long -- my vehicle sat up so

1 high. The trailer that I had to pull the motorcycle or
2 the golf cart on was -- I had to get the long hitch.

3 Q Where was that in your vehicle?

4 A It was in the back, uh, -- in the back storage
5 area right there where I set my cooler and everything.

6 Q Okay. I'm going to show you now what's been
7 marked as State's Exhibit 31. Are you able to --

8 A That's my luggage rack that was on the top of
9 my vehicle at the time that it was stolen.

10 Q So it was on your car at the time it was
11 stolen?

12 A Yes, it was permanently connected. It came on
13 it.

14 Q Okay. But you're able to recognize that that's
15 yours?

16 A It's one like it. It looks like it -- the same
17 thing.

18 Q Okay.

19 A I know it was missing when, uh, I had to
20 replace it when I had the vehicle repaired.

21 Q I'm going to show you now what's been marked as
22 State's Exhibit 25. I believe this was recovered from
23 the defendant's trash can. Are you able to recognize any
24 of the items that you see here?

25 A Yes. This right here was my insurance papers

1. from the insurance company. This right here looks like
2. where I had the vehicle in for repairs at one point.
3. That's my --

4. Q You say that's mine. What is that?

5. A With my signature on it. It was a bank
6. withdrawal or either deposit or something that I had made
7. out. It was back in -- of course, that was back in '08,
8. but it was in there.

9. Q Now, I'm going to show you State's Exhibit 26.
10. This is just a closer version of that picture so you can
11. see easily.

12. A Okay. All right.

13. Q You can point out your signature.

14. A Yes. My name is there. Everything is on
15. there. My signature is right here.

16. Q And those were in the car at the time it was
17. stolen?

18. A Oh, yes.

19. Q And they were not in the car the time you got
20. it back.

21. A Right.

22. MS. KENNEDY: Your Honor, if I may, I loathe
23. objections, but there's been a constant series of
24. leading questions and also, uh, injection of
25. testimony by the Assistant Prosecutor. I just would

1 make that objection.

2 **THE COURT:** Don't lead the witness. Just ask
3 the questions. Don't, uh, edit. Okay?

4 **MS. PITTMAN:** Okay.

5 **BY MS. PITTMAN:**

6 **Q** I'm now going to show you what's been marked
7 State's Exhibit 24.

8 **A** That is my GPS with my home address on it ---

9 **Q** So that's your GPS?

10 **A** --- that I put in there.

11 **Q** And that was in the car at the time it was
12 stolen?

13 **A** Yes, it was. It was in my console at the time.

14 **Q** And it was missing at the time?

15 **A** Yes.

16 **Q** Okay. You can turn back around now. Did you
17 keep the car once it was returned to you?

18 **A** No, I did not.

19 **Q** Why did you sell it?

20 **MS. KENNEDY:** Your Honor, I object on the
21 basis of relevance. Whether she kept it or she sold
22 it doesn't really relate in this case.

23 **THE COURT:** Unless you want to come up here
24 and talk to me, I'm going to sustain the objection.
25 I'll be glad to hear you up here at the bench.

1 (WHEREUPON, a bench conference is held off the
2 record.)

3 **BY MS. PITTMAN:**

4 Q How much were you able to sell the vehicle for?

5 A 15.

6 Q Just to clarify, would that be 15,000?

7 A 15,000. I'm sorry.

8 Q Okay.

9 A I thought about that afterwards when you turned
10 around. I was still paying for it at the time.

11 Q Okay.

12 A So I had to get what I could out of it.

13 Q I think that's all. Please answer any
14 questions that the defense attorney has for you.

15 **THE COURT:** All right. Cross-examination.

16 **MS. KENNEDY:** Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 **BY MS. KENNEDY:**

19 Q Good morning, Ms. Dunning, how are you?

20 A I'm fine.

21 Q Uh, I'd like to turn your attention back to
22 what happened at the church that morning. You indicated,
23 I believe, that the person who came into the church came
24 in through a side door or a back door?

25 A I have no idea which door he came in through.

1 Q Okay. How many doors were there?

2 A It's 1, 2, 3. It's three side doors and a set
3 of double doors under the breezeway.

4 Q And he came in behind you?

5 A He came into the kitchen area behind me, yes,
6 he did.

7 Q Okay. And did he grab you in any way?

8 A No, he did not.

9 Q Okay. But you also indicated that the gun was
10 at your face?

11 A Yes, I had my back turned.

12 Q So you didn't see him?

13 A I didn't see him. I didn't hear him until --

14 Q You didn't really see him when he came to you
15 and said give me your keys or give me your phone?

16 A Uh, no, when I turned around, I didn't.

17 Q But --

18 A I had my back to him.

19 Q So you didn't see him?

20 A I didn't see him at that time.

21 Q When did you see him?

22 A Whenever I turned around.

23 Q And how much of him did you see?

24 A I was looking up the barrel of the gun. He had
25 it in the middle of my eyes.

1 Q So you were looking at the gun and not the
2 person?

3 A I was looking up the barrel of the gun and I
4 could see his arms and all.

5 Q And he in a polite way asked you for your keys
6 and your cell phone?

7 A Oh, yes. He had no problems with announcing
8 what he said with the f'ing.

9 Q I understand. At what point did you go down on
10 the floor?

11 A I guess whenever he got ready to leave and go
12 out and get my vehicle. He had me lay down on the floor.

13 Q Okay.

14 A He asked for all the other stuff. He had me
15 lay down face down on the floor and do not move or he was
16 going to blow my f'ing head off.

17 Q Okay. And how -- I know it was a very
18 frightening experience, but how long did you guess that
19 this whole episode took in terms of seconds or minutes
20 or --

21 A It was -- I would imagine a matter of a couple
22 of minutes.

23 Q A couple of minutes?

24 A It wasn't long there.

25 Q Okay. And, uh, all you know about the gun is

1 just it was a long barrel.

2 A It was a long barrel because the person was
3 taller than I was.

4 Q Okay.

5 A I was looking up the barrel of that gun.

6 Q Okay. How tall are you?

7 A I'm about 5'3, 5'4 somewheres along in that
8 area. I'm short.

9 Q So the description that you gave in terms of
10 the person --

11 A The person was taller than me.

12 Q All right. So where do we get the, uh, -- I
13 believe it was the 5'11 to 6'2 range of height.

14 A Uh, the person was taller than me. That was
15 what we were -- I just know that they were --

16 Q Okay. So that's just an estimate. That's
17 not --

18 A That's just an estimate.

19 Q How about the weight?

20 A The weight? He was tall and skinny.

21 Q So at best, it was a guess?

22 A Basically, yes.

23 Q Okay.

24 A Cause I had no idea how much he weighed.

25 Q All right. That's fine. I understand. And

1 you gave, uh, a statement, uh, to -- I don't know. You
2 gave a written statement --

3 A To Lee Wadford.

4 Q To Lee?

5 A I'm sorry. Whatever he is.

6 Q Sergeant Wadford?

7 A Right.

8 Q He took a statement from you?

9 A Yes, he did.

10 Q Okay. Uh, did anybody else come to take a
11 statement from you that day?

12 A Uh, I spoke with John Waters.

13 Q Okay. And for the benefit of the jury, who is
14 John Waters?

15 A He's the Chief of Police.

16 Q For St. Stephen?

17 A Yes.

18 Q Uh, anybody from the Berkeley County Sheriff's
19 Office come to you that day?

20 A Uh, talked to them on the phone and I seen them
21 a little bit later on after the St. Stephen police, you
22 know, put it over into their hands. Then I talked to
23 them. They were assisting. The Sheriff's Department
24 were assisting St. Stephen in the case.

25 Q Explain if you will. What do you mean a little

1 bit later on? Was it later on that day?

2 A It was a few days afterwards before I -- before
3 I spoke with --

4 Q You were contacted by them?

5 A Yes.

6 Q Okay. It was at that point in time you were
7 able to give the information concerning all the other
8 things that were in your vehicle?

9 A Yes. That was whenever I thought about it.
10 That's whenever I told them what else to look for on my
11 vehicle in case the person had removed that stuff.

12 Q Okay. Anybody ever ask you, uh, --

13 A I never told nobody else about that other than
14 him.

15 Q Okay. Anybody ever ask you from the Sheriff's
16 Department if you had, upon reflection, you had any
17 additional information to give in terms of the
18 description of the person who took your car or went into
19 the church that day?

20 A Uh, yeah. They also asked from the Sheriff's
21 Department the same description as the St. Stephen Police
22 Department.

23 Q So basically with the information you gave
24 them, it was just an affirmation of the information you
25 gave to Sergeant Wadford?

1 **A** Correct.

2 **Q** And at no point did anybody ever come and ask
3 you to identify anybody -- present you with a photo
4 lineup or any of those things?

5 **A** No.

6 **MS. KENNEDY:** All right. Court's indulgence.

7 (Pause.)

8 That's all we have, Ms. Dunning. Thank you
9 very much.

10 **THE COURT:** Redirect?

11 **MS. PITTMAN:** Brief.

12 **REDIRECT EXAMINATION**

13 **BY MS. PITTMAN:**

14 **Q** Ms. Kennedy asked you if you were in the same
15 part of the church where he first confronted you, where
16 you laid down. Where did he have you to lay down?

17 **A** He had me lay down on the floor in front of
18 the, uh, refrigerator and the freezer that was in the
19 back in the kitchen area where I was at. That's where I
20 was at.

21 **Q** That was the same -- is that the same room that
22 he confronted you?

23 **A** Correct. In the same area that he had come in
24 with the gun.

25 **Q** How far did he have you move?

1 **A** Basically, like two steps and then lay down on
2 the floor.

3 **Q** Did he force you to lay down anywhere else?

4 **A** No.

5 **THE COURT:** Any recross?

6 **MS. KENNEDY:** No, Your Honor. Thank you.

7 **THE COURT:** You may step down. Thank you
8 very much.

9 Call your next witness.

10 **MS. PITTMAN:** The State calls Phillip
11 Balentine.

12 **THE CLERK:** Place your left hand on the
13 Bible.

14 **PHILLIP BALENTINE**

15 having first been sworn, testifies as follows:

16 **THE CLERK:** Please be seated. State your
17 full name. Spell your last name for the record.

18 **THE WITNESS:** Okay. My name is Phillip
19 Benjamin Balentine. B-A-L-E-N-T-I-N-E.

20 **DIRECT EXAMINATION**

21 **BY MS. PITTMAN:**

22 **Q** Where do you live, Mr. Balentine?

23 **A** St. Stephen, South Carolina.

24 **Q** Are you employed?

25 **A** Yes, ma'am.

1 Q Who do you work for?

2 A My brother and myself run a contracting
3 company.

4 Q How long have you worked for them?

5 A Uh, 2009.

6 Q Okay. Directing your attention to May 18th,
7 2010, were you working at the St. Stephen Evangelical
8 Church that day?

9 A Yes, ma'am.

10 Q And where is that church located?

11 A On Highway 45 going out of St. Stephen.

12 Q Is that in Berkeley county?

13 A Yes, ma'am.

14 Q Do you know who else was working there that
15 day?

16 A Yes, ma'am.

17 Q Who would that have been?

18 A Electricians and Berkeley HVAC, Consolidated
19 Electric.

20 Q Do you know about how many people that was?

21 A Uh, 9, 10.

22 Q And about how long had you been working there
23 at that point?

24 A That day?

25 Q Yeah.

1 A I think I got there around 8:00.

2 Q What kind of work were you doing there that
3 day?

4 A Mostly like HVAC. We were trying to wrap the
5 job up. HVAC electrical work.

6 Q Did anything unusual happen that day?

7 A Yes, ma'am. I was in the office trying to get
8 some emails generated. I saw Ms. Hazel's car taken of
9 out of the parking lot. It was kind of odd, you know.
10 She wouldn't have been going that fast.

11 Q Do you know about how fast the car was going?

12 A No, ma'am. But fast enough to squeal tires.

13 Q How was it driving?

14 A Like erratic. I don't know. Just taking off.

15 Q Did you have a chance to see the victim, Hazel
16 Dunning?

17 A Yes, ma'am.

18 Q When did you see her?

19 A About 30 seconds or a minute after it happened
20 probably.

21 Q How did she appear?

22 A Very distraught. Pretty upset.

23 Q What direction did you see the car take off in?

24 A I was sitting in the office. It went out of
25 the parking lot to Highway 45.

1 Q And what did you do?

2 A Uh, I got in my car. Some of the other guys on
3 the construction site said it went out of town. I
4 followed it and called 911.

5 Q I'm going to show you what's been marked
6 State's Exhibit 42. Do you recognize this item?

7 A Yes, ma'am.

8 Q Are these your initials?

9 A Yes, ma'am.

10 Q Have you listened to this tape today -- before
11 today?

12 A Before today, yes, ma'am.

13 Q What is this tape of?

14 A It's a 911 call.

15 Q Is it an accurate recording of the 911 call you
16 made?

17 A Yes, ma'am.

18 Q Has it been altered or tampered or is it a true
19 and accurate reproduction of that call as you remember
20 it?

21 A Yes, ma'am.

22 MS. PITTMAN: At this time, I'd like to play
23 the 911 tape.

24 MR. ALFARO: Your Honor, can we approach?

25 THE COURT: Sir?

1 **MR. ALFARO:** Can we approach?

2 **THE COURT:** Yes, sir.

3 **(WHEREUPON, a bench conference is held off the**
4 **record.)**

5 **THE COURT:** All right. Mr. Foreman, Ladies
6 and Gentlemen of the jury, we're going to take a
7 break at this time. If you have any smokers, let
8 the bailiff know and they'll take you to the
9 appropriate place to smoke. If you need anything,
10 let the bailiffs know. Please don't discuss the
11 case among yourselves. People taking notes, leave
12 the notepads in your chairs. I'll get you back in
13 about 15 or 20 minutes.

14 **(WHEREUPON, the jury exits at approximately**
15 **11:02 a.m.)**

16 **THE COURT:** All right. Go to the break.
17 Please don't discuss your case with anybody, Mr.
18 Balentine, okay?

19 **THE WITNESS:** Yes, sir.

20 **THE COURT:** All right. We'll take about a 15
21 to 20 minute break.

22 **MR. ALFARO:** Thank you, Your Honor.

23 **(WHEREUPON, a short recess is taken.)**

24 **THE COURT:** The State ready to proceed?

25 **MR. ALFARO:** Yes, Your Honor.

1 **THE COURT:** The defense ready?

2 **MS. KENNEDY:** Yes, Your Honor, please.

3 **THE COURT:** Mr. Balentine, if you'll come

4 have a seat.

5 Get the jury, please, ma'am.

6 **(WHEREUPON, the jury enters at approximately**

7 11:30 a.m.)

8 **THE COURT:** Are you ready to play the 911

9 tape?

10 **MS. PITTMAN:** Yes, sir.

11 **THE COURT:** Okay.

12 **BY MS. PITTMAN:**

13 **Q** Mr. Balentine, before we broke, we were about

14 to listen to that 911 call. I'm going to have you listen

15 and then I'll ask you a few questions afterwards.

16 **A** Okay.

17 **(WHEREUPON, State's Exhibit 42 is played.)**

18 **BY MS. PITTMAN:**

19 **Q** Okay. Mr. Balentine, that was your voice on

20 the tape?

21 **A** Yes, ma'am.

22 **Q** And that was the call that you made?

23 **A** Yes, ma'am.

24 **Q** How long did you follow in the direction of Ms.

25 Dunning's car?

1 **A** Uh, I came back through Jamestown. Drove
2 around like the back roads and rock roads back to St.
3 Stephen.

4 **Q** And what did you do then?

5 **A** I came back to work.

6 **Q** Did you have an opportunity to speak with a
7 police officer regarding the incident?

8 **A** Yes, ma'am.

9 **Q** And did you give a statement?

10 **A** Yes, ma'am.

11 **MS. PITTMAN:** Nothing further, Your Honor.

12 Please answer any questions that the defense
13 attorney have for you.

14 **THE COURT:** Cross-examination.

15 **CROSS-EXAMINATION**

16 **BY MS. KENNEDY:**

17 **Q** I just have a few questions for you. Related
18 in that tape, you didn't know whether the person who had
19 taken Ms. Dunning's car was black or white?

20 **A** No, ma'am.

21 **Q** You didn't see him at all?

22 **A** No.

23 **Q** And you indicated earlier that you own a
24 contracting company and y'all were at the church doing
25 some work?

1 **A** Additions. About 6000-square-foot additions.

2 **Q** Okay. And you said that they were like 9' or 10
3 people working around the church that day?

4 **A** Mostly like inside the addition.

5 **Q** Okay. All those people working for you?

6 **A** Yes, ma'am.

7 **Q** But there were some who were working outside?

8 **A** Yes, ma'am.

9 **Q** Could you tell me whether Mr. Myzell was
10 working for you that day? Eddie Myzell?

11 **A** Yes, ma'am.

12 **COURT REPORTER:** I'm sorry?

13 **MS. KENNEDY:** Eddie Myzell. I'm sorry. I
14 didn't mean to walk away.

15 **BY MS. KENNEDY:**

16 **Q** Josh Myzell and Harold Marvin, Jr.?

17 **A** Yes, ma'am.

18 **Q** And the information that you got from Ms.
19 Dunning was that she had -- somebody pointed a gun at
20 her, took her car and her keys and her cell phone?

21 **A** Yes, ma'am.

22 **Q** That will be all I have. Thank you, sir, very
23 much.

24 **THE COURT:** Any redirect?

25 **MS. PITTMAN:** No, Your Honor.

1 **THE COURT:** Mr. Balentine, you may step down.
2 Thank you very much.

3 **THE WITNESS:** Yes, sir.

4 **THE COURT:** Call your next witness please.

5 **MS. PITTMAN:** The State calls Harold Marvin.

6 **THE CLERK:** Please raise your right hand.
7 Place your left hand on the Bible.

8 **HAROLD MARVIN**

9 having first been sworn, testifies as follows:

10 **THE CLERK:** Please be seated. State your
11 full name and spell your last name for the record.

12 **THE WITNESS:** My name is Harold Arthur
13 Marvin, Jr. Last name, M-A-R-V-I-N.

14 **DIRECT EXAMINATION**

15 **BY MS. PITTMAN:**

16 **Q** Where do you live, Mr. Marvin?

17 **A** Uh, Summerville.

18 **Q** Are you employed?

19 **A** Yes, ma'am.

20 **Q** Who do you work for?

21 **A** (Inaudible) Heating and Air.

22 **Q** How long have you worked for them?

23 **A** Four plus years.

24 **Q** Okay. I'm going to direct your attention to
25 May 18th, 2010. Were you working at the church that day?

1 A Yes, ma'am.

2 Q And where is that church located?

3 A Uh, St. Stephen. I don't know the road. I'm
4 not familiar with that area.

5 Q Is it in Berkeley county?

6 A Yes, ma'am.

7 Q What work were you doing on that day?

8 A Rough-in on a new addition they had built.

9 Q Do you know who else was working there that
10 day?

11 A Uh, some electricians, yes, ma'am. Some
12 plumbers were there, the contractor and my help at that
13 time.

14 Q About how long had you been working there at
15 that point?

16 A A month, I believe. A month or two.

17 Q And what kind of work were you doing again?

18 A The heating and air.

19 Q Where exactly were you working in the church?

20 A Uh, the new addition part near the vestibule.
21 There's a mechanical room right next to the vestibule.
22 It's the new addition part.

23 Q Okay. Did you have an opportunity to see when
24 the victim, Ms. Dunning, arrived at the church?

25 A Excuse me?

1 Q Did you have an opportunity to see when Ms.
2 Dunning got there that morning?

3 A Oh, yes, ma'am.

4 Q Okay. Did anything unusual happen that day at
5 the church?

6 A Yes, ma'am.

7 Q What happened?

8 A A rather large loud noise coming from, I guess
9 it's their banquet room or whatever the building is in
10 the back.

11 Q Uh-huh.

12 A There's an overhang right there. That, of
13 course, would catch your attention because evidently
14 everybody knows it makes a lot of noise if you slam the
15 door.

16 Q Okay.

17 A Uh, and then I saw the vehicle leaving rather
18 quickly through some gravel. Everyone that's been there
19 many of times knows to slow down through the gravel. It
20 just catches your attention.

21 Q Uh, did you recognize that car?

22 A Yes, ma'am.

23 Q And whose car was it?

24 A That was Ms. Dunning's Expedition.

25 Q How were you able to recognize that was her car

1 driving off?

2 **A** Cause there wasn't too many outsider's vehicles
3 there at that property. It was the same one I saw and
4 had her little stickers on the back. It's very clean.
5 There were no other Expeditions there.

6 **Q** Okay. Did you happen to see who was driving?

7 **A** A silhouette. That was about it.

8 **Q** And after that, where did you see the vehicle
9 go?

10 **A** It came out of the parking lot and went right.
11 I'm sorry. I don't know the road.

12 **Q** What did you do or see after that?

13 **A** Ms. Dunning come around the corner crying her
14 eyes out.

15 **Q** Did she tell you what happened?

16 **A** Yes.

17 **Q** What happened then?

18 **A** One of the guys that was with us ended up
19 calling 911 at that point.

20 **Q** And who was that?

21 **A** Phillip Balentine.

22 **Q** Was anyone with him that you know of?

23 **A** When he made the phone call or --

24 **Q** When he made the phone call and drove off?

25 **A** No, he was leaving by himself.

1 Q Did you call 911?

2 A No, ma'am. The phone call had already been
3 made.

4 Q Did you ever see the car again?

5 A The Expedition? No, ma'am.

6 Q Going back to her vehicle, you said you were
7 able to tell it was hers because of some stickers that
8 was on the back. Do you recall what those stickers
9 looked like? What they were?

10 A I believe it was the sticker of the Palmetto
11 moon on it. I never really studied her vehicle. It was
12 just the placement of some stickers on there.

13 MS. PITTMAN: Nothing further.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MS. KENNEDY:

17 Q Uh, you, uh, gave a statement to Berkeley
18 County Sheriff's Office, is that correct?

19 A Yes, ma'am.

20 Q What time of day was it that you gave the
21 statement?

22 A I believe it was around lunchtime.

23 Q Around lunchtime which would have been --

24 A I'm thinking -- it's been a while. Probably
25 right after we ate lunch. Probably -- I don't know.

1 Q I know y'all start work real early.

2 A Yeah. And sometimes we eat lunch, sometimes we
3 don't. If we eat lunch late --

4 Q What would be late for you?

5 A Two o'clock.

6 Q Okay. And the regular time would be what time?

7 A Sometimes 11:30.

8 Q So any time between 11:00 and 2:00 o'clock.

9 Okay. And did the people of the Sheriff's Office come to
10 the church to interview you?

11 A Yes, ma'am.

12 Q And basically, all that you know is that you
13 saw the car speed away?

14 A Yes, ma'am.

15 Q And you couldn't tell who was driving?

16 A I knew who wasn't driving. That was about it.

17 Ms. Dunning. The way she sits in a vehicle --

18 Q You knew that it wasn't Ms. Dunning driving the
19 car?

20 A Oh, yeah.

21 Q All right. And then the thing about the loud
22 noise, that's the slamming of what door?

23 A Of the door. There's a overhang at the
24 property that joins the old church to, uh, -- I don't
25 know if it's a conference facility, a fellowship hall or

1 whatnot.

2 Q All right.

3 A We didn't do any work over there.

4 Q You indicate you had been working there for
5 about a month?

6 A I think about a month or two.

7 Q And on average, how many workers would have
8 been there during the work days that you were there?

9 A At the beginning, maybe six to eight.

10 Q And where were we in the -- were we still at
11 the beginning?

12 A Yes, ma'am. We were at the sheetrock stage,
13 the final.

14 Q And you said you were doing rough end?

15 A Yes, ma'am. It's a rough end of putting
16 ductwork up.

17 Q I was going to ask you. I had no idea.

18 A I'm sorry.

19 Q No, no, no. What is rough-in?

20 A It's still, uh, -- no drywall on the wall. The
21 roof is going on. No windows. Pretty much bare bones.

22 Q And you said you were there with your, I think
23 the words were my help at that time.

24 A Yes, ma'am.

25 Q Who would that have been?

1 Q Where did you actually stop him at?

2 A I stopped him as you -- when you -- right where
3 there's a -- there's a fuel depot. There's a little pull
4 off part, a paved part. Pulled right off there and I
5 pulled in right behind him there.

6 Q I'm going to show you what's in evidence as
7 State's Exhibit 8. It's going to come up on the screen
8 behind you there once I figure out how to work this
9 pointer. I'm going to give you that. If you can, tell
10 the jury what it -- do you recognize that vehicle?

11 A Yes, I do. That's the vehicle I stopped that
12 night. There's the four plug-in hitch I noticed.
13 There's the four back-up sensors I noticed. You can see
14 the tape right there. Normally, that's a space where
15 they write in. It was taped over.

16 Q Show you State's Exhibit -- what's in evidence
17 as State's Exhibit 10. Could you -- it's a little closer
18 up view of the back of the car. Could you describe what
19 you were starting to say about the tape and the tag?

20 A This was the tag. Like I said, there's a piece
21 of tape with a date written on the tape. Normally, like
22 I said, that's just a spot that's normally on your paper
23 tag where the dealer writes the date on there.

24 Q Okay. So at this point, you have the vehicle
25 stopped, is that correct?

1 **A** There were other officers that joined in the
2 chase, yes.

3 **Q** How many cars would you say you saw initially
4 get involved in the chase?

5 **A** I know that Sergeant Cline, Cannon and there
6 was another deputy, I believe it was Brian Mosier, was in
7 the chase. Also heard on the radio where Dan Wilson,
8 another deputy, was in the chase also.

9 **Q** So the portion of the chase that you saw, how
10 many patrol vehicles were behind that SUV?

11 **A** There would have been two that I'm sure of.
12 I'm not sure how many others. But I know two for sure.

13 **Q** And did both of them have their blue lights on?

14 **A** They did.

15 **Q** And after those officers took off after the
16 SUV, where did you go?

17 **A** I basically went down 78 towards Jamestown. I
18 began to think after being at the Sheriff's Office, there
19 are a lot of side roads. You know, you can turn and make
20 your way back, double back. I was just kind of in the
21 general area, checking out the side roads to see if he
22 made that turn and I could kind of have a lay of the land
23 on where he may go.

24 **Q** Did you come in contact with him?

25 **A** I never did.

1 Q Good afternoon.

2 A Good afternoon. Good afternoon.

3 Q Uh, let's just start, if we could, at the
4 church. Just so I understand, you are Captain of
5 Investigation?

6 A That's correct.

7 Q How long have you had that position?

8 A 12 to 15 years, I guess. Time flies.

9 Q All right. And so you, uh, -- you all -- I
10 guess it was Captain Waters from St. Stephen called you
11 all about this incident?

12 A Yes, ma'am. Chief Waters, who is the Chief of
13 St. Stephen, we have agreements that we assist other
14 agencies in investigations. He had asked us to assist
15 them in this investigation.

16 Q At what point would an agency assist, meaning
17 that, in this case, you all became the lead agency?

18 A We -- they make a request. We go up. We
19 assist them in whichever manner is necessary. And at the
20 point that we -- I guess when the chased happened,
21 everything -- we ended up taking the case over. Like I
22 said, we have more resources. They are limited on
23 manpower. They asked us to take the case over. It is in
24 Berkeley county.

25 Q Okay.

1 **A** So we just basically work hand-in-hand with
2 them.

3 **Q** But if the incident occurred some time, 9:20,
4 9:30, 9:45?

5 **A** Yes, ma'am.

6 **Q** Do you know exactly when it was that Berkeley
7 County Sheriff's Office was contacted?

8 **A** Yeah. That would have been that afternoon
9 between 2:00 -- between 2:00 and 3:00, Chief Waters
10 called and said he had an incident that occurred at the
11 church. He explained the incident. We went out as soon
12 as they notified us, myself, Sergeant and Detective
13 Cortte to that location.

14 **Q** Okay. So you didn't go to the Police
15 Department at St. Stephen? Y'all just met Chief Waters?

16 **A** We met and began to be told what kind of case
17 they had and what we can do from our agency to assist
18 them in the investigation.

19 **Q** Okay. But when this conversation and
20 discussion took place, were you at the St. Stephen Police
21 Department or were you at the --

22 **A** I spoke to him on the phone.

23 **Q** Okay. And then everybody went to the church?

24 **A** We went to the church.

25 **Q** And it was you and Sergeant Geno Alteri and --

1 **A** Detective Cortte and Lee Harris, Lieutenant
2 Harris from St. Stephen came over and met with us. We
3 just basically began to talk to any potential witnesses
4 there. It was a construction site.

5 **Q** Right.

6 **A** So the church was under construction. So we
7 went out to kind of get a look at what we were looking at
8 and see if there was any potential witnesses.

9 **Q** And I take it Ms. Dunning wasn't there when you
10 all went to the church?

11 **A** She was not.

12 **Q** And how many people -- there were a number of
13 workmen there. How many people did you all interview
14 that day?

15 **A** I know Detective Cortte interviewed.
16 Basically, we let the detectives interview them. I know
17 Detective Cortte interviewed one there. Mr. Balentine
18 was there. He was the project manager or assistant
19 project manager. We spoke to him. I don't remember any
20 other workers. Detective Cortte interviewed some
21 individuals that day.

22 **Q** How is it that you being the Captain of
23 Investigations make the determination as to who -- which
24 officer is going to be the lead detective in the case?

25 **A** Basically what we do is make a decision based

1 on the area. We decided that Detective Cortte would be
2 one. And we would assist -- we would use other
3 investigators to assist him in the investigation. I just
4 make that decision when assigning the cases.

5 Q Okay. And that's your decision to make?

6 A That's correct.

7 Q Okay. Now, I'm curious about a couple of
8 things about this because, uh, -- I fully recognize your
9 position of authority, but all the things that you just
10 testified to, you didn't generate any incident report to
11 that, did you?

12 A Basically, no. The supplements, reports that
13 were written like with the chase, I'm included in the
14 report done by the officer that was there at the time.

15 Q Right. But you don't -- there's no report
16 saying I went to St. Stephen church and I did this or I
17 did that and this is what I did that day?

18 A No, ma'am.

19 Q And there's no report that says that you were
20 the one that night on May 24th, uh, where you were the
21 one that saw the vehicle -- or May 26th. I apologize.

22 A In the initial incident report, it describes
23 what was done. My name is in the initial report.

24 Q Right. But those reports -- stop me please at
25 any time if I'm wrong. Those -- this incident occurred

1 on May the 18th, right? You indicated you went to the
2 church on May the 18th. Then we have an initial incident
3 report that was completed by Sergeant Wadford of the St.
4 Stephen Police Department. But all the rest of it that
5 was signed off on, those reports reflect dates of June
6 2nd and June 4th and June 24th. So could you tell me how
7 that happens?

8 **A** Basically, what I do is I assign a case to an
9 investigator. The investigator does all the supplemental
10 reports. Basically, anything like the chase, I was
11 included in that. And all that was documented in those
12 reports.

13 **Q** Okay. Let me ask the question another way.
14 Are there any contemporaneous entries in these reports
15 that are made the day of the incident, the day this
16 happened or the day a particular thing happens? Was
17 there a report generated, not by you, but by Detective
18 Cortte or anybody that went to St. John's [sic]
19 Evangelical Church that day that I did this that day?

20 **A** No, we just went out and got a request for
21 assistance. We went out and began investigation.

22 **Q** Okay. But as the Captain of the detectives, do
23 you think it would be a good idea to have your officers
24 record these things at or around the time that they are
25 actually happening?

1 **A** I think they recorded in their supplements when
2 they do the statements. Their statements will show that
3 we met individuals that day. We interviewed individuals
4 that day. And we supplemented those reports by what we
5 did in the investigation. I think they do document it.

6 **Q** I understand but the supplements are prepared
7 after the fact, correct? And they go into -- it's a
8 computerized system. Yes?

9 **A** They prepare their cases as the investigation
10 ongoing. I mean, there will be times that some
11 supplements are later than others, yes.

12 **Q** Okay.

13 **A** They base it on -- like you have a notebook,
14 they take notes. They take those notes and they put it
15 in a report.

16 **Q** So there are notes that are recorded
17 contemporaneously?

18 **A** Based on the investigation, the investigator
19 takes all the information and turns it into a report.

20 **Q** Okay. When you say take notes, just so we
21 understand -- we're at the same place. They go to the
22 scene. They write down whatever it is.

23 **A** Yes.

24 **Q** It doesn't go into a computer yet.

25 **A** Not initially. Initially, it's transcribed

1 into a report.

2 Q Right. So they do take notes?

3 A They take statements. They take information.
4 I mean, yes.

5 Q Okay. So statements, I understand.
6 Statements, we get. But the notes -- their individual
7 notes, they take -- correct, and that's what they use to
8 put the information into the incident report?

9 A And they finalize a supplemental report of
10 their investigation of what they did from the beginning
11 to the end.

12 Q And do you, as the Captain of Investigation,
13 review those reports?

14 A Normally, it's done by the lieutenant in that
15 division.

16 Q Okay. And who is the lieutenant?

17 A Detective Mason normally, uh, prepares all
18 General Sessions files for court.

19 Q Okay.

20 A That's who handles that for my division.

21 Q And so throughout the process of this in terms
22 of -- we'll just call it the investigation, uh, from the
23 incident that occurred on -- I'm having trouble with that
24 date -- May 18th, then all you knew -- until you were
25 involved with this incident on May the 26th when you

1 spotted the car, all you knew was that there was an armed
2 robbery at the church?

3 **A** I knew there was an armed robbery at the church
4 and I was aware of particular things, like the type of
5 vehicle stolen. I had spoke to the victim. Uh, Sergeant
6 Alteri spoke to the victim. And basically, we got the
7 information describing the vehicle and everything about
8 that vehicle. I did know about that and I did know an
9 armed robbery occurred at St. Stephen church.

10 **Q** When you say you spoke to the victim and
11 Sergeant Alteri spoke to the victim, which of you took a
12 written statement?

13 **A** Speak to Sergeant Alteri. I didn't take any
14 statements.

15 **Q** And if her written statement isn't signed, you
16 don't know who took it?

17 **A** Ma'am, you have to show me the statement. If
18 there's a statement, I have to look at it. And I would
19 have to --

20 **MS. KENNEDY:** Your Honor, may I approach?

21 **THE WITNESS:** That's not ours.

22 **BY MS. KENNEDY:**

23 **Q** St. Stephen?

24 **A** That's St. Stephen Police Department.

25 **Q** Okay. So you didn't take a written statement?

1 A The only statement would be the St. Stephen
2 one.

3 Q But she interviewed -- you interviewed her?

4 A We had spoke about the case. She had called
5 and updated with the case. We gave her information.
6 Cortte was handling the case. Just like a general
7 investigation. We're learning about what's going on.

8 Q But the updates, as I understand it, were
9 mostly about a car, not about any identification of the
10 perpetrator?

11 A Initially, we had information that -- no, we
12 didn't know who the perpetrator was at first.

13 Q Right. Right.

14 A I mean, we didn't know who the perpetrator was
15 until the chase, until we ended up serving the search
16 warrant at his house.

17 Q At that point in time, what you knew is he had
18 possession of the car?

19 A We knew that Ms. Dunning was cleaning at the
20 church, she was robbed at the church at gunpoint and her
21 white Ford Expedition was stolen in the commission of
22 that robbery. We knew that information. We did not
23 know, at that point, who the suspect was.

24 Q Right. But at the time that you, that the
25 vehicle caught your eye, what you knew was that after the

1 chase and after all the other things that you just went
2 through on direct examination that the person who had the
3 car and was driving the car was Mr. Jackson?

4 **A** That's correct.

5 **Q** You didn't know whether or not he was involved
6 in the armed robbery or anything at the church?

7 **A** We did not know ---

8 **Q** Okay.

9 **A** --- who the perpetrator was.

10 **Q** Court's indulgence. (Pause.)

11 That's all I have, Captain Ollic. Thank you so
12 much for your time.

13 **A** Thank you.

14 **THE COURT:** Redirect?

15 **MR. ALFARO:** No, Your Honor.

16 **THE COURT:** You may step down. Thank you
17 very much.

18 Call your next witness.

19 **MR. ALFARO:** The State calls Steve Cline.

20 Your Honor, we'd ask permission for Captain
21 Ollic to be excused.

22 **THE COURT:** Any objection?

23 **MS. KENNEDY:** No, Your Honor.

24 **THE COURT:** You're welcome to stay.
25 Otherwise, you can be excused.

1 **THE WITNESS:** Thank you, Your Honor.

2 **THE CLERK:** Please raise your right hand.

3 Place your left hand on the Bible.

4 **STEVE CLINE**

5 having first been sworn, testifies as follows:

6 **THE CLERK:** Please be seated. State your
7 full name. Spell your last name.

8 **THE WITNESS:** My name is Steven Leroy Cline,
9 C-L-I-N-E.

10 **DIRECT EXAMINATION**

11 **BY MR. ALFARO:**

12 **Q** Sergeant Cline, can you tell the jury where you
13 are currently employed?

14 **A** Uh, Berkeley County Sheriff's Office.

15 **Q** How long have you been with the Sheriff's
16 Office?

17 **A** 16 years, sir.

18 **Q** And how long have you been a sergeant?

19 **A** Uh, approximately 10 years.

20 **Q** And where you working in that capacity on May
21 the 28th, 2010?

22 **A** I was, sir.

23 **Q** And were you a patrol sergeant at that time?

24 **A** Yes, sir.

25 **Q** And were you on duty at approximately midnight

1 that night?

2 A Yes, sir. I was.

3 Q And did you have the opportunity to assist
4 Captain Ollic with a traffic stop?

5 A I did, sir.

6 Q Was that an approximate midnight or left of
7 midnight?

8 A Yes, sir. I believe it was around 20 minutes
9 after 12:00.

10 Q And can you tell the jury the circumstances on
11 how you became involved in that traffic stop with Captain
12 Ollic?

13 A I can, sir. Uh, on the night of May 28th, like
14 I said, at approximately 20 minutes after midnight, I
15 heard Captain Ollic make a call to dispatch requesting a
16 backup officer in reference to making a traffic stop on a
17 vehicle that he believed was possibly involved in a
18 robbery that had taken place approximately a week before
19 in the city limits of St. Stephen. I was in Moncks
20 Corner town limits. I responded to Captain Ollic who,
21 when I arrived, already had the vehicle pulled over right
22 past the intersection of Highway 52 and north Highway
23 17A.

24 I activated my blue lights. Pulled over to
25 the side of the road behind Captain Ollic's vehicle.

1 Walked up by the front of Captain Ollic's vehicle where
2 he was waiting at. He explained to me that this vehicle
3 matched the description of the one from the St. Stephen's
4 incident. I told him I would go up on the passenger's
5 side while he made contact on the driver's side.

6 As we started walking towards the vehicle, I
7 saw the taillights pump on and off real quick. I told
8 Captain Ollic he's going to leave. About that time, the
9 vehicle took off at a high rate of speed. I ran back to
10 my patrol vehicle and got in my car. Uh, took off in
11 pursuit after the vehicle and notified central dispatch
12 that I was in pursuit of the vehicle.

13 It was some time shortly, not very long after,
14 that Deputy Mosier, who was also a respondent in the
15 area, came up behind me and he started calling the
16 dispatch where we were. We proceeded up Highway 17A
17 towards Jamestown, uh, at a high rate of speed. The
18 vehicle attempted to make a left-hand turn onto Highway
19 45 when it -- because of the speed that it was going,
20 when it tried to stop, he was going too fast to make the
21 turn. The vehicle sped back up after it missed the turn
22 continuing on towards Jamestown.

23 Q Let me interrupt you for a second and ask you
24 some questions about what you already testified to. Uh,
25 when you got to the scene, Captain Ollic already had the

1 car stopped?

2 A Correct.

3 Q Do you recall what type of vehicle it was?

4 A It was a white over tan, uh, Eddie Bauer Ford
5 Expedition with a paper tag license plate on it.

6 Q When you got to where Captain Ollic was, were
7 there any other officers at the scene?

8 A Not that I remember at that particular moment,
9 no, sir.

10 Q Was the driver still sitting inside ---

11 A Yes, sir.

12 Q --- the car? Did you get a chance to see the
13 driver?

14 A No, sir.

15 Q And how long would you say you were at the
16 scene talking to Captain Ollic before the taillights
17 bumped on and off and the driver took off?

18 A It was probably 30 to 45 seconds, maybe if that
19 long. It wasn't long at all.

20 Q And when the SUV took off, did you give chase?

21 A Yes, sir. I did.

22 Q And when you chased after it, did you have your
23 blue lights and your siren on?

24 A Yes, sir.

25 Q And what type of car were you in that night?

1 **A** I was in a 2006 Ford Crown Victoria marked
2 patrol unit.

3 **Q** So you are in a marked vehicle?

4 **A** Yes, sir.

5 **Q** Do you have blue lights, a light bar on top of
6 your car?

7 **A** No, sir. My lights are inside the vehicle in
8 the top of the windshield on the inside. I don't have a
9 light bar on my car.

10 **Q** Do you have any blue lights anywhere other than
11 the two on the front?

12 **A** There are lights that flash in the grill of the
13 vehicle, yes, sir.

14 **Q** So if you are behind the car and you put your
15 blue lights on, your blue lights will be in the grill of
16 the car, of your car?

17 **A** Yes, sir.

18 **Q** And then in your window, the windshield?

19 **A** Yes, sir. In the top of the windshield, yes,
20 sir, right over where the rear view mirror is.

21 **Q** Do your headlights --

22 **A** Yes, sir. They do.

23 **Q** Do you have a siren inside of your car?

24 **A** Yes, sir.

25 **Q** And was that activated when you were chasing

1 after?

2 **A** Yes, sir.

3 **Q** Did you have your siren on when you were
4 chasing after the SUV?

5 **A** Yes, sir.

6 **Q** And, uh, how long did you chase after the SUV?

7 **A** It was quite -- timewise, I'm not sure exactly
8 how long the entire chase lasted from the time it began
9 until it ended, but it was approximately 27 miles from
10 the time it began to where it ended at.

11 **Q** And that started in Moncks Corner?

12 **A** Yes, sir. Right at the intersection of 17A and
13 Highway 52.

14 **Q** And can you tell us again what route you took?

15 **A** We went all the way up Highway 17A towards
16 Jamestown. Like I said, attempted to make the turn on
17 Highway 45 to go towards St. Stephen. Overshot that
18 because the speed was too high to make the curve.
19 Continued on up Highway 17A. After we passed that, he
20 started speeding up and slowing down like he was trying
21 to get me to ram -- you know, to run into the back of the
22 vehicle. So I had to kind of back off a little bit.
23 He then made a left-hand turn into a driveway.
24 That's a real rural area out there. The houses set a
25 good ways off of the road. They are not like the city

1 where you have a walkway and stuff. He turned into the
2 driveway of the residence. Went around behind the
3 residence. I followed him around behind the residence.
4 Between the residence that he went behind and the next
5 residence, there was a ditch, a little ditch between the
6 houses. I guess for runoff or something in between the
7 houses.

8 When I saw him go across the ditch and saw, you
9 know, the actions that the vehicle made him being in that
10 SUV jumping across the ditch, I didn't want to take a
11 chance on trying to take my patrol car through that
12 ditch. I didn't think I would have made it across the
13 ditch.

14 Q Okay. You said that you -- earlier in the
15 chase, he overshot a turn he was trying to make?

16 A Yes, sir. Highway 45.

17 Q And you said that was because of the high rate
18 of speed?

19 A Yes, sir.

20 Q Do you recall how fast he was going or how fast
21 y'all were going?

22 A Most -- most of the time through the whole
23 thing, the speeds were -- while the chase, except lights
24 there when you start slowing down and stuff, I wasn't
25 paying attention. But the majority of the chase all the

1 way was in speeds in excess of 100 miles per hour.

2 Q You said at some point, he drove behind the
3 house?

4 A Yes, sir.

5 Q Was there a road behind the house or was he
6 driving through a yard?

7 A Yes, sir. It was the yard.

8 Q And you said he went through a ditch?

9 A Yes, sir.

10 Q Now, can you describe for the jury how he went
11 through the ditch? Did he go straight or did he have to
12 jump or what was --

13 A The vehicle went down in the ditch and came out
14 the ditch on the other side.

15 Q Okay. So kind of like a lamp?

16 A Yeah. It wasn't a real, real deep ditch. But
17 it definitely went down, bottomed out and came up. When
18 we went through it, went down and came out on the other
19 side, it was erratic when it came out of the ditch and I
20 was afraid my patrol car wouldn't make it through.

21 Q At that point, were you still the lead car in
22 the pursuit?

23 A Yes, sir. I was.

24 Q And were there any other officers as backup
25 officers or any other officers involved?

1 A There were other officers, by that time, that
2 had caught up to us. I know Deputy Mosier was behind me.
3 I know Deputy Buckhannon was behind me. And I believe
4 Deputy Wilson was also involved.

5 Q Okay. And you maintained -- did you maintain
6 your blue lights the whole time?

7 A Yes, sir.

8 Q And do you recall if the other officers
9 involved in the pursuit also had their lights on?

10 A Yes, sir. They did.

11 Q And after he went through the ditch, what
12 happened then?

13 A At that time, I turned around in the back yard
14 and swung around to go back out the direction that I had
15 gone in. As I was coming back around to the side of that
16 house, the vehicle was coming around from the opposite
17 end of the next residence over on the other side of the
18 ditch and was heading back out towards the same driveway
19 where we come off of Highway 17A to go back out onto
20 Highway 17A. And, uh, Deputy Wilson's vehicle was coming
21 in as that vehicle was trying to get out. And it almost
22 hit Deputy Wilson's vehicle.

23 Then the vehicle continued out onto Highway
24 17A, made a right-hand turn back -- coming back towards
25 Moncks Corner until we got to the intersection of Highway

1 45 again. And this time, made the turn onto Highway 45.
2 And the pursuit continued all the way into St. Stephen.
3 When the vehicle made a right-hand turn, I believe, it's
4 Wadford Lane where the vehicle turned and then turned off
5 of Wadford Lane onto, I think, it's Upton and then onto
6 Orvin and at the end of Orvin Road, it struck a parked
7 vehicle that was in a resident's yard. A red in color
8 Mustang. It hit the Mustang and then struck a sawed-off
9 tree stump that was in the yard and the vehicle came to
10 rest against the stump and into some bushes in that
11 backyard.

12 Q And throughout the chase up until the time that
13 the SUV wrecked, were you the lead pursuit car the whole
14 time?

15 A No, sir. I lost the lead vehicle. Deputy
16 Mosier took over the lead vehicle. When I got hung up
17 behind that house and couldn't follow him across the
18 ditch, ---

19 Q Okay.

20 A --- when he made it back out to Highway 17A, I
21 was no longer in the lead.

22 Q And who took over as the lead vehicle?

23 A Deputy Mosier did.

24 Q Did you stay involved in the pursuit?

25 A Yes, sir. I did.

1 Q And when Deputy Mosier took over as the lead
2 vehicle, did he have his blue lights and siren?

3 A Yes, sir.

4 Q And were you at the scene where the SUV were
5 at?

6 A No, sir. I was not.

7 Q You got there after the wreck had already taken
8 place?

9 A Yes, sir. When the pursuit turned onto Upton
10 Road and then on Orvin, they are both dirt roads. And
11 when I got on the road, there was so much dust and stuff
12 that was stirred up by the vehicles that were in front of
13 me, I had to slow way down to make sure. I couldn't
14 really see what was in front me. By the time I got up to
15 where the other patrol vehicles were and got out of my
16 vehicle, the SUV was already at its resting point. And
17 that was when I got there. The vehicle was already there
18 and whoever was driving the vehicle had already exited it
19 and run into the woods.

20 Q So you didn't see the driver run from the
21 scene?

22 A No, sir.

23 Q And did you assist in a search of the area to
24 try to locate the driver?

25 A I was in the -- K-9 was called for assistance.

1 I did not want to go in -- I did not want to go in the
2 woods.

3 Q And what did you do at the scene after that?

4 A Being the vehicle had a paper plate on it, then
5 we were unable to run it to find out any information
6 about the vehicle. I went to the front of the vehicle up
7 where the VIN plate is located on the front of the dash
8 of the vehicle to try and get the VIN off of it so that I
9 could run it through NCIC to find an owner for it. When
10 I walked around the front of the vehicle and tried to do
11 that, there was a piece of paper that had been jammed
12 down in the little small wedge area where the windshield
13 and the dash come together that was blocking the VIN
14 plate to where I couldn't see the -- I couldn't get the
15 VIN off of it.

16 Q Were you eventually able to have that VIN
17 number run through NCIC?

18 A Yes, sir. I know from experience that most
19 vehicles have also a sticker VIN tag with all the vehicle
20 information, when it was made, where it was made and all
21 that stuff in the door jam of the vehicle. I looked
22 there and was able to obtain the VIN decal information
23 off of it and run it through NCIC.

24 Q So the paper that was over the VIN on the front
25 windshield was actually wedged in where you couldn't move

1 it?

2 **A** Yes, sir. It was just a small piece of paper.
3 And where the dash and the windshield come together, it's
4 so small of a wedge area there was no way for me to try
5 and get in there and get it out.

6 **Q** And when you were eventually able to run a VIN
7 through NCIC, do you recall what the results of that
8 search was?

9 **A** Yes, sir. It did return as the vehicle that we
10 were looking for. It came back, uh, -- I don't remember
11 the owner's name at this time.

12 **Q** And when you say it was the vehicle you were
13 looking for, why were you looking for it?

14 **A** Because that was the vehicle that Captain Ollic
15 stated had been involved in the armed robbery in St.
16 Stephen city.

17 **Q** And did you participate in any inventory or any
18 search of that SUV at the scene?

19 **A** I -- when I was looking inside the door jam of
20 the vehicle for the VIN information, I saw a wallet
21 laying on the driver's side floorboard area kind of
22 between the seat and the door ---

23 **Q** Uh-huh.

24 **A** --- and picked up the wallet to look inside to
25 see if there was some type of information as to who the

1 wallet belonged to. When I opened the wallet, I found a
2 school identification card with a photograph on it and
3 some credit cards and just some other miscellaneous
4 paperwork inside the wallet.

5 Q I'm going to show you State's Exhibit 41 in
6 evidence. Do you recognize that exhibit?

7 A Yes, sir. This is the wallet that I located on
8 the floorboard of the vehicle.

9 Q And based on looking in that wallet, were you
10 able to determine who that wallet belonged to?

11 A I assumed by the picture ID that was inside the
12 vehicle that it belonged to the gentleman whose name was
13 on it. And I also showed it to Captain Ollic who was on
14 the scene also. And he looked at the picture on the
15 school identification card and said that that was the
16 person that he observed driving the vehicle.

17 Q And was there a name on that student ID card?

18 A Yes, sir.

19 Q And when you looked through the wallet, you
20 testified that you found some credit cards?

21 A Yes, sir.

22 Q You recall the name that was on the credit
23 cards?

24 A The same individual that the ID card or the
25 school ID belonged to.

1 Q What individual was that?

2 A Uh, Benjamin Jackson.

3 Q If you could, look through that wallet for a
4 second and tell us if that ID that you saw is in there.

5 (Pause.)

6 Do you see it in there?

7 A I do not see it, no, sir.

8 Q Do you know what happened to the ID card?

9 A No, sir. I do not.

10 Q Do you recall showing it to Captain Ollic that
11 night?

12 A Yes, sir. I did.

13 Q What was done with the SUV?

14 A Uh, to the best of my recollection, Lieutenant
15 Kokinda from the Forensics Department of the Sheriff's
16 Department responded out to the scene. And the vehicle,
17 I believe, was later towed back to the Sheriff's Office.

18 Q Were you present for any processing of that
19 vehicle by forensics?

20 A Not that I recall, no, sir.

21 Q Other than running the VIN and finding the
22 wallet, did you have any other role in searching or
23 processing that vehicle?

24 A Not to my recollection.

25 Q And can you tell us where in the vehicle you

1 found this wallet?

2 **A** It was on the driver's side floorboard, kind of
3 down by like the main frame part of the seat is that
4 holds the seat to the floor.

5 **Q** Is that -- so it was found inside the vehicle?

6 **A** Yes, sir.

7 **Q** Can you tell us again what the top speed was
8 that you, your vehicle reached during the pursuit?

9 **A** Actually speed, I don't know. As I stated, the
10 majority of the chase, the speeds were in excess of 100
11 miles per hour.

12 **Q** You said it. How many miles did you say the
13 pursuit was?

14 **A** Approximately 27.

15 **Q** Thank you. Please answer any questions Ms.
16 Kennedy has for you.

17 **THE COURT:** Cross-examination.

18 **MS. KENNEDY:** Thank you.

19 **CROSS-EXAMINATION**

20 **BY MS. KENNEDY:**

21 **Q** Sergeant Cline?

22 **A** Yes, ma'am.

23 **Q** Hey. How are you?

24 **A** Fine.

25 **Q** Uh, you repaired a report, an incident report,

1 with regard to, uh, the vehicle pursuit, did you not?

2 **A** Yes, ma'am. I did.

3 **Q** Do you have a copy of that with you, sir?

4 **A** Uh, no, ma'am.

5 **MS. KENNEDY:** Your Honor, may I approach the
6 witness?

7 **THE COURT:** Yes, ma'am.

8 **BY MS. KENNEDY:**

9 **Q** Do you recognize this report? Can you identify
10 it?

11 **A** Yes, ma'am. That looks like the report that I
12 completed.

13 **Q** And would you be kind enough to tell the Ladies
14 and Gentlemen of the jury what charges you put on that
15 report?

16 **A** Uh, Failure to Stop For a Blue Light and
17 Possession of a Stolen Motor Vehicle.

18 **Q** Thank you. And in your report that reflects
19 the failure to stop for blue light and possession of a
20 stolen motor vehicle -- I'm sorry. I should have let you
21 read it. Is there anywhere in there where you mention
22 that the speed exceeded 100 miles an hour?

23 **A** (Reviewing.) No, ma'am. It just states at a
24 high rate of speed.

25 **Q** High rate of speed?

1 **A** Yes, ma'am.

2 **Q** Thank you, sir.

3 **A** Yes, ma'am.....

4 **MS. KENNEDY:** That's all the questions I
5 have, Your Honor. Thank you.

6 **THE COURT:** Redirect?

7 **MR. ALFARO:** Briefly, Your Honor.

8 **REDIRECT EXAMINATION**

9 **BY MR. ALFARO:**

10 **Q** Now, as a part of your -- Ms. Kennedy showed
11 you a copy of the incident report. Is that correct?

12 **A** Yes, sir.

13 **Q** You were asked if your report contained the
14 speed?

15 **A** Yes, sir..

16 **Q** In addition to your incident report, did you
17 also complete a police pursuit incident report?

18 **A** Uh, yes, sir.

19 **Q** I'm going to show you -- mark this for
20 identification.

21 **(WHEREUPON, incident report is marked for**
22 **identification as State's Exhibit 42.)**

23 **BY MR. ALFARO:**

24 **Q** I'm going to show you what has been shown to
25 defense counsel and marked as State's Exhibit 42 for

1 identification. If you could, take a look at that and
2 I'll ask you a question -- couple of questions.

3 **COURT REPORTER:** I'm sorry. It should be 43.

4 **(WHEREUPON, incident report is remarked as State's**
5 **Exhibit 43 for identification.)**

6 **BY MR. ALFARO:**

7 **Q** We're having to remark that as State's Exhibit
8 43 for identification. You had an opportunity to review
9 that report?

10 **A** Yes, sir. I did.

11 **Q** And you recall when that report was completed?

12 **A** Uh, at the same time the incident report was
13 completed.

14 **Q** Okay. And does that report contain any
15 information as to the highest speed that was reached?

16 **A** Uh, yes, sir. It does.

17 **Q** And what does your report indicate the highest
18 speed reached was?

19 **A** 120 miles and hour.

20 **Q** You prepared this report?

21 **A** Yes, sir, I did.

22 **MR. ALFARO:** No further questions.

23 **THE COURT:** Any recross?

24 **MS. KENNEDY:** No, Your Honor. Thank you.

25 **THE COURT:** You may step down. Thank you

1 very much.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: All right. Ladies and Gentlemen,
4 it's about a quarter til 1:00. At this time, we'll
5 take a lunch break. At this time, leave your note
6 pads in your chair. Please don't discuss the case
7 with anyone. Be back in your, uh, jury room at
8 2:15. We'll get started at that time.

9 (WHEREUPON, the jury exits at approximately
10 12:55 p.m.)

11 THE COURT: All right. We'll adjourn until
12 2:15?

13 MR. ALFARO: Thank you.

14 MS. KENNEDY: Thank you.

15 (WHEREUPON, a lunch recess is taken.)

16 THE COURT: Anything from the State before we
17 bring the jury?

18 MR. ALFARO: No, Your Honor.

19 THE COURT: Anything from the defense?

20 MS. KENNEDY: No, Your Honor.

21 THE COURT: Bring us the jury please. We've
22 got everybody?

23 THE BAILIFF: Yes, sir.

24 THE COURT: Bring us the jury please.

25 (WHEREUPON, the jury enters at approximately

1 2:28 p.m.)

2 **THE COURT:** State call the next witness
3 please.

4 **MR. ALFARO:** Thank you, Your Honor. The
5 State calls Thomas Buckhannon.

6 **THE CLERK:** Please raise your right hand.
7 Place your left hand on the Bible.

8 **THOMAS BUCKHANNON**

9 having first been sworn, testifies as follows:

10 **THE CLERK:** Please be seated. State your
11 full name. Spell your last name for the record.

12 **THE WITNESS:** It's Thomas Buckhannon, IV.
13 B-U-C-K-H-A-N-N-O-N.

14 **DIRECT EXAMINATION**

15 **BY MR. ALFARO:**

16 **Q** You can pull that microphone down a little bit
17 if you need to.

18 **A** Okay.

19 **Q** Uh, could you tell the jury where you currently
20 work?

21 **A** I work for the Charleston County Sheriff's
22 Office.

23 **Q** And how long you been with the Charleston
24 County Sheriff's Office?

25 **A** Uh, a little over a year and a half.

1 Q And prior to joining with the Charleston County
2 Sheriff's Office, do you have any prior law enforcement
3 experience?

4 A I was employed with the Berkeley County
5 Sheriff's Office as a deputy.

6 Q And when were you employed with the Berkeley
7 County Sheriff's Office?

8 A August of '08 until October of 2010.

9 Q Now, in May of 2010, what was your duty
10 assignment?

11 A I was a patrol deputy in the north district.

12 Q What part of Berkeley county is the north
13 district?

14 A It encompasses Moncks Corner, St. Stephen,
15 Jamestown, Summerville, Cross area.

16 Q What was your rank at the time?

17 A Uh, patrolman first class.

18 Q And were you working on the evening of May
19 28th, 2010?

20 A I was.

21 Q And that night, did you have the opportunity to
22 assist with a traffic stop in pursuit involving the
23 defendant Benjamin Jackson and Captain Rick Ollic?

24 A I did.

25 Q And could you tell us how you became involved

1 in that?

2 A Captain Ollic had advised he was going to be
3 stopping a vehicle that was related to an armed robbery
4 that he positively identified the subject in the vehicle.
5 And I began my, uh, way down there to assist him with
6 that.

7 Q And when you got to the scene, had Captain
8 Ollic pulled the car over?

9 A The car was already fleeing from the scene as I
10 came over the bridge. I saw Sergeant Cline and Corporal
11 Mosier begin pursuit of the vehicle. I followed behind
12 them.

13 Q So you didn't see the initial traffic stop?

14 A I did not.

15 Q And were you advised when you got to the scene
16 that the vehicle had fled?

17 A I was advised the vehicle was fleeing.

18 Q And you said you saw Sergeant Cline and Mosier
19 involved in the pursuit already?

20 A Yes.

21 Q Do you recall if they had their blue lights and
22 sirens activated?

23 A Yes, they were.

24 Q And did you join in the pursuit?

25 A I did.

1 Q And what role did you play in the pursuit?

2 A I was -- followed a safe distance. And then
3 when the vehicle went into Jamestown and went through a
4 yard and got back onto 17A and turned right on Highway
5 45, I became the secondary unit.

6 Q And can you tell the jury what a call car is?

7 A There are two -- you have a primary unit who
8 pursues. That's the first unit. Your secondary unit is
9 the call car. And that responsibility entails the
10 speeds, location, traffic conditions, road conditions.

11 Q And when you took over the role of the
12 secondary unit or the call car, did you have your blue
13 lights activated?

14 A They were.

15 Q Did you have your siren activated?

16 A Yes.

17 Q Do you recall, uh, how -- what speeds you
18 reached or what speeds the suspect reached during the
19 pursuit?

20 A The speeds were in excess of 100. And at
21 times, approaching 120 miles per hour.

22 Q And do you recall how long you were involved --
23 how long the pursuit lasted?

24 A A good 20 to 30 minutes.

25 Q And what brought the pursuit to an end?

1 **A** The vehicle turned down a dirt road. The
2 vehicle struck a parked red Ford Mustang.

3 **Q** And did you go to the scene where the wreck --
4 you continued to the scene where the wreck had taken
5 place?

6 **A** Yes, sir.

7 **Q** When you got to the scene, was the driver still
8 -- the driver of the SUV still present?

9 **A** The driver had fled.

10 **Q** Did you attempt to apprehend the driver?

11 **A** I, along with Corporal Mosier, gave chase to
12 the suspect to a wood line about 75 or 100 yards away
13 from the vehicle off to the left.

14 **Q** And were you able to catch up to him?

15 **A** No.

16 **Q** And you said he ran into the wood line. Did
17 you or any of the other officers follow him into the
18 woods?

19 **A** The K-9 units were on scene. We assisted the
20 K-9 units with the search.

21 **Q** To your knowledge, was the driver ever located?
22 Was the driver located that night?

23 **A** No.

24 **Q** In addition to what you testified to, did you
25 have any other role in searching the area where the

1 vehicle was involved?

2 **A** I completed an accident report where the
3 vehicle struck the parked vehicle. I also assisted in an
4 article search after the pursuit.

5 **Q** What is an article search?

6 **A** There was -- I observed some sparks in the
7 roadway on Highway 17A going towards Jamestown. There's
8 a possibility there might have been a weapon or
9 something. I told them to look for anything out of the
10 ordinary.

11 **Q** And when you say you saw sparks during the
12 pursuit, where did you see the sparks?

13 **A** I saw them on Highway 17A right before Highway
14 45.

15 **Q** Okay. Were they coming from the SUV?

16 **A** Something either thrown out the window or run
17 over, but there were sparks on the opposite lane of
18 traffic.

19 **Q** So along the route of the pursuit?

20 **A** Right. Exactly.

21 **Q** And did you find anything of any evidentiary
22 value during that article search?

23 **A** No, we did not.

24 **Q** And other than what you testified to, did you
25 have any other role in this investigation?

1 **A** No.

2 **THE COURT:** Let me interrupt you a second.

3 Do you need something to drink?

4 **COURT REPORTER:** I'm sorry.

5 **THE COURT:** Do you need something to drink?

6 **COURT REPORTER:** Could I have some water?

7 **THE COURT:** Please. Could the bailiff give
8 her some water?

9 You need to get up and move around?

10 **COURT REPORTER:** I'm good. Thank you.

11 **THE COURT:** We could take a short break if
12 you need to.

13 **COURT REPORTER:** I'm good. Thank you.

14 **THE COURT:** Let me know when you are ready to
15 proceed. Take your time. Drink the water until you
16 feel comfortable. Okay?

17 **COURT REPORTER:** I'm okay.

18 **THE COURT:** You're okay?

19 **COURT REPORTER:** Yes.

20 **THE COURT:** Okay. Please proceed.

21 **MR. ALFARO:** Thank you. Please answer any
22 questions Ms. Kennedy has for you.

23 **THE COURT:** Cross-examination.

24 **CROSS-EXAMINATION**

25 **BY MS. KENNEDY:**

1 Q Good afternoon. How are you? You're with
2 Charleston County now?

3 A Yes, ma'am.

4 Q Okay. You, uh, -- the only thing you know
5 about this case is your participation in the chase on May
6 the 28th, correct?

7 A Correct.

8 Q And you didn't do anything else with it?

9 A No.

10 Q And the article search was something -- I think
11 you used the phrase anything out of the ordinary, right?

12 A Right.

13 Q Didn't find anything, did you?

14 A No.

15 MS. KENNEDY: That's all I have, Your Honor.
16 Thank you.

17 THE COURT: Any redirect?

18 MR. ALFARO: No, Your Honor.

19 THE COURT: You may step down. Thank you
20 very much.

21 MR. ALFARO: The State calls Jason Potteiger.

22 THE CLERK: Please raise your right hand.
23 Place your left hand on the Bible.

24 **JASON POTTEIGER**

25 having first been sworn, testifies as follows:

1 **THE CLERK:** Please be seated. State your
2 full name. Spell your last name for the record.

3 **THE WITNESS:** My name is Jason Potteiger.
4 P-O-T-T-E-I-G-E-R.

5 **DIRECT EXAMINATION**

6 **BY MR. ALFARO:**

7 **Q** Good afternoon.

8 **A** Good afternoon.

9 **Q** Could you tell the jury where you currently
10 work?

11 **A** I work at the Berkeley County Sheriff's Office.

12 **Q** And how long have you been with the Sheriff's
13 Office?

14 **A** Approximately three and a half years.

15 **Q** And prior to that, did you have any other prior
16 law enforcement experience?

17 **A** Yes, sir. I started in South Carolina law
18 enforcement with the City of Sumter Police Department. I
19 started there in January of 2001.

20 **Q** When did you come to the Sheriff's Office?

21 **A** August of 2008.

22 **Q** Were you working for the Sheriff's Office in
23 May and June of 2010?

24 **A** Yes, sir. I was.

25 **Q** And what unit or what were your duties at the

1 time?

2 **A** I was assigned to the CID division, which is
3 Criminal Investigation Division. I'm a detective there
4 and assigned to primarily property crimes.

5 **Q** And in that capacity, did you have the
6 opportunity to assist in an armed robbery, kidnaping,
7 vehicle theft investigation that took place at St.
8 Stephen Evangelical Church on May 18th, 2010?

9 **A** Yes, sir. I did.

10 **Q** And in your role in that investigation, what
11 did you do?

12 **A** I was part of a team that was assigned to
13 execute a search warrant. My primary assignment was to
14 make entry into the residence whether it was secured or
15 not secured.

16 **Q** And do you recall what the address was where
17 that search warrant was executed?

18 **A** It was Road.

19 **Q** And do you recall who lived at that residence?

20 **A** Uh, Mr. Jackson and, I believe, his wife, Mrs.
21 Jackson.

22 **Q** And when did you go there to serve the search
23 warrant?

24 **A** I don't remember the date off the top of my
25 head. It was in the early morning hours.

1 Q And did you prepare a report detailing your
2 involvement?

3 A Yes, sir. I did.

4 Q And, uh, in that report, did you put details
5 such as the date that you were involved?

6 A In that report, I should have, yes, sir.

7 Q And would it refresh your recollection to -- if
8 I showed you a copy of that report as to the date that
9 you executed that search warrant?

10 A Yes, it would.

11 Q If you could, take a look at that and read over
12 it and refresh your recollection and I'll ask you some
13 questions about it.

14 A (Reading.)

15 Q Have you had an opportunity to review that?

16 A Yes, sir.

17 Q Is that the report that you prepared?

18 A Yes, it is.

19 Q And having reviewed that report, does it
20 refresh your recollection as to what date you assisted
21 with the search warrant execution?

22 A Yes, sir. That is June the 2nd.

23 Q Of what year?

24 A 2010.

25 Q And you said you were part of the entry team.

1 What was your role in the execution of that search
2 warrant?

3 A To -- my entry -- assignment on that day was to
4 make entry into the house. If it was unsecured, I was to
5 open the door. If it was secured, I had a ram or any
6 other means that we could get into the house. That was
7 my job that day.

8 Q Were you able to get into the house?

9 A Not at -- not initially. When we arrived, our
10 entry team got in line at the front door. Knocked on the
11 door. Waited a couple of minutes. Couldn't hear any
12 sound like they were coming to the front door. At that
13 point, we decided not to go into the front door. I
14 believe there was a screen door and there was no problems
15 at the front door where the ram wouldn't be as effective.
16 We found a side door. Knocked on that door as well.
17 Waited a couple of minutes. Still nobody came to the
18 door. I used the ram and broke the door open.

19 Q And when you entered the residence, was there
20 any -- was the defendant inside the residence?

21 A Uh, yes, he was.

22 Q And do you recall where he was located?

23 A It was what we call the master bedroom. When
24 you go in, you go into what I call a Florida room. There
25 was a black female we encountered there immediately.

1 Then you go into a little hallway. Off to the right was
2 the master bedroom which is where he was located.

3 Q And where was he at in that bedroom?

4 A The best I could recall, when I looked down the
5 hallway, you could see part of his body. The other part
6 was in a -- there was a little closet there. It was like
7 half and half. Out in the open and into the closet.

8 Q Was he taken into custody at that time?

9 A Yes, he was.

10 Q And were you the one that took him into
11 custody?

12 A I don't believe I was.

13 Q And you mentioned a female was in the house.
14 Was she detained as well?

15 A Yes, he was. Yes, she was. I'm sorry.

16 Q And after those two were detained, was there
17 anyone else inside the house?

18 A No, sir.

19 Q At that point, what became the focus of your
20 role in that investigation?

21 A Once we declared the house secured and cleared
22 of all other people, my objective was to begin a search
23 once the search warrant was read. I serviced primarily
24 outside of the residence.

25 Q You said you searched outside. Do you recall

1 what areas of the residence outside you searched?

2 A Uh, everything on the outside. I searched the
3 trash cans. There was a back door. I believe there
4 might have been a shed on the property as well or an out
5 building.

6 Q And during the search, did you locate, did you
7 personally locate any evidence?

8 A Yes, I did.

9 Q And do you recall what you personally located?

10 A Yes. Initially, there's a checkbook in plain
11 view located on a kitchen countertop. Other people
12 observed that at the same time. I know on the outside, I
13 observed what looked like a car rack, uh, the big racks
14 that are on the top of the SUVs. It was either a sticker
15 or emblem of the South Carolina quarter moon. And, uh,
16 I had the opportunity to go through the trash. I located
17 miscellaneous or some sort of paperwork that had the
18 victim's name on it.

19 Q I'm going to show you some photographs that are
20 already admitted into evidence. They will pop up on the
21 screen behind you so the jury can see them. State's
22 Exhibit 15. There is a laser pointer here in case you
23 need it. If you want to turn around. Do you recognize
24 what's in that photograph?

25 A Yes, sir. That's the, uh, -- what I called the

1 front door earlier. That's the door we initially went
2 through to gain entry. That's the one we knocked on.

3 Q Is that the residence -- is that the residence
4 where the search warrant was executed?

5 A Yes, sir.

6 Q And, uh, State's Exhibit 31. Do you recognize
7 what's contained in that photograph?

8 A Yes, sir. That's the roof rack that I
9 described earlier located right outside the fence on the
10 property.

11 Q That is on the defendant's property?

12 A Yes, sir. It's a little dark. But it's the
13 one side. The other side.

14 Q All right. And State's Exhibit 32. Do you
15 recognize what's in that photograph?

16 A Yes, sir. That's the South Carolina quarter
17 moon emblem that I located right near the rack.

18 Q Okay. And State's Exhibit 37. Is that the
19 same item?

20 A Yes, sir.

21 Q And I believe you mentioned that you had the
22 opportunity to search the trash of the residence?

23 A Yes.

24 Q I'm going to show you State's Exhibit 16. Can
25 you tell the jury what's depicted in that photograph?

1 **A** Right here is the carport area. The residence
2 would be to your right as you are looking at it. That is
3 the trash can that I searched.

4 **Q** And do you recall what, if any, items you
5 recovered from that trash can?

6 **A** I don't remember the specifics, but I do know
7 that there are, uh, -- I remember that there was
8 paperwork in there that had the victim's name on it.

9 **Q** And when you got the paperwork from the trash
10 can, what did you do with it?

11 **A** I left it where it was dumped out. We took
12 pictures of it. And then it was collected on the search
13 warrant like all the other items.

14 **Q** I'm going to show you State's Exhibit 25. Is
15 that -- does that picture depict where you -- what you
16 did with the items that you took from the trash can?

17 **A** Yes, sir. I was searching through the trash
18 can. It was relatively full. So we were just pulling
19 papers out. When we pulled out and discovered Ms.
20 Dunning's name on it, we just let it out and that picture
21 was taken.

22 **Q** That picture is actually State's Exhibit 26. I
23 want to show you State's Exhibit 25. Does that depict
24 the items that you removed from the trash can?

25 **A** Yes, sir.

1 Q And that 7 there, what is that?

2 A Typically on a crime scene when we are
3 collecting evidence and there is more than one piece, uh,
4 whoever is taking photographs or collecting them will
5 assign or put those little placards there to assign it a
6 number for the photos and for identification.

7 Q Okay.

8 A So it was placed there by law enforcement.

9 Q And I'm going to show you what is marked as
10 State's Exhibit 38 in evidence. Do you recognize what is
11 contained in State's Exhibit 37?

12 A Yes, sir.

13 Q And could you tell the jury what that is?

14 A Uh, it's the same items that you saw in the
15 photographs here. Uh, the blue envelope that has Hazel
16 T. Dunning. It has an address. It's insurance papers.
17 There's piece of a magazine. The other stuff, I can't
18 make out. I'll take it out.

19 Q I'm going to give you some gloves since it came
20 out of the trash can. If you can take a look at those
21 items and just describe for the jury what's contained in
22 that exhibit.

23 A (Reviewing.) As I described, it's the envelope
24 with Hazel T. Dunning on it. On the inside of it, there
25 is a, uh, registration to a -- a South Carolina

1 registration to a -- it appears to be a Harley-Davidson
2 motorcycle, 2006. It -- I believe it says make HD, which
3 I believe is a Harley Davidson. It's a number and the
4 name at the bottom is Hazel T. Dunning.

5 Q Okay.

6 A It's a Progressive Insurance Company card for a
7 vehicle, 2006 Harley Davidson. Has the VIN number. It's
8 a Berkeley county -- it's stamped Berkeley county, paid.
9 It looks like a Treasurer's receipt for a 2006 Harley
10 Davidson. It's another South Carolina Department of
11 Registration for a 2006 Harley Davidson. The name on
12 this is Hazel T. Dunning as well. It looks like a
13 Berkeley county tax information that they send you for
14 your vehicle, a property tax. It also has Hazel T.
15 Dunning. It's a 2006 Harley Davidson as well.
16 Progressive Insurance is written on this one. It looks
17 like a receipt. It also has Hazel Dunning. It's dated,
18 uh, 7/18/2007.

19 Q As far as the rest of the items in that bag, if
20 you could, go through that and let us know, let the jury
21 know if there's any other items that have Ms. Dunning's
22 name and information on there.

23 A Yes, sir. This is a deposit ticket that is
24 from Farmers and Merchant Bank. It has the account
25 owner's information typically. It states Hazel Dunning.

1 It has the deposit amount, routing number and account
2 number. It looks like a piece of a torn off savings
3 withdrawal slip. The top looks just like a check. It
4 would be -- has Hazel Dunning's name on it. That's also
5 from Farmers and Merchants Bank. Farmers and Merchants
6 Bank customer receipt. Uh, it's dated 3/14/2008. This
7 is a receipt of some sort. It states at the top a phone
8 number. It's dated March 24, 2008. The phone number is
9 670-7948. It is for the, I would take, the Expedition.
10 It's some other stuff I can not read. A BiLo
11 receipt. There's a writing on it too. I can't make it
12 out at this point other than it says \$19.90. And on it,
13 it looks like there is -- first, you got a five percent
14 off discount. It's another Farmers and Merchants customer
15 receipt. This appears to be the second half of that
16 withdrawal slip. It looks to be -- has a date of
17 3/20/08. It has Hazel Dunning at the signature bar.
18 There's some more receipts. They don't have names on
19 them. One's for a car wash receipt. The other one's for
20 Murphy USA gas. Dollar General receipt.
21 It's a deposit receipt for South Carolina Bank
22 and Trust. It has the last four of the account number
23 but no name on it. Another Farmers Merchant Bank
24 customer receipt. Looks like it went into a checking
25 account. This look like some sort of pay stub dated

1 April 7, 2008. This is a magazine cover to Southern
2 something or other. And it's dated February 2010
3 edition. On the bottom, the address has Hazel Dunning.

4 Q You can put those items back in the bag for me.
5 I'd appreciate it.

6 A (Witness complies.)

7 Q Thank you. Other than the items that you
8 described already, did you participate in locating any
9 other evidence in this case?

10 A Uh, I observed other evidence. I was primarily
11 the recovery for the outside items.

12 Q And did you have any other role in this
13 investigation outside of your involvement at the search
14 warrant?

15 A No, sir.

16 Q Thank you. Please answer any questions Ms.
17 Kennedy has for you.

18 **CROSS-EXAMINATION**

19 **BY MS. KENNEDY:**

20 Q How are you this afternoon?

21 A Just fine. How are you?

22 Q Uh, I just have a few questions. And one of
23 them is just initially a curiosity question. How many
24 people were on the entry team?

25 A I can't say for certain. Like I said,

1 normally, we would do about four or five people for a
2 house this size.

3 Q And they gave you the assignment?

4 A Yes, ma'am. I was the first one at the door.

5 Q And you testified that you went through -- you
6 primarily picked up things from the outside?

7 A Yes, ma'am.

8 Q Okay. Uh, when you all were, uh, -- when the
9 search warrant was obtained from Mr. Jackson's house and
10 you were assigned to be a part of the entry team and
11 execute the warrant, what did you know about this
12 particular case?

13 A The information I had was very limited. I
14 might have known -- I'm pretty sure I knew the victim's
15 name.

16 Q Uh-huh.

17 A And the large vehicle, the Expedition that was
18 stolen.

19 Q And were you given information in term -- you
20 heard a lot of talk about the Palmetto and the quarter
21 moon. Were you given specific information about the
22 items that were supposedly on the car?

23 A Uh, I believe in a briefing when the incident
24 occurred, there were some things that were unique to that
25 vehicle. That sticker or the emblem would have been

1 unique to the vehicle. So I would say yes, during the
2 briefing or the BOLO put out for the vehicle.

3 Q So when you were walking around in the yard and
4 you saw this Palmetto quarter moon, whatever, tree, you
5 immediately thought that it was connected to the case?

6 A Uh, I wouldn't put it that way. I saw the
7 larger more obvious item first. The car rack. That drew
8 my attention to that area. Nearby there was the emblem.

9 Q And as to those items that were recovered, as I
10 understand your testimony, you sort of went through the
11 trash?

12 A Yes, ma'am.

13 Q And you were specifically looking for things
14 that might be related to this case?

15 A Yes, ma'am. It was located near the rack and
16 the emblem. So I drew my attention to the trash can. I
17 opened the trash can up and was looking for items that
18 might have been located in the vehicle and removed.

19 Q So the items that you retrieved were those that
20 obviously you just testified to?

21 A Uh, the items we recovered are the ones that we
22 could, uh, -- suspected belonged in the vehicle.

23 Q Okay. But, -- so you don't know how long those
24 items had been in the trash can?

25 A No, not exactly.

1 **Q** Okay. Don't know whether they were put there
2 on May the 18th or May the 26th or May the 28th or any of
3 those times?

4 **A** There's no way I can tell what date they were
5 put in there exactly.

6 **Q** That's all I have, sir. Thank you.

7 **THE COURT:** Any redirect?

8 **MR. ALFARO:** No, Your Honor.

9 **THE COURT:** You may step down. Thank you
10 very much.

11 **THE WITNESS:** Thank you.

12 **MR. ALFARO:** The State calls Michael Cortte.

13 **THE CLERK:** Please raise your right hand.
14 Place your left hand on the Bible.

15 **MICHAEL CORTTE**

16 having first been sworn, testifies as follows:

17 **THE CLERK:** Please be seated. State your
18 full name. Spell your last name for the record.

19 **THE WITNESS:** Michael Richard Cortte, II.
20 Last name is spelled C-O-R-T-T-E.

21 **DIRECT EXAMINATION**

22 **BY MR. ALFARO:**

23 **Q** Detective, could you tell the jury where you
24 work?

25 **A** Yes, sir. Berkeley County Sheriff's Office.

1 Q And how long have you been with the Sheriff's
2 Office?

3 A Since about March of 2007.

4 Q And what is your current rank and current duty
5 assignment?

6 A Current rank is Detective Corporal assigned to
7 the Criminal Investigations Division.

8 Q And how long have you been in the Detective
9 division?

10 A Approximately two years now.

11 Q And were you working in that department in May
12 of 2010?

13 A Yes, I was.

14 Q Did you have the opportunity to assist in the
15 investigation of an armed robbery that took place at St.
16 Stephen Evangelical Church on May 18, 2010?

17 A Yes, I did.

18 Q And how did you become involved in that
19 investigation?

20 A Responded to a call for assistance from St.
21 Stephen Police Department in reference to that armed
22 robbery that occurred.

23 Q And did you respond to the scene?

24 A I did.

25 Q And do you recall what time you got there?

1 **A** I recall somewhere around '3 p.m., as memory
2 serves, I responded to the St. Stephen Police Department
3 first for a briefing from St. Stephen Chief of Police,
4 Chief Waters.

5 **Q** And when you arrived at the scene, were you
6 able to determine how much time had passed since the
7 robbery had taken place?

8 **A** It had been several hours by that point. The
9 information that we were getting was the incident
10 occurred right around 10 a.m. The witness statements
11 indicated about 9:45 a.m.

12 **Q** And when you got to the scene, was the victim
13 still at the scene?

14 **A** No, she wasn't.

15 **Q** Were you able to determine the victim's
16 identity?

17 **A** Yes.

18 **Q** What was her --

19 **A** Hazel Dunning.

20 **Q** And when you got to the scene, were there any
21 witnesses at the scene still?

22 **A** I apologize. My allergies are acting up again.
23 Could you repeat that?

24 **Q** When you got to the scene, were there any
25 witnesses still at the scene?

1 **A** Yes, they were.

2 **Q** And did you speak with any of them?

3 **A** I did.

4 **Q** Do you recall who you spoke with?

5 **A** Yes, sir. I spoke with Mr. Phillip Balentine.

6 **Q** And at this point in the investigation, had you
7 been assigned a specific role in the investigation?

8 **A** Yes, sir. I was given the task of being the
9 lead detective in the case or the case agent, if you
10 will.

11 **Q** And can you briefly describe for the jury what
12 being the lead agent or the case agent in the case
13 involved?

14 **A** Essentially it's my case. In charge of
15 investigating it, ensuring that everyone involved, all
16 the additional detectives or deputies get their
17 supplements in, uh, helping debrief everyone such as
18 office briefing and things of that nature.

19 **Q** And were you able to determine, based on what
20 you learned at the scene, what had taken place, what type
21 of case you were investigating?

22 **A** Yes, sir. There was an armed robbery that had
23 occurred to the victim, Ms. Hazel Dunning that occurred
24 the morning of, uh, the 18th of May 2010 at the St.
25 Stephen Evangelical Church which is located at 150 Church

1 Road in the St. Stephen area of Berkeley county, South
2 Carolina.

3 Q And you say it was an armed robbery. Do you
4 have any information or did you obtain any information as
5 to the type of weapon that was used?

6 A Yes, according to the information that was
7 given, it was some sort of long gun or rifle.

8 Q And was the area around the church searched?

9 A We -- I didn't respond initially to the church
10 when the incident occurred, so I don't have firsthand
11 knowledge of it.

12 Q When you got to the scene several hours later,
13 did you search the area around the church?

14 A I looked around a little bit. I wouldn't say
15 an extensive search.

16 Q And did you have any information at that time
17 as to how the suspect had left the scene?

18 A Yes, I did.

19 Q And what kind of information -- what
20 information had you obtained?

21 A The information was that the suspect left the
22 scene in the victim, Ms. Dunning's, vehicle at a high
23 rate of speed from the church.

24 Q And were you able to obtain any information
25 regarding the description of the vehicle?

1 **A** Yes, I was.

2 **Q** And what information did you obtain regarding
3 that?

4 **A** 2006 Ford Expedition. It was the special
5 edition, Eddie Bauer model. It was white in color with a
6 tan strip down on the bottom half of the vehicle, bottom
7 portion of the vehicle. There's also some special
8 individual things she had on it. Palmetto emblem. Most
9 everybody in South Carolina is familiar with the Palmetto
10 tree and moon. And then, uh, the Sandals or flipflop
11 decal.

12 **Q** Did you also have information as to what
13 property had been taken from the victim?

14 **A** Yes..

15 **Q** And what property had been taken from the
16 victim?

17 **A** Her keys and, uh, cell phone. The keys to that
18 vehicle and her cell phone.

19 **Q** And was that information you obtained on -- let
20 me back up a second. Did you also have any information
21 as to possible suspects?

22 **A** I had a suspect description that we were given.
23 It was, uh, described as a black male roughly 5'11 to
24 about 6'2, maybe about 150 to 180 pounds described as
25 being armed with a long gun or rifle and wearing a white

1 t-shirt and possibly a ball cap.

2 Q And was the information you obtained regarding
3 the suspect, the stolen vehicle, as well as the items
4 that were taken, was that shared with other officers in
5 the Sheriff's Office and other agencies?

6 A Yes, sir. It was.

7 Q And how was that done?

8 A Through various briefings and then, of course,
9 through the BOLOs that were put out for everyone to be on
10 the lookout.

11 Q And after May the 18th, did you participate in
12 any searches of the area to try to locate the SUV?

13 A Yes, sir. I did.

14 Q And could you tell us what areas were patrolled
15 or searched?

16 A Essentially, the northern portion of Berkeley
17 county in the St. Stephen area. Essentially, kind of
18 started around where the church, where the armed robbery
19 took place and the theft of the vehicle. Drove down.
20 Had an office briefing and let everybody know what we
21 were looking for. And just kind of scoured the area. I
22 did a diligent search of different roads that might have
23 been there around the vicinity looking for it.

24 Q Do you recall when this was done?

25 A It would be in my report. I want to say, if

1 memory serves correctly, on the 24th of May, 2010.

2 Q And did you have any luck on that day locating
3 the vehicle?

4 A No, I did not.

5 Q At any point during your investigation, was the
6 victim's vehicle located?

7 A Yes, it was.

8 Q And do you recall when that took place?

9 A Yes, sir. That was, uh, about midnight on May
10 the 28th, 2010.

11 Q And are you aware of the circumstances under
12 which the vehicle was recovered?

13 A I am.

14 Q And did you respond to the scene that night
15 when the vehicle was recovered?

16 A No, sir. Not that night.

17 Q Were you present when the vehicle was processed
18 forensically for any evidence?

19 A No, sir.

20 Q So you had no role in that?

21 A No, sir.

22 Q And based off the information that was retained
23 when the vehicle was recovered, were you able to identify
24 a potential suspect in the armed robbery?

25 A Yes, sir.

1 Q And who did you identify as the suspect?

2 A The defendant seated here today, Mr. Benjamin
3 Jesse Jackson, III.

4 Q And how did he come to be identified as the
5 suspect?

6 A During the pursuit of the victim's vehicle, it
7 was located in an accident and the driver of the vehicle
8 leaving the scene wallet was left in the vehicle which
9 had a photo ID and credit cards in there with the
10 defendant's name on it, Benjamin Jackson.

11 Q And are you aware of if the SUV was returned to
12 the vehicle [sic] after it was recovered?

13 A Could you repeat that? I'm sorry.

14 Q Do you know if the stolen vehicle was returned
15 to the victim after it was recovered?

16 A Yes, it was.

17 Q And at that point, what was the next step in
18 your investigation?

19 A My next step in the investigation, we wanted to
20 take a proactive approach of attempting to locate and
21 recover and return the other items belonging to the
22 victim that was stolen during the armed robbery. So we
23 attempted a search warrant to have signed by the duty
24 magistrate the evening of the first of June 2010 so we
25 could execute a search warrant of the defendant's

1 Q And do you recall what items were recovered
2 that were related to your investigation?

3 A I do. I recall several pieces.

4 Q Can you tell the jury what those were?

5 A Yes, sir. For starters, on the outside of the
6 residence, there was a -- we recovered a luggage rack,
7 uh, which, uh, the victim, Ms. Hazel Dunning, reported
8 her vehicle did have a luggage rack. That was recovered.
9 Along with a, uh, -- different people may call them
10 different things, but it's a tow hitch, kind of a plug-in
11 style, uh, that was recovered, also the Palmetto moon,
12 Palmetto tree I mentioned previously.

13 The inside of the residence, there's a room
14 adjacent to the carport. In that room, there were, uh, I
15 want to say 14 screws that were recovered and located.
16 In a room, kind of a hallway kind of off that room coming
17 out of the carport up in the house, you may call it a
18 laundry room. It had a washer and dryer. On the washer
19 and dryer, there was a roadside kit, if you will, black
20 box, that was recovered. Next to that, there was a Ford
21 owner's manual. Inside of that, the actual victim, Ms.
22 Hazel Dunning's registration to that vehicle, her vehicle
23 was located in there.

24 Q I'm going to interrupt you for one second to
25 show you a couple of photographs that are admitted into

1 evidence.

2 **A** Yes, sir.

3 **Q** First, I'm going to show you State's Exhibit
4 17. Turn around. He's going to put them up on the
5 screen. You can describe for the jury what's in that
6 photograph.

7 **A** May I use the --

8 **Q** Yeah, the red button up on the top.

9 **A** This is actually the cabinet I had mentioned
10 that's above the washer and dryer. This is actually
11 going to be that roadside kit box that I had mentioned.
12 Next to it here -- you can kind of see it. It's a little
13 dark in the photograph -- but that's the Ford owner's
14 manual. Inside of that is where the registration for Ms.
15 Dunning's vehicle is located.

16 **Q** Okay. And I'm going to show you State's
17 Exhibit 18. That comes up on the screen. If you can,
18 tell the jury if that's the item you were just
19 discussing.

20 **A** Yes. That's -- you can kind of see the zipper
21 here. This is that registration, the Ford owner's
22 booklet opened up. The registration here has Ms.
23 Dunning's name, Hazel Dunning, and her address.

24 **Q** I'm going to show you State's 39. Do you
25 recall where that item was located?

1 **A** Yes, sir.

2 **Q** And where was that located?

3 **A** It was located in the defendant's residence at
4 Road, St. Stephen, Berkeley county, uh,
5 actually in the master's bathroom.

6 **Q** And if you could, just tell the jury what name
7 is on the prescription label.

8 **A** Yes, sir. It would be the victim's name, Ms.
9 Hazel Dunning.

10 **Q** And Exhibit 21, does that picture describe or
11 show where this pill bottle, State's Exhibit 39 was
12 located?

13 **A** Yes, sir. It does.

14 **Q** He's going to put the picture up on the screen.

15 **A** This, again, is the defendant's residence, the
16 master bathroom. You can kind of see in there the top
17 portion of the emerald-colored prescription medicine
18 bottle. It was a prescription for 600 milligrams of
19 Ibuprofen, a substitute for Motrin according the label,
20 with Ms. Hazel Dunning's name on it.

21 **Q** And just for purposes of the record, we
22 initially put State's Exhibit 22 on the screen as opposed
23 to, uh, State's 21.

24 **MR. ALFARO:** Can we approach, Your Honor?

25 **THE COURT:** Yes, sir.

1 Q On both of those dates, did he freely and
2 voluntarily agree to speak with you about the incident
3 you told him you were investigating?

4 A Yes, he did.

5 Q And you mentioned that in his initial -- on his
6 June 2nd statement, that he said that he had gotten --
7 someone helped him dispose of the victim's purse?

8 A Correct.

9 Q And where was that supposedly disposed of?

10 A Supposedly, from what he told us, at a car wash
11 in Orangeburg.

12 Q And were you ever able to recover the victim's
13 purse?

14 A No, sir.

15 Q At any point in your investigation, have you
16 ever recovered the weapon that was used?

17 A No, I did not.

18 Q Thank you. Please answer any questions that
19 Ms. Kennedy has for you.

20 A Yes, sir.

21 **CROSS-EXAMINATION**

22 **BY MS. KENNEDY:**

23 Q You need some water?

24 A I think it might be a good idea to have some.

25 Q I think you might have some. (Pause.)

1 How are you?

2 **A** Doing well.

3 **Q** Uh, Detective Cortte, you indicated that you
4 were what is known as the lead detective or the case
5 agent in this case, correct?

6 **A** Correct.

7 **Q** And what day did you receive this assignment?

8 **A** It was on May the 18th of --

9 **Q** And that's when you went to St. Stephen
10 Evangelical Church to what you all would commonly refer
11 to as the crime scene?

12 **A** Correct.

13 **Q** And you indicated that you interviewed some
14 witnesses when you were there?

15 **A** I interviewed a witness, yes.

16 **Q** A witness. Mr. Balentine?

17 **A** Correct.

18 **Q** Were there other people there?

19 **A** There were.

20 **Q** Did anybody make any effort to interview any of
21 them?

22 **A** As I recall, yes. I don't know the specifics
23 of who interviewed whom.

24 **Q** Okay. Who was with you?

25 **A** As I recall, uh, Captain Ollic and Sergeant

1 Alteri.

2 Q So when you went to St. Stephen church, did you
3 -- strike. Let me -- tell me what happened when you
4 first arrived. What did you do?

5 A I'm sorry.

6 Q When you first got to the church, what did you
7 and Captain Ollic and Sergeant Alteri do?

8 A Kind of approached the building. Kind of
9 looked around the outside a little bit. Made contact
10 with, uh, -- I observed that it was currently under
11 construction renovations. Made contact with some of
12 those construction workers that were still inside.

13 Q At that point in time, did you have any
14 information of where Ms. Dunning was at the time this
15 incident occurred?

16 A Not specifically.

17 Q You didn't? You didn't know what building she
18 was in?

19 A I knew she was in -- I'm sorry. You're asking
20 where she was at that time?

21 Q Where was she physically when this incident
22 occurred?

23 A I didn't exactly know at that time other than
24 in the church.

25 Q In the church?

1 A Yes.

2 Q And were you given information that the suspect
3 had come through a door?

4 A I was given information that the armed robbery
5 took place inside the church.

6 Q All right. And whoever the person was that
7 committed the armed robbery had to come through a door,
8 did they not?

9 A I don't know which door that was.

10 Q You don't know which door it was?

11 A No, ma'am.

12 Q So it didn't occur to you or anybody that was
13 with you to take fingerprints from the door?

14 A Not at that time, it did not.

15 Q Any time?

16 A No, ma'am.

17 Q Okay. And then, uh, -- and then I believe you
18 indicated that you all, you and the people that were
19 assigned to help you in the investigation of this case,
20 uh, spent a lot of time looking for the car.

21 A We did spend some time trying to locate the
22 vehicle, yes.

23 Q Okay. And so the focus of the investigation --
24 and please correct me if I'm wrong -- from your
25 perspective was what you were going to do or what you

1 intended to do and needed to do was to find the car.

2 **A** That wasn't the -- I wouldn't say that was the
3 only objective in the investigation, but certainly.

4 **Q** Well, did you -- as the lead detective, did you
5 interview Ms. Dunning?

6 **A** I did not....

7 **Q** Did anybody from your department or who was
8 under your -- I don't know if command is the right word
9 -- your supervision interview Ms. Dunning specifically
10 about the incidents in the church?

11 **A** From what I had knowledge of, my captain, going
12 under his supervision, he had contact with the victim.
13 Initially, the contact I made was at the St. Stephen
14 Police Department with Chief Waters there. Uh,
15 responding to a request to assist them. And clearly,
16 based on what they told us, Ms. Dunning, the victim had
17 been through quite an ordeal already.

18 **Q** No, I understand that. And I understand that
19 part of your job is to be empathic and treat your victims
20 with --

21 **A** Yes, ma'am.

22 **Q** But during the course of this investigation,
23 did you or anybody else under your supervision go back
24 and take another statement from Ms. Dunning other than
25 the one that she had given to Sergeant Wadford at the St.

1 Stephen Police Department?

2 A Not that I'm aware of.

3 Q So you never -- you never interviewed her about
4 any kind of description of the suspect or got any
5 information from her directly?

6 A No, not directly.

7 Q Okay. Now, uh, as I understand it from your
8 direct testimony, along the way, there were a number of
9 briefings and conversations and, excuse me, discussions
10 with other officers about the case?

11 A Correct.

12 Q Okay. Could you tell me what the substance of
13 those discussions was?

14 A Essentially that, uh, -- could you be -- which
15 briefing are you speaking of?

16 Q Well, I mean, any briefing that you had.

17 A Okay.

18 Q There was an initial briefing as I understand
19 it with, uh, the St. Stephen Police Department officers
20 on May the 18th.

21 A Yes, ma'am.

22 Q According to your report, there was a followup,
23 I think it was referred to as special ops or ops briefing
24 on May the 24th. What was the discussion on May the
25 24th?

1 **A** On May the 24th, that also took place at the
2 St. Stephen Police Department. That's where we made the
3 effort to try and locate Ms. Dunning's vehicle.
4 Essentially, we met with other detectives, members of the
5 St. Stephen Police Department. We had some, uh, Berkeley
6 County Sheriff's narcotics detectives. There were a lot
7 of plain clothes assignments that were familiar with the
8 area, some of the dirt roads that are up there were
9 potentially taken in an armed robbery such as might
10 possibly be located. Provided a description of the
11 vehicle and what had occurred while we were looking for
12 it.

13 **Q** So just so I understand it, from May the 18th
14 to May the 24th, there really wasn't very much
15 investigation going on. When you got to May the 24th,
16 we're talking still mostly about the vehicle.

17 **A** I would respectfully disagree. There was other
18 investigation that was going on.

19 **Q** Tell me what that was.

20 **A** For example, the date would be in the report.
21 My memory wants to say it was around the 20th or so. I
22 received information of actually a burned sport utility
23 vehicle in an adjacent county. I made contact with the
24 fire chief regarding that particular vehicle. Naturally,
25 I thought that could be a possible -- possibly be my

1 victim's vehicle. I was quickly able to rule out that it
2 was not Ms. Dunning's vehicle. That burnt vehicle, I was
3 advised by the fire chief was actually a Volkswagen sport
4 utility. Clearly, I was looking for a Ford. So that was
5 not going to be it.

6 Q But again, the focus even of that was the car
7 or SUV, right?

8 A Uh, yes.

9 Q All right. Now, uh, and then there was the,
10 uh, -- the, uh, chase and the recovery of the car on the
11 28th of May. Tell about the, uh, -- how did you come to
12 find out about that?

13 A My captain, Captain Ollic, who was directly
14 involved in that incident made me aware of it.

15 Q When you came to work the next morning or what?

16 A Exactly.

17 Q Okay. And what did you do with that
18 information?

19 A Based on that information, we ended up typing
20 up a search warrant to be issued. Based on documents
21 that were left in the vehicle, we were able to identify a
22 possible suspect. Again, we were trying to be proactive
23 in locating and recovering additional items of property
24 belonging to Ms. Dunning that were stolen from her during
25 the armed robbery. So I typed up a search warrant to be

1 signed by the duty magistrate that evening so we could
2 execute that warrant that following morning, which was
3 the morning of June the 2nd.

4 Q But at that point in time, the identification
5 of a possible suspect is the person who, based on
6 documents in the car, was driving the car on May the
7 28th, correct?

8 A That would be correct.

9 Q At that point in time, other than knowing that
10 Mr. Jackson, by information left in the car, all you knew
11 was that he had the car, correct?

12 A Correct.

13 Q Okay. Cause there had been no identification,
14 no further description, nothing relating to Mr. Jackson
15 except the fact that he was driving the car. Okay. So
16 then you got the search warrant?

17 A I did not. I typed it up.

18 Q You typed it up and?

19 A Yes, ma'am. We work different shifts
20 sometimes. There was -- the next judge wouldn't have
21 been there until the evening shift. So the evening
22 detective that day was able to take the one I typed up to
23 get it signed so that we could execute it that morning.

24 Q Okay. I'm sorry. Go ahead and say it. I
25 apologize.

1 **A** Oh, we wanted to execute the search warrant
2 early enough in the morning.

3 **Q** And for the Ladies and Gentlemen of the jury,
4 what that process is is you go to the magistrate and you
5 tell the magistrate that we have probable cause, correct?

6 **A** Correct.

7 **Q** And based on this probable cause, we want you
8 to sign this search warrant so that we can go to this
9 particular place and look for particular things and
10 execute the search warrant, right?

11 **A** That's correct.

12 **Q** That's pretty much what you did. Okay. And
13 then, uh, how was it decided that you all would have what
14 Detective Potteiger referred to as an entry team? And
15 how was it decided that you would go really early in the
16 morning?

17 **A** Again, officer safety is always paramount
18 issue. And we certainly wanted to, you know, if you get
19 there early enough, that ensures that the residents are
20 going to be there. So you make contact with them. And
21 also what this incident with the stolen vehicle stemmed
22 out of was from the armed robbery which involved a
23 weapon. Again, due to officer safety, that had a good
24 deal to play in that.

25 **Q** So I gather it was your decision to execute the

1 warrant the way it was done?

2 **A** Yes.

3 **Q** It was your decision to pick however many
4 people it was to be on the entry team?

5 **A** Not specifically how many were assigned on the
6 entry team.

7 **Q** Okay. It was your decision to go, I believe
8 you said around 7 o'clock in the morning?

9 **A** That was the agreed upon time.

10 **Q** That was what? The agreed upon time?

11 **A** Yes, ma'am.

12 **Q** You and who agreed upon it?

13 **A** Everyone involved that was going to meet. We
14 met at the Sheriff's Office that morning to have the
15 safety briefing and then to go execute the search
16 warrant.

17 **Q** So y'all were at the Sheriff's Office at six
18 o'clock in the morning?

19 **A** That sounds about right from what I can recall.

20 **Q** All right. And then you go -- I believe you
21 said that when entry was gained, that it was your job to,
22 uh, -- you stayed with Mr. Jackson's wife?

23 **A** Correct.. Once entry had been made and the
24 protective sweep was completed.

25 **Q** And you stayed with her where?

1 A In the living room area.

2 Q And did you talk to her about her being
3 charged?

4 A No, not at that time.

5 Q Not at that time. But she was taken into
6 custody, right?

7 A She was.

8 Q Were you the one that took her into custody?

9 A Not initially. I don't know who made contact
10 with her when the entry team made entry.

11 Q All right. So when you stayed with her in the
12 living room area, she was already in custody?

13 A Correct.

14 Q Was she in cuffs?

15 A Yes.

16 Q So you weren't just kind of sitting there. You
17 were watching your prisoner?

18 A Essentially, as I mentioned earlier to make
19 sure there's no escape attempt or any needs that she
20 needed, a drink or water, restroom, medical attention or
21 anything of that nature.

22 Q I assume Mr. Jackson was already in custody at
23 that point?

24 A Correct.

25 Q He was already in the patrol car?

1 **A** I didn't specifically know where he was. My
2 area of responsibility at that time was with Mrs.
3 Jackson.

4 **Q** Okay. But you are the lead detective. So why
5 was that not your area of responsibility?

6 **A** That is where I understood him to be. I just
7 don't want to testify to something that I don't know and
8 I didn't have firsthand knowledge of.

9 **Q** All right. But as far as you knew, he was
10 already in the patrol car?

11 **A** It would be a safe -- I hate to use the word
12 assumption, but --

13 **Q** Okay. He was already in the patrol car in
14 cuffs. You were sitting with her in the livingroom. She
15 was in cuffs.

16 **A** Correct.

17 **Q** And you and your entry team, they were going
18 through the house gathering stuff up?

19 **A** Correct.

20 **Q** How long were y'all there?

21 **A** I don't know the specific time.

22 **Q** An hour, two hours?

23 **A** Maybe close to two hours. Again, I don't
24 specifically know.

25 **Q** And at some point, I gather, but you're not

1 sure when, somebody drove Mr. Jackson to the Sheriff's
2 Office?

3 A Correct.

4 Q So you don't know whose decision it was to take
5 him to the Sheriff's Office?

6 A Not specifically.

7 Q Okay. But even though you are the lead
8 detective, somebody else that's in this group can make
9 the decision to do certain things without your knowledge?

10 A That can occur.

11 Q Okay. And it did occur in this instance, from
12 your testimony, correct?

13 A That is something I would have wanted to do
14 regardless of who made that decision or made that call.

15 Q And I understand that because that's your job.
16 But somebody made that decision for you, did they not?

17 A It would be safe to say that.

18 Q All right. So how did you know to go to the
19 Sheriff's Office to -- how did you know Mr. Jackson was
20 at the Sheriff's Office?

21 A Once I had been told that he was being
22 transported there.

23 Q Somebody told you that they were going to take
24 him there?

25 A Correct.

1 Q Did you know for what purpose he was being
2 taken there?

3 A It would be so I could interview him.

4 Q All right. So somebody made the decision to
5 take him because they were anticipating what you were
6 going to do or what you thought you might were going to
7 do?

8 A I'm not quite following your question. I'm
9 sorry.

10 Q I'm glad you're telling me. You indicated that
11 somebody took him to the Sheriff's Office, right?

12 A Yes.

13 Q You also indicated that it would be something
14 you would do to interview him, correct?

15 A Correct.

16 Q But somebody took him and you didn't know but
17 somebody then told you he was there, right?

18 A I didn't specifically know who was taking him
19 or who transported him.

20 Q All right. But at some point, somebody said,
21 Detective Cortte, he's at the Sheriff's Office. He's in
22 the Criminal Investigation office. Somebody told you
23 that?

24 A Yes, as I can recall, uh, Mrs. Jackson was
25 taken there as well. And I was aware of that.

1 Q Okay. So -- but you weren't -- just I'm clear.
2 I don't want to confuse you. I certainly don't want to
3 confuse the jury. You -- how did you know to go to the
4 Sheriff's Office and talk to him?

5 A I was made aware that he had been transported
6 or was being transported. He may have been en route.
7 I'm not sure exactly where. The same with Mrs. Jackson.
8 Naturally, I wanted to go there and interview the two of
9 them. Separately, of course.

10 Q Okay. So at some point, you know that he's
11 there. Do you know -- I mean, I've only been back there
12 twice. There's -- the part where you all have offices
13 and it's just -- it's sort of a big -- then there are
14 separate interview rooms, right?

15 A Correct.

16 Q And those interview rooms have -- are equipped
17 -- how many of them, like four of them? Three or four?

18 A There's a small one in the back of the
19 detective bay. There's a conference room in the front.

20 Q But there are at least two or three of them
21 that are equipped with video equipment and cameras and
22 audio where you all can take statements, right?

23 A In the very back, there are.

24 Q So you would have had the ability to take Mr.
25 Jackson back to one of those rooms to, you know, do the

1 interview, get whatever information that you wanted from
2 him and that didn't happen, did it?

3 **A** Could you be more specific, I'm sorry.

4 **Q** Okay. You just said that there's a conference
5 room and there was a small room and those rooms are
6 equipped with cameras and video equipment and audio
7 equipment, right?

8 **A** I would respectfully disagree. To my
9 knowledge, there's no video or audio equipment.

10 **Q** It's your testimony that the Sheriff's
11 Department doesn't have the ability to videotape
12 confessions or interviews?

13 **A** No, ma'am. In the very back room. But if I
14 understood, you were asking me about the conference room
15 and the interview room in the detective office.

16 **Q** Let me rephrase the question. There are
17 interview rooms in the Sheriff's Office that had cameras
18 and audio equipment for the specific purpose of taking
19 and recording interviews with suspects or witnesses or
20 whoever agrees to it, right?

21 **A** That's right.

22 **Q** Okay. And Mr. Jackson ended up in Lieutenant
23 Mason's office.

24 **A** That is correct.

25 **Q** And Lieutenant Mason's office does not have any

1 audio or video equipment, does it?

2 A Not to my knowledge.

3 Q So how did he end up there if the purpose was
4 to talk to him about the incident that occurred on May
5 the 18th, the interview? Why wasn't it taped?

6 A I don't recall if there was a specific reason
7 on that day.

8 Q Well, let me ask the question this way. How do
9 y'all decide which ones you're going to take and which
10 one's you are not going to take? Is it based on the
11 seriousness of the charge?

12 A Not sure that there's any specific set way. I
13 know sometimes those other rooms would be in use and we'd
14 have to resort to using an available room ---

15 Q Okay.

16 A --- if there's multiple suspects or things of
17 that nature.

18 Q Were those rooms in use on May -- excuse me.
19 I'm having a terrible time with these dates. Were those
20 rooms in use on June the 2nd when Mr. Jackson was taken
21 to the Sheriff's Office?

22 A I don't recall.

23 Q Did you check?

24 A I don't recall.

25 Q But you went to the Sheriff's Office with the

1 intention to interview him about these serious charges of
2 Armed Robbery and Kidnaping and possession of a weapon
3 and burglary and Grand Larceny of a motor vehicle. That
4 was your job?

5 A Could you be more specific? I'm sorry.

6 Q Okay. As I understand your testimony, on June
7 the 2nd, when Mr. Jackson was transported to the
8 Sheriff's Office, you went there, knowing that he was
9 there, with the intention of talking to him about this
10 incident that occurred on May 18th, yes or no?

11 A That's correct. Yes.

12 Q Okay. And somebody put him in Lieutenant
13 Mason's office, but you don't know who. And you then
14 went to Lieutenant Mason's office to conduct this
15 interview?

16 A Correct.

17 Q Okay. And you didn't check to see -- just so
18 we are straight -- whether or not there was a room
19 available for this information and this confession to be
20 videotaped?

21 A I don't recall if I did or did not.

22 Q Is it safe to say that you didn't do that
23 because this confession wasn't taped, was it?

24 A It would be safe to say. I don't recall if I
25 did or did not.

1 Q Okay. So you think it was around 10 o'clock in
2 the morning?

3 A I would say roughly, yes.

4 Q Okay. And, uh, was Lieutenant Mason already in
5 the room when you went in?

6 A As I recall, yes.

7 Q As you recall. Uh, who started the interview?

8 A As I recall, Lieutenant Mason advised him of
9 his rights first.

10 Q Lieutenant Mason? You not saying -- and I
11 don't know how this works so just help me. You don't
12 say, Mr. Jackson, my name is Detective Cortte, I'm the
13 lead investigator on this case. And I need to talk to
14 you about something that happened on May the 18th at St.
15 Stephen Evangelical Church. Did you do that? Did
16 Lieutenant Mason do that?

17 A Sometimes it will go like that during that
18 icebreaker, if you will, where we introduce ourselves.
19 We advise them of their rights.

20 Q No, no, no. How did you -- if you recall, how
21 did you start this interview?

22 A Best as I can recall, Lieutenant Mason kind of
23 took the lead on that one, if you will, and advised him
24 of his rights.

25 Q Well, I know you said advise him of his rights.

1 The exhibit concerning advising him of his rights are
2 already in evidence. I'm just talking to you about the
3 process. Somebody comes to my office and they have --
4 it's a new client for me. I say hello, my name is Patty
5 Kennedy and I'm going to be representing you on this
6 charge. Let's sit down and talk. Do you go through that
7 process?

8 A Sometimes. I mean, we'll introduce ourselves.

9 Q Did you do it in this case?

10 A I was introduced to him, yes.

11 Q You were introduced to him, but you didn't tell
12 him why you wanted to talk to him?

13 A We did.

14 Q Who did?

15 A Lieutenant Mason.

16 Q All right. And you said he more or less took
17 the lead, I think is the phrase you used?

18 A That's correct.

19 Q Okay. Tell me how that works.

20 A Lieutenant Mason advised him of his rights as I
21 described earlier. Once Mr. Jackson agreed that he
22 understood his rights and wished to waive them and speak
23 with us, Lieutenant Mason taking the lead essentially
24 means that -- he did more of the leading of the
25 questions. I might have asked a couple of followup

1 questions.

2 Q What questions were asked?

3 A After he had already told us that he did it and
4 was sorry for what he had done, when he told us about
5 that someone had left a gun for him to use and someone
6 had helped him to dispose of the victim, Ms. Dunning's
7 property, I asked him, you know, who that person was.

8 Q Let me stop you right there for just a minute
9 if I could.

10 MS. KENNEDY: Approach the witness, Your
11 Honor?

12 THE COURT: Yes, ma'am.

13 BY MS. KENNEDY:

14 Q Uh, tell me -- let me back up a minute. When
15 you say he said he did it, how -- did you say you know
16 why I'm here, I know y'all think I committed this armed
17 robbery and I'm going to tell you I did it. I'm going to
18 save you a lot of time. I'm going to tell you right now
19 I did it. Is that what he said?

20 A That was after we told him we wanted to talk to
21 him.

22 Q That was my question, sir, how did you approach
23 it before he volunteered this information?

24 A I would say it was at the same time he was
25 being advised of his rights and told why we wished to

1 speak to him, why we were advising him of his rights.

2 Q Did you, uh, take notes during this interview?

3 A I don't recall that I did.

4 Q Were you here when your Captain Ollic testified
5 this morning?

6 A I was.

7 Q And were you here when he testified that what
8 you all are supposed to do is take notes cause that's how
9 you get all the information in the supplemental reports?

10 A Correct.

11 Q It's your testimony today that you don't have
12 any notes?

13 A Anything would be detailed in my supplemental
14 report.

15 Q Okay. Let me back up. I got the issue with
16 the supplemental report. But when Captain Ollic
17 testified this morning, his -- he's your supervisor,
18 right?

19 A Correct.

20 Q He said his officers take notes, get the
21 information and then it's all transcribed into a report.
22 Did you do that?

23 A I don't recall that I wrote any specific notes.

24 Q Okay. And this is -- armed robbery is pretty
25 serious, is it not?

1 **A** Yes.

2 **Q** Okay. Kidnaping is pretty serious, is it not?

3 **A** Yes, ma'am.

4 **Q** So you don't recall whether -- let me -- strike
5 that -- let me -- how many other investigations have you
6 been the lead detective on?

7 **A** Several since. I don't know the exact number.

8 **Q** Anything this serious?

9 **A** There have been, yes.

10 **Q** And it's your testimony that the several
11 investigations, including this one, that you -- serious
12 ones, that you don't take notes?

13 **A** No, my testimony is that any notes are
14 transcribed into the supplemental. It's in the
15 supplement what was notated or what --

16 **Q** But you have physical notes before you
17 transcribe them into your supplemental or at least you
18 are supposed to according to Captain Ollic?

19 **A** I don't recall if I had any physical note paper
20 if that's what you're asking.

21 **Q** Okay. So when Mr. Jackson says I apologize,
22 you were never the target, that wasn't important to you
23 for you to take down notes?

24 **A** It -- I would say it was important enough.
25 That's why it's detailed in my supplemental report.

1 Q But there are no underlying -- just so we're
2 clear, there are no underlying notes to support what's in
3 your supplemental reports, correct?

4 A Again, if you are referring to specific note
5 papers, --

6 Q Right. The notes that your captain said you
7 are supposed to do, you don't have those?

8 A I don't recall that I do.

9 Q Okay. And there are no notes that reflect that
10 you -- this utterance about, you know, that somebody --
11 that Mr. Jackson said somebody gave him a gun, right?

12 A Again, I don't recall having a specific.

13 Q And when he said somebody gave him a gun, you
14 indicated that you questioned him further about that,
15 right?

16 A Yes.

17 Q And he refused to give you any more information
18 or didn't want to.

19 A I wouldn't say he refused to give any more
20 information. It appeared to be a touchy subject. He
21 didn't want to -- appeared to not really want to tell me
22 who that person was.

23 Q Right. But you didn't take any notes about
24 that either?

25 A It's detailed again in my supplemental report.

1 Q Supplemental report is supposed to have
2 underlying notes to support it. How about when he, I
3 guess at some point, spontaneously -- these two -- at
4 least as to those two things, the gun and the information
5 that the victim's personal belongings were put in a trash
6 can, you didn't have any information about that, did you,
7 that somebody had given him a gun?

8 A I'm not sure of your question.

9 Q Okay. You didn't have -- at the time you
10 interviewed him in Lieutenant Mason's office, you had
11 zero information about anybody else giving him a gun,
12 correct?

13 A Correct. At the time, we had information that
14 Ms. Dunning was the victim of an armed robbery in a
15 church and that the suspect held her at gunpoint against
16 her will.

17 Q Right. But as to the specifics, and we will
18 concede for purposes of this examination that Mr. Jackson
19 -- as to the specifics, you didn't know anything about
20 another person being involved that may have been involved
21 where this gun was concerned, correct?

22 A Correct.

23 Q Okay. And you didn't have any information,
24 whatsoever, about Ms. Dunning's personal items being put
25 in a trash can in a car wash in Orangeburg, correct?

1 **A** Correct.

2 **Q** And those are the things that you incorporated
3 into your supplemental, but there are no notes to support
4 it, right?

5 **A** If you're asking again if there's any specific
6 note paper, I don't recall that there are.

7 **Q** Let's say -- when you say your supplemental,
8 what happens is you all take notes. You're supposed to
9 put it in an incident report, right? Yes or no.

10 **A** It depends on the situation. If you're talking
11 about if there's an -- it's an initial incident that
12 we're responding to or if it's a supplemental.

13 **Q** No, the process of this investigation. Okay.
14 You did an incident report on May the 18th.

15 **A** Correct. Initially, that was done as an agency
16 -- what we call an agency assist report.

17 **Q** Right. And then when was the next time you
18 completed a report on this case? Do you have your file
19 with you?

20 **A** I do.

21 **Q** When was the next time that you completed a
22 supplemental report in relation to this incident?

23 **A** The next time? The next time was on the 24th
24 of June, 2010 is when it was actually uploaded into the
25 system.

1 Q All right. May 24th. This incident took place
2 on -- June 24th. This incident took place on May the
3 18th. You interviewed Mr. Jackson on June the 2nd. We
4 don't get any kind of report that you actually did the
5 supplemental until June 24th, right? And by that time,
6 the investigation was over, correct?

7 A On June 24th, the one that was uploaded at that
8 point has a list of all the other days that it took
9 place, including the 20th, when I contacted the fire
10 chief.

11 Q I understand that. I understand and maybe I'm
12 just confused about the process, but you did an initial
13 report on May the 18th.

14 A Correct.

15 Q You didn't do a supplemental until June the
16 24th. There was a whole lot of investigation in between
17 those two dates, correct?

18 A Correct.

19 Q And none of that was recorded contemporaneously
20 with what you did in that investigation, right?

21 A Again, if you're asking for specific note
22 paper --

23 Q Did you go back to the computer on -- after you
24 interviewed Mr. Jackson on June the 2nd and you put that
25 in your report that I interviewed him on that day and

1 this was what he told me that day?

2 **A** Sometimes what I'll do is I'll put it in a Word
3 document as I go so that I can essentially transcribe --

4 **Q** But every time you do that, aren't you supposed
5 to record why you're doing that?

6 **A** That's kind of what it is, as I go. And then
7 again, the 24th is when all of that was uploaded into
8 the --

9 **Q** So you didn't go on June the 2nd, that
10 afternoon, and put notes in and record notes, right?

11 **A** Not until the final --

12 **Q** Okay.

13 **A** The 24th is when it was all uploaded.

14 **Q** Mr. Jackson all volunteered this -- I mean,
15 volunteered all this information to you on June the 2nd.
16 You didn't take notes. You didn't think it was important
17 enough to transcribe immediately after the interview was
18 done or pretty close in time, right? Did you do that?

19 **A** What is your specific question? I'm sorry.

20 **Q** Did you on the afternoon of June the 2nd or
21 midday on June the 2nd or before you went home on June
22 the 2nd, put all this information in a report.

23 **A** No, ma'am.

24 **Q** Okay. And on June 3rd, I'm a little confused
25 too. On June 3rd, if you already had a confession, which

1 is what you are testifying to and that Mr. Jackson
2 voluntarily gave you all this information, why do you go
3 to the jail? Why do you go after another one?

4 **A** Essentially, there were two reasons. I wanted
5 to make a proactive effort to try to find out who that
6 other person was since the defendant had mentioned that
7 someone left the gun for him. I felt that if I could
8 obtain that information, that was certainly pertinent to
9 the investigation. He mentioned, you know, also that a
10 person helped him to dispose of some of the property that
11 belonged to the victim at the car wash. I wanted to try
12 to see if I could determine who that was, if maybe that
13 was the same person that left the gun for him or if that
14 story would change at all and to provide him the
15 opportunity to see if he would write us a statement.

16 **Q** So you went back the next day to sort of rehash
17 everything you had heard the day before?

18 **A** I wouldn't necessarily say rehash, but --

19 **Q** What did you expect to hear differently on June
20 the 3rd than what you had heard June 2nd? He had already
21 indicated to you, at least based on your testimony, that
22 things were getting kind of touchy.

23 **A** He didn't say they were getting touchy. His
24 posturing and, you know, tone of voice. You could tell
25 it was kind of a touchy subject. Again, my hope was to,

1 you know, diligent effort to try to get that information,
2 if there was indeed another person involved. Without
3 making that effort, I couldn't ascertain who that was.

4 Q He said -- you said he was getting kind of
5 touchy or he said it was a touchy subject?

6 A No, ma'am. I said that. He did not say he was
7 getting touchy. But you could tell in his posturing that
8 it was kind of a touchy subject with him. Any time we
9 would go to ask him what is the name of that person, his
10 mannerisms changed a little bit. His posturing got a
11 little more defensive.

12 Q So you ended the interview?

13 A Correct.

14 Q Okay. But at that point in time, he had
15 already given you, according to you an oral confession.

16 A Correct.

17 Q So my question to you is what did you think was
18 going to happen differently on June the 3rd? What
19 information were you going to get on June the 3rd that
20 you didn't already have?

21 A I was hoping to get the name and description of
22 the person that left him the weapon to use, the gun to
23 use, the person that helped him dispose of the victim's
24 property at the car wash and determine if that was the
25 same two people or if there were just one other person

1 involved or possibly two other people or more that were
2 involved.

3 Q So you were the one who asked the questions
4 this time? You took the lead?

5 A I took the lead as far as advising him of his
6 Miranda rights at that time on the 3rd.

7 Q Okay. And so Detective Riser went with you on
8 that day, right?

9 A Correct.

10 Q So how did Detective Riser know what questions
11 to ask him? Was he involved in the interview on June
12 2nd?

13 A No.

14 Q So how did -- how did -- how did Detective
15 Riser know what to ask him if he wasn't involved in that
16 on June the 2nd?

17 A He was a much more experienced detective at the
18 time of the incident.

19 Q So you told him the information you had gotten
20 the day before?

21 A I did.

22 Q And so you went over to the Hill Finklea
23 Detention Center?

24 A Correct.

25 Q You were in the small interview rooms in the

1 hall and you go down the hall?

2 A Yes, ma'am.

3 Q Okay. No videotaping equipment there and no
4 audio, correct?

5 A Not that I'm aware of.

6 Q Okay. And, uh, how long were you and Detective
7 Riser with Mr. Jackson on June the 3rd?

8 A I would say roughly 20 minutes or so.

9 Q So you went in. And at this point in time, you
10 had the defendant's statements to use rather than the
11 advise of rights statement that was used the day before,
12 correct?

13 A Correct.

14 Q And the significance to you for both of those
15 things is that each of them contain the Miranda warnings,
16 right?

17 A Yes.

18 Q Okay. And you filled out the -- you are the
19 lead detective, right?

20 A Yes, ma'am.

21 Q And you filled out the paperwork and you put
22 Mr. Jackson's name as Brandon and not Benjamin, right?

23 A I did.

24 Q And by this time, we are -- let's see. He's
25 been in custody or you've known his name at least four or

1 five days, right?

2 A That sounds about right.

3 Q Okay. And Detective Riser is the one who's
4 asking all the questions. How is it then that the only
5 thing that came -- that was actually put in this
6 statement is the portion where he says I'm really sorry,
7 you were never the target?

8 A It was his written statement written in his
9 words by him.

10 Q I understand that. But according to you, there
11 were three separate parts to this confession, the part
12 where he apologizes, the part where he makes reference to
13 the gun. The part where he makes reference to having
14 thrown Ms. Dunning's personal items in the trash can.
15 None of that comes into the written statement. Can you
16 tell me why?

17 A That's what he wrote down.

18 Q Okay. But he never wrote down he did it?

19 A He didn't write it down.

20 Q No.

21 A He told us that verbally.

22 Q He told you that verbally, but it's not in his
23 statement?

24 A I don't recall it being in his written
25 statement.

1 Q Sir?

2 A I don't recall it being in the written
3 statement.

4 Q You just read it to the jury. Is it in there?

5 A Not that I recall.

6 Q Okay. And again, how long were you with him?

7 A On the 3rd of June, 2010, roughly about 20
8 minutes or so.

9 Q 20 minutes and the 15 or 20 minutes the day
10 before?

11 A That sounds about right.

12 Q And he just sort of volunteered all of this
13 information?

14 A That's correct.

15 Q Okay. Now, when you were getting this
16 information from him, what is your understanding of what
17 he knew about what was happening to his wife since you
18 were the lead investigator, you would know that, right?

19 A I don't know what his understanding would have
20 been.

21 Q Well, did you tell him that she was taken into
22 custody?

23 A I don't recall.

24 Q Did you tell him she was going to be charged?

25 A I really don't recall specifically.

1 Q So that's not important information for you to
2 put in any kind of notes that you would -- that's not in
3 your supplemental either.

4 A I'm sorry. Her being charged is in my
5 supplemental.

6 Q But the information as to how she came to be
7 charged isn't in your supplemental except to say that she
8 was arrested on June the 3rd.

9 A I thought there was more to it than that in my
10 supplemental.

11 Q Okay. Did you -- when you were sitting with
12 her and she was in custody and sitting, I guess, on the
13 sofa in her living room, did you tell her she was going
14 to be charged?

15 A Not at that time.

16 Q Okay. When did you tell her she was going to
17 be charged?

18 A It was later that same day at the Sheriff's
19 Office.

20 Q Okay. Do you have your reports with you,
21 Detective Cortte?

22 A I do.

23 Q I would direct your attention to the
24 supplemental that you completed on June the 24th. It
25 would be referencing page 5 of that report. At the

1 **MR. ALFARO:** Yes, sir.

2 **THE COURT:** Okay. I'm sorry. Anything from
3 the defense?

4 **MS. KENNEDY:** No, Your Honor.

5 **THE COURT:** Bring the jury please.

6 (WHEREUPON, the jury enters at approximately
7 4:48 p.m.)

8 **THE COURT:** Everybody have their pads? We
9 ready?

10 Redirect?

11 **MR. ALFARO:** Thank you, Your Honor.

12 **REDIRECT EXAMINATION**

13 **BY MR. ALFARO:**

14 **Q** Detective Cortte, before we broke, you were
15 asked a couple of questions regarding the, uh, statement,
16 the oral statement that the defendant gave on June the
17 2nd. I just want to clarify. Was he -- was the
18 defendant informed of what you were -- what incident you
19 were investigating before he gave you the statement that
20 started with he did it?

21 **A** Yes, he was.

22 **Q** And you were asked about the date that you
23 completed your supplemental report. I believe you said
24 it was June the 24th?

25 **A** Yes, sir.

1 Q Did you have an opportunity to, uh, -- strike
2 that question. You were also asked about whether you
3 took any notes at the time of the interview on June 2nd.
4 Do you have any doubt as to the accuracy of the
5 defendant's statement as you recanted -- as you told it
6 to the jury?

7 A No, sir. I have no doubts to the accuracy of
8 it.

9 Q And again, on the June 3rd interview, were you
10 also -- was the defendant also informed as to what you
11 were investigating before he gave you his written
12 statement?

13 A Yes. He was.

14 Q No further questions.

15 THE COURT: Recross?

16 **RECROSS-EXAMINATION**

17 **BY MS. KENNEDY:**

18 Q But if the interviewed had been taped,
19 Detective Cortte, there would be no doubt about what was
20 said and who said what, correct?

21 A Correct.

22 Q And that's the purpose of having the interview,
23 the cameras and audio and video equipment, correct?

24 A Correct.

25 Q That's all.

1 **THE COURT:** You may step down. Thank you
2 very much.

3 **THE WITNESS:** Thank you, Your Honor.

4 **THE COURT:** Call your next witness please.

5 **MS. PITTMAN:** The State calls Lieutenant Dean
6 Kokinda.

7 **THE CLERK:** Please raise your right hand.
8 Place your left hand on the Bible.

9 **DEAN KOKINDA**

10 having first been sworn, testifies as follows:

11 **THE CLERK:** Please be seated. State your
12 full name. Spell your last name for the record.

13 **THE WITNESS:** Dean Robert Kokinda. Spelling
14 of the last name, K-O-K-I-N-D-A.

15 **DIRECT EXAMINATION**

16 **BY MS. PITTMAN:**

17 **Q** Where do you work?

18 **A** I work with the Berkeley County Sheriff's
19 Office.

20 **Q** And how long have you been with the Berkeley
21 County Sheriff's Office?

22 **A** Since 1989.

23 **Q** What are your current rank and duties?

24 **A** Currently, I hold the rank of Lieutenant and
25 I'm over the Forensic Services Division.

1 Q How long have you been working in Forensics?

2 A Since 1990.

3 Q What are your duties in criminal cases?

4 A Uh, the Forensic Services Division processes
5 crime scenes as we are directed. We process evidence
6 that may be submitted by deputies. And we also store any
7 evidence that may be turned in until it's needed in
8 court.

9 Q So you have the task of processing evidence for
10 fingerprints?

11 A Yes, ma'am.

12 Q Could you tell the jury what training and
13 education you had in the field of fingerprints,
14 specifically lifting and analyzing fingerprints?
15 Fingerprints specifically. I completed the Federal
16 Bureau of Investigations basic fingerprint course in 1993
17 and then a forensic ridgeology course in 2003.

18 Q Have you had the opportunity to testify in the
19 courts of record as an expert in the field of forensics
20 including fingerprint and fingerprint analysis?

21 A Yes, numerous times in General Sessions court.

22 Q You said numerous times. Do you know about how
23 many times that would be?

24 A Uh, like over 10.

25 Q Okay.

1 **MS. PITTMAN:** Your Honor, the State requests
2 that Lieutenant Dean Kokinda be qualified as an
3 expert in the field of forensics, specifically
4 fingerprint and fingerprint analysis.

5 **THE COURT:** Ms. Kennedy, you have any
6 objection?

7 **MS. KENNEDY:** No objection, Your Honor.

8 **THE COURT:** All right. The Court so finds.
9 Thank you.

10 **BY MS. PITTMAN:**

11 **Q** Can you tell the jury how different types of
12 evidence are processed through fingerprints?

13 **A** When I process, what we're looking for is, one,
14 what type of surface we have to deal with and the
15 contrast of that surface trying to locate fingerprints.
16 Basically, what you're looking at with a latent
17 fingerprint, one you can't see, is you are dealing with
18 the image of ridges on your hand being transferred to an
19 object. Now, some objects are very conducive, such as
20 smooth, nonporous surfaces to leave residue behind on
21 those ridges. Some aren't.

22 **Q** Can you tell the jury would it be normal not to
23 take fingerprint evidence from a public place as a
24 church?

25 **MS. KENNEDY:** Your Honor, I'd object to this

1 line of questions. There's no basis for that.

2 **THE COURT:** Overruled. Go ahead.

3 **THE WITNESS:** I work on them as we're
4 directed. If we're directed to go to a specific
5 area for a crime scene, depending on what type of
6 crime, depending on what happened there, we may or
7 may not fingerprint an area.

8 **BY MS. PITTMAN:**

9 **Q** What do you use in your decision-making whether
10 to fingerprint something or not fingerprint something?

11 **A** Basically what occurred in that area, did this
12 person have an opportunity to transfer their
13 fingerprints. I always use an example of I'm sitting in
14 this witness chair and I've sat in this witness chair
15 before for a couple of hours at a time. I can come back
16 and I can process this area. I may or may not get my
17 fingerprints. Just because of the fact of what I'm doing
18 here at the witness stand. So when we look at a crime
19 scene, we look at what type of crime happened, what had
20 to transpire to do this crime and what did they touch,
21 you know, what did they use, things they might have
22 handled, how long they were there.

23 **Q** In this case involving the defendant, were you
24 asked to process any evidence?

25 **A** Uh, I was asked to process a vehicle.

1 Q And do you recall where you came into contact
2 with that vehicle?

3 A I was notified by our dispatch to respond out
4 to St. Stephen.

5 Q Do you recall what time that was?

6 A It was after midnight, May the 28th.

7 Q And when you got to the scene, what did you do?

8 A When I got to the scene, the vehicle was kind
9 of partially in some trees. I processed the exterior of
10 the vehicle before they towed it just so I couldn't
11 possibly lose any latent fingerprint evidence on the
12 outside of the vehicle. The vehicle was towed back to
13 the Sheriff's Office. I processed the interior of the
14 vehicle a couple of hours later.

15 Q Uh, you said you processed on the scene. What
16 did you do exactly?

17 A When I said processed on the scene, I processed
18 the exterior, specifically, the left side of the vehicle
19 where the door was opened, where the driver of the
20 vehicle had fled with powder because it's a smooth,
21 nonporous surface.

22 Q I'm going to show you State's Exhibit 9.
23 (Pause.)

24 Well, you've got that photo in front of you.
25 Can you -- tell me do you recognize what's in that photo?

1 **A** Yes. That's a photograph of the vehicle I
2 processed that day.

3 **Q** And can you tell us what you processed?

4 **A** Specifically, the left door area for latent
5 fingerprints. That was done before we took it from the
6 scene. The next morning, this photograph was taken. We
7 also searched the interior and processed areas inside for
8 latent fingerprints.

9 **Q** Okay. Uh, you said the left door. Was there
10 any other place that you got fingerprints from on the
11 outside?

12 **A** On the outside? Just the left door area.

13 **Q** Okay. And you said you did that at the scene?

14 **A** That's correct.

15 **Q** And the photograph that you see, was there
16 anything in that photo that you got lifts from?

17 **A** In this photo here, you can see the dust from
18 the fingerprint powder in the areas where I recovered
19 some of the fingerprints. Particularly, you are looking
20 at around where the door opens at towards the rear.

21 **Q** Now, can you show for the jury what we were
22 just talking about as far as where you got the prints
23 from? There's a pointer.

24 **A** The left door area from the handle area right
25 here on the rear of the window.

1 Q Okay. I'm going to show you now State's
2 Exhibit 12. Do you recognize what's in this photo?

3 A Yes, this is a photograph of the right front
4 floor of that vehicle that's showing a Wal-Mart bag. And
5 inside that Wal-Mart bag, there were several items.
6 Those were processed. Some latent fingerprints were
7 recovered off of some of those items.

8 Q What were some of those items?

9 A Uh, a jalapeno dip can, a soap box. I have to
10 look at my report to see if there was anything else.

11 Q And where did that take place when you took the
12 prints off of those items?

13 A Off of these items was behind the Sheriff's
14 Office.

15 Q And you were able to discover latent prints off
16 those items?

17 A That's correct.

18 Q After lifting those prints, did you make a
19 comparison against any known fingerprints of the
20 defendant, Benjamin Jackson?

21 A Yes, I did.

22 Q And what did you compare his fingerprints to?

23 A I compared his known fingerprints to the latent
24 fingerprints that were recovered from the vehicle.

25 Q And the latent prints you recovered and

1 compared to the defendant's prints, were you able to make
2 any conclusions with what you analyzed and compared?

3 **A** Uh, yes, I did. I wrote a report on it.

4 **Q** What was the results of that?

5 **A** I have to look at a copy of my report.

6 (Pause.)

7 **Q** Did you bring a copy of that report?

8 **A** No, I did not bring one with me.

9 **Q** Would seeing a report help refresh your memory?

10 **A** Yes, it would. Could you repeat the question
11 you just asked?

12 **Q** The latent prints that you recovered and
13 compared to the defendant's prints, were you able to make
14 any conclusions?

15 **A** Yes.

16 **Q** And what were those conclusions?

17 **A** That there were 12 latent fingerprint lifts.

18 The first latent lift was from the left front door. On
19 that particular latent lift, there were two individual
20 latent lifts or latents. The first one was identified
21 with the defendant, Benjamin Jackson, his right ring,
22 number 4 finger. Item 1.2, which is the second latent on
23 that first card, does not have enough ridge detail for
24 identification.

25 **Q** Okay. Let me just stop you right there. Can

1 you explain to the jury what no identifiable ridge detail
2 means?

3 **A** Sure. When we do a fingerprint comparison, we
4 are looking at three different levels of detail. You
5 look at your hands, on the bottom of your feet, it's
6 different skin. It's called friction skin. And when you
7 see those ridges or those lines, if you looked closely or
8 through a magnifying glass, you will see those lines,
9 they don't flow from just one side to another. They'll
10 stop. They'll split. They'll come back together.

11 So when we're looking to do an analysis or a
12 comparison, the first level of detail to look at is the
13 ridge flow. That's basically the pattern, how all these
14 ridges go generally. Then you start looking at the ridge
15 pattern. That's when you start looking at each individual
16 ridge and what does that individual ridge do. That's
17 when we start actually identifying to an individual.

18 And if the quality is good enough, we look at
19 the ridge shape. It's because these ridges, when they
20 develop, these aren't just ridges coming up. They are
21 actually the pores coming out of the skin and those pores
22 fusing together. So it -- they are not just even and
23 straight. They get narrow and they get wider. Of
24 course, you have to have extremely good, clear clarity to
25 do that type of comparison with that detail.

1 Q Uh, when there's no identifiable ridge detail,
2 do those findings mean the defendant never touched those
3 items?

4 A No, it just means that there's not enough, uh,
5 either level 2 or level 3 detail to individualize to a
6 person.

7 Q Are prints always recovered from items dusted
8 for prints?

9 A Uh, no. I always say that finding an
10 identifiable latent fingerprint is really accidental.
11 Again, I always use the example that I can sit here for a
12 couple of hours, I can come back here. I may or may not
13 find my fingerprints here. Probably not, just looking at
14 the substance.

15 Q And why would an item that someone held not
16 have any identifiable prints on there?

17 A A number of reasons. I grabbed this. I sat it
18 down. My fingers are twisted. Again, if you look at
19 your hands and you look at those ridges, those lines,
20 they are very fine. So just the mere fact of grabbing
21 something, twisting my wrist, turning a doorknob, it will
22 smudge those lines together. Also, you've got an
23 environmental factor. I touch an item and it rains, you
24 know, it's 100 degrees and the sun comes out, I've got
25 humidity, I've got heat, sunlight. All those things take

1 effect to the residue that's left behind from my
2 fingerprint.

3 Q Now, going back to your report, you were able
4 to make -- were able to lift latent prints?

5 A That's correct.

6 Q And they matched to the defendant?

7 A That's correct.

8 Q How many of those prints were you able to
9 analyze and compare and match?

10 A There were nine fingerprints that were
11 identified with the defendant.

12 Q And I know you told me and the jury that you
13 were able to get some off the door and you mentioned the
14 jalapeno can. Was there anywhere else that you were able
15 to get those latent lifts from?

16 A That were identified?

17 Q Uh-huh.

18 A There were latents identified on the left door.
19 A latent identified with the defendant on a Sunsations
20 dish soap box. A latent identified on the jalapeno dip
21 can. Two more latents identified with the Sunsations
22 dish soap box.

23 Q And were those items that were found in the
24 vehicle?

25 A The items that were listed here were found in

1 the right front floor of the vehicle.

2 Q And again, you were able to confirm that the
3 latent print matches to the defendant?

4 A Yes.

5 Q In addition to processing the fingerprint
6 evidence in this case, as part of the investigation, did
7 you have an opportunity to respond to the defendant's
8 residence?

9 A Uh, yes, on, uh, I believe it was June the 2nd.

10 Q Why did you go out there?

11 A To assist the detectives by taking photographs
12 for a search warrant.

13 Q And what did you take photos of?

14 A Overall photos of the residence and items that
15 were collected.

16 Q Did you take custody of those items?

17 A Yes, I did.

18 Q I'm going to show you State's Exhibit 15. Is
19 that the residence that you responded to?

20 A Uh, yes, it is.

21 Q And outside of the residence, did you recover
22 any of the victim's items?

23 A There were several items that were recovered
24 outside.

25 Q I'm going to now show you State's Exhibit 31.

1 Who placed that number there?

2 A I did.

3 Q And what is that number for?

4 A It's just an identifying number for the
5 photograph.

6 Q Is that where that was found at the residence?

7 A Yes.

8 Q And it was in that condition?

9 A Yes.

10 Q And you were able to tell that's a luggage
11 rack?

12 A Correct. That's a roof luggage rack off the
13 vehicle.

14 Q I'm now going to show you State's Exhibit 30.
15 Who placed that number there?

16 A I did.

17 Q You already told me what the numbers are for.
18 So is that where that was found at that residence?

19 A Correct. That was found at the rear of the
20 residence.

21 Q And in that condition?

22 A Yes.

23 Q I'm now going to show you State's Exhibit 32.
24 Who placed that number there?

25 A I did.

1 Q And that was recovered from the same property?

2 A Correct. That's a metal decal that was on the
3 window.

4 Q I'm going to show you State's Exhibit 37. Is
5 that the same item from the photo?

6 A Yes, it is.

7 Q I'm now going to show you State's Exhibit 18.
8 Do you know what that is?

9 A That's a vehicle registration document...

10 Q And can you tell what vehicle that goes to?

11 A It goes to the victim's vehicle.

12 Q I'm now going to show you State's Exhibit 17.
13 Do you recognize that item?

14 A That's a photograph of the cabinet that's over
15 the washer, dryer area. That shows, in this particular
16 photograph, this item.

17 Q Do you recall where that was found in the
18 residence?

19 A It was in the laundry area.

20 Q And do you know if it belonged to the victim?
21 I believe you said it did.

22 A The small black case was an owner's manual for
23 the Ford Expedition.

24 Q Is that where the registration was found that
25 belonged to her?

1 A I believe so.

2 Q I'm now going to show you State's Exhibit 19.

3 Do you know where in the house that was located?

4 A That was in a rear room. It was an addition.

5 It was a single-wide trailer. There was an addition on

6 the back of that. It was in that addition part.

7 Q Was any of those items moved or removed?

8 A Uh, the spare tire.

9 Q Did the spare tire go to anything that belonged
10 to the victim?

11 A That's what I was told.

12 Q It's behind you now. That spare tire you see
13 right there?

14 A Correct.

15 Q I'm going to show you State's Exhibit 28. Do
16 you recall what part of the residence this photo was
17 taken in?

18 A This was the kitchen counter area. In this
19 particular photograph, it's showing a check that belongs
20 to the victim.

21 Q Now, I'm going to show you State's Exhibit 27.
22 Strike that. I'm going to show you State's Exhibit 40.
23 Would that be the check?

24 A Yes, that's the check.

25 Q I'm going to show you State's Exhibit 29. Was

1 that the condition of that part of the resi -- the
2 defendant's home when you took the photo?

3 A Uh, yes.

4 Q And --

5 A That particular photograph shows, uh, I believe
6 a child's room to the right of the house coming in the
7 front door.

8 Q And were any of the victim's things found in
9 that room?

10 A No.

11 Q I'm going to show you State's Exhibit 25. That
12 number 7 there, did you place that number there also?

13 A Yes, I did.

14 Q Okay. And were these items already on the
15 ground or did someone put them on the ground for you to
16 photograph?

17 A I don't recall. I know that there were several
18 detectives out there. I can't recall if they were
19 already on the ground or if they were taken out of the
20 trash.

21 Q Did you collect those for evidence?

22 A Yes, I did.

23 Q I'm now going to show you State's Exhibit 24.
24 Do you recall what that item is?

25 A That's a vehicle GPS.

1 Q Do you recall where in the residence it was
2 located?

3 A I don't specifically recall. I believe
4 somebody else found it. I photographed the home screen
5 showing the victim's address.

6 Q Now, I'm going to show you State's Exhibit 29.
7 Do you recall what part of the house this photo was taken
8 in?

9 A This is the, uh, master bedroom bathroom.

10 Q And do you recall if any items belonging to the
11 victim are recovered?

12 A On the counter, there's a prescription pill
13 bottle that had the victim's name on it.

14 Q I'm going to show you State's Exhibit 39.
15 Would this be that pill bottle?

16 A Yes.

17 Q Did you process or examine any other items of
18 evidence in this case?

19 A Uh, for fingerprints?

20 Q I think we've gone over that. Anything else?

21 A Just the items that were recovered from the
22 house.

23 **MS. PITTMAN:** No further questions.

24 **THE COURT:** You have any cross?

25 **CROSS-EXAMINATION**

1 BY MS. KENNEDY:

2 Q Lieutenant Kokinda, were you working on May the
3 18th of 2010?

4 A May the 18th?

5 Q Yes.

6 A Yes.

7 Q Anybody call you -- if not you, anybody in your
8 unit?

9 A Yeah, we're on call 24 hours.

10 Q Anybody -- to your knowledge, anybody call any
11 of you out to the scene at St. Stephen Evangelical
12 Church?

13 A Uh, --

14 Q Take any fingerprints, do any crime scene?

15 A Not anyone called to respond there.

16 Q Okay. And you were giving us the example of it
17 if you touch something, you know, fingerprints may or may
18 not be there, correct?

19 A Correct.

20 Q But you don't know until you test them, right?

21 A Correct.

22 Q And as to the items, if I understood your
23 testimony correctly, there were other fingerprints or
24 latent prints that you lifted from the car, correct?

25 A Uh, --

1 **Q** There were other prints in the car?

2 **A** As far as?

3 **Q** Anybody else's fingerprints.

4 **A** The only ones that were -- there was one that
5 was not identified with the defendant.

6 **Q** All right.

7 **A** The rest of them were either identified with
8 the defendant or they didn't have enough ridge detail to
9 make an identification.

10 **Q** But you were specifically looking for the
11 defendant?

12 **A** Those were the known standards that I --

13 **Q** Those were the matches you were making.

14 **MS. KENNEDY:** Court's indulgence. (Pause.)

15 That would be all I have. Thank you very much.

16 **THE COURT:** Any redirect?

17 **MS. PITTMAN:** None, Your Honor.

18 **THE COURT:** You may step down. Thank you
19 very much.

20 Can I see the attorneys up here for just a
21 second.

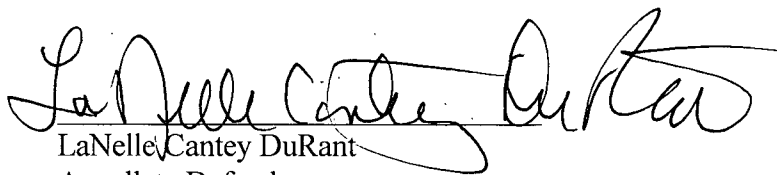
22 **(WHEREUPON, a bench conference is held off the**
23 **record.)**

24 **THE COURT:** All right. Mr. Foreman, Ladies
25 and Gentlemen of the jury, we're going to -- it's

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

October 14th, 2013



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Appellate Defender

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Division of Appellate Defense
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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from Berkeley County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

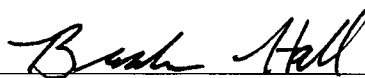
BENJAMIN J. JACKSON,

APPELLANT

APPELLATE CASE NO. 2012-210107

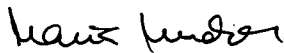
CERTIFICATE OF SERVICE

I certify that a true copy of the Supplemental Record on Appeal in the above referenced case has been served upon Julie Kate Keeney, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of October, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of October, 2013.



(L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.

RECEIVED

OCT 14 2013

SC Court of Appeals