

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Chester County

Honorable John C. Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GERALDO DAMETRIUS LAND,

APPELLANT

APPELLATE CASE NO. 2018-001367

RECORD ON APPEAL

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JOANNA K. DELANY
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

WILLIAM F. SCHUMACHER, IV
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

RANDY E. NEWMAN, JR.
Solicitor, Sixth Judicial Circuit
PO Box 607
Lancaster, SC 29721

ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA
2 GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2018-GS-12-453, 2017-GS-12-686, 689, 691, 692
5 State of South Carolina
6 Vs.
7 Geraldo Dametrius Land
8
9 Chester, South Carolina
10 July 11-13, 2018
11 Before the Honorable John C. Hayes
12 APPEARANCES
13 For the State: Candice Lively
14 For the Defendant: Pro Se (Geoff Dunn, standby counsel)
15
16 Reported by: Michael C. Watkins
17 Official Court Reporter
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VOIR DIRE

1 THE COURT: I'm going to ask the solicitor to call the
2 trial and then hand me the indictments.

3 MS. LIVELY: Thank you, Your Honor. Good morning,
4 ladies and gentlemen of the jury panel. This is State of
5 South Carolina versus Geraldo Land: 2018-GS-12-453,
6 burglary in the first degree. 2017-GS-12-692, armed
7 robbery. 2017-GS-12-691, armed robbery. 2017-GS-12-689,
8 assault and battery first degree. 2017-GS-12-686,
9 possession or displaying a firearm during the commission of
10 a violent crime.

11 THE COURT: Members of the jury panel, to these charges
12 Mr. Land has entered pleas of not guilty which places on the
13 State the burden of proving his guilt beyond a reasonable
14 doubt. Mr. Land, would please stand? This is Mr. Land,
15 he's represented by Mr. Geoff Dunn of the Chester County
16 bar. You may be seated. Now, I will ask Solicitor Lively
17 to introduce herself and the individuals that she has
18 gathered around her.

19 MS. LIVELY: Thank you, Your Honor. Good morning
20 again. My name is Candice Lively, I am the deputy solicitor
21 for Chester County. And I'm seated with the Elected
22 Solicitor, Randy Newman, for the entire Sixth Circuit. I
23 have Chief Investigator Keith Lewis here who works for the
24 Sixth Circuit solicitor's office, and Jay Johnson who is an
25 assistant solicitor here in Chester County as well. This

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1 I will let you go to the jury room while we take up some
2 matters outside of your presence.

3 (The jury left the courtroom.)

4 THE COURT: We have a list of motions in limine. The
5 first is whether or not the State has complied with the
6 requirements of discovery Rule Five and Brady.

7 MS. LIVELY: Correct, Your Honor. And we have actually
8 provided the defense with everything that the State has in
9 their possession, including one of the videos that he was
10 trying to watch regarding one of our witnesses. I did tell
11 him to come into my office this morning and he was able to
12 watch it because it wasn't playing on his computer. And
13 that was pretty much, I think, the only thing -- oh. I did
14 supplement my discovery also with having met with Chris
15 Peterson, who is an additional witness in this case, and I
16 sent an email to Mr. Dunn as to what his testimony was going
17 to consist of. But that would have been the most recent
18 stuff that I sent to him.

19 MR. DUNN: My only concern is this, Your Honor, I spoke
20 with one of the -- Mr. Culp, Pack Culp this morning, he is
21 on my witness list. He was -- and you'll hear this in
22 testimony, he was one of the gentleman that was there at
23 some point during the night and then left but wasn't there
24 during the robbery. He says he gave a statement to the
25 police at some point that he thought was written down and

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1 I've never seen it and I just want to make sure that -- if
2 that's something that's in the possession of the State, Your
3 Honor.

4 THE COURT: Do you have a statement by that individual?

5 MS. LIVELY: I have not seen one, Your Honor. All of
6 the statements that I've given have been from Joseph Woods,
7 which was basically just a number written down on a piece
8 paper, Malcolm Woods. And then we have the recording of
9 Walter Caldwell. We did have a statement by John Wilmore,
10 which was really not a statement, it was just saying he
11 wanted to talk to the police, and then I think that was it.

12 MR. DUNN: Richard Woods gave an audio and the 911, I
13 got all of those. The only one -- and I just became aware
14 of it this morning.

15 THE COURT: Well, the State says they don't have it.
16 Just ask law enforcement to double-check on it.

17 MS. LIVELY: Yes, sir, I'll have them double-check.
18 But I did ask Investigator Moss, he's saying he does not
19 have it but we'll followup just to make sure.

20 THE COURT: All right. Does the State plan to use any
21 statements by Mr. Land?

22 MS. LIVELY: We do not, Your Honor.

23 THE COURT: Any prior bad acts or prior convictions?

24 MS. LIVELY: Yes, sir, Your Honor. Actually Mr. Land
25 is on federal supervision for a charge. And he has a prior

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1 record in regards to I believe -- and the defense is aware
2 of this and we've discussed this before, he's got a prior
3 record in regards to, I think, drugs.

4 THE COURT: Let me break it down like this, any bad
5 acts --

6 MS. LIVELY: I'm not going to bring anything in under
7 Lyle, Your Honor. If the defendant decides to testify then,
8 of course, we'll address that issue.

9 THE COURT: Let Mr. Land know what you intend to use
10 for impeachment if he testifies.

11 MS. LIVELY: Yes, Your Honor. He pled guilty to a
12 felon in possession of a firearm, and that felony charge was
13 from -- and that was actually in 2011, that's what he's
14 still on federal supervision for. And the felony
15 conviction -- I'm sorry, I had this ready to go the last
16 time, I should be able to pull this up. A distribution of
17 cocaine conviction from November of 2008, manufacture or
18 possession of other substance scheduled one, two and three
19 with intent to distribute the same date. He had three
20 convictions at the same time, Your Honor, which led to the
21 felony, which now means -- and when he was caught with a
22 weapon on the federal charge that would be the felon in
23 possession of a weapon.

24 THE COURT: All right. And do you intend to ask those
25 in the general sort of vernacular if he testifies had he

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1 been convicted --

2 MS. LIVELY: Correct, Your Honor.

3 THE COURT: -- of the crimes which carry in excess of
4 one year?

5 MS. LIVELY: Yes, sir.

6 THE COURT: Mr. Land, if you choose to testify, and
7 I'll talk to you again about this in the trial, the State
8 will be able to ask you about these prior convictions simply
9 in general terms, that is whether or not you have been
10 convicted of a felony in 2011 and felonies in 2008. I will
11 tell the jury that if you testify that they, the jury, can
12 only use that regarding your credibility, that is to judge
13 whether you're telling -- you're somebody who will tell the
14 truth or not. I will tell them they cannot use that as any
15 evidence that you committed this offense, do you understand
16 that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And I'll talk to you later about that.

19 MR. DUNN: Thank you, Your Honor.

20 THE COURT: The next motion is -- we talked about Lyle.
21 Have you provided criminal records for the State's
22 witnesses, Ms. Lively?

23 MS. LIVELY: I have, Your Honor.. Malcolm Woods', who
24 is the only one that had a prior record, was provided to
25 Mr. Dunn at the last hearing, and I could give you another

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1 copy of it, he's the only one that had anything. We do have
2 another additional witness on the list, Chris Peterson,
3 which I need to -- we'll get that pulled before he
4 testifies, Your Honor, so the defense will have an
5 opportunity to actually review that. That was the
6 additional witness that I didn't realize we didn't pull his
7 NCIC. But other than that that's everything. We do need to
8 get the NCIC records of the defense witnesses, Your Honor.
9 The defense did not provide me with their dates of birth and
10 their ethnicity so we're not able to actually do that yet.
11 So at some point in time we would ask that he provides that
12 to us so that we would be able to also have that same --

13 MR. DUNN: I will do the best I can, Your Honor.
14 They're not completely cooperative with me at this point.

15 THE COURT: All right. The next one --

16 MR. DUNN: Number six, I think, is moot at this point,
17 Your Honor.

18 THE COURT: Yeah. Number seven I'm not sure I
19 completely understand, any potential witnesses that have
20 given supplemental statements different in any way -- have
21 you read number seven?

22 MS. LIVELY: I have, Your Honor. And the only thing, I
23 think especially in this particular circumstance, the
24 defense actually requested a transcript from the last trial
25 and there has not been any discussions or statements given

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1 by any of those witnesses since that time to the State nor
2 anyone else that I'm aware of. So the only other additional
3 person that we had was Chris Peterson, and like I said, I
4 provided that information to Mr. Dunn. So there hasn't been
5 anything additional, any conflicting statements or differing
6 statements from the last time we tried this case in April.

7 THE COURT: All right. I'll skip to number nine, any
8 plea deals with witnesses?

9 MS. LIVELY: With the witnesses?

10 THE COURT: Yeah.

11 MS. LIVELY: The only one was -- they've listed John
12 Wilmore on their witness list and he actually has already
13 pled guilty to this.

14 THE COURT: Is there any plea deal?

15 MS. LIVELY: Yes, he was given a plea deal.

16 MR. DUNN: I'm aware of what his plea deal is.

17 MS. LIVELY: Yes, and he's aware.

18 MR. DUNN: I just wanted to make sure there wasn't any
19 other witnesses that may have been --

20 THE COURT: All right. Then we move to number eight,
21 which is witness identification, in-court identification
22 whether or not it's tainted by some pretrial -- Neil versus
23 Biggers.

24 MS. LIVELY: Yes, sir. We're ready to proceed on that,
25 Your Honor.

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1 THE COURT: All right. Call your first witness.

2 MS. LIVELY: The State would call Justin Moss to the
3 stand, Your Honor.

4 The witness, JUSTIN MOSS, was first duly sworn and
5 Testified as follows:

6 DIRECT EXAMINATION

7 BY MS. LIVELY:

8 Q Officer Moss, were you assigned to the case involving
9 the defendant, Geraldo Land, and the allegations of a
10 burglary, armed robbery and assault and battery first
11 degree?

12 A Yes, ma'am.

13 Q And in being assigned to this case, what information
14 was provided to you initially regarding the facts and the
15 possible suspects in this case?

16 A From witness statements I was given names, and from the
17 them names I -- were able to get photo lineups.

18 Q All right. Well, let's -- tell us first of all, who
19 was the first person that provided a statement to Chester PD
20 regarding who the possible suspects were?

21 A Mr. Woods and Mr. Caldwell.

22 Q All right. Now let me ask you about Mr. Woods, is that
23 Joseph Richard Woods?

24 A Yes, ma'am.

25 Q Did you ever listen to his 911 call?

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1 A At the last trial I did.

2 Q Okay. And in the 911 call, was there information
3 provided that gave you some idea who the potential suspects
4 were in this case?

5 A Yes, ma'am.

6 Q All right. And what information was that that led you
7 to who those suspects were?

8 A Originally he had said it was John Wilmore, and the
9 original name he gave was Snookie Poo Lowery. And then by
10 the time I spoke with him through an interview he was able
11 to give me more information about who Snookie Poo Lowery
12 was, and it ended up being Geraldo Land.

13 Q Whenever you met with -- who did you meet with first?
14 Do you recall if it was Joseph Woods or Walter Caldwell?

15 A I'm pretty sure it was Mr. Woods.

16 Q Okay. Whenever you met with Mr. Woods, was he one of
17 the individuals who was a victim in this particular case?

18 A Yes, ma'am.

19 Q All right. And did he provide you with information as
20 to whether or not he was able to look at and see the people
21 who actually came into the Caldwell home that night?

22 A Yes, ma'am. He identified one, because he was playing
23 cards with one of them, which was John John Wilmore earlier.
24 And the gentleman that held the gun to his head, he looked
25 over his shoulder and looked him in the face and was able to

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1 identify Geraldo Land.

2 Q Okay. Now, I'm going show you a couple of items that
3 have been marked as State's exhibits and ask you if you
4 recognize these collectively. I'm going to actually show
5 you State's Exhibit 1 and 2, and then 11, 12, 13, 14 and 15,
6 okay?

7 A Yes, ma'am.

8 MS. LIVELY: I'm going to show it to the defense real
9 quick and then I'll bring it over to you.

10 (Break in proceedings.)

11 Q All right. I'm going to first ask you in paperwork or
12 in State's Exhibit 1 and then State's Exhibit 2 first, tell
13 the Court exactly what those two items are.

14 A Number one is the picture of Geraldo Land circled and
15 signed by Walter Caldwell, and the second one is a sheet
16 that we had them fill out before like just explaining the
17 process of what we're about to go through. And then once
18 they look at the photo lineup, if they identify somebody
19 they circle I did or I did not, and the photograph that they
20 selected and what number it is and then they sign and date
21 it.

22 Q And during the time -- and whenever you have them sign
23 that sheet, which is actually listed as State's Exhibit
24 Number 2, are you giving them any indication whatsoever as
25 to whether or not there was a right or wrong pick in that

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1 six pack of photos?

2 A No ma'am. Even in the paperwork it says the
3 photographs was presented in a pre-printed lineup, and it
4 says the individual may or may not be in this photo lineup.

5 Q And is that standard procedure for the city to do a
6 photo ID lineup that way?

7 A Yes, ma'am.

8 Q Whenever you handed this to Mr. Caldwell, did you make
9 any comments or any statements after he'd already signed
10 that form?

11 A No. Whenever we hand them to them we hand it to them
12 upside down and we just slide them to them and then tell
13 them to flip it over and see if they can -- if the person
14 that robbed them or whatever the crime may be is in the
15 photo lineup, and then they flip it over and then they look
16 through the pictures and do everything themselves.

17 Q And Investigator Moss, how did you actually come up
18 with the photo ID lineup that included Mr. Geraldo Land?

19 A This would be a SLED photo lineup. You have to send a
20 request to SLED for them to send you a photo lineup.

21 Q Okay. And I'm going to show you State's Exhibit Number
22 11. Is that the form that you send to SLED in order for
23 them to provide you with what I refer to as a six pack of
24 photos to choose from?

25 A Yes, ma'am.

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1 Q And the purpose of sending that to SLED and for them to
2 provide you with that information, what is the benefit of
3 that for you whenever you get a six pack lineup from SLED?

4 A The six pack lineup of SLED, it won't hold just people
5 from -- like if we went to the county jail it would be
6 people that was locked up in the county jail and most of
7 them are from Chester County and there would be more than
8 one person that somebody that would live in Chester may
9 know. A photo lineup from SLED is more random and it's
10 people from everywhere, from all over the state.

11 Q And you did make that request and that's the
12 information that you received in regards to Geraldo Land.

13 A Yes, ma'am.

14 Q All right. Now, that was involving Mr. Walter
15 Caldwell. On State's Exhibit number 12 and 13, did you
16 followup with him as well to do another photo ID lineup in
17 regards to the codefendant in this case?

18 A Yes, ma'am.

19 Q And tell the Judge if you went along the same procedure
20 in regards to that photo ID lineup that you did with Geraldo
21 Land?

22 A Yes, ma'am. This photo lineup was from the jail. It's
23 pretty much the same thing, and you get them to fill out the
24 paper, you hand it to them upside down, they flip it over
25 and go through and see if they can identify the person that

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1 was involved in the crime.

2 Q And prior to Mr. Caldwell actually picking out the
3 individuals in these two different photo ID lineups, did he
4 tell you that he knew one of the two individuals who came
5 into the home that night?

6 A He said he knew for a fact that John John Wilmore was
7 one of them. Geraldo Land, he said that he couldn't -- I
8 can't remember how he said it, but pretty much that he don't
9 know if he would be able to point him out in a photo lineup
10 or not. So we just showed it to him just to see if he could
11 point him out, and he flipped it over and pointed him out.

12 Q By the time that you provided Mr. Caldwell that photo
13 ID lineup, had you already gotten information from Joseph
14 Richard Woods as to who Geraldo Land was?

15 A Yes, ma'am.

16 Q Is that how you were able to actually include his photo
17 into that six pack from SLED?

18 A Yes, ma'am.

19 Q I'm going to show you what is State's Exhibit 14 and
20 15, and this one is signed by a different victim in the
21 case. If you could please let the Court know who it is that
22 actually signed off on that particular --

23 A Joseph Woods.

24 Q All right. And in regards to Joseph Woods, was he able
25 to actually pick out someone from a six pack of individuals?

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1 A Yes, ma'am, he picked out John John Wilmore. And the
2 same paper was filled out, we explained to him the process
3 and slid him the paper and he flipped over and identified
4 Mr. Wilmore and signed and dated the paper.

5 Q And at anytime whenever you met with Mr. Woods, did he
6 provide an audio/video statement to you regarding what had
7 happened on the evening of April 9th into April 10th?

8 A Everybody that we interviewed provided some type of
9 recording, whether it was audio or video.

10 Q And during that statement from Mr. Joseph Richard
11 Woods, did he state that he knew the individuals who had
12 come back in and robbed them that night?

13 A Mr. Woods did, yes, ma'am.

14 Q He did. And how did he actually identify Mr. Geraldo
15 Land to you?

16 A He stated that some how they're related, he's related
17 to either the dad or the mother of Mr. Land and he's known
18 Land since he was a kid.

19 Q All right. Was he sure of what his actual legal name
20 was at the time whenever he talked --

21 A He wasn't sure if he was a Lowery or a Land, he wasn't
22 sure about his last name.

23 Q Okay. But was he sure as to who it was that he was
24 related to once he talked to you?

25 A Yes, ma'am. Like I say, I can't remember if it was the

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1 dad or the mother, but he was related to one of Mr. Lands's
2 parents.

3 Q At anytime were these witnesses exposed to any type of
4 other photos or any type of news media or anything like
5 that --

6 A No, ma'am.

7 Q -- to identify who these particular people were?

8 A No, ma'am. Nothing was put in the media or any other
9 pictures was showed to the victim or witnesses until after
10 they were arrested, and then the subjects' pictures were put
11 into the paper.

12 Q Okay. So you never did any type of show-up
13 identifications or anything like that with these particular
14 defendants and these victims?

15 A No, ma'am.

16 Q And all of the information that was received as to who
17 these alleged perpetrators were came from the victims
18 themselves and their identifications?

19 A Yes, ma'am.

20 Q Did you have any indication that these victims were
21 under the influence of alcohol or drugs that evening which
22 would have kept them from being able to understand or see
23 the people who came into the home?

24 A No, ma'am. The victims were witnesses and then there
25 was an individual witness that was just there when it

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1 occurred, which was Ms. Caldwell, Luctercia Caldwell.

2 Q Okay. All right. And you actually got a recorded
3 statement from her as well, correct?

4 A Yes, ma'am. The reason we didn't do a photo lineup
5 with her was because we couldn't get in touch with her, and
6 by that time it had been in the media, their pictures and
7 stuff were in the media so we didn't do a photo lineup with
8 her.

9 MS. LIVELY: Okay. Thank you. Answer any questions
10 the defense may have. Your Honor, I'll just pass this up in
11 case Your Honor wants to review the paperwork.

12 MR. DUNN: May it please Court, Your Honor?

13 THE COURT: Yes, sir.

14 CROSS EXAMINATION

15 BY MR. DUNN:

16 Q This robbery occurred around midnight on
17 April 9th/April 10th time frame, correct?

18 A Yes, sir.

19 Q And the photo lineups, which I believe the Court has
20 right now, one is dated -- I believe -- they were not done
21 immediately, correct?

22 A No, sir.

23 Q I mean, they weren't even done that week, right?

24 A No, sir.

25 Q Or even in the month of April, right?

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1 A No, sir.

2 Q I think one was done in --

3 A Maybe June or May.

4 Q I don't want to make you guess. We'll get it in a
5 second once the Court gets done looking at it. Just so the
6 record is clear, on exhibit -- Exhibit 14 and 15 is a photo
7 lineup that was done --

8 A June 7th of 2017.

9 Q And that was by Richard Woods for John John, correct?

10 A Joseph Woods, yes, sir.

11 Q I'm sorry, Joseph Woods. And then Exhibit 1 and 2 was
12 done on June 8th; is that correct?

13 A Yeah, of 2017.

14 Q Of 2017. And that was -- this is actually the one that
15 has to do with Mr. Land, correct?

16 A Yes, sir.

17 Q And then 12 and 13, maybe 11, its done on June 8th as
18 well?

19 A Yes, sir.

20 Q And so nothing was done immediately afterwards,
21 correct?

22 A No, sir.

23 Q You testified that for the photo lineup for Geraldo
24 Land you got it from SLED, right? That the photo lineup was
25 generated by SLED?

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1 A Yes, sir.

2 Q Why did the photo lineup for John Wilmore have to be
3 generated out of the jail pictures and not out of a SLED?

4 A I can't recall the reason that we done it, I mean, I
5 don't want to put a reason out there. But usually it takes
6 a couple of days, and as you see it was already taken a
7 little while for us to get suspects. The SLED lineups take
8 longer to get, we just go over to the jail and get the jail.
9 I don't know if I sent it in and then was going to go over
10 to the jail and get the other one, I don't know the reason
11 why.

12 Q When you're generating pictures or lineup pictures,
13 what's the percentage of you getting those lineups from SLED
14 versus the local jail?

15 A I can't give you a number or a percentage. If I would
16 have looked at it I could tell you, but right off the top of
17 my head I can't give a percent. The majority of the time it
18 would be SLED.

19 Q Right. And that was going to be my question, majority
20 of the time it's SLED.

21 A Majority of the time is SLED, yes, sir.

22 Q But not all of the time.

23 A Not all of the time.

24 Q There's only two witnesses that were given lineups,
25 correct, Joseph Woods and Malcolm -- excuse me, Walter

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1 Caldwell, right?

2 A Yes, sir.

3 Q But there were actually four people in the room that
4 night that the robbery occurred, correct? There was four
5 victims, right?

6 A Yes, sir. There was three victims and just one
7 witness.

8 Q Luctercia Caldwell is not considered a victim?

9 A She said no one stole her money and so we didn't --

10 Q But she was never given a lineup.

11 A No, sir. We didn't speak with her until after -- like
12 I said, they were put into the paper, we didn't speak to her
13 until after that.

14 Q Her name came up pretty quickly in the investigation
15 though, didn't it?

16 A Came up as Little Bopeep.

17 Q But it was fairly quick in your investigation that her
18 name was generated for you, right?

19 A Yes, sir.

20 Q So you could have gotten a photo lineup for her.

21 A We couldn't get in contact with her.

22 Q And then Malcolm Woods never gave you a photo lineup,
23 correct?

24 A I'm sorry?

25 Q Malcolm Woods?

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1 A No. We couldn't get in contact with him either.

2 Q How many times did you meet with Joseph Woods before he
3 gave you that photo lineup?

4 A We did an initial interview, and then I believe the
5 second time that we spoke with him was in the Wal-Mart
6 parking lot, which that's where he did the photo lineup at
7 because he was at work. It was hard for him to meet with us
8 so we just told him we would come to his job if it wasn't
9 inconvenient, so he met us at his job.

10 Q That was on June 8th, correct?

11 A Yes, sir.

12 Q And the recorded statement that was given, is that the
13 initial -- there is a recorded statement by Joseph, which is
14 at the initial meeting with him?

15 A The first time we met with him, yes, sir.

16 Q Okay. When you met with him in the Wal-Mart parking
17 lot, did you record that conversation?

18 A No, sir.

19 Q Did you meet with him? I'm not worried about right up
20 at our last trial in April, but before we went to trial in
21 April did you meet with him again after that -- before that?

22 A I think I may have -- I've had contact with him just to
23 see how he was doing and if he remembered anything new that
24 may help the case. But as far as like a recorded interview,
25 no, sir.

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1 Q You don't remember when that was?

2 A No, sir.

3 Q How many times did you meet with Mr. Caldwell?

4 A Mr. Caldwell, I believe we met with him three times.

5 Once was at his house to get him to come to do the interview
6 because there was some things going on, his wife had passed
7 away and stuff. So once we got with him he eventually got
8 to city hall met with us and then we recorded that
9 interview, and then we wet with him on the third time to do
10 the photo lineup.

11 Q And where was that done?

12 A That was done in the lobby of the city hall, the police
13 department side of it.

14 Q Is that the one that's in the city hall?

15 A Yeah, the door to the right.

16 Q So you probably had three visits -- and did you meet
17 with Mr. Caldwell after that? Not necessarily right before
18 trial this last time, but prior to that did you meet with
19 him again for follow-up?

20 A Whenever you work in the city you see people all of the
21 time, and when I see him on the street I may have asked him
22 how things were going, if he remembered anything new, I
23 mean, I may have done that because I do that a lot just to
24 see if any new information comes up. But as far as like
25 calling him to the office and speaking with him, no.

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1 Q So your initial meeting with Mr. Woods you recorded it,
2 right?

3 A Yes, sir.

4 Q But you did not record it for the lineup.

5 A No, sir.

6 Q Why not?

7 A That's not -- it's not in policy for us have to record
8 anybody doing a photo lineup.

9 Q Has that policy changed now that you work for the
10 sheriff's office?

11 A I haven't had to do a photo lineup since working for
12 the sheriff's office.

13 Q With Mr. Caldwell, you didn't record the first meeting
14 at his house. You didn't really talk about the case that
15 much, did you?

16 A I went and told him the reason I was there and that I
17 needed to speak with him about what happened and he said
18 okay.

19 Q Do you remember when that was?

20 A Not right offhand.

21 Q You did record the conversation at city hall, correct?

22 A Yes, sir.

23 Q I believe that was really probably May of 2017, do you
24 remember?

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

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1 Q And then again he came back down to the police station?

2 A All the videos should be time-stamped though. I called
3 out the date and the time that we --

4 Q And then again, when you did the photo lineup at the
5 police in the lobby you did not record that?

6 A No, sir. It was witnessed, we make sure that we have
7 two officers with us. My lieutenant and myself was present
8 at all of the photo lineups to make sure.

9 Q Is this the first trial you've ever testified in about
10 a photo lineup?

11 A No, the last one.

12 Q Was the last one the first time you ever testified?

13 A Yes, sir.

14 Q During your training was it ever taught to you that
15 photo lineups are important and procedures on how photo
16 lineups are done is important?

17 A Yes, sir.

18 Q And that those are the kind of questions that would be
19 asked about at a trial?

20 A As far as what question?

21 Q During your training were you taught that photo lineups
22 are issues that are brought up at trial?

23 A Yes, sir.

24 Q And that you may be questioned about how you did the
25 procedures?

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1 A Yes, sir.

2 Q And they didn't tell you that maybe it would be a good
3 idea to record those as well?

4 A Like I said, we never recorded a photo lineup. We get
5 the piece of paper, we read the paper out with them and
6 we -- like I said, it's the same thing every time. You
7 slide them the photo lineups turned upside down and you step
8 back and let them look at the photo lineups. If they circle
9 somebody fine, and if they don't that's fine.

10 Q In the city hall, is there a room that's dedicated for
11 interviews?

12 A No, sir.

13 Q In the county -- over at the sheriff's office, is there
14 a dedicated place?

15 A Yes, sir, there's two.

16 Q And those places, are they recorded?

17 A Yes, sir.

18 Q Did you wear a body cam during your meetings with
19 either one of those individuals?

20 A No, sir.

21 MR. DUNN: I don't have any further questions.

22 THE COURT: Any redirect?

23 MS. LIVELY: That's all from this witness.

24 THE COURT: You can step down, thank you.

25 MS. LIVELY: Lieutenant Lolita Fourney.

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1 The witness, LOLITA FOURNEY, was first duly sworn and
2 Testified as follows:

3 DIRECT EXAMINATION

4 BY MS. LIVELY:

5 Q Lieutenant Fourney, you were also assigned to
6 investigate the case involving the defendant, Geraldo Land,
7 in April of 2017; is that correct?

8 A Yes, ma'am.

9 Q And during that investigation, did you receive the same
10 information that Investigator Moss is telling us he received
11 in regards to who the potential suspects were in this
12 burglary and armed robbery?

13 A I didn't talk to any individual at that particular time
14 at first, Sergeant Moss was the officer that was assigned to
15 the case.

16 Q All right. So --

17 MR. DUNN: Your Honor, I'm having trouble hearing the
18 witness.

19 THE COURT: Speak up a little.

20 Q All right. So Investigator Moss was the one that did
21 the initial -- the start of the investigation, is that what
22 you're telling us?

23 A Yes, ma'am.

24 Q So in following up, once suspects had actually been
25 determined by those interviews that Mr. -- that Investigator

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1 Moss did, did you actually have the opportunity to assist
2 him with photo identification lineups that were provided to
3 the victim witnesses in this case?

4 A Yes, ma'am.

5 Q I'm going to show you the first few documents which are
6 State's Exhibit 2. We've got State's Exhibit Number 2,
7 State's Exhibit 1, and then State's Exhibit 11. I'm going
8 to show you these three documents first and ask you if you
9 recognize these documents?

10 A Yes, ma'am.

11 Q And in regards to the six pack of photos that's in
12 State's Exhibit Number 1, are you familiar with requesting
13 and receiving through SLED random photos of individuals to
14 be used in photo ID lineups?

15 A Yes, ma'am.

16 Q And was that procedure actually done in regards to this
17 defendant, Mr. Geraldo Land, for possible identification by
18 the victims in this case?

19 A Yes, ma'am.

20 Q And whenever this information is actually pulled and
21 provided to a victim or witness, do you -- was this
22 particular event recorded?

23 A With Mr. Walter -- Mr. Caldwell, I don't think his was
24 recorded.

25 Q And was he able to identify the defendant in that six

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1 pack, which was identified in State's Exhibit Number 1?

2 A Yes, ma'am.

3 Q Now, why do y'all have the witness, or victim actually,
4 initial or sign under the photo that they choose?

5 A Because that way then it cannot be said that we chose
6 any of the individuals, that the victim was actually the one
7 that chose that particular photo on the photo lineup.

8 Q Were you present for the presentation of the photo ID
9 lineup in regards to Mr. Caldwell picking out the defendant,
10 Mr. Land?

11 A Yes, ma'am.

12 Q All right. And that was -- Investigator Moss was there
13 as well?

14 A Yes, ma'am.

15 Q If you'll hand that back to me, please, ma'am. Now,
16 I'm going to show you what's marked as State's Exhibits 12,
17 13, 14, and 15. And these are dated June 8th of 2017. Were
18 you involved with the photo ID lineup and identification
19 with the victim, Mr. Caldwell, in picking out John Wilmore
20 in this particular case?

21 A Mr. Caldwell?

22 Q Mr. Caldwell.

23 A Yes, ma'am.

24 Q And there's also another photo ID lineup in there that
25 is signed by a different victim. Can you tell us who that

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1 is?

2 A Joseph R. Woods.

3 Q And that's on State's Exhibit what?

4 A Fourteen.

5 Q So you have two six pack lineups there that are used by
6 two different victim witnesses, correct?

7 A Yes, ma'am.

8 Q And in identifying those particular -- or in picking
9 out Mr. Wilmore on both of those, did you do anything at all
10 to suggest or indicate who they were to pick out of those
11 pictures?

12 A No, ma'am.

13 Q And whenever those pictures were given to first Mr.
14 Caldwell, was there any statements made other than what the
15 information sheet tells him to do regarding who is supposed
16 to be picked or how he is supposed to pick them?

17 A No, ma'am. The form is read to the individual.

18 Q And is any other information provided to the individual
19 at that time?

20 A No, ma'am.

21 Q And as a matter of fact, no information had been
22 provided to the media or to anyone else at that point in
23 time as to who these potential suspects were, is that fair
24 to say?

25 A Yes, ma'am.

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1 Q As a matter of fact, the information that you received
2 as to who the suspects were, did they come from the victims
3 themselves?

4 A Yes, ma'am.

5 Q And did those victims indicate that they know these
6 particular defendants through either personal relationships
7 or through family relationships?

8 A Yes, ma'am.

9 Q Did you see Investigator Moss do anything that would
10 have either been unduly suggestive or improper in regards to
11 providing this information for the witnesses and victims to
12 pick out a certain person in these photo ID lineups?

13 A No, ma'am.

14 Q And you're his supervisor?

15 A Yes, ma'am.

16 MS. LIVELY: Thank you. That's all of the questions I
17 have.

18 MR. DUNN: May it please the Court, Your Honor?

19 THE COURT: Yes, sir.

20 CROSS EXAMINATION

21 BY MR. DUNN:

22 Q Was there anybody else present besides you and Sergeant
23 Moss?

24 A No, sir.

25 Q And I'm a little confused now, who actually generated

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1 the pictures, you or Sergeant Moss?

2 A Sergeant Moss.

3 Q Okay. Were you present -- you were here earlier when
4 Sergeant Moss testified to the people that he interviewed
5 and how many times he interviewed. Were you here?

6 A I was sitting over there, sir.

7 Q Were you present with him during all of those
8 interviews?

9 A Yes, sir.

10 Q Did you interview any of those witnesses? Did you
11 interview Joseph at any other point without Sergeant Moss
12 present?

13 A No, sir.

14 Q Did you interview Walter Caldwell at any point without
15 Sergeant Moss present?

16 A The only other time I met with Mr. Caldwell was just
17 before the last hearing.

18 Q All right. That was in April of 2018, right?

19 A Yes, sir.

20 Q If I told you the trial happened in April, any reason
21 for you to disbelieve me?

22 A No reason to disagree with you.

23 Q Did you meet with Malcolm at any point besides -- you
24 guys never met with Malcolm Woods, did you?

25 A We made several attempts to contact Mr. Woods, we left

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1 door tags and everything for him to contact us concerning
2 this case. We finally met up with him at Wal-Mart and asked
3 him to come in, would he come and talk to us concerning this
4 case.

5 Q And did he ever come in?

6 A Yes, sir.

7 Q Malcolm did or Joseph did?

8 A Oh, I'm sorry, I misspoke. It was Joseph that we met
9 up with, Malcolm never would talk to us.

10 Q And you never met with -- you did finally meet with
11 Luctercia, correct, later on?

12 A Yes.

13 Q Did she do a photo lineup?

14 A No, sir, she didn't do a photo lineup.

15 Q Why was a photo lineup not done for Mr. Land by Joseph
16 Woods? Why did Joseph not do a photo lineup?

17 A Because Mr. Woods was adamant about he knew who Mr.
18 Land -- he know Mr. Land because they are related.

19 Q You don't think it would have been a good idea to give
20 him a picture just to make sure that he was correct about
21 who he was adamant about?

22 A No. Because he said it was Snoop and it was his
23 cousin, he's related to him.

24 Q You still work for the City of Chester?

25 A Yes, sir.

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1 Q Besides this matter, whether now or back in April, have
2 you ever testified before as it relates to having to do a
3 photo lineup? Have you ever testified in court about a
4 photo lineup?

5 A Yes, sir.

6 Q Okay. And you're aware that photo lineups become
7 issues at court? You know it was one of those questions
8 that defense lawyers are going to ask you at some point is
9 how you did a photo lineup, correct?

10 A Yes, sir.

11 Q But y'all did not record doing any of those photo
12 lineups?

13 A No, sir.

14 Q At any point in your training, none of these training
15 officers ever told you it would be a good idea to record
16 this just so that there was no question as to procedures
17 that were performed or how it was done?

18 A We do those now but not at the present time, no.

19 Q Now you record photo lineups?

20 A We do initially -- mostly all of our interviews now are
21 recorded.

22 Q And is that with the body cam or just another camera?

23 A Body cam. But at the time we did not do one.

24 Q How long have y'all been doing recordings now as far
25 as --

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1 A The recordings of interviews and stuff?

2 Q Yes.

3 A Policy became full effect some time last year, about
4 the end of -- everybody has to use certified -- to the end
5 of last year.

6 Q End of 2017?

7 A Yes, sir.

8 Q Okay. Inside the -- is there an interview room at the
9 city police station?

10 A There's not a particular room for it.

11 Q Designated, I guess, is there a designated room for it?

12 A No, sir.

13 Q When you do do them is the -- the video cameras -- like
14 we saw on Luctercia there's a video camera, is it just a
15 hand held, some type of mobile type of camera?

16 A I think that was Watch Guard.

17 Q Have you changed cameras now?

18 A Watch Guard? No. We're still with Watch Guard.

19 Q You still using those for your interviews?

20 A Yes, sir.

21 Q Is the room itself video recorded? Is there like -- in
22 here we've got cameras that are stuck to the wall, is there
23 videos like that?

24 A No, sir. Because we do not have a designated place for
25 it.

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1 MR. DUNN: No further questions, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. LIVELY:

4 Q Just to clarify, Watch Guard is actually the new body
5 camera -- body worn camera video system that the city has;
6 is that right?

7 A Yes, ma'am.

8 Q And whenever you interviewed Luctercia Caldwell, it was
9 in September of last year; is that correct?

10 A September or October, somewhere around there, yes,
11 ma'am.

12 Q September or October? That was about the time whenever
13 y'all did finally actually get the Watch Dog -- or the Watch
14 Guard body camera videos; is that right?

15 A Yes, ma'am.

16 Q So the time whenever you were actually interviewing
17 Joseph Woods and Walter Caldwell, you used just the normal
18 audio recordings; is that right?

19 A Yes, ma'am.

20 Q And that's the reason why there's no video of them on
21 these recordings that were provided to the defense, is that
22 fair to say?

23 A Yes, ma'am.

24 MS. LIVELY: All right. Thank you.

25 THE COURT: Any recross?

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1 MR. DUNN: No, sir.

2 THE COURT: You can step down.

3 MS. LIVELY: That's all from the State, Your Honor.

4 THE COURT: Any witness for the defense?

5 MR. DUNN: I don't have any testimony, Your Honor, just
6 a general motion I guess as far as it relates to the Biggers
7 issue, the Neil versus Biggers issue. Your Honor, my
8 concern is we're now in the 21st Century and part of the
9 purpose of Biggers is to make sure that there's -- the
10 defendant is protected when photo lineups are given out.
11 Now that we're almost two full decades into the 21st Century
12 where we have plethora of digital -- the ability to record
13 everything whether on the phone or audio or video or what
14 have you, that we don't have the video recording of two
15 followups to what was done initially. They both -- the
16 testimony is the initial interviews were all recorded but
17 then when they followed up with these photo lineups we just
18 happened not to have any kind of digital objective evidence,
19 and it concerns me that -- it concerns me that we don't have
20 that, and as such I would argue that there is a violation
21 there and both photo lineups should be suppressed.
22 Secondly, I'm just concerned about the -- just with the idea
23 of having John Wilmore's in there, he's not on trial. If at
24 some point he does -- and granted, he is on my witness list,
25 which doesn't mean he's going to testify, it just means that

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1 he might testify, and I would argue that the reason why the
2 State has provided the photo lineup now is because of that.
3 I think that it's sort of premature to allow that photo
4 lineup in anyway unless he takes the stand and becomes --
5 whether or not his identity becomes an issue or not. I
6 think otherwise it's just -- any evidence that it may
7 present is more prejudicial than probative and as such I
8 would just ask for in general anything with John Wilmore's
9 picture on it stay out because I don't see the relevancy
10 issue on it.

11 THE COURT: Ms. Lively?

12 MS. LIVELY: Yes, sir, Your Honor. Thank you. The
13 issue under Neil v. Biggers -- let me -- to address that
14 first and foremost. The defense has a burden to show that
15 there was some type of identification that resulted from an
16 unnecessarily and unduly suggestive police procedures, and
17 if so that's where they have an argument that due process
18 was not served in this particular instance. There has been
19 no information regarding any type of unduly suggestive or
20 improper police procedure. The fact that it was not audio
21 or video recorded, it's not required to be audio and video
22 recorded. The city, as a matter of fact, if I were to even
23 go into that, didn't even receive body cam videos until
24 later in the year last year, and there's many law
25 enforcement agencies who had to wait until they either had

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1 funding or the ability to get it. That doesn't go to the
2 issue of whether it was unduly suggestive or prejudicial to
3 this defendant. The bottom line is all of the information
4 that the police received was from the victim witnesses
5 themselves as to who it was that entered that home that
6 night and held them at gunpoint. They then got -- through
7 procedure they got a SLED six pack specifically in regards
8 to this defendant and then pulled the ones from the Chester
9 jail in regards to Mr. Wilmore, and the victim witnesses --
10 no one is saying that they tried to inform them, coerce
11 them, suggest in any such way as to who it was that they
12 were supposed to pick out and they picked them out
13 themselves, identified by the particular witnesses who know
14 these people, who have the best opportunity to identify who
15 they were. So the credibility of these witnesses, of
16 course, can be attacked by Mr. Dunn, but as for there being
17 any kind of unduly suggestive procedure, Your Honor, that
18 just has not been shown in this particular case.

19 THE COURT: What about the relevancy of Mr.
20 Wilmore's --

21 MS. LIVELY: Yes, sir. The relevancy of Mr. Wilmore is
22 to show that the ability for these victim witnesses to
23 actually identify the people who came into the home. The
24 facts of the case are that this defendant, Mr. Wilmore, who
25 has already pled guilty to the charges, actually was playing

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1 cards with the victim witnesses earlier that night and he
2 decides to leave at some point, and when he comes back he
3 comes back armed with a weapon along with the defendant,
4 Geraldo Land. So they were able to -- on the 911 tape the
5 victim says it was John Wilmore and Geraldo Land, they
6 describe both of them. They're able to pick both of them
7 out of a lineup. So that is the relevance is that that
8 shows additional credibility of our particular witnesses as
9 to who it is that actually came into the residence, and to
10 show that they were acting in concert together. Neither one
11 of them made a statement against the other, so it's not like
12 we're going to try to pit Mr. Wilmore against Mr. Land in
13 regards to what happened. But the fact that they were
14 working together in regards to this particular crime, then
15 the ability of these particular victims to identify who
16 these people are actually goes to their credibility as
17 witnesses.

18 THE COURT: Well, I'm not seeing -- I'm following what
19 you're saying, but even though Mr. Wilmore pled guilty he's
20 not involved in this trial unless he testifies.

21 MS. LIVELY: As a matter of fact, Your Honor, I was not
22 trying to get his identification in at the previous trial.
23 The reason why I did for today, and I wanted to go ahead and
24 put all of this information and testimony on the record, is
25 because the defense has listed him now as a witness.

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1 THE COURT: Well, but isn't the whole reason for the
2 Neil versus Biggers is to determine whether or not a witness
3 who is on the stand, that their identification of somebody
4 is credible?

5 MS. LIVELY: Correct. Well, first of all whether or
6 not -- the first prong is whether or not the police used an
7 unduly suggestive procedure in regards to it and how the
8 witnesses were able to identify the defendants.

9 THE COURT: Well, that's the first prong on Neil versus
10 Biggers. But the whole purpose, as I understand it, is so
11 that the witness can then say that is Mr. Land, that is Mr.
12 Wilmore.

13 MS. LIVELY: Correct.

14 THE COURT: And Mr. Wilmore may or may not be here,
15 he's not required to be here. I'm not going to allow the
16 mug shots or the identification of Mr. Wilmore, I will grant
17 the defense's motion on that. As to the identification of
18 Mr. Land, I deny the motion to suppress, you couch it that
19 way but I understand that's what the motion is. I do not
20 find that there is any evidence -- she hadn't carried the
21 burden of proof to prove any unduly or suggestive or
22 improper police procedure in regard to the witnesses,
23 Mr. Woods' and Mr. Caldwell's identification of Mr. Land.
24 You didn't touch it, but I also -- might as well go so far
25 as to say that I do not find the -- any suggestiveness in

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1 the lineups themselves. I do have some concern about the
2 heading that says mug shot.

3 MS. LIVELY: I'm sorry?

4 THE COURT: Where it says, "Mug shot lineup" and then
5 it says "Mug shot lineup for court" on two that are left.

6 MS. LIVELY: If I may approach, Your Honor, so I can
7 see which State's Exhibit you're referring --

8 THE COURT: It's 13 and 15.

9 MS. LIVELY: I pretty much put everything in for the
10 purposes of the Neil v. Biggers hearing, so let me just make
11 sure. 13, of course, it's Mr. Wilmore so we're not going to
12 be using that. And 14 as well, we're not going to be using
13 that because that's in regards to John Wilmore. Now, the
14 one in regards to Walter Caldwell -- see, all of those
15 involved Mr. Wilmore, Your Honor. The ones that we were
16 going to be using is going to be State's Exhibit 1 and 2.
17 And then I don't have to put 11 in. 11 is just the request
18 through SLED to provide them with a six pack for
19 identification.

20 THE COURT: Okay. Well, I don't have the same concerns
21 about Exhibit 1 because it does not have a mug shot -- and I
22 do find that it's not any substantial likelihood -- I find
23 that the lineup, Exhibit 1, the six pack, is not suggestive.
24 That each of the individuals are African-Americans with thin
25 mustaches and some chin hair and other similar eye color,

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1 skin tone. One -- number two is a little darker than the
2 others but they all have similar skin tones and I therefore
3 find that the identification of Mr. Land by Mr. Caldwell is
4 not based on any suggestiveness.

5 MS. LIVELY: Thank you, Your Honor.

6 THE COURT: Anything else before we get the jury back
7 in? We will take a break.

8 MR. DUNN: I have one more concern. It was something I
9 was thinking about before and it popped out when Sergeant
10 Moss was testifying. We had a trial in this before, he
11 talked about the last trial and that's my concern.

12 THE COURT: I will go ahead and ask Ms. Lively not
13 to -- to make sure her witnesses don't say anything about --
14 he was answering the question you asked, but I think that
15 your witnesses need to be admonished not to go into the fact
16 that this is a retrial in any event whatsoever.

17 MR. DUNN: I would think that they can testify that
18 they've testified before, just not use the words last trial.

19 THE COURT: Yeah. They can testify that they have
20 testified. And in fact, if you use any of their testimony
21 to impeach them you'll be basically saying, "Have you not at
22 an earlier time testified X, Y and Z."

23 MR. DUNN: Exactly, but just not using the words trial.

24 MS. LIVELY: Yes, sir.

25 THE COURT: Let's take a short refresher break and then

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1 we'll get the jury in, then I think we'll have time for the
2 opening statements and then probably lunch.

3 (A break was taken.)

4 MS. LIVELY: As the Court is well aware that the
5 defendant, once this case is called for trial his bond is no
6 longer in place. The State is asking the Court that he
7 actually be taken into custody during the pendency of this
8 trial. There's a couple of different reasons for that.
9 Number one, he's on federal supervision for a violent crime
10 and for having a weapon, Your Honor. This defendant is
11 someone with his prior history is a big concern to the
12 State. The other concern, Your Honor, is that throughout
13 the pendency of this action and prior to us actually calling
14 this case to trial this defendant on a couple of different
15 occasions did approach the victim witnesses in this case
16 along with his mother until the time of him actually being
17 arrested. The State's concern, Your Honor, is that he
18 has -- he knows these people, he is local, and during the
19 time that this case is going to be tried the potential of
20 running into them or having contact with them is extremely
21 high. I'm very concerned, Your Honor, and would ask the
22 Court to have him taken into custody during the time that
23 this case is being tried. Also he is looking at possibly
24 life imprisonment, that's a pretty big consequence if and
25 when he could be found guilty during this case. So that

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1 along with the safety of my victim witnesses as well as the
2 possible -- the probability or possibility that he could
3 actually run into the potential -- or the jurors, Your
4 Honor, in this case while he's out and about is a big
5 concern for the State. We want to make sure that the
6 credibility of this case and the witnesses and everybody
7 involved is intact.

8 MR. DUNN: Your Honor, I was appointed in this case in
9 January of '18, of this year, he's been out on bond ever
10 since that time. This is not our first trial, this is now
11 our second trial. At no point during my representation of
12 him has there ever been any serious allegations of him
13 threatening witnesses or him threatening any of the jurors
14 in the last trial. He -- quite frankly we've been offered
15 time served, he's turned that down because he wants his day
16 in court, Your Honor. I don't think he is any kind of
17 flight risk, he is not any kind of threat to the community
18 as -- if anything was going to happen it would have happened
19 before now. As I said, we're in a trial. He's had plenty
20 of opportunity to run if he wanted to run, plenty of
21 opportunity to threaten these victims before today if that
22 was the concern of the State and it hasn't happened. It
23 didn't happen at last time, it hadn't happened since last
24 time. I would ask that you allow him to stay out on bond.
25 He does have a little bit of record, he's got drugs, he had

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1 possession of a weapon but never any allegations in there
2 that he threatened people or caused physical harm or
3 anything on his record.

4 THE COURT: I'm going to require him to remain
5 incarcerated through the trial. Are you ready for the jury?

6 MS. LIVELY: Yes, Your Honor, State is ready.

7 MR. DUNN: Your Honor, just one more thing on that. He
8 does have a GPS monitor on, it's not like he's going to go
9 anywhere.

10 THE COURT: Well, my comfort level is better if he
11 remains incarcerated.

12 (The jury returned to the courtroom.)

13 THE COURT: Members of the jury, in just a few minutes
14 the attorneys will come before you and make what's called
15 opening statements. They're not arguing their case at this
16 point, they're not witnesses so they're not testifying,
17 they're simply giving you an outline or blue print of the
18 trial. I told you that there are several charges against
19 Mr. Land, and I will tell you when I charge you the law at
20 the end of the trial that you are to look at each
21 independent of the other, that is each indictment falls or
22 stands on its own merit with one exception and I will tell
23 you about that at the end of the trial. Mr. Land is charged
24 with these and he has entered a plea of not guilty to each
25 of these offenses, and this places on the State the burden

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1 of proving his guilt beyond a reasonable doubt, and I will
2 at the end of the trial define for you reasonable doubt. At
3 this stage Mr. Land is presumed innocent. Anyone charged
4 with any offense in our system is presumed innocent of the
5 charge against him until the jury is convinced beyond a
6 reasonable doubt as to his guilt. So at this moment and
7 throughout the trial and even as you deliberate Mr. Land is
8 presumed by law innocent, and until a jury were, if it were,
9 that would be you in this case, determined that the State
10 has proven that person's guilt beyond a reasonable doubt
11 they are presumed innocent and need not prove their
12 innocence. I have three primary jobs in a trial. One is to
13 be the logistics person and take care of the matters about
14 break and things; one is to rule on the question of evidence
15 admission, and the third is I am the sole judge of the law
16 in this case. I'm giving you some legal principles now and
17 during the trial I may give you some, at the end of the
18 trial I will give you a concise and confidential charge in
19 the law that you are to apply to the facts in this case.
20 You are not to infer from anything I say or do during the
21 trial as an opinion of mine on the facts as you are the sole
22 judge of the facts in this case. I'm not allowed to
23 formulate or express to you any opinion of the facts. It's
24 solely up to you to weigh the evidence and determine the
25 facts in this case and apply the law. In doing so you have

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1 to determine who to believe, that is the credibility of the
2 witnesses who testify. Use your common sense, your sense of
3 logic and your sense of reasoning as you analyze the
4 witnesses testimony as to its believability. You are not to
5 discuss the case among yourselves or try to make up your own
6 mind until I instruct you to jointly deliberate and return a
7 unanimous verdict. Prior to that time you are not equipped
8 with all of the tools you need to make a fair and reasonable
9 decision. Do not let anyone discuss the case with you
10 outside of the courtroom. If anyone tries to discuss this
11 case with you tell them you cannot do so and you're a juror
12 and report back to me if that happens hopefully identifying
13 who the individual is that tried talk to you. Do not do any
14 research on any kind of electronic device, Cloud or Google
15 or anything like that. You have to base your verdict solely
16 on the law and the evidence that's developed here in this
17 courtroom. So don't go online or Google or Cloud or
18 anything to try to find out information about the charges,
19 about the solicitor, about me, about courtroom procedure,
20 don't do any independent research whatsoever. I don't know
21 that this case will receive any coverage in the news, if it
22 does do not let yourself be exposed to it. Do not watch,
23 read or listen to anything that remotely catches your eye or
24 ear that you believe may have something to do with this
25 case. Please do not let yourself be exposed to it. If you

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1 have -- you don't need to take notes, just listen carefully.
2 We take breaks about every 15 or so -- about every hour and
3 a half for about 15 minutes each and we will take an hour or
4 so for lunch, but if you need a break at any time raise your
5 hand and no questions asked and we'll take a break.
6 Counsel?

7 MS. LIVELY: Thank you, your honor. Thank you, ladies
8 and gentlemen. And I do appreciate the fact that all of you
9 are here not necessarily because you want to be here, but it
10 is such an important part of what our judicial system
11 requires in order for us to be able to make sure when
12 someone is charged with a crime that they get a fair and
13 just trial. That's not just for the defendant but it's also
14 for the State. The State is here to show to each and every
15 one of you beyond a reasonable doubt that the defendant,
16 Geraldo Land, did go into the home of a gentleman by the
17 name of Walter Caldwell on the evening of April 9th into the
18 early hours of April the 10th, 2017 armed with a gun with
19 the intent to commit a crime once inside that home. That
20 crime was to rob individuals who were seated at a table
21 playing cards. All of these people -- what I want you to
22 continuously remember throughout the trial of this case, all
23 of these people knew one another. Sometimes whenever we see
24 cases and we see stuff on television, the question is we're
25 not sure who the suspect is, does somebody recognize the

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1 snapshot off of this video from a convenient store because
2 we're not sure who this person is. We don't have that here.
3 What we have is clear identification that you're going to
4 hear from the witness stand as to the two people who went in
5 to Walter Caldwell's home on the night of April 9th into the
6 early morning of April 10th, went in with a gun with the
7 intention of stealing their money. Now, we have several
8 charges here, and I do have the burden to prove each one of
9 them beyond a reasonable doubt. But that means use your
10 common sense. Think about what it is you're hearing from
11 that witness stand. You have the sole decision as to
12 whether or not the person is telling the truth or not,
13 whether they're credible. Why would these people lie? What
14 do they have to gain? So when you hear from people like
15 Walter Caldwell who lived over on Ashford Street, still
16 lives there, he was there with his family members, a wife
17 who was dying of cancer. You will hear how that night they
18 had friends over. And this is a well known thing in this
19 particular area, it's a small town, go over to Mr.
20 Caldwell's house and hang out. That's just what these
21 people did at that time. They're all friends. They know
22 each other. So think about that when you think about the
23 credibility of these witnesses when they tell you it was
24 Geraldo Land who came in that night, along with John
25 Wilmore, and took their money. Joseph Woods is going to

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1 tell you from that witness stand that a gun was actually
2 held to his head while his money was taken. These witnesses
3 and victims have nothing to gain to get up there and tell
4 what happened. And think about this, these victims still
5 have to live in the same town with people who actually had
6 the nerve to go into that home and take their money at
7 gunpoint. I believe the evidence will show the audacity of
8 someone who would do that to a friend, to a family member,
9 the pure disregard for safety of these people, the complete
10 disregard for who these people were when he walked in there,
11 didn't care, and took their money. Once you hear all of the
12 evidence the State is going to prove to you that the
13 defendant entered a home in the nighttime armed with a
14 weapon to commit a crime therein, that's burglary first
15 degree. We're going to prove when he entered into that home
16 he was armed with a deadly weapon and did rob, or was along
17 with another individual who robbed Mr. Walter Caldwell.
18 Armed robbery. Then we're going to show another armed
19 robbery, that he went in with a gun, along with a
20 codefendant, and took the money of Joseph Woods at gunpoint.
21 Then we're going to show the violent crime that was
22 committed here, there were several, but the burglary first
23 degree was committed by the display or use of a firearm,
24 you're going to hear that from our witnesses as well. And
25 then finally assault and battery first degree, for when he

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1 put that gun to the head of Joseph Woods while he took the
2 money. Please listen to all of the evidence, listen to all
3 of the witnesses, and at the end of the trial I'm going to
4 ask you to find him guilty on all counts. Thank you.

5 THE COURT: Mr. Dunn?

6 MR. DUNN: May it please the Court, Your Honor? Good
7 afternoon. My name is Geoff Dunn, I'm a lawyer here, I live
8 here in Chester. This is my client over here, Geraldo Land.
9 On behalf of him and myself we thank you for being here. I
10 know that there are many other places you would rather be on
11 Wednesday afternoon than a trial, but what you're doing is a
12 very important part of our civic duty. It's a very
13 important part of our society and how our system is supposed
14 to run and for that we're thankful that you're here. I
15 don't generally get up in front of folks and start telling
16 you what I think you're going to see and what you're not
17 going to see, because it has been my experience that things
18 change. Just because somebody says one thing to the police
19 earlier, once they start putting their hands on the Bible
20 the stories start changing, so I never want to give you some
21 kind of anticipation that something is going to be said
22 that's not said and then you're looking at the lawyer going
23 "You lied to us." What I do think you're going to see,
24 though, is you're going to see work that was done by the
25 City of Chester police that was not done very well, that

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1 they did not do their duty as police officers to investigate
2 a crime, and because of that lots of evidence that should
3 have been collected was not collected. I think that you're
4 going to listen to witnesses that were at that poker game
5 get on the stand and you're going to hear inconsistent
6 statements one from the other to the other to the other and
7 they're not going to paint a unified picture of what
8 happened. I think you're going to hear testimony that even
9 though it was in one of the harder pressed parts of town
10 that there was a lot of money on the table, and all the
11 sudden that money is gone, and I would submit to you that
12 what you will hear is reasonable -- and I think at some
13 point you'll understand why they're making these stories up.
14 At some point during this trial you will hear some evidence.
15 Mr. Land has asked for a trial because he was not there, and
16 at some point you will hear alibi witnesses come up and tell
17 where Mr. Land was. Now, it's very easy in criminal trials
18 to sort of gravitate to the State because they go first, and
19 they're going to put their witnesses up first and you're
20 going to hear the police and you're going to hear Mr. Woods
21 and the different victims that were listed in those
22 indictments come up and they're going to testify and it's
23 just natural, it is part of our nature as humans to sort
24 of -- the first thing we hear we sort of say, "That makes a
25 lot of sense, I think I'm going to believe it." The problem

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1 is you can't do that. I'm asking that you wait, that you
2 hear all of the evidence before you start tapping into those
3 thoughts. That in our system the State of South Carolina
4 bears the burden to prove that Mr. Land is guilty, and
5 because there is that burden you've got to remain impartial.
6 You've got to step back and not go towards what is part of
7 our natural inclination as humans to do, but to listen to
8 all of their testimony, and then listen to all of Mr. Land's
9 side of the story before you start making a choice. I ask
10 that as you're sitting there and you're listening to all of
11 the evidence that's presented that you start weighing, that
12 you start shifting it through your minds. We are all here
13 because we're what the State of South Carolina calls
14 reasonable people. We have experiences, those experiences
15 are through common sense and interaction with our family and
16 friends and coworkers and everybody else in our life has
17 allowed us to go back and listen and judge what people are
18 telling us and put it through sort of that -- we just weigh
19 it and we started, "I don't know if I believe everything. I
20 think there's things that are missing. I don't know if I
21 -- it's called credibility, and we do it everyday all day
22 long from the time we wake up from the time we go to bed.
23 As humans we always have to put everything that's told to us
24 and what we see and hear through the credibility test,
25 whether it's our kids lying to us about who broke the dish,

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1 whether it's about stories our friends are telling us about
2 how big a fish was caught, to even more important as to who
3 robbed somebody. We always put people through that
4 credibility test. And I ask that as you sit there and you
5 listen to the evidence, whether it's people, whether it's
6 pictures, whether it's video, audio, whatever it is that
7 comes through the evidence door that you start filtering
8 that through. At some point the Judge is going to tell you
9 that you are the judges of the credibility, you get to
10 decide whether it's credible or not and I would just ask
11 that you listen to it and ask yourself this question: Is
12 this really credible? I would submit to you as you're
13 listening to it you are going to have a lot of questions and
14 it is going to cause you a lot of doubt, and at some point
15 during this process we'll talk about what reasonable doubt
16 is. At the end of the day the State bears the burden to
17 prove that Mr. Land is guilty. We don't have to prove
18 anything, he doesn't have to prove anything. Sometimes
19 that's hard for humans to do as well because we just want to
20 stand up and we want to defend ourselves. If somebody says
21 something bad about us we want to get up there and start
22 arguing why that's not us. That's not how the criminal
23 system works. The criminal system works when the State --
24 when they have to overcome that burden. And so as you sit
25 here for the next couple of days we just ask that you listen

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1 to all of the evidence, give your undivided attention. It's
2 hot outside, it's going to get hot in here, you're going to
3 start getting drowsy and start to fall asleep and I just ask
4 that you give Mr. Land all of your attention, and the State
5 as well, all of your attention during these proceedings.

6 It's important to us and it's important to them. Thank you.

7 THE COURT: Members of the jury panel, we'll break for
8 lunch until quarter until 2:00, 1:45, that will give you an
9 hour and 15 minutes for lunch, so please be back on and time
10 we'll try to start as quick as we can at 1:45. Have a
11 pleasant lunch.

12 (The jury left the courtroom.)

13 THE COURT: We'll break for lunch too, but before we do
14 I'm trying to look ahead for the charge. The State has
15 handed me a charge on assault and battery in the first
16 degree. Under the statutory scheme aren't second and third
17 lesser included?

18 MS. LIVELY: They are, Your Honor, yes. That was just
19 the one that the Judge had done at our previous trial, the
20 assault and battery first degree because it was a weapon
21 that was actually used and it was a gun.

22 THE COURT: But at the prior trial the lesser included
23 were not charged?

24 MS. LIVELY: No, sir.

25 THE COURT: Mr. Dunn?

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1 MR. DUNN: I would like to say that I objected to that,
2 I just don't remember what happened, it was three months ago
3 as far as what the jury charges were. I would argue that
4 the assault and battery second and thirds are
5 lesser-included by statute to assault and battery first and
6 have to be submitted to the jury.

7 MS. LIVELY: Your Honor, that's fine, I don't have any
8 objection to that. But that's the reason why I -- I gave
9 you what the judge had given me the last time.

10 THE COURT: Well, would you run me a copy of this --
11 these two pages, like 56 and 57 out of this green book that
12 you handed up?

13 MS. LIVELY: Yes, sir, I will be glad to.

14 THE COURT: And I'll also ask somebody in your office
15 to do me a verdict form.

16 MS. LIVELY: Yes, sir.

17 (A lunch recess was taken.)

18 THE COURT: All right, Mr. Dunn?

19 MR. DUNN: Your Honor, at the time when we took our
20 break before lunch my client and I entered into some
21 discussions. He has indicated to me that he wishes to fire
22 me and to represent himself and that he wished to address
23 the Court, and I told him that I would make that
24 available -- that opportunity available to him.

25 THE COURT: All right. Mr. Land, how old are you?

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1 THE DEFENDANT: Thirty years old, sir.

2 THE COURT: How far did you go in school?

3 THE DEFENDANT: Graduated and some college.

4 THE COURT: What do you do for a living?

5 THE DEFENDANT: Right now I am currently taking on my
6 personal training certification where I work at Foot Print
7 Industries in Richburg, South Carolina.

8 THE COURT: Have you ever participated in a trial
9 before? I know you've got a record, but were any of those
10 trials or guilty pleas?

11 THE DEFENDANT: Pleas, sir, a plea of guilty.

12 THE COURT: You have been appointed an attorney by the
13 State and you requested that and I'm told now you wish to
14 represent yourself.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that you have the right
17 to an attorney and that an attorney could be of benefit to
18 you and that there's a danger in your representing yourself
19 since you're not an attorney. Do you understand all that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You think that you could be candid with the
22 Court and follow the rules of the Court? Even though you're
23 not an attorney you would have to be -- you would have to
24 follow the court rules and rules of evidence and the other
25 rules that apply. Even though you're representing yourself

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1 the Court requires that you adhere to the rules of court, do
2 you understand that?

3 THE DEFENDANT: Yes, sir. But I have a question about
4 that, sir.

5 THE COURT: All right.

6 THE DEFENDANT: I have a question, because I have a
7 cellphone that I had at the time this incident happened
8 which actually logs my testimony, it actually verifies my
9 testimony and it's at the repair shop. I have told my
10 lawyer prior to trial and I was wondering how would I go
11 about admitting that into evidence? Because I've already
12 spoken to him prior to trial about that.

13 THE COURT: Well, let me hear the State.

14 MS. LIVELY: We would object, Your Honor. We've had
15 no -- this is the first I'm hearing of his cellphone. We
16 would need the opportunity to do an analysis on that to
17 determine whether or not there's anything on it that is of
18 evidentiary value, and this was not something that was
19 provided to me either as an attempt at an alibi to show that
20 the defendant was somewhere else. All of this has been
21 going on for over a year now, so if that was evidence that
22 needed to be tested or looked at prior to the date of trial
23 then, Your Honor, that should have been provided to us way
24 sooner. We sent a reciprocal discovery motion as well.

25 THE COURT: Well, I have skimmed the case you handed

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1 up, State versus Samuel, that has a different element in it.
2 I'm going to allow Mr. Land to represent himself. I will
3 appoint Mr. Dunn to be your stand-by counsel, that is he
4 will not sit at the table with you and he will not coach you
5 or anything like that, but if you have any questions or
6 procedure or rules of court and you want to ask Mr. Dunn he
7 will be available. Are you ready to proceed?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And I don't know about the phone, I don't
10 get involved in it.

11 THE DEFENDANT: Can I ask one more question? He told
12 me it would be able to be admitted into evidence and now
13 she's objecting to it.

14 THE COURT: No. She's objecting to you representing
15 yourself.

16 MS. LIVELY: I don't have an objection to that, Your
17 Honor. I have an objection to this evidence that he says
18 that's out there that we have no knowledge of. As long as
19 he's been asked the correct colloquy by the Court, which
20 Your Honor has just done regarding the safeguards of having
21 an attorney instead of representing yourself, I just don't
22 think I have an argument in regards to that. I've done the
23 research even briefly, and it seems like our supreme court
24 in everything I've looked at has said that that is -- that
25 being a pretty substantial right as long as he's very clear

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1 about the dangers in doing that.

2 THE COURT: Yeah. Well, you clearly understand it's
3 not the wisest decision you've ever made to represent
4 yourself when you're facing these I think it's five charges,
5 you understand that?

6 THE DEFENDANT: Eight charges, yes, sir, I understand
7 that. However --

8 THE COURT: Now, as far as the evidence, when we get to
9 the point in the trial when you have a right to present your
10 case you can try to present what evidence you wish, but if
11 it's something that is not allowable under the rules of
12 evidence it won't come in. I can't anticipate, but under
13 the rules that we go by that apply to these kind of criminal
14 cases, the State has a right to discovery just like you have
15 a right to discovery, and the state gave you what they have,
16 and through your attorney you would have to give the State
17 whatever you thought was evidence involved in this case. So
18 all I can tell you is that if we get to a point where
19 there's some question as to whether or not you have followed
20 the rules, or through your attorney, I'll just have to make
21 a ruling at that time.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: So I can't rule one way or the other as to
24 a phone. We'll have to wait until you get to the point in
25 the trial where you think that should be introduced.

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1 MR. DUNN: If I may address that one issue. I think
2 his concern is he doesn't have actually it and it's not in
3 his possession, he is concerned about procuring it and
4 getting it to court.

5 THE COURT: I don't have any -- the only thing I can do
6 is -- you have the right to subpoena witnesses and you could
7 subpoena somebody and subpoena your phone, I presume. I
8 assume somebody who has possession of it can come to court
9 and bring it. That's best we can do.

10 MR. DUNN: I have explained that to him that if we
11 can't get it here there are other ways. We can issue
12 subpoenas to see that we get it over here.

13 THE COURT: Is the State ready proceed?

14 MS. LIVELY: The State is ready, Your Honor.

15 THE COURT: Mr. Land, you're representing yourself now,
16 Mr. Dunn can move back behind you and be stand-by counsel
17 and we'll bring in the first witness.

18 MS. LIVELY: And Your Honor, just for the purposes of
19 the jury when they come back in, is the Court going to give
20 some type of instruction regarding --

21 THE COURT: Yes.

22 MS. LIVELY: Okay. Thank you.

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

24 (The jury returned to the courtroom.)

25 THE COURT: Members of the jury, over the lunch and

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1 break Mr. Land requested, and I granted his request, to
2 represent himself. So Mr. Dunn is not his attorney at this
3 point, Mr. Land is representing himself. Mr. Dunn is in the
4 courtroom and available to administer any procedural type
5 questions that Mr. Land may have, we call that stand-by
6 counsel, but Mr. Dunn will not be participating in the
7 questioning of witnesses or presenting evidence, that will
8 be all up to Mr. Land as he is representing himself. Call
9 your first witness.

10 MS. LIVELY: Thank you, Your Honor. The State would
11 call Joseph Richard Woods to the stand.

12 The witness, JOSEPH WOODS, was first duly sworn and
13 testified as follow:

14 THE COURT: Mr. Woods, I can already tell you have a
15 soft voice so talk into the microphone and use a good strong
16 voice. Thank you. You may proceed.

17 MS. LIVELY: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q State your name for the record.

21 A My name is Joseph Richard Woods.

22 Q We were making sure that you were loud enough, thank
23 you, Mr. Woods, I appreciate it. Now Mr. Woods, are you a
24 resident of Chester County?

25 A Yes, ma'am.

JOSEPH WOODS - DIRECT

- 1 Q How long have you lived in Chester?
- 2 A All of my life.
- 3 Q How old are you?
- 4 A Fifty-four years old.
- 5 Q Fifty-four years old. Are you currently employed?
- 6 A Now I am.
- 7 Q you are now. Tell the jury where you're working.
- 8 A I'm working at Ross in Rock Hill.
- 9 Q Okay. In April of 2017 were you working somewhere
- 10 different?
- 11 A yes, ma'am.
- 12 Q Where were you working at that time?
- 13 A I was working at the Chester Wal-Mart for 12 years.
- 14 Q For 12 years. And in April of 2017 did you have the
- 15 opportunity to spend some time with someone by the name of
- 16 Walter Caldwell?
- 17 A yes, ma'am.
- 18 Q Tell the jury how you know Mr. Walter Caldwell.
- 19 A I know Mr. Walter Caldwell, we was friends. We sat
- 20 around, played cards and have a good time, that's how I knew
- 21 him.
- 22 Q Do you know his address?
- 23 A I don't really know the house address but I know where
- 24 he live.
- 25 Q Okay. And how long has he lived in this one location?

JOSEPH WOODS - DIRECT

1 A I heard for many years.

2 Q Okay. Now, you said that you would go to Mr.

3 Caldwell's house and hang out and have fun. Would you

4 consider yourself friends with Mr. Caldwell?

5 A Yes, ma'am.

6 Q All right. And in April of 2017 was there a time when

7 you actually went to Mr. Caldwell's house just like the

8 other times to possibly play cards and hang out?

9 A Yes, ma'am.

10 Q All right. And on a particular date, April 9th of

11 2017, did you have a certain amount of money that you were

12 going to take with you to go and play cards?

13 A Yes, ma'am.

14 Q Tell the jury about that.

15 A Well, we was sitting around playing cards. I had took

16 \$200 or \$300 with me, but it was tax time and I had a whole

17 lot more money in my pocket. I lost what I had so I'd tempt

18 the boys with the money that I had in my pocket.

19 Q Okay. All right. About how much money total did you

20 have?

21 A I had about \$2,000.

22 Q All right. Now, were you doing any kind of bragging

23 about the kind of money that you had on you that day?

24 A Yeah, I did.

25 Q All right. Who do you remember being at Mr. Caldwell's

JOSEPH WOODS - DIRECT

1 house on April 9th or 2011?

2 A It started out Mr. Walter, my brother, Malcolm, and

3 John John Wilmore.

4 Q John John Wilmore?

5 A Yes, ma'am.

6 Q About how long were you there, do you recall?

7 A We were there for hours.

8 Q Is that unusual for you to be there for a long period

9 of time while y'all are playing cards?

10 A No, ma'am.

11 Q All right. Now, where was Mr. Caldwell's wife,

12 Patricia Caldwell?

13 A She was in the hospital sick.

14 Q Do you know how long she had been sick?

15 A She had been sick for awhile.

16 Q And were any of Mr. Caldwell's other children there at

17 the home that day on April 9th?

18 A Early some of the kids was there.

19 Q Does he have a daughter?

20 A Yes, ma'am.

21 Q What's his daughter's name?

22 A Bopeep. He got a couple more --

23 Q Now, are these nicknames that you're giving us?

24 A Well, some of them are nicknames.

25 Q Now, Bopeep, do you know Bopeep's real name?

JOSEPH WOODS - DIRECT

1 A Luctercia.

2 Q Luctercia Caldwell?

3 A Yes, ma'am.

4 Q Now, Mr. Woods, you said you went there April 9th to
5 play cards. Did you know how many people were actually
6 going to come and play cards that day?

7 A Not particularly. It used to be a lot of them but only
8 was a couple of them that played that day.

9 Q And now do you know John Wilmore?

10 A I learned about playing cards with him; he used to play
11 with us.

12 Q And would he play cards at Mr. Caldwell's house?

13 A Yes, ma'am.

14 Q And how about Geraldo Land, how do you know Mr. Land?

15 A I had learned him. I didn't really know his name.

16 They call him Snoop, but I learned his name. And Kid told
17 me about his daddy, his daddy is my cousin. I didn't know
18 that but I learned that.

19 Q Okay. And what is it -- do you have another name that
20 you know him by, Snoop?

21 A No.

22 MR. LAND: Objection, she's leading the witnesses.

23 THE COURT: Yeah, don't lead the witness.

24 Q So you know -- so you said you're related to Mr.
25 Geraldo Land?

JOSEPH WOODS - DIRECT

1 A On his daddy's side, me and his daddy is cousins.

2 Q His daddy's cousin. All right. Had you ever, when you
3 played cards over there, seen Mr. Land there before?

4 A Yes, ma'am.

5 Q And whenever you saw Mr. Land there before, was it just
6 like you were saying before, to play cards?

7 A Right.

8 Q All right. Now, Mr. Woods, on April 9th of 2017
9 whenever you were playing cards, did you actually put the
10 money that you had out on the table at any point in time?

11 A Yean. I pulled it out after they had won what I had to
12 bribe them to get it back.

13 Q Okay. Was Mr. John Wilmore still there at the time
14 when you had pulled your money out?

15 A Yes, ma'am.

16 Q What did you observe Mr. Wilmore doing while you were
17 sitting at the table?

18 A Well, we was playing, and all I know he was on the
19 phone texting and going on. And it was another guy came
20 named Pack, and I know he said, "This ain't for you," but
21 Pack kept on saying, "What you talking about?" We ain't
22 really know what was going on. So Pack left, and later on
23 John John left.

24 Q All right. When John John left, was it daytime or
25 nightttime?

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- 1 A It was getting late.
- 2 Q So was it dark outside?
- 3 A Yeah, it was getting dark.
- 4 Q And after Mr. Wilmore left, who all was still there in
5 the home, do you recall?
- 6 A It was me, Malcolm and Mr. Walt and his daughter come
7 in later, Bopeep, Luctercia.
- 8 Q All right. Now, I'm going to show you some photos.
9 These are actually marked from State's Exhibit Number 4 all
10 of the way to State's Exhibit Number 10. Give me just a
11 minute, I need to show them to the defense, okay?
- 12 A Yes, ma'am.
- 13 Q I'm going to show you 4 through 10. If you'll just
14 look at each one and tell me if you're familiar with what's
15 shown in those pictures each and every one.
- 16 A Yes, ma'am.
- 17 Q And what do those pictures show you?
- 18 A They represent Mr. Caldwell's whole house.
- 19 Q All right. And once again, how many times had you been
20 over to his house?
- 21 A Numerous times.
- 22 Q And in regards to these pictures, did you also
23 recognize the room that was photographed in State's -- and I
24 will show you again, 8, 9, and 10.
- 25 A Yes, ma'am.

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1 Q And what is that room?

2 A That's our card -- that's where we played cards.

3 Q That's the card room?

4 A Yes, ma'am.

5 MS. LIVELY: Your Honor, the State would move State's
6 Exhibits 4 through 10 into evidence at this time.

7 THE COURT: Mr. Land, any objection?

8 MR. LAND: No, sir.

9 THE COURT: In without objection.

10 (The photos were received as State's 4-10.)

11 Q All right. Now, Mr. Woods, whenever y'all were sitting
12 in the room, and I'm going to show you State 8, 9 and 10 --

13 MS. LIVELY: And your Honor, may the witness step down
14 from the stand so we can show the jury?

15 Q Do you mind stepping down for me, Mr. Woods? Okay.

16 We're going to do this right in front of this microphone,
17 okay? So in State's Exhibit Number 8 we're going to show

18 you that first and then I'm going to hold it up to the jury.

19 Will you please tell the jury in this picture where were you
20 sitting on the night of April 9th?

21 A Sitting right at the door as he come in.

22 Q Will you point at that for me?

23 A Right here.

24 Q Okay. Now, I'm going to show you State's Exhibit
25 Number 9. And what is this?

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1 A This is Mr. Caldwell.

2 THE COURT: You need to speak up a little, Mr. Woods.

3 The court reporter has to take down what you say and I need
4 to hear you, too, so speak up a little bit.

5 Q Speak up a little bit more. I know it's a little
6 nervous, but okay. So this is this a picture, kind of the
7 same thing that you were looking at.

8 A Yes, ma'am.

9 Q All right. Now, will you please point as to where you
10 were sitting the night whenever you were robbed? Point to
11 the jury which one where you were sitting --

12 A I was sitting right there.

13 Q At the head of the table?

14 A Right there.

15 Q How much room is between the door and the chair where
16 you were sitting?

17 A Well, it's mighty close. When you open the door it
18 would hit up against the chair, I would say about two or
19 three inches, not very much room.

20 Q Two or three inches.

21 A Something like that.

22 Q So when the door opens up --

23 A Yeah, automatically --

24 THE DEFENDANT: Objection. She's leading again, Your
25 Honor.

JOSEPH WOODS - DIRECT

1 Q I'm going to show you State's Exhibit Number 10.

2 A Yeah, I recognize that.

3 Q You recognize that. And tell the jury again where you
4 were sitting.

5 A I was sitting right there at the head of the table
6 there.

7 Q Is this a very big room, Mr. Woods?

8 A No, ma'am.

9 Q Okay. You can have a seat for me again, thank you.

10 A (Witness complies.)

11 Q Mr. Woods, before that night, had you ever had any type
12 of problems or altercations or fights with Mr. Wilmore or
13 with Mr. Land?

14 A No, ma'am.

15 Q Have you ever threatened them or talked bad about them
16 in any way?

17 A No, ma'am.

18 Q So on the night of April 9th, 2017, you already
19 testified that Mr. Wilmore left at some point.

20 A Yes, ma'am.

21 Q When Mr. Wilmore left tell the jury what happened next.

22 A Once John Wilmore left we decided to keep playing
23 cards. My brother, he went outside to take a smoke break
24 and Mr. Caldwell, he went to use the bathroom. So as my
25 brother was coming back in John Wilmore rushed in behind him

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1 with a gun, and also Geraldo Land was with him and they
2 robbed us.

3 Q Now, I'm going to show you State's Exhibit Number 5.
4 Will you tell the jury, is that the door that Wilmore and
5 Land entered?

6 A Yes, ma'am, that's the door.

7 Q Now, when this happened, now were you -- now was your
8 body in comparison to the door once it swings open?

9 A I was face to the table. I just heard them rushing in
10 and they come in with guns, John John to the left and
11 Geraldo to the right. I had blowed up to get up and he put
12 a gun to my head, and I looked back just like you're driving
13 a car with, I looked in the face and he shook his head at
14 me and I had to ease back down.

15 Q Who was shaking his head like this?

16 A Geraldo Land.

17 Q And where was the gun, Mr. Woods?

18 A At my head. I looked back like this, he was shaking
19 his head nuh-uh, that's when -- I had blowed up but I had to
20 ease back down.

21 Q What happened next?

22 A After they robbed us they ran so we sat in the house a
23 little while. And later on I called the police and told
24 them I had been robbed and I know who did it.

25 Q Let me stop you there for a minute. When they left,

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1 now long was it before you called the police?

2 A I imagine -- I don't know. All I know it was a quarter
3 until 12 when they got the call, it was after midnight, so
4 we called it the midnight burglary.

5 Q Were you scared at that point?

6 A Oh yeah, I was scared. Just glad I'm here today, I
7 could have been dead, just glad I'm alive.

8 Q What happened to the money on the table?

9 A Oh, they took it, took everything we had.

10 Q At the moment when John Wilmore and Geraldo Land came
11 into the home, who all was sitting at the table.

12 A It was me, Mr. Walt, Malcolm and his daughter, Bopeep,
13 Luctercia.

14 Q So who was it that called 911, Mr. Woods?

15 A I was the one that called.

16 Q And have you had the opportunity to actually hear your
17 911 tape in the past?

18 A Yes, ma'am.

19 Q Whenever you called the police, did you give them a
20 statement about what had happened to you that night?

21 A Yes, ma'am.

22 MS. LIVELY: Your Honor, the State would move State's
23 Exhibit 3 into evidence and ask to publish it to the jury at
24 this time.

25 THE COURT: Any objection?

JOSEPH WOODS - DIRECT

- 1 MR. LAND: No, sir.
- 2 THE COURT: In without objection.
- 3 (The 911 disc was received as State's 3.)
- 4 (At this time the 911 tape was played.)
- 5 Q How were you feeling during that phone call, Mr. Woods?
- 6 A Ma'am?
- 7 Q How were you feeling during that phone call?
- 8 A I was hot, I was fed up. They had robbed me.
- 9 Q Who all was still there with you when you called 911?
- 10 A It was me, Walter, Bopeep and Malcolm.
- 11 Q Just so that the jury understands who you're
- 12 talking about --
- 13 A Luctercia Caldwell.
- 14 Q Luctercia Caldwell. Walter is who?
- 15 A Daughter.
- 16 Q Walter who?
- 17 A Walter, that's his daughter, Luctercia.
- 18 Q Walter Caldwell, is that his name?
- 19 A Yes, ma'am.
- 20 Q And who is Malcolm?
- 21 A That's my brother.
- 22 Q That's your brother. Whenever Mr. Land and Mr. Wilmore
- 23 came into the house, where did your brother go?
- 24 A He went down through the back hall.
- 25 Q Was he there during the time of the robbery?

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1 A Yes, ma'am.

2 Q Do you know if any of his money was taken?

3 A Yeah, his money was taken too.

4 Q Now, Mr. Woods, after this happened, did you ever have
5 the opportunity to have something happen at your work at
6 Wal-Mart?

7 A Yes, ma'am.

8 Q Tell the jury what happened at Wal-Mart.

9 A One day I was out there working, John John come by my
10 job and he had said, "I don't know why y'all are going
11 around here saying I robbed you but don't make me go back to
12 that life," that's what he told me on that job. So I called
13 the police and let them know he had come out at my job.

14 Q All right. How many days had it been after the robbery
15 took place whenever this happened at your job?

16 A I forgot. It had been a minute.

17 Q Okay. That's fine. But you stated that you called the
18 police.

19 A Yes, ma'am.

20 Q So did you file a report when that happened?

21 A No. I just told them he'd been on my job.

22 Q Okay. And after that, Mr. Woods, did you have an
23 opportunity to meet with law enforcement to give a statement
24 about what happened that night?

25 A Yes, ma'am.

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1 Q And whenever you gave a statement to the police about
2 what happened April the 9th and April the 10th, had anything
3 changed or anything happened since the time that you were
4 actually robbed?

5 A No, ma'am.

6 Q Were you still working at Wal-Mart?

7 A Yes, ma'am.

8 Q Were you still out of \$1,800?

9 A Yes, ma'am.

10 Q Had you at that point in time been threatened, or had
11 anybody tried to get in contact with you or threatened you
12 regarding that happening?

13 A No, ma'am.

14 Q So Mr. Woods, whenever you identified the people who
15 came in that night -- well, let me just ask you this, we
16 just heard the recording of the 911 is tape, correct?

17 A Yes, ma'am.

18 Q You continuously say in the tape, "I know who did it, I
19 saw them," is that fair to say?

20 A Yes, ma'am.

21 Q Do you have any doubt in your mind sitting here today
22 who it was that came in with guns on the night of April 9th
23 and took your money?

24 A No, ma'am, I don't have no doubt.

25 Q Was one of those individuals the defendant, Geraldo

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1 Land?

2 A Yes, ma'am.

3 Q Did he have a gun in his hand?

4 A Yes, ma'am.

5 Q Where did he put that gun?

6 A Behind my head.

7 Q When you gave a statement to the police regarding who
8 had robbed you that night, at that point in time how did you
9 know the real name of Geraldo Land?

10 A I went and asked around, asked the street and asked
11 people, they were willing to give me his real name.

12 Q How were you able to recall or remember that he was
13 actually related to you?

14 A Through his daddy, Gerald Land, his daddy.

15 Q How are you related to his father, Gerald Land?

16 A Ma'am?

17 Q How are you related to this defendant through his
18 father, Gerald Land? What's the relationship?

19 A Through my mama and daddy, we're all family.

20 Q And you had already testified earlier that he had been
21 to play cards at Mr. Caldwell's house before; is that right?

22 A That's true, yes, ma'am.

23 Q Let me ask you, on the day whenever Mr. Wilmore showed
24 up at Wal-Mart, do you recall what kind of car he was
25 driving?

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1 A I don't really remember, it might have been a gray
2 Maxima. It's been a minute.

3 Q And it's been over a year since this took place,
4 correct?

5 A Yes, ma'am.

6 Q Do you believe that your statement on the 911 tape is
7 probably more clear as to what took place that -- so close
8 in time that night?

9 A Yes, ma'am.

10 MS. LIVELY: I'm going to return these up here. If you
11 would please just answer any questions that the defense
12 might have for you, okay?

13 THE WITNESS: Yes, ma'am.

14 MR. LAND: Please the Court?

15 THE COURT: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. LAND:

18 Q Mr. Woods, when you say y'all were playing cards that
19 night, what were y'all playing?

20 A Sir?

21 Q What were y'all playing that night when you say y'all
22 are playing cards?

23 A At Mr. Walter's house.

24 Q What game were y'all playing?

25 A Sim (phonetically) card.

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- 1 Q So that's poker, right?
- 2 A Stud.
- 3 Q Poker?
- 4 A It's different from poker.
- 5 Q Stud.
- 6 A Yeah, seven card stud.
- 7 Q So Mr. Walter Caldwell's house will be known as a card
- 8 house, right?
- 9 A Well, you could say that. We play cards and people
- 10 come down and have a good time.
- 11 Q How much money did you have that night?
- 12 A I had about \$2,000.
- 13 Q About \$2,000. And you had the whole \$2,000 on the
- 14 table?
- 15 A Well, 18, I had left two. So I bribed the guys with my
- 16 \$1,800 to try to get my money back.
- 17 Q Is it fair to say you was losing that night?
- 18 A Sir?
- 19 Q You were losing that night?
- 20 A No, I didn't lose but 200.
- 21 Q You didn't lose but 200?
- 22 A Yeah. I had 18 in my pocket, so I showed the boys to
- 23 bribe them to get my money back out.
- 24 Q So you did lose at some point in time that night.
- 25 A Yeah, 200, that was it.

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- 1 Q And other people had money on the table too, right?
- 2 A Right.
- 3 Q So y'all basically -- you put the 1800 on there, you
- 4 were just boasting --
- 5 A Yeah, to get my money back off them.
- 6 Q And who exactly was in the house when you had the money
- 7 on the table?
- 8 A Mr. Caldwell, Malcolm Woods, my brother -- me, Malcolm
- 9 and Mr. Caldwell. Well, Pack, he was there, and John John.
- 10 Q So you said Pack was there too?
- 11 A Yeah.
- 12 Q So Pack was there at the time of the robbery?
- 13 A No, he left.
- 14 Q So that's the only people that were there?
- 15 A At the time when we started off.
- 16 Q Jasmine Caldwell, had she been there that night?
- 17 A Yeah, she'd been there.
- 18 Q Okay. So you're saying -- what time did -- Ms. Bopeep
- 19 got there. You said Ms. Bopeep came, right?
- 20 A Yeah, she came after Pack left. I forgot what time it
- 21 was, but she came in after Pack came.
- 22 Q She came after Pack came.
- 23 A Yeah, Pack left.
- 24 Q Do you remember my investigator asking you if John John
- 25 left before Bopeep arrived and you said you weren't sure,

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- 1 you had to ask Walter and Malcolm?
- 2 A No, I don't remember that.
- 3 Q Were y'all drinking that night?
- 4 A Yeah, we had a few beers.
- 5 Q Who was all drinking?
- 6 A Me, Malcolm, Walt, all of us.
- 7 Q Everybody was drinking.
- 8 A We had a few beers, yeah, that's right.
- 9 Q Was Bopeep drinking that night?
- 10 A I can't recall her drinking.
- 11 Q So who all money was taken that night?
- 12 A Mine's, Mr. Caldwell's and Malcolm, my brother.
- 13 Q So tell us what happened when those people came in
- 14 there to rob y'all.
- 15 A Well, when we first got robbed we was playing cards.
- 16 Later on Pack left because John Wilmore was saying, "This
- 17 ain't for you," so Pack got nervous, "What you talking
- 18 about, man?" We thought he was talking about cards, he kept
- 19 saying it so Pack came back and left, then that's when
- 20 Bopeep came in a little bit later. And later on, my
- 21 brother, he took a smoke break, Mr. Walt went to the
- 22 bathroom, I was sitting at the head of the table. I said,
- 23 "I got something for y'all when y'all come back," so I
- 24 pulled my money out. And after that when Malcolm was coming
- 25 in from smoking, that's when John John come in and you come

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1 in, y'all had guns. John John was on my left and you was on
2 my right and you put the gun to my head and took my money.
3 I looked back like I was driving a car, looked back and
4 looked at your face you said -- I had blowed up but I had to
5 ease back down.

6 Q And you were sitting in front of the door.

7 A That's right, the head of the table.

8 Q The head of the table.

9 A That's right.

10 Q And you said that you were terrified when that
11 happened, right?

12 A That's right. I couldn't believe it happened.

13 Q You were terrified.

14 A Yeah.

15 Q Well, you were terrified after it happened to the point
16 where you waited 15 minutes to call the police.

17 A I was just waiting and make sure that y'all hadn't
18 waited. I could have got killed.

19 Q Were you terrified when the gun was to your head?

20 A Yeah, I was scared.

21 Q But you weren't terrified enough to look up.

22 A I seen you. When I looked you was shaking and it
23 scared me so I had eased it -- you was doing like that so I
24 eased back down. I had blowed up but I had eased back down
25 once I seen the gun to my head and seen who it was.

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1 Q Were the defendants, did they have any masks or
2 anything covering their faces or anything?

3 A No. They just had their face open -- had on hoodies
4 with their face opened out.

5 Q The face opened out?

6 A That's right, you could see their face. No matter if
7 they did have -- I know who they was. When you deal with
8 people you know them.

9 Q So let me ask you this: How did you identify Mr. Land,
10 the defendant, myself?

11 A I know you. Because the reason I identify you, I done
12 took you home a couple of times leaving there from cards. I
13 took you -- you don't remember, across from Jimmy's store to
14 the trailer you was dating somebody, I took you there a
15 couple of times, that's how I know you.

16 Q So what I'm asking you is -- so you got a clean look.
17 What I'm asking you is how did you identify -- what facial
18 features did you identify that -- you say they had hoods on
19 hanging over their heads.

20 A They had hoods on but your face out. I know your face,
21 that's how I knew you.

22 Q And you said they didn't have no masks on.

23 A That's right, no masks.

24 Q You know that the other witness said their face was
25 covered?

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1 A Sir:

2 Q The other witnesses, your brother, said their face was
3 covered?

4 MS. LIVELY: Objection to pitting witnesses, Your
5 Honor.

6 THE COURT: Yeah. That witness will have to testify
7 and you'll hear his testimony.

8 MR. LAND: Yes, sir.

9 A I can't recall that.

10 Q And why did you wait until 11:45 to call the police?

11 A Because I wanted to make sure to clear out of the way
12 with guns. Once somebody be robbed, you run out that door
13 behind them you're liable to get killed. I just was patient
14 for a little while and called the police.

15 Q So what exactly time did the robbery happen?

16 A Sir?

17 Q What time did the robbery happen?

18 A I can't really recall. All I know, I called the police
19 about 11:15, they got there by 12, they said it was a
20 midnight burglary. I said, "I know who did it."

21 Q You said you called them at 11:15?

22 A Right. If I ain't mistaken that's what time it was.

23 Q 11:15?

24 A Right.

25 Q And they got there around 12?

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1 A Right.

2 Q And they said it was a midnight burglary.

3 A Yeah, after 12. Yeah, around 12.

4 Q And how did you come up with the defendant, Geraldo
5 Land's name again?

6 A Sir?

7 Q How did you come up with the defendant's name?

8 A What you mean by that?

9 Q How did you come up with Geraldo Land?

10 A The street, people knew you. I thought your name was
11 Snoop and they said, "You know his name is Geraldo Land." I
12 found out who that was and I said, "Yeah, that's him." I
13 didn't really know your real name.

14 Q And where did they put the gun up to your head?

15 A Right behind me like that. It was you. I looked over
16 and seen you.

17 Q And how much room is between the door and where you
18 were sitting?

19 A I would say maybe two or three inches, it's not very
20 much room. Once you pushed that door open you can push it
21 right in my back. I really don't know the measure, but --

22 Q And the defendant was behind you.

23 A Right.

24 Q And you had enough room with the gun to your head to
25 look up?

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1 A That's right. And I looked back and seen you snaking
2 your head. I had blowed up and once I seen the gun I just
3 eased back down.

4 Q And so you weren't terrified to look up with a gun to
5 your head but you were terrified that you waited 15 minutes
6 after they came -- after they left to call the police.

7 A Right. I didn't really know what it was, I wasn't
8 bleeding. I looked back, once I seen gun -- I already
9 blowed up, I had to ease back down because you were snaking
10 your head, so I know what that meant.

11 Q At the time of the robbery did you believe that Jasmine
12 Caldwell had something to do with the robbery?

13 A At the time I really didn't know who all had something
14 to do with it. But I thought it was a setup because John
15 Jonn kept on texting on his phone and I thought he was
16 calling you or who, I don't know.

17 Q You don't know who he was calling.

18 A But I know texting was going on. And then Pack said,
19 "Man, what you talking about?" And he was saying, "This
20 ain't for you." I could never really understand what John
21 Jonn was saying. He was saying, "This ain't for you, Pack."
22 Pack said, "What you talking about, man?" We thought he was
23 talking about cards. So Pack left, and a little after that
24 that's when it happened.

25 Q So was the defendant, Geraldo Land, there that night of

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1 the robbery playing cards with y'all?

2 A No. You hadn't been there awhile, that's why I was
3 surprised. You wasn't there that night.

4 Q Had I been there any that week?

5 A Well, you was there that particular time I got robbed.
6 That's what I couldn't understand, you hadn't been there a
7 little while but you showed that night of the robbery.

8 Q So let me get this right. So the defendant, Mr. Land,
9 hadn't been coming over there, hadn't been there or
10 anything.

11 A Well, you'd been playing but you laid low for a little
12 bit, but that particular night you came with John John.

13 Q Okay. And when you called the police, did they look
14 around the house? Did they come in the house?

15 A Well, they looked around and see did they see anybody
16 and stuff and they took a statement.

17 Q Did they come in the house?

18 A I can't recall it been so long.

19 Q Did they take any fingerprints or anything?

20 A I can't remember that. All I know they took down our
21 information. I can't remember them taking fingerprints,
22 none of that.

23 Q Did you think that -- did you tell investigator Moss
24 that you wanted your money back?

25 A Yeah. If I can get it back, yeah. That was a lot of

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1 money that was taken from me. Y'all had said -- I said I
2 hate it was my cousin's family that robbed me. I mean, it
3 happened, I hate it happened but it happened.

4 Q Do you remember telling Investigator Moss that you just
5 wanted your money back when he was trying to get you to
6 press charges?

7 A Well, I can't remember. It's been so long, it's been
8 over a year. I was mad at the time but it's been over a
9 year. I can remember how good it would have been to be
10 solved at the time that it happened. I can't recall that.

11 Q How long was it before they came and interviewed you
12 after that initial interview? The initial -- how long did
13 it take the officer to come and interview you after the
14 initial incident happened?

15 A I done forgot, it has been a minute. I don't really
16 know exact time.

17 Q Would you say it would be about some time in May or
18 June after it happened in August -- I mean, April?

19 A I really done forgot. I would just be guessing if I
20 say anything.

21 Q So you say y'all were drinking that night.

22 A Yeah. We had a few beers, yeah.

23 Q A few beers?

24 A That's right.

25 MR. LAND: Beg the Court's indulgence for a second.

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1 (Break in proceedings.)

2 Q So before that night, Mr. Woods, had you and Mr. Land
3 had any altercation?

4 A Me and you?

5 Q Yes, sir.

6 A I don't remember having any altercations.

7 Q Had Mr. Land ever approached you as a violent person?

8 A No.

9 Q Had he ever been disrespectful?

10 A No.

11 Q Have you ever heard of him robbing before?

12 A I heard y'all had that name but I didn't know nothing
13 or it. I didn't know nothing or it.

14 Q And you're related to Mr. Land how now?

15 A Through your father and your grandmama and granddaddy,
16 all us people. I was shocked when I know you was my cousin,
17 I didn't really know that was your daddy, but we family.

18 Q And you say Mr. Land was not there that night playing
19 cards?

20 A No.

21 Q Nor had he been that night playing cards.

22 A No, until I got robbed.

23 Q Until you got robbed.

24 A That's right.

25 Q And you say you don't remember what the officers did

JOSEPH WOODS - CROSS

1. that night.

2 A No. I don't know everything, but I know they took the
3 report down.

4 Q Right. Did the defendants -- did you see the -- did
5 you see Mr. Land and Mr. John Wilmore leaving the place?

6 A After we got robbed I just sat there because y'all ran
7 out the door. I didn't go running behind you. I waited a
8 few minutes like I said and I called the police and told
9 them who I seen.

10 Q Right. And you said their face wasn't covered.

11 A No. Just had hoodies over their face, wide open. I
12 could know people. You could put a hoodie on your head all
13 you want, but I know you dealing with you personally on a
14 daily, mostly playing cards in there for that long, I know
15 your face.

16 Q You know my face.

17 A Yeah.

18 Q So when was the last time that you had seen Mr. Land's
19 face?

20 A I hadn't seen you a minute until after the robbery,
21 after I got robbed and in this courtroom, but that's the
22 only time I've been seeing you. I take that back, I have
23 seen you one or two times walking through Wal-Mart, that's
24 just where I had last worked.

25 Q And you say that you did believe that Jasmine Bailey

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1 had something to do with setting it up?

2 A She could have, I don't know. I believe it was a
3 setup. I don't know how many was involved in it. But all I
4 know, you and John John, I knew y'all was in it, I knew
5 y'all two, but anybody else got anything to do with it I
6 don't know. It could have been somebody else in it but I
7 don't know.

8 MR. LAND: That's all.

9 THE COURT: Redirect?

10 MS. LIVELY: One moment, Your Honor.

11 (Break in proceedings.)

12 MS. LIVELY: No further questions for this witness.

13 THE COURT: You can step down and be excused if you would
14 like or you can take a seat out in the audience if you wish.

15 MS. LIVELY: Your Honor, may he be excused from his
16 subpoena? He said he wanted to go to work.

17 THE WITNESS: Well, I had to call in, I knew I was
18 going to be late.

19 MR. LAND: Your Honor, I would like for him not to be
20 excused yet.

21 THE COURT: Stay with us then, just have a seat. Call
22 your next witness.

23 MS. LIVELY: Walter Caldwell.

24 The witness, WALTER CALDWELL, was first duly sworn and
25 Testified as follows:

WALTER CALDWELL - DIRECT

1 DIRECT EXAMINATION

2 BY MS. LIVELY:

3 Q Hi, Mr. Caldwell. Please tell the jury if you are a
4 resident of Chester County.

5 A Yes, ma'am, I am.

6 Q And how long have you lived in Chester?

7 A All of my life as I know of.

8 Q And how old are you, sir?

9 A Sixty-eight.

10 Q Where do you currently live?

11 A [REDACTED].

12 Q How long have you lived at [REDACTED]?

13 A Since 1995.

14 Q Who lives there with you?

15 A My wife was living with me and, you know, she passed,
16 so I got one son and a grandson that lives with me.

17 Q Do you have any other children?

18 A Yes.

19 Q What are their names?

20 A Walter, Junior, Luctercia, Darren, Steven, Wayne,
21 Anthony, and Marcus, and Jennifer, Barron and Kamilla.

22 Q Big family.

23 A It's a big family.

24 Q Now, Mr. Caldwell, at your house, do you have people
25 coming in and visiting you all of the time?

WALTER CALDWELL - DIRECT

1 A Yean. Most of the time, yean.

2 Q And is it -- the house right -- located on a main
3 street in Chester?

4 A Yes, ma'am.

5 Q All right. If I'm in downtown Chester like -- okay,
6 for instance right here at the courthouse, about how far
7 away is your house from here?

8 A From here to Ashford Street I would say just about --
9 not -- well, with the crooks and junk it might be a mile. I
10 don't know.

11 Q So it's pretty close by.

12 A Yes, it's pretty close by.

13 Q All right. Now, Mr. Caldwell, you mentioned that your
14 wife had passed. What was your wife's name?

15 A Patricia Caldwell.

16 Q And in April of 2017 tell the jury how Ms. Caldwell,
17 what her condition was at that time.

18 A Well, she was in -- we had to take her back to the
19 hospital on Friday and she wasn't able to come back home
20 until that Monday because -- she needed radiation but her
21 body wouldn't take it, so they had to keep her in the
22 hospital for like I think it was three days.

23 Q What was her illness, Mr. Caldwell?

24 A She had colon cancer.

25 Q And just so the jury knows because they don't know the

WALTER CALDWELL - DIRECT

1 facts, okay? Now, you said she had to go in on Friday for
2 possible radiation. When you're referring to Friday, which
3 Friday are you referring to? Before the robbery or --

4 A Yes.

5 Q I just want to make sure we were clear on the record.
6 Now, Mr. Caldwell, the time of April the 9th, 2017, was Ms.
7 Caldwell still at the hospital?

8 A Yes.

9 Q And on April the 9th, what was going on at your house?

10 A April the 9th. I was at the hospital during that time,
11 I wasn't home on April the 9th. I came back home on April
12 the 10th.

13 Q Okay. Let me show you -- and I know it gets confusing.
14 How long has it been since the robbery?

15 A April 10th of 2017.

16 Q Okay. I'm just going to show you this just to kind of
17 refresh your memory, all right? Do you know how to tell
18 military time?

19 A No, ma'am, I ain't.

20 Q Me either. Okay. I'm going to show you just to kind
21 of refresh your memory as to the date whenever the robbery
22 occurred. Was it at nighttime whenever the burglary and
23 robbery occurred at your home, Mr. Caldwell?

24 A Yes, ma'am.

25 Q All right. And according to the report that you're

WALTER CALDWELL - DIRECT

1 looking at right now, was it April the 10th, midnight,
2 whenever the police actually arrived?

3 A Well, that was a little after midnight when they
4 arrived.

5 Q All right. So on April the 9th, that's whenever
6 everybody was at your house playing cards; is that right?

7 A I said I wasn't home on April the 9th, I was at the
8 hospital at that time.

9 Q Would it help you if I let you listen to your
10 statement, Mr. Caldwell? Because I know it's been a long
11 time and I understand that. But on April the 9th on the
12 date whenever you had everybody over at your house to play
13 cards, do you recall that being a Sunday?

14 A Yes, ma'am. They was already gathered at my house when
15 I came back from the hospital.

16 Q Okay. Thank you for clarifying, okay, because maybe
17 I'm confused. So you came back from the hospital and there
18 were people already gathering at your house. Is that
19 normal?

20 A Yes, ma'am, for my house with my kids around there.

21 Q And tell the jury some of the people that were already
22 there by the time you got home.

23 A I would say about 20 or 25 in the yard.

24 Q All right. And was Mr. Joseph Woods there?

25 A Yes, he was.

WALTER CALDWELL - DIRECT

1 Q Was Malcolm Woods there?

2 A Yes.

3 Q How about your daughter, Luctercia Caldwell, was she
4 there?

5 A Yeah. The rest of my children was there in the yard,
6 too, most of them.

7 Q And what's your daughter's nickname? Does she have a
8 nickname?

9 A Which daughter?

10 Q Luctercia.

11 A Bopeep.

12 Q Now, Mr. Caldwell, was there a time during that day
13 whenever John Wilmore showed up at your house?

14 A Not that I remember.

15 Q How about at night whenever y'all were playing cards
16 inside your house, was there a time whenever Mr. John
17 Wilmore showed up to play cards in your house.

18 A Yeah. It was around eight, maybe something to nine
19 when he showed up.

20 Q So whenever he showed up to play cards, were there
21 still 20 to 25 people there or had a lot of people --

22 A No. When we started playing most of the people in the
23 yard had left.

24 Q Okay. Was Joseph Woods still there?

25 A Yes, ma'am.

WALTER CALDWELL - DIRECT

1 Q Was your daughter, Bopeep, Luctercia, still there?

2 A Yes.

3 Q How about Malcolm Woods?

4 A Yeah, he was still there too.

5 Q All right. Now, you said it was about eight or nine or
6 so whenever Mr. Wilmore was there. So what were y'all doing
7 at that time?

8 A Well, we just had left from my outside, went in the
9 house and sat down to the dining room table. One of them
10 said let's play some cards because it was getting dark
11 outside. So we went in the house and we just started
12 playing cards, sat around a little while and started playing
13 cards.

14 Q Okay. I'm going to show you what's already been put
15 into evidence, it's State's Exhibit numbers 4 through
16 Exhibit 8. I apologize, it's actually through 10, hold on.
17 Will you tell the jury what these are pictures of, Mr.
18 Caldwell? And you can just flip through them.

19 A Well, this is the front of my house, and this is the
20 side of the house with the deck.

21 THE COURT: Tell us which number. When you say this is
22 the front of the house, it comes with a red sticker with a
23 number.

24 A Okay. Number 4.

25 Q Number 4 is what, Mr. Caldwell?

WALTER CALDWELL - DIRECT

- 1 A The front of my house.
- 2 Q Okay.
- 3 A Number 5 is the side of my house where I built my deck
4 where we go in at. And number 6 is the back side of my deck
5 where you walk up on it at. And number 7 is my deck door.
6 And number 8 is my dining room table. And number 9 is the
7 inside of my dining room and picture of my dining room. And
8 number 10 is also a picture of my dining room. That's it.
- 9 Q Thank you, Mr. Caldwell. Now, was there a time, Mr.
10 Caldwell, whenever these pictures were taken where your room
11 that you were sitting in was measured?
- 12 A Yes, ma'am.
- 13 Q All right. And were you there for that?
- 14 A Yes, ma'am.
- 15 Q Do you recall what the measurements of that room were
16 whenever it was measured at your house?
- 17 A Not quite, no, ma'am, I don't remember that.
- 18 Q Okay. Whenever you actually allowed the State to go
19 into the house and take photographs, would you indicate in
20 State's Exhibit Number 5 whether or not this is the door
21 that the robbers entered?
- 22 A Yes, ma'am, that's the door.
- 23 Q Okay. And what I'm going to ask you next, Mr.
24 Caldwell, is where were you seated at the time whenever
25 Geraldo Land and John Wilmore entered the house? And I'll

WALTER CALDWELL - DIRECT

1 show you State's Exhibits 9 and 10.

2 A Okay. I was seated to the right side, the way you go
3 through the door it will be the right side of the table.

4 Q Okay. I'm going to let you show me first and then I'll
5 just let the record reflect. Point out where it was.

6 A Right on the right side of the table.

7 Q On the right side of the table. Okay.

8 MS. LIVELY: Let the record reflect on State's Exhibit
9 Number 9 he is showing on the right side of the table on the
10 other side.

11 Q where was Mr. Woods, Joseph Woods, seated?

12 A He was sitting with his back to the door.

13 Q With his back to the door.

14 A Yes, ma'am.

15 Q Tell the jury exactly what happened that night after
16 John Wilmore left. After he left the first time, tell the
17 jury what happened after he left.

18 A He left. He told us he had to go to work and he went
19 out the door, I would say maybe about two or three minutes
20 and they was back in there with guns.

21 Q Who was back in there with guns?

22 A Wilmore and Snoop -- Snoop and John John, that's all I
23 know about the names.

24 Q Had you ever seen Snoop at your house before?

25 A Yeah, he had been there plenty of times.

WALTER CALDWELL - DIRECT

1 Q And you already testified that Mr. Wilmore was there
2 earlier that day.

3 A Yes, ma'am.

4 Q Had he been at your house other than that day before?

5 A Yeah. Both of them had visited us quite often.

6 Q Are you confident that you saw Snoop and Mr. Wilmore
7 that night come in with guns?

8 A Yes, ma'am, I am.

9 Q Did you have an opportunity to give a statement to law
10 enforcement regarding who it was that you saw coming into
11 your house that night?

12 A Yes, ma'am.

13 Q I'm going to show you what has been marked as State's
14 Exhibit 1 and 2, and specifically ask you whose name is on
15 these two documents, Mr. Caldwell?

16 A My name.

17 Q Do you recall going into the police department and
18 being asked to identify someone in a photo lineup?

19 A Yes, ma'am.

20 Q All right. And is that your name on both State's
21 exhibits?

22 A Yes, ma'am, it is.

23 Q Did anyone force you or tell you who to pick out or
24 those lineups?

25 A No, ma'am.

WALTER CALDWELL - DIRECT

1 Q Did you do it freely and voluntarily?

2 A Yes, ma'am, I did.

3 MS. LIVELY: Your Honor, the State moves to enter
4 State's Exhibit 1 and 2 into evidence at this time.

5 THE COURT: Mr. Land, any objection?

6 MR. LAND: No, sir.

7 THE COURT: In without objection.

8 (The photo lineups were received as State's 1-2.)

9 Q If you would please, Mr. Caldwell, first of all look at
10 the State's Exhibit Number 2. Tell the jury the date that
11 you actually picked a person out of this photo ID lineup.
12 What's the date showing?

13 A At the bottom?

14 Q Yes, sir.

15 A 6 of 8 of '17.

16 Q June 8th, 2017?

17 A Yes, ma'am.

18 Q All right. And on that date, Mr. Caldwell, did you
19 actually write your name and circle the person that you're
20 identifying?

21 A Yes, ma'am, I did.

22 Q All right. And once again, I'm going to ask you, did
23 you know who Snoop was, what his legal name was at the time
24 whenever you went in to do this photo ID lineup?

25 A No, ma'am. I still didn't know his real name. All I

WALTER CALDWELL - DIRECT

1 know was snoop, that's all I ever knew him by.

2 Q And did anyone tell you who Geraldo Land was?

3 A No, ma'am. I never heard his real name until I got to
4 the police department and they said that was his real name.
5 I identified him as Snoop, that's all I knew.

6 Q And so when you circled that particular picture, was
7 that the person that you saw come into your home and rob you
8 that night on April the 9th and 10th?

9 A Yes, ma'am.

10 MS. LIVELY: Your Honor, may I publish this to the
11 jury? One moment.

12 (Break in proceedings.)

13 Q Now Mr. Caldwell, did you have any money that was on
14 the table at the time of the robbery?

15 A Yes, ma'am.

16 Q Was that money taken?

17 A Yes, ma'am.

18 Q Whenever -- well, you have identified Mr. Land, Snoop
19 or Geraldo Land as coming in. Whenever you saw the two or
20 them come in, tell the jury what they looked like. What
21 were they wearing?

22 A They was wearing hoodies.

23 Q Were you able to see their races?

24 A The one called -- I knew him as John John, I could see
25 his face plainly. He had a hood on it but it wasn't

WALTER CALDWELL - DIRECT

1 covering his face. Now, the one that was standing behind
2 Joseph Woods, he was sort of leaning, he had his left arm
3 around his neck but he had the gun up here. But by him
4 leaning the hood sort of covered his eyes up here, but the
5 rest of the part of his face was showing.

6 Q And that being said now, Mr. Caldwell, you were still
7 able to pick him out of a lineup, the one that we've just
8 showed to the jury, of Mr. Land even though you said that he
9 had a little bit of his face covered up.

10 A Yes, ma'am.

11 Q Are you still sure that's him?

12 A Yes, ma'am.

13 Q And once again, you've known him for awhile; is that
14 right?

15 A Yes, ma'am. He had been to my house a few times, a
16 good many times. He even played cards with us before then.

17 Q Who all had guns in their hands?

18 A Just the two individuals that came in to rob us.

19 Q All right. So did Mr. Land have a gun in his hand?

20 A Yes, ma'am, he did.

21 Q Who did he -- did he point the gun at anyone?

22 A He put his arm around Joseph Woods sitting at the back
23 of the door and he put the gun up to his head.

24 Q Okay. Could you please point out to the jury who it
25 was that pointed the gun at Mr. Joseph Woods' head?

WALTER CALDWELL - DIRECT

- 1 A Yes, ma'am.
- 2 Q If you could please point.
- 3 A He's sitting right there with the blue shirt on.
- 4 Q Thank you, Mr. Caldwell. Now, Mr. Caldwell, it took
- 5 some time for you -- well, let me ask you this: Did you
- 6 have any weapons on yourself that night?
- 7 A No, ma'am. We don't need no weapons.
- 8 Q No weapons?
- 9 A No, ma'am. We have no weapons on us.
- 10 Q No weapons when you play cards at your house?
- 11 A No, ma'am, we don't need them.
- 12 Q Were you drinking?
- 13 A Well, we had -- like I said, when I came from the
- 14 hospital they was sitting in the yard having a good time. I
- 15 might have drunk two or three beers.
- 16 Q Were you intoxicated?
- 17 A No, ma'am, I wasn't.
- 18 Q Are you sure who you saw bust into your house that
- 19 night?
- 20 A Yes, ma'am.
- 21 Q Now, in looking at the reports, Mr. Caldwell, it took
- 22 you some time to actually go in and speak with the police.
- 23 Can you explain to the jury why that is?
- 24 A I was back and forth at the hospital. I was gone a lot
- 25 back then so I had waited awhile before I went and talked to

WALTER CALDWELL - DIRECT

1 them, you know, because of my wife.

2 Q When did your wife pass, sir?

3 A April the 24th, 2011.

4 Q I'm sorry for your loss. Just a couple of weeks after
5 this happened.

6 A Yes, ma'am. I think it was the next weekend after that
7 on Monday.

8 Q Now, Mr. Caldwell, did you call 911 that night?

9 A No. Joseph Woods and his brother did the calling that
10 night.

11 Q And do you know whether or not they called immediately
12 after it happened or did they wait awhile?

13 A I really don't know, because I sit there for awhile,
14 and then I walked up to my bedroom and I sat down awhile up
15 there.

16 Q How were you feeling?

17 A I was stunned. It was snock when you're looking down
18 the barrel of a gun.

19 Q Yes, sir.

20 MS. LIVELY: Now, Mr. Caldwell, if you will please
21 answer any questions by the defense, all right? Thank you.

22 CROSS EXAMINATION

23 BY MR. LAND:

24 Q Mr. Caldwell, you said you did not call 911, did you,
25 sir?

WALTER CALDWELL - CROSS

1 A NO, I did not.

2 Q That was your house where this incident took place at,
3 right, sir?

4 A True.

5 Q Did you talk to the police on April the 10th?

6 A Not that night, no.

7 Q Did you speak to the police the week of April the 10th?

8 A No.

9 Q Did you speak to the police anytime in the month of
10 April?

11 A I think I had got a few phone calls from them. I told
12 them what my situation was at the time and as soon as I get
13 things straightened out I will come in. I think that's what
14 I --

15 Q So that means that you didn't speak with them until
16 May?

17 A The 6th of May. The 8th of May.

18 Q The 8th of May?

19 A The 6th and the 8th.

20 Q Well, it's recorded that you spoke with them until
21 May 17th.

22 A I spoke to them at the time I picked the lineup out,
23 6th and 8th.

24 Q At the time you picked the lineup out. And you said
25 that y'all had been drinking that night, right?

WALTER CALDWELL - CROSS

- 1 A Yes.
- 2 Q And your house -- y'all were playing cards?
- 3 A Yes.
- 4 Q What were y'all playing, poker?
- 5 A Seven card stud.
- 6 Q Would you say that your house would be known as a place
7 where they play cards at?
- 8 A Yeah. We do it mostly on Thursday and Fridays,
9 sometimes we might get together on Wednesday.
- 10 Q So you would say that a lot of people know that you
11 play cards.
- 12 A Yeah.
- 13 Q A lot of people know that you gamble.
- 14 A Yeah.
- 15 Q How much money did you have that night, Mr. Caldwell?
- 16 A Oh, I just had beat Joseph Woods out of a good pot, I
17 say I had about \$650 or \$700.
- 18 Q What time did this robbery take place?
- 19 A Between 11:30 and pretty close to 12:00 -- it was in
20 between 11:30 and 12:00, a little bit before 12:00, though.
- 21 Q And why did y'all wait for 15 to 20 minutes before
22 calling the police?
- 23 A What would you do if you were looking down the barrel
24 of a gun at that time? Would you stand up and run out?
- 25 Q I'm asking the questions, sir. Why did you wait?

WALTER CALDWELL - CROSS

1 A I did not call them.

2 Q You did not call them. And why did you not talk to the
3 police the night that they came to your house?

4 A Just like I said, I was stunned and I had to get myself
5 back together.

6 Q But you were the man of the house, right?

7 A True.

8 Q Did they enter your house?

9 A They entered my dining room, and then Richard and
10 Joseph, they went out on the deck and talked them.

11 Q Did they look around for any clues or any evidence that
12 night?

13 A I don't know. Like I said, I went up in the bedroom
14 and sat down.

15 Q You say that -- tell us again, tell us what happened
16 that night when they entered the house.

17 A After:

18 Q Tell us -- explain what happened when they entered the
19 house.

20 A They entered the house with the guns in their hand.
21 Didn't nothing happen, we sat still.

22 Q I want you to know -- who entered the house with guns
23 in their hands?

24 A Snookie Poo and John John.

25 Q Who is Snookie Poo and John John? And who is Snookie

WALTER CALDWELL - CROSS

1 POO?

2 A I'm looking at him.

3 Q Snookie POO?

4 A That's all I know your name by.

5 Q All right. And what did the robbers have on when they
6 came to your house?

7 A Hoodies.

8 Q And who had the gun to Mr. Woods' head?

9 A You did.

10 Q I did. Do you recall at the time of your giving your
11 statement from the initial incident that you said that John
12 John had the gun to Mr. Woods' head?

13 A I never said John John had a gun in anyone's head. I
14 said John John stood to the left hand corner of the table.

15 MR. LAND: Your Honor, I would like to admit Mr. Walter
16 Caldwell's statement into evidence.

17 MS. LIVELY: Objection, your Honor. He's got to -- he
18 can't just enter the entire statement.

19 THE COURT: Well, this is probably a good time to take
20 probably about a ten or 15 minute break while we take this
21 matter up outside of the jury's presence. Members of the
22 jury, at this time we can take this matter up and we can
23 take a short break.

24 (The jury left the courtroom.)

25 THE COURT: For the record, Mr. Land was talking to me,

WALTER CALDWELL - CROSS

1 it looks like he had a CD in his hand. What is that, Mr.
2 Land?

3 MR. LAND: That's Walter's statement, his statement of
4 whenever -- his initial statement where it was recorded.
5 And it shows -- basically it shows that -- where he stated
6 that John John had the gun to his head. He also states in
7 there that he did not see the second person, he's not sure
8 who it was.

9 THE COURT: What's the objection?

10 MS. LIVELY: Your Honor, he has to specifically have
11 the defendant -- I'm sorry, the witness deny that he'd said
12 that, and specifically what it is that he's denying in order
13 for him to bring in what he's calling an alleged prior
14 inconsistent statement.

15 THE COURT: Why don't we go ahead ask him -- let's do
16 this outside of the jury's presence. Ask him what you want
17 to ask him about pointing the gun.

18 MR. LAND: I asked him, Your Honor, did he.

19 THE COURT: Well, ask him again so --

20 Q Mr. Caldwell, did you or did you not state that John
21 John had the gun to Joseph Woods' head?

22 A No, I do not remember saying that.

23 Q Did you or did you not state that you could not see the
24 second person clearly?

25 A No, I did not see --

WALTER CALDWELL - CROSS

1 Q Did you or did you not see --

2 THE COURT: Wait. What was the answer?

3 A I said I seen his face from here down and to my
4 recollection it was you.

5 Q To your recollection. How did you come to that
6 recollection?

7 A Because of your height and the tone of your voice when
8 you was standing there.

9 Q The tone of my voice.

10 A Yes. You --

11 Q What was said?

12 A You kept saying, mumbling, and you had been around us
13 enough I know your voice.

14 Q What was said?

15 A What did you say?

16 Q Yeah.

17 A I didn't understand what you were saying, I was
18 watching the --

19 THE COURT: Let's don't go down that path yet, let's
20 stick to what you want to get in. You want to get in a
21 portion of the statement.

22 Q So you deny saying that -- at a previous time that you
23 stated that you got those names from Malcolm and Joseph
24 Woods.

25 A I didn't have to, you had been to my house too many

WALTER CALDWELL - CROSS

1 times.

2 Q But did you or did you not say that? Because it's
3 documented on the transcript of the previous time that you
4 stated that you got the names from Malcolm and Joseph Woods.

5 A The real names, yes.

6 Q No, you said the names. You stated that you did not
7 see the second person clearly at all, that you got -- they
8 said it was him so you agreed and said it was him as well.

9 MS. LIVELY: Your Honor, will he just actually say
10 where in the transcript he's talking about? Because I have
11 a copy too and I would like to know what he's referring to.

12 THE COURT: Is there a copy of the transcript? It
13 would help me if I have one, too. I don't know if there's
14 enough to go around.

15 MS. LIVELY: Actually I don't have Mr. Caldwell's
16 transcript, I apologize, I've got Joseph Woods' transcript.
17 I just have Mr. Caldwell's prior recorded statement.

18 THE COURT: Mr. Land, do you have a transcript?

19 MR. LAND: yes, sir. I have a transcript right here.

20 THE COURT: What page and line are you referring to?

21 MR. LAND: Beg the Court's indulgence.

22 (Break in proceedings.)

23 MR. LAND: Your Honor, I would suggest that on the --
24 pretty much any evidence now since he has denied that he
25 stated that he did not say that Mr. John Wilmore held --

WALTER CALDWELL - CROSS

1 THE COURT: Start over; you lost me when you got
2 started.

3 MR. LAND: I said I want to admit this into evidence
4 since he refuted the fact that he admitted that John John
5 held the gun to Mr. Woods' head, as well as the fact --

6 THE COURT: Well, you've got to show us in the
7 transcript where he said that, because I want to listen to
8 the whole interview, we've got a transcript. So we'll take
9 a short break. And let me go ahead and put this on the
10 record. Mr. Dunn is your stand-by counsel to help you with
11 procedure, he can't help you formulate questions to ask, he
12 can't advise you. You've chosen to represent yourself. All
13 he can do is -- if you have procedural questions, you can't
14 discuss trial strategy with him, at least trial -- but he's
15 not supposed to be giving you trial strategy and what
16 questions to ask, you've taken that role on yourself. So
17 let's take a short break and see if y'all can figure that
18 out. Do you need to use the restroom?

19 THE WITNESS: No. I may need to get something to
20 drink.

21 THE COURT: Don't discuss your testimony with anybody.

22 THE WITNESS: I'm not.

23 (A break was taken.)

24 MR. LAND: I found it on the tape, sir, and I found it
25 on the transcript where he actually says that he did not --

WALTER CALDWELL - CROSS

1 MS. LIVELY: Your Honor, if I may approach I'll hand
2 you a transcript.

3 THE COURT: Okay. What page and what line, Mr. Land?

4 MR. LAND: I'm on page 23 on --

5 THE COURT: Page 23 line.

6 MR. LAND: Line 24.

7 THE COURT: That's what he testified to today, exactly
8 what he testified to today.

9 MR. LAND: I didn't actually see his face --

10 THE COURT: He said -- well, considering that when
11 you're on the stand, the hand motions and whatever are
12 testimonial in nature. Of course, the record won't show,
13 but in describing it he covered his eyes and then motioned
14 to the bottom of his face, so he's conveyed to the jury
15 exactly what he said there.

16 MR. LAND: But on this he says --

17 THE COURT: He talked about the height.

18 MR. LAND: Right. And on the tape -- on the DVD he
19 says that actually I was the one that held the gun to
20 Joseph's head, and on the tape he says that he didn't
21 recognize it.

22 THE COURT: What line and page?

23 MR. LAND: What line and page? No, I'm talking
24 about -- this is a transcript from the trial, this is his
25 recorded statement where he says that --

WALTER CALDWELL - CROSS

1 THE COURT: Well what have I got?

2 MR. LAND: That's the transcript from the trial.

3 MS. LIVELY: Yes, sir, your honor. He's asking about
4 two separate things that have --

5 THE COURT: I understand that, but he's saying that on
6 the transcript of the statement.

7 MS. LIVELY: I don't have a transcript of the
8 statement.

9 THE COURT: Do you have a transcript of the statement?

10 MR. LAND: No. I have the statement on the --

11 MS. LIVELY: Let MS. LIVELY listen to what you say is
12 the inconsistent testimony portion of the statement.

13 (The CD was played.)

14 MR. LAND: Right there he states that John John was the
15 one -- that's where he stated that John John was the one to
16 the gun to the head. He also stated to the tape that he
17 didn't know who the other person was and couldn't identify
18 him.

19 MS. LIVELY: Your honor, if he wants to put the whole
20 interview in, it's only 13 minutes long, I don't have an
21 objection.

22 THE COURT: Do you want to put the whole thing in or do
23 you want to isolate --

24 MR. LAND: We can put the whole thing in.

25 THE COURT: It will be in without objection. And if

WALTER CALDWELL - CROSS

1 you want to publish it, that is play it for the jury when
2 they come back in you can do it at that time. I would ask
3 that the State play it on something so that the jury and I
4 could hear it.

5 MS. LIVELY: Yes, sir. It needs to be marked as
6 Defense Exhibit, I guess, 1?

7 THE COURT: Do you want to put it into evidence?

8 MR. LAND: Yes, sir.

9 THE COURT: All right. Then without objection it's in
10 evidence and you can publish it when the jury comes back in.
11 And you can use the jury.

12 (The jury returned to the courtroom.)

13 THE COURT: While you were out the CD that was being
14 discussed was admitted into evidence and is going to be
15 played in its entirety at this time, I think it takes 13
16 minutes I was told.

17 MS. LIVELY: That's correct, Your Honor.

18 THE COURT: And this is an exhibit placed into evidence
19 by Mr. Land.

20 (Defense Exhibit 1 was received and played for the
21 jury.)

22 THE COURT: Mr. Land, you can continue with your cross
23 examination.

24 MR. LAND: Thank you, Your Honor.

25 BY MR. LAND:

WALTER CALDWELL - CROSS

1 Q Mr. Caldwell, do you now recall that you did not
2 identify the second person from a time that is a lot earlier
3 or a lot closer to the time that the crime happened as of
4 now?

5 A Repeat that again now.

6 Q I said do you now recall that you did not see or
7 recognize Snoop, that's what you called him, at the time
8 that this incident happened, which that was on -- I believe
9 it was June 8th or May 17th? May 17th.

10 A You're asking me did I recognize you fully? No. I --
11 just like I told, the hood -- you was slumped, the hood was
12 hanging over your face, I could see the rest down. That's
13 why I took it to be you by Snoop, because of your height and
14 everything and I've been around you quite a few times.

15 Q Do you recall that on your tape you just stated that
16 the second defendant, who was known as Snoop, did not say
17 nothing earlier on your testimony?

18 A You didn't say no words, you was mumbling, I said that
19 you was mumbling. You did not say no words but I didn't
20 know what you was saying, I stated that.

21 Q You stated that the one with the gun around his head
22 was -- on your statement you just stated that Malcolm --
23 excuse me, Richard Woods looked up and seen it was John John
24 and he stated and told you that it was John John?

25 A No, I did not state that.

WALTER CALDWELL - CROSS

1 Q Do you need us to replay the tape back?

2 A If would like to. But I did not state that John John
3 was standing behind Richard Woods with a gun, I did not
4 state that.

5 MR. LAND: your Honor, permission to run it to just
6 that part where he stated that on the tape.

7 THE COURT: Yeah, if you can isolate it.

8 MR. LAND: Yes, sir.

9 (A portion of Defense 1 was played.)

10 Q Do you recall earlier I asked you did you state that
11 they said -- they informed you that it was Snoop and that
12 you did not see Snoop?

13 A I admitted I did not see all of your face, and I did
14 admit to that.

15 Q Do you understand that on the tape it says that they
16 told you that it was Snoop, that's how you identified Snoop,
17 as in someone informed of you Snoop?

18 A That's when -- Richard Woods told me he looked up in
19 your race and he knew it was you for a fact.

20 Q So you didn't say that Richard Woods looked up -- told
21 you he looked up and said he seen John John.

22 A No, he did not.

23 (A portion of Defense 1 was played.)

24 Q You also stated that y'all only drunk one or two beers.
25 You just stated after that that you drunk --

WALTER CALDWELL - CROSS

1 A No, I didn't say y'all, I said I did.

2 Q You did.

3 A Yeah. I had came from the hospital and my company was
4 already there.

5 (A portion of Defense 1 was played.)

6 Q Did you hear that, Mr. Caldwell?

7 A Yes, I heard it.

8 Q So you still disagree that Mr. Woods told you that he
9 looked up and seen John John?

10 A John John stood to the right side of the table in the
11 corner and you stood directly behind Richard Woods with your
12 arm around his throat with a gun in your hand.

13 Q So why on your initial statement, the first statement
14 that was closer to this time, which has been over a year and
15 some time, that you now are changing your statement after
16 you already earlier at a previous time stated that Richard
17 Woods told you that he looked up and seen John John in his
18 face. So you're telling me that you're changing your
19 statement on the stand, correct?

20 MS. LIVELY: Objection, Your Honor. I think that the
21 best evidence is the actual recording, which is already in
22 evidence at this time as Defense Exhibit 1.

23 THE COURT: I agree. I think that the jury can weigh
24 that. You put in the statement and they can weigh and
25 analyze whether or not he said something on the statement

WALTER CALDWELL - CROSS

1 that is contradictory to what he said today.

2 MR. LAND: Yes, sir.

3 MS. LIVELY: Thank you, Your Honor.

4 Q So let me ask you this. So if you did not --

5 Mr. Caldwell, if you did not fully see Geraldo Land, how did
6 you pick him out of a lineup? Did you pick him out of a
7 lineup because you knew him from previously had been at your
8 house?

9 A Yes, I did.

10 Q So you did not pick him because he was the one that
11 entered your house, you picked him because you knew him
12 previously and you were informed that was the one that
13 supposedly -- allegedly robbed you.

14 A I picked him out because of -- one -- I didn't -- like
15 I told you, I didn't see your face completely. But I took
16 it from your heights of you and the way you was with the gun
17 and going on, and you didn't say any words plainly but you
18 was mumbling and going on with the gun to the man's head.

19 Q So let me ask you this, so you took it from the
20 heighth?

21 A Yes.

22 Q Am I the only person -- is Geraldo Dametrius Land the
23 only person that you know of that height and stature, or do
24 you know multiple people of that height and stature?

25 A One other person, that's Malcolm Woods is your height

WALTER CALDWELL - CROSS

1 that come to my house and play cards.

2 Q So out of all the people that you know, Geraldo Land
3 and Malcolm are the only people that are about 5-11 let's
4 say.

5 A Well, if any of them is that tall they're bigger than I
6 am, I promise you that, so they have a lot of weight on
7 them.

8 Q Let me ask you this: Had you and Mr. Land ever had any
9 confrontation?

10 A No, sir.

11 Q Had he ever disrespected your house in any form or
12 fashion?

13 A No, sir, he hadn't.

14 Q Was he always respectful when he came?

15 A Yes, you was.

16 Q Did he respect your wife?

17 A Yes, you did.

18 Q To the fullest, correct?

19 A To the fullest. You also say, yes, ma'am, no, sir, no
20 problem. You ain't never had no problem until this incident
21 happened.

22 Q Let me ask you this: Did you -- at that time of the
23 robbery did you accuse your granddaughter, Jasmine Caldwell,
24 of having something to do with the robbery?

25 A Mostly I asked her why didn't she lock the door when

WALTER CALDWELL - CROSS

1 she went out. I thought she locked the door because she was
2 the last one that went out before we got robbed.

3 Q So after she left that's when the robbers came.

4 A That's right, that's correct.

5 Q So it wasn't after Malcolm went out, it was after
6 Jasmine left.

7 A It was after Jasmine went out.

8 Q So Jasmine was there moments prior to the robbery.

9 A Yeah. She left about five or ten minutes at the most,
10 she left before the robbery. But when she left I think John
11 John played his last hand at that time and he said -- looked
12 at his watch and said, "I've got to go to work, I've got to
13 be on my job at 12 midnight."

14 Q And how long was it before John John came back in the
15 house?

16 A I don't know. I'll give you two, three minute tops, it
17 happened so fast.

18 Q So Jas left. Then John John left -- Jas left and then
19 five minutes later John John left.

20 A It might have been four or five minutes after Jas left.

21 Q It was immediately after that John John came back in
22 the house.

23 A I would say two or three minutes after he went out and
24 said he was going to work.

25 Q Said he was going to work. Did you ever inform the

WALTER CALDWELL - CROSS

1 police at anytime that you felt like Jas had something to do
2 with the setup?

3 A No, I did not.

4 Q Did Jas reside at the house at that time?

5 A Excuse me?

6 Q Did Jas live there?

7 A At the time, yeah, at that time.

8 Q So she had been there only moments before the robbery.

9 A Yeah, she was there. Like I said, she left about five
10 or ten minutes there before it happened.

11 Q Did you ever talk to Bopeep about the robbery?

12 A No, she was there.

13 Q Did you ever talk to Joseph about the robbery?

14 A No, he was there too.

15 Q So in that time between the time the robbery happened
16 and the time that y'all called the police what transpired?

17 A Well, like I said, I sat there for a few minutes and I
18 went up in my bedroom and I sat down. I left Malcolm,
19 Luctercia, Joseph Woods down in the dining room and then
20 they came and said we had -- I had -- Richard said, "I
21 called the law because I'm not going to let them take my
22 money like that." And I said, "I'm going to sit down and I
23 will be back in awhile," because my nerves was tore up.

24 Q During that time did y'all gather around and talk about
25 who came and robbed them?

WALTER CALDWELL - CROSS

1 A Say that again.

2 Q During that time frame from the time that the robbery
3 happened until the time that they called the police, did
4 they conger (phonetically) among themselves and talk about
5 who robbed them and what happened?

6 A They who?

7 Q Those people that had just -- who you left in your
8 dining area.

9 A I don't know what they talked about.

10 Q But you do know that they were in there discussing
11 something prior to the robbery -- prior to calling the
12 police after the robbery, excuse me.

13 A I imagine, I wasn't there. Like I said, I left the
14 table and I went to my bedroom and I sat down.

15 Q Let me ask you this: Have you ever talked to your
16 grandson, Antonio Caldwell, about the robbery?

17 A He was nowhere around.

18 Q Did Tonio, your grandson, Antonio, ever show you a
19 picture of an individual that had admitted to the robbery?

20 A Not to me.

21 Q He didn't show you any picture?

22 MS. LIVELY: Your Honor, I'm going to object. If he's
23 trying to bring in some kind of third party defense it has
24 to be at the exclusion of him, he's already been identified
25 as someone who was there --

WALTER CALDWELL - CROSS

1 THE COURT: He testified that he wasn't shown anything.

2 MS. LIVELY: I just didn't know how many more questions
3 he was going to go down and I don't know what he's talking
4 about, Your Honor. So I would just object to that being
5 some type of third party defense and it would be
6 inappropriate.

7 Q Mr. Caldwell, do you know a man by the name of Larry
8 Harden?

9 A That's my brother-in-law.

10 Q Was your brother-in-law, was he around you at that time
11 after the robbery or before the robbery?

12 A He was one of the peoples in the yard when we was
13 outside.

14 Q Do you recall -- so you're saying you and Mr. Harden
15 are pretty close.

16 A Like I said, he's my brother-in-law.

17 Q At any point in time did you tell Mr. Harden that you
18 did not think it was the defendant Snoop, Geraldo Dametrius
19 Land?

20 A Not to my recollection.

21 Q Not to your recollection?

22 A No, I don't remember anything like that. I never
23 talked to him about -- that I know of about what happened at
24 my house.

25 Q All right. At the time of the robbery, did you tell

WALTER CALDWELL - REDIRECT

1 anyone that you didn't believe it was Snoop, Geraldo Land,
2 that you weren't sure, that you didn't believe it was him?

3 A Not to my recollection, no. Like I said, I didn't talk
4 to him about it.

5 Q So are we clear that you didn't get a look at the
6 second guy, correct?

7 A Not directly. Like I said, the hoodie was hanging down
8 on, all I could see was the lower part of his face.

9 Q You're clear that on your recording it states that
10 Mr. Joseph Woods also informed you that he looked up and
11 seen John John holding the gun to his head.

12 A Yes, I admitted that.

13 MR. LAND: No more questions at this time, Your Honor.

14 THE COURT: Redirect?

15 REDIRECT EXAMINATION

16 BY MS. LIVELY:

17 Q Mr. Caldwell, you've already testified to this jury
18 that y'all were all seated pretty tightly around this table,
19 which is in State's Exhibit Number 9 and Number 10; is that
20 correct?

21 A Yes, ma'am.

22 Q All right. So in that close proximity, how far away
23 were you from the defendant, Geraldo Land, whenever he came
24 in with a gun?

25 A Okay. Richard was sitting right here at the door, when

WALTER CALDWELL - REDIRECT

1 you open the door you would be right at the back of his
2 chair. Okay. He come around to the right side of the table
3 where I was seated, my daughter was sitting on the other end
4 of the table, and Malcolm was sitting on the left-hand side
5 against the wall.

6 Q Okay. So were you pretty close.

7 A Yes, ma'am.

8 Q Within five feet?

9 MR. LAND: Objection, Your Honor.

10 THE COURT: I sustain the objection, that's leading.

11 Q How many feet do you -- if you have to give an educated
12 guess, this being your house, your room, how far away were
13 you from the defendant, Mr. Geraldo Land?

14 A Well, I'm sitting about middle ways of the table on the
15 right-hand side. On the right-hand side, I would say I was
16 sitting with the -- whatever that is on the table there.

17 Q Okay.

18 A I had been sitting about right there. Richard was
19 here, Malcolm was here and my daughter was on the other end
20 of the table.

21 Q Well, let me ask you this so you're not having to
22 guess, did you have the lights on?

23 A Yes, ma'am.

24 Q So could you see everybody seated at the table?

25 A Yes, ma'am.

WALTER CALDWELL - REDIRECT

- 1 Q Could you see the money on the table?
- 2 A Yes, ma'am.
- 3 Q Could you see the cards in your hand?
- 4 A Yes, ma'am.
- 5 Q So could you see the people who came into your house
- 6 with guns?
- 7 A Yes, ma'am.
- 8 Q And at the time you testified that you were not sure
- 9 who Snoop was.
- 10 A I didn't know him by his real name.
- 11 Q All right. So on June the 8th, 2017, were you provided
- 12 this photo ID lineup to pick out who it was that came into
- 13 your home with a gun?
- 14 A Yes, ma'am, I was.
- 15 Q And the person that you picked out is whom?
- 16 A Is Snoop.
- 17 Q Is Snoop.
- 18 A Yes, ma'am.
- 19 Q And who do we know Snoop to be?
- 20 A Mr. Land. It's hard for me to pronounce his first
- 21 name.
- 22 Q I understand. Now, you've come in here and sworn on
- 23 that Bible to tell the truth.
- 24 A Yes, ma'am, I did.
- 25 Q Is Geraldo Land the one that came into your home and

WALTER CALDWELL - RECROSS

1 robbed you and Mr. Woods at gunpoint?

2 A To the best of my recollection he was the one that came
3 in with the gun in behind Richard Woods.

4 Q And to the best of your recollection, was he the one
5 that you picked out as being the one who came in there that
6 night?

7 A Yes, ma'am, he was.

8 Q All right.

9 MS. LIVELY: Thank you.

10 THE COURT: Any recross?

11 MR. LAND: Please the Court, Your Honor?

12 THE COURT: You can only ask him about things that were
13 brought up.

14 RECROSS EXAMINATION

15 BY MR. LAND:

16 Q So Mr. Woods -- Mr. Caldwell, excuse me. Mr. Caldwell,
17 you stated that you did a lineup, correct?

18 A Yes.

19 Q But you also stated that you did not see the individual
20 clearly.

21 A Yes, I did.

22 Q So if you did not see the individual clearly, how did
23 you identify him out of the lineup?

24 A By the name of Snoop.

25 Q By the name of Snoop. So you identified him by his

WALTER CALDWELL - RECROSS

1 name and not by his picture.

2 A I explained to the Court, I did not see your full face,
3 I seen you from here down.

4 Q So basically you identified Snoop because of what
5 you -- the other witness' testimony basically saying that it
6 was Snoop and John John.

7 A Yes.

8 MR. LAND: No more questions, Your Honor.

9 THE COURT: You can step down. May this witness be
10 excused?

11 MS. LIVELY: Yes, sir, Your Honor.

12 THE COURT: You can be excused or you can stay. Call
13 your next witness.

14 MS. LIVELY: Yes, sir, Your Honor. The State would
15 call Luctercia Caldwell to the stand.

16 The witness, LUCTERCIA CALDWELL, was first duly sworn
17 And testified as follows:

18 DIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q Hi, Ms. Caldwell. Please spell your first name for the
21 court reporter.

22 A L-u-c-t-e-r-c-i-a.

23 Q And Ms. Caldwell, are you currently residing in Chester
24 County?

25 A No, I moved to Texas.

LUCTERCIA CALDWELL - DIRECT

1 Q And when did you move to Texas?

2 A March 15th or 16th is when I left.

3 Q And was that of this year?

4 A Yeah.

5 Q All right. Now, Ms. Caldwell, before that time, where
6 did you live?

7 A Chester Homes, Chester.

8 Q All right. And how long had you lived in Chester
9 County?

10 A I've been here all of my life.

11 Q And who is your father, Ms. Caldwell?

12 A Walter James Caldwell, Sr.

13 Q And who is your mother?

14 A Patricia Ann Caldwell.

15 Q Did your mom pass recently?

16 A Yeah. April the 24th of last year.

17 Q Of 2017?

18 A Yeah.

19 Q All right. Now, are you working now, Ms. Caldwell?

20 A Working in -- doing construction in Texas.

21 Q And before you left to move to Texas, were you in your
22 father's home on about April 9th/April 10th of 2017?

23 A Uh-huh. Yes.

24 Q Now, Ms. Caldwell, would you - well, let me ask you
25 something first of all, do you know John Wilmore?

LUCTERCIA CALDWELL - DIRECT

1 A Yes.

2 Q How do you know John Wilmore?

3 A Well, I've met him at one of my friend's -- well, our
4 friend's house, that's when I first met him.

5 Q And had he been over to your father's house in the
6 past?

7 A No.

8 Q Have you ever been around him in other places where you
9 would have had an opportunity to speak with him or see him?

10 THE COURT: Him who?

11 Q I'm sorry, I'm talking about Mr. Wilmore.

12 A No.

13 Q What about Geraldo Land? Do you know the defendant,
14 Geraldo Land?

15 A Yes. I didn't know his real name but I know him.

16 Q What name did you know him by?

17 A Snoop.

18 Q And how did you know Snoop?

19 A Well, I knew him through his mom.

20 Q His mom. And do you know her name?

21 A I call her Pudding, that's all I know.

22 Q Pudding?

23 A Uh-huh.

24 Q And what's her last name, do you know?

25 A Lowery.

LUCTERCIA CALDWELL - DIRECT

- 1 Q So Pudding Lowery is how you knew his name?
- 2 A Yes.
- 3 Q Is that a yes?
- 4 A Yes.
- 5 Q The court reporter has to write it down.
- 6 A I'm sorry.
- 7 Q That's fine. So you said you do know Geraldo or Snoop
- 8 Land.
- 9 A Yes.
- 10 Q All right. Now, on April the 9th, 2017, were you at
- 11 your father's home on Ashford Street?
- 12 A Yes.
- 13 Q Please tell the jury what you were doing there on that
- 14 day.
- 15 A We was playing cards.
- 16 Q About what time did you get there?
- 17 A I got there like -- had to have been like 9:30 or
- 18 something to 10:00 because I just left the hospital with my
- 19 mom.
- 20 Q And how was your mom doing at that time?
- 21 A That was for the worst right there.
- 22 Q Had your father been there earlier that day, do you
- 23 recall?
- 24 A Yeah.
- 25 Q Where was Mr. Caldwell by the time you got home?

LUCTERCIA CALDWELL - DIRECT

1 A We got a -- it's a deck, when you come up the deck --
2 when you first come in my daddy was sitting in the first
3 chair, it was right by the door, he was sitting right there.

4 Q Okay. I'm going to show you some photographs,
5 Luctercia, and if you don't mind, if you could explain to
6 the jury what it is that we are looking at, okay?

7 A All right.

8 Q Let me put them in order give me just a second.

9 MS. LIVELY: Your Honor, may the witness please step
10 down?

11 THE COURT: Yes.

12 Q Now, make sure that you talk into here, all right?

13 MS. LIVELY: Let me know, Mr. Watkins, if you can hear
14 her or not.

15 Q I'm going to show you State's Exhibit 4. Now, tell the
16 jury what it is that we're seeing in State's Exhibit 4.

17 A This is my parents' -- the front of their house.

18 Q So this is the front of the house. Is this the house
19 on Ashcroft (sic) Street?

20 A Ashford Street.

21 Q I apologize, Ashford Street. And how long has your
22 father lived in that house?

23 A Ever since 1998.

24 Q Now, I'm going to show you State's Exhibit Number 5.

25 And if you'll please describe to the jury what we're seeing

LUCTERCIA CALDWELL - DIRECT

- 1 there.
- 2 A That's the deck, this is the slide door there.
- 3 Q Okay. So this is the deck and the side door.
- 4 A Uh-huh.
- 5 Q Now, on a normal day or afternoon, what door do most
- 6 people use to enter the home?
- 7 A It's that door right there.
- 8 Q The one on Exhibit 5 which is the side door?
- 9 A Yeah, the side door.
- 10 Q All right. Now, I'm going to show you Exhibit Number
- 11 6. Are we looking at about the same thing?
- 12 A Yes.
- 13 Q And in State's Exhibit Number 7, again, is this a door?
- 14 A Same door.
- 15 Q This is the door people mainly use?
- 16 A Yes.
- 17 Q Now, on the night of the robbery which door did the
- 18 defendant, Mr. John Wilmore, enter?
- 19 A That door there.
- 20 Q The door shown in State's Exhibit Number 7?
- 21 A Un-nun.
- 22 Q That's a yes?
- 23 A Yes.
- 24 Q All right. Now, I'm going to show you three pictures
- 25 and I'll start with Number 10. Do you recognize what that

LUCTERCIA CALDWELL - DIRECT

1 is?

2 A Yes.

3 Q What room is this?

4 A As soon as you come in from the deck that's like the
5 dining room.

6 Q So this is the dining room area?

7 A Yeah.

8 Q Where were y'all playing cards that night?

9 A In this room right here.

10 Q In this room here?

11 A Un-nun.

12 Q Where was Joseph Richard Woods sitting?

13 A Right here.

14 Q So he was sitting here.

15 A Is that facing the door? Yeah.

16 Q All right. So the door -- when you open the door where
17 would his back be?

18 A Turned from the back where the door is.

19 Q Where the door is. All right. And where were you
20 sitting, Luctercia?

21 A Facing this way.

22 Q Okay. All right. So when you were sitting here -- so
23 were you opposite the side of Mr. Woods?

24 A Yeah.

25 Q All right. Okay. Just so we can understand where you

LUCTERCIA CALDWELL - DIRECT

1 were.

2 A Yes.

3 Q All right. So when you were seated in this chair what
4 did you see whenever you looked straight ahead?

5 A Whoever comes in the door.

6 Q And then who else was seated at the table?

7 A Malcolm Woods was on this side, my daddy was on this
8 side.

9 THE COURT: You need to speak up a little bit so we can
10 all hear you.

11 Q Could you repeat that again?

12 A Malcolm Woods was sitting on this side, my daddy was
13 over here on this side.

14 Q All right. Thank you. And is this a pretty -- is this
15 a big room, a small room? How would you describe it?

16 A It's a pretty good sized room.

17 Q And when you're seated at the table --

18 MS. LIVELY: If you want to let's go ahead and have a
19 seat here.

20 Q When you are seated at the table, are you able to see
21 clearly everyone that's seated around you?

22 A Yes.

23 Q Were you drinking that night?

24 A No.

25 Q All right. Do you know whether or not anybody else

LUCTERCIA CALDWELL - DIRECT

1 around the table had been drinking that night?

2 A No, I haven't noticed. I didn't notice.

3 Q All right. And did anyone around the table have a
4 weapon on them?

5 A Not that I know of.

6 Q Does your father have any weapons in his home?

7 A Well, he have one, yes. It's a registered one, yean.

8 Q Okay. And did he have one in that room with him that
9 night?

10 A No.

11 Q So Ms. Caldwell, you said you got there about 9:30 or
12 10:00. Tell the jury what happened then.

13 A Like I said, we was all playing cards. John Wilmore --
14 well, he was already taken to, and there was another player,
15 Pack Culp, he was at the table with us. And all I know -- I
16 kept hearing just, "Pack, this ain't for you, this ain't for
17 you," but we're playing cards, I didn't know what it meant
18 or nothing like that.

19 Q Who was saying that, Luctercia, please? Who was
20 saying, "This ain't for you?"

21 A John Wilmore was saying, "This is not for you, Pack."
22 He said it like three times. And, you know, probably about
23 15 or 20 minutes after that's when Pack got up and left. So
24 then John Wilmore was probably -- it wasn't too long after
25 that, that's when he left out. And it wasn't even 30

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1 minutes before my dad's door just swung back open.

2 Q I'll stop you there, okay? Before John Wilmore left,
3 did he tell you where he was going?

4 A No.

5 Q When he'd been seated there at the table, was he
6 sitting next to you?

7 A Yeah. He was across from my daddy, and he was on this
8 side and I'm right here, yeah.

9 Q All right. Did you observe what he was wearing
10 whenever he was there?

11 A I know it was the coat that he came in -- what he had
12 on and when he came back in it was the same coat.

13 Q So when you said when he came back in. When he came
14 back in the second time what happened?

15 A We seen the guns and, you know, he had across his mouth
16 like a scarf or something across. I'm saying me looking at
17 eyes, I knew it was him.

18 Q All right. Let me back you up just a second. So
19 you're seated at the table. And once again, were the lights
20 on in the room?

21 A Yeah. The lights was on, yeah.

22 Q Were you able to see the cards in your hands?

23 A I didn't even have my cards, I had threw my hand in.

24 Q Was there money on the table?

25 A Yes.

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- 1 Q And whenever John Wilmore you said came back in, was he
2 alone or with someone?
- 3 A He was with someone.
- 4 Q Who was he with?
- 5 A Snoop.
- 6 Q Snoop. Who is Snoop?
- 7 A Geraldo Land, I guess. I just know him by Snoop.
- 8 Q I understand. What I'm asking you is who do you know
9 Snoop to be? Do you know what he looks like?
- 10 A Yeah.
- 11 Q Have you been around him -- I mean -- now many years
12 have you known this person, Snoop?
- 13 A I met him when I stayed on the Brans (phonetically)
14 Road for like eight years and that's when I knew him.
15 Because I'm saying my daughter used to like him and they
16 didn't talk long.
- 17 Q So he actually talked to your daughter.
- 18 A Yeah, a long time ago. They was not like in no
19 relationship-relationship, you know, but yean.
- 20 Q Would you please identify who Snoop, also known as
21 Geraldo Land, is if you see him here in the courtroom?
- 22 A Yes.
- 23 Q Please stand up and indicate who it is.
- 24 A He's right here.
- 25 Q And what's he wearing?

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1 A Blue.

2 Q Blue? All right. And so who is that? Who do you know
3 him to be?

4 A I know him as Snoop.

5 Q Thank you. Have a seat. So the night whenever John
6 Wilmore came into the home, who had guns on them?

7 A Both of them.

8 Q Both of them. And tell me specifically who that is.

9 A Snoop and John Wilmore.

10 Q All right. When John Wilmore and Snoop came in with
11 guns, tell the jury exactly what happened next.

12 A Snoop went on the side where Joseph was, that would be
13 my left side. John Wilmore, he was in between my daddy and
14 Richard on this side. And, you know, we already seen the
15 guns. And Snoop picked Richard's money up, well, y'all say
16 Joseph, and John Wilmore got my dad and Malcolm Woods'
17 money.

18 Q And during the time whenever all of this was going on
19 who -- what were you focusing on?

20 A I'm just looking at the gun, I'm just sitting there.

21 Q All right. So you're focusing on the gun. At any
22 point in time did you notice what the defendant, Geraldo
23 Land or Snoop, how did he look whenever he came in?

24 A Like I said, both of them had on little scarf things
25 around their mouth. But I'm just saying I hadn't even seen

LUCTERCIA CALDWELL - DIRECT

1 Snoop that day, I hadn't seen him, but I had seen John
2 Wilmore that day. Because when I got there, like I said, he
3 was already there playing cards. But when Snoop came up it
4 just -- when I seen his face up in this way I knew it was
5 him.

6 Q Did you have any doubt that it was him?

7 A No, I did not.

8 Q And after you realized that it was him and also Mr.

9 Wilmore what did you do next? what happened next?

10 A Once they got the money off the table they went back
11 out the door.

12 Q Did you call 911 or chase after them?

13 A No, I didn't. Joseph called 911.

14 Q Were you there whenever Mr. Woods called 911?

15 A Yes.

16 Q Were you there when the police arrived?

17 A Yes.

18 Q Did you have an opportunity to speak to anybody about
19 what happened that night?

20 A No. They just talked to my dad and Joseph, they didn't
21 talk to me.

22 Q At any point in time after that happened did the
23 defendant, Mr. Land, or anyone try to talk to you about this
24 case?

25 A Snoop and his mom came to my job.

LUCTERCIA CALDWELL - DIRECT

1 Q And when did that happen?

2 A It was like -- the incident happened on a Sunday, it
3 had to have been on a Wednesday when they came to my job.

4 Q Wednesday the same week?

5 A Yes.

6 Q Tell the jury what happened.

7 A Well, his mom called me on my cellphone, I answered the
8 phone, I was at work and she asked me could I talk or where
9 I was and I said yes. I came outside. Both of them got all
10 up in my face and all this stuff saying what do my mama and
11 them got that they don't have. And, you know, I could have
12 lost my job that day.

13 Q How did you feel at that moment?

14 A I didn't feel good about it.

15 Q Did you actually give this information to anyone such
16 as the police?

17 A That's all I had to.

18 Q All right. And whenever you actually -- did you ever
19 have an opportunity to go in and provide a statement to law
20 enforcement regarding what had happened?

21 A Yes.

22 Q Do you recall when that was, Ms. Caldwell?

23 A No, because I went several times. So, no, I didn't
24 keep up on the dates when I went.

25 Q All right. Now, what is your nickname?

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1 A Bopeep.

2 Q So your nickname is Bopeep. And is it normal for you
3 guys around your father's house and everything just to refer
4 to one another in your nicknames?

5 A yes.

6 Q In regards to this defendant and his mom coming to your
7 work, did you have anymore contact with him or his mother
8 after that time?

9 A NO.

10 Q Now, whenever you went and met with law enforcement,
11 did you provide them with a full statement about what had
12 happened that night?

13 A yes.

14 Q And is that statement the same statement that you're
15 giving to this jury here today about what happened?

16 A Yes, it is.

17 Q Do you have any doubt in your mind that the two people
18 that entered that home that night were the defendant, Snoop,
19 Geraldo Land, and John Wilmore?

20 A No. I don't have any doubt.

21 Q And once again, you hadn't been drinking or anything,
22 correct?

23 A NO, I hadn't been drinking. Like I say, I just had
24 left the hospital with my mama.

25 Q Okay.

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1 MS. LIVELY: Thank you, Ms. Caldwell. Please answer
2 any questions that Mr. Land may have for you.

3 MR. LAND: Please the Court, Your Honor?

4 CROSS EXAMINATION

5 BY MR. LAND:

6 Q So Bopeep, on the night of April the 10th you arrived
7 at what time?

8 A Between 9:30 and 10:00.

9 Q Who was there in the house when you arrived?

10 A It was Joseph Woods, Malcolm Woods, John Wilmore and my
11 dad.

12 Q That was all?

13 A Yes. Pack Culp didn't come until a little after I
14 came.

15 Q And you were there around 10:00 you say?

16 A Between 9:30 and 10:00, yes.

17 Q So how long would you say it was before Pack Culp got
18 there?

19 A I'll give it a little more like 30 minutes, somewhere
20 around in there.

21 Q So say 10:30?

22 A Yeah, probably somewhere around in there.

23 Q So is after Pack Culp got there. How long was it
24 before he -- what happened after Pack Culp left?

25 A When he got there he started playing cards with us, he

LUCTERCIA CALDWELL - CROSS

1 won a couple of hands and just is like -- Richard was
2 talking about the pots and all and such and such, but then
3 when John Wilmore -- only thing -- he just kept talking to
4 Pack Culp. He was saying, "This ain't for you, Pack. This
5 ain't for you. This ain't for you." He said it like three
6 times.

7 Q And about what time was that?

8 A I can't say what time he was saying that.

9 Q Or how long was that after Pack Culp came in and
10 started playing cards?

11 A Between like 20 or 25 minutes after that.

12 Q That would be 11:00. Okay. And then after that what
13 happened?

14 A Pack left. Like I said, like no more than 30 minutes
15 that's what the they swung the doors open.

16 Q Swung the doors open. So you were there -- you got
17 interest between 9:30 time and 10:00?

18 A Uh-huh.

19 Q Jasmine Caldwell was not there when you got there.

20 A No, I didn't see my niece.

21 Q You didn't see her ever leave and go out?

22 A I didn't see Jas at all.

23 Q You didn't see Jas at all.

24 A No.

25 Q What happened with the robber when they came -- what

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1 happened after the robbers came in the house?

2 A Say that again now.

3 Q What happened after the robbers came in your house?

4 A The robbers went on one side where Joseph was and
5 another where my daddy and Joseph was, picked them up,
6 waving the gun, picked the money up. Malcolm Woods jumped
7 up from the table and went the other way but they got the
8 money got off the table and they left.

9 Q Did they say anything?

10 A No. We just heard -- we heard you. You was saying
11 something under your breath whatever but we didn't know what
12 you was saying.

13 Q I was saying something to -- who was I talking to?

14 A You was over Joseph Woods. You was saying something --
15 as soon as he looked up at you and it's like -- I don't
16 know, it's like you're nuh-uh or something. I don't know.

17 Q So you're stating that -- what was I doing over Joseph
18 Woods?

19 A You had a gun.

20 Q Where was the gun?

21 A On the side of his head that way (indicating.)

22 Q On the side of his head. And that was -- who did that?

23 A You, Snoop.

24 Q After that -- you said we didn't say nothing. So what
25 did the robbers have on?

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1 A John Wilmore had on a gray jacket over his head, he had
2 a scarf around his mouth. I can't say what color coat you
3 had on but I knew you had on a loud orange shirt and you had
4 a scarf around your head. Y'all had y'all's hoods over your
5 head.

6 Q So what distinctive features did you see upon the
7 robbers that allowed you to identify them?

8 A Say that again.

9 Q What distinctive features did you see upon the
10 robbers --

11 A The scarf only went this far, it didn't go from right
12 here up this way.

13 Q It went how far?

14 A It went over across this way, it didn't -- up this way.
15 I could tell --

16 Q It went over and then what? What did it go over?

17 A It went around your mouth.

18 Q Around the mouth?

19 A Uh-huh.

20 Q That was as far it went, around the mouth.

21 A That was only as far as it went. The hood didn't even
22 come all of the way down over y'all heads.

23 Q So what distinctive features about -- like light
24 skin --

25 A The light skin, the eyes. I was just saying the eyes,

LUCTERCIA CALDWELL - CROSS

1 the light skin.

2 Q Let me ask you this: Y'all were playing cards in your
3 father's house, right?

4 A Yes.

5 Q And you were -- let me ask you, how is the lighting in
6 your father's house?

7 A How is the what?

8 Q The lighting.

9 A My daddy got good lights.

10 Q It's bright in there.

11 A Yes.

12 Q You can see good.

13 A Yes.

14 Q Okay. And you said that the defendant, Geraldo Land,
15 had a gun to Richard's head.

16 A Uh-huh.

17 Q Do you recall in your earlier statement that you left
18 and gave to the police in September that you stated it
19 was -- Geraldo didn't have the gun to that but it was John
20 John?

21 A No, I do not.

22 Q You do not recall that?

23 A No, I do not.

24 MR. LAND: Please the Court, Your Honor? Permission to
25 play her testimony where she states that.

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1 THE COURT: I don't know what you have.

2 (Break in proceedings.)

3 MR. LAND: Your Honor, may we take a short break?

4 THE COURT: I'll let the jury go to the jury room while
5 we take up another CD.

6 (The jury left the courtroom.)

7 THE COURT: What are we dealing with this time?

8 MS. LIVELY: Your Honor, it's the same thing as before.

9 Once again, if he's going to try and say there's an
10 inconsistent statement he needs to identify where that
11 inconsistent statement is that she says she didn't say,
12 where it is on here, which I don't know, so -- I mean, I
13 can't help him this time. So I can put it in there and we
14 can listen to the whole thing, I don't know.

15 THE COURT: How long is it?

16 MR. LAND: It's only like three or four minutes, Your
17 Honor, tops.

18 THE COURT: Why don't we do that then if it's just
19 three or four minutes, we'll stay on the record.

20 MS. LIVELY: And Your Honor, I'm assuming he's going to
21 place this into evidence as well.

22 THE COURT: We haven't gotten there, let's see -- he
23 will have to before he publishes it.

24 (The statement was played.)

25 THE COURT: You want to play that part?

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1 MR. LAND: Sir? Yes, sir, just where she just stated
2 that --

3 THE COURT: All right. Any objection?

4 MS. LIVELY: Your Honor, she continues to talk and
5 explains exactly where everybody stands. I mean, so if he
6 wants to play it I say we play it all the way to the end.

7 THE COURT: Under the rules of completeness I'll let it
8 play from there to the end.

9 MS. LIVELY: Yes, sir.

10 THE COURT: After it's put into evidence.

11 MS. LIVELY: Let me try to make sure I've got it in the
12 right place.

13 THE COURT: Do you want to put that CD into evidence,
14 Mr. Land?

15 MR. LAND: Yes, sir.

16 THE COURT: Any objection?

17 MS. LIVELY: No objection, Your Honor.

18 (The CD was received as Defense 2.)

19 THE COURT: All right. Bring in the jury.

20 (The jury returned to the courtroom.)

21 THE COURT: The second CD is in evidence and the
22 portion is going to be played, not the entire CD.

23 MS. LIVELY: Thank you, Your Honor.

24 (The CD is played.)

25 THE COURT: All right, Mr. Land?

LUCTERCIA CALDWELL - CROSS

1 BY MR. LAND:

2 Q Now, do you recall saying that John John had the gun to
3 Richard's head as you stated on your recording?

4 A That still ain't what it said. I know exactly what I
5 said. John John had a gun, but John John did not have a gun
6 up to Richard's head.

7 Q If that was the case why did you record that on --
8 giving your statement, your first statement that you
9 recorded saying it?

10 MS. LIVELY: Your Honor, I'll just object --

11 A It still ain't saying that. I'm sorry.

12 THE COURT: Answer the question.

13 A Say the question again.

14 Q Why did you give that statement that the gun -- and she
15 asked you twice -- why did you give the statement that John
16 John was the one that had the gun to Richard's head, and
17 even went further to say that John John was between Richard
18 and Joseph -- Richard and Malcolm. So if that's not what
19 happened, why are you giving that statement, your recorded
20 statement?

21 A I'm saying the same thing again. I said John John was
22 right on this side where Richard was and my daddy, you was
23 on the other side between Malcolm and Richard, and you was
24 the one that had the gun up to Richard's head.

25 Q So now you're changing your statement from the --

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1 A No. That's what I said the first time and that still
2 ain't what was said right there.

3 Q Did you hear the recording?

4 A Yes. I heard it loud and clear, yeah.

5 Q Did you hear the recording where it said that --

6 MS. LIVELY: Your Honor, I'm just going to object.

7 She's answered --

8 THE COURT: The recording speaks for itself. The jury
9 heard it and they can make a determination as to whether
10 she's testifying differently today.

11 Q And after this situation after the robbery what took
12 place that night?

13 A Richard called 911.

14 Q Richard called 911. What time -- approximately what
15 time did the robbery happen?

16 A In between 9:00 and 9:30 -- it was before 11:00.

17 Q It was before 11:00.

18 A Yes. It was before 11:00, yes.

19 Q So what time did y'all call the police?

20 A I have no idea. I didn't call the police, Joseph did.

21 I was there when he came. I don't know what time he called.

22 Q You're saying that the robbery happened at somewhere
23 between 10:45 to 11:00, correct?

24 A I'm just saying -- it was after 11:00, somewhere around
25 there. It wasn't 11:30 yet.

LUCTERCIA CALDWELL - CROSS

1 Q So it wasn't 11:30?

2 A No.

3 Q So how long did the robbery transpire, how long did it
4 take?

5 A It didn't take long.

6 Q Approximately what?

7 A I'll give it no more than -- I'm not going to give it
8 15 minutes.

9 Q Fifteen minutes?

10 A I'm not going to give it 15 minutes, I'm not going to
11 say 15 minutes. It happened real quick, I'm not going to
12 say 15 minutes.

13 Q Real quick?

14 A Uh-huh.

15 Q Another question about your -- did you hear on your
16 recording where you said it was in and out and it moved so
17 quick?

18 A Yes, I heard it.

19 Q So about how long is real quick?

20 A Real quick, it ain't no more than ten or 15 minutes.

21 Q So it took -- it was ten to 15 minutes that the robbery
22 transpired.

23 A Yes.

24 Q And after that how long was it before you called the
25 police?

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1 A Like I said, I didn't call the police so I don't know
2 how long -- Richard called the police as soon as y'all left
3 out the door. I don't know how long it took the police to
4 get there and I don't know what time he called the police, I
5 don't know.

6 Q So to your understanding as soon as the defendants left
7 out of the door Richard called the police.

8 A Not as soon as they left out the door. When y'all left
9 out the door it was John Wilmore that pulled the door back
10 up but it didn't even close all the way, and they made sure
11 that y'all was gone. Richard came out the door, that's when
12 he got his phone and he called the police.

13 Q So after the robbery how were y'all feeling? Were you
14 terrified or not terrified?

15 A Why not? Why wouldn't we be? I'm saying y'all played
16 cards with us, why wouldn't we be? We never thought nothing
17 like that would happen.

18 Q So if that was the case why wouldn't you call the
19 police immediately?

20 A Say that again.

21 Q Why did they not call the police immediately?

22 A Why didn't we call the police what?

23 Q Immediately after the incident transpired.

24 A He didn't have his phone on him, he had to go outside.

25 Q He had to go outside --

LUCTERCIA CALDWELL - CROSS

- 1 A To get his phone, yes, he did.
- 2 Q But y'all were terrified but he still went outside.
- 3 A Yes. Y'all was gone then, yes.
- 4 Q So how long did he wait to go outside to get his phone?
- 5 A He didn't take that long. It didn't even take him no
- 6 more than about five or six minutes to go and get his phone
- 7 because he thought he had his phone on him but he didn't
- 8 have his phone on him.
- 9 Q So I'm asking how long did he wait before going out the
- 10 house to go get the phone?
- 11 A No more than five to six minutes.
- 12 Q So he waited five to six minutes to go get the phone.
- 13 A Yeah. He was the one who pulled the door back open to
- 14 see was y'all still out there.
- 15 Q And who was that?
- 16 A Richard Woods.
- 17 Q And then it took him how long to get the phone?
- 18 A Like five or six minutes.
- 19 Q So it took him five minutes to wait and five more
- 20 minutes to go --
- 21 A I didn't say it took him five or six minutes to go get
- 22 the phone, I said it took him five to six minutes to get the
- 23 phone. Once he got the phone he called the police.
- 24 Q So he basically went outside immediately after the
- 25 incident happened.

LUCTERCIA CALDWELL - CROSS

- 1 A How y'all ran out of there, why wouldn't he? I'm
2 saying you ran out of the door and John Wilmore was the one
3 that pulled the door back. Like I said, he didn't close it.
- 4 Q And so he didn't have the phone on him.
- 5 A No, he didn't, he didn't have his phone.
- 6 Q Did anyone in the house have a phone?
- 7 A I didn't see nobody have a phone.
- 8 Q Did you have a phone?
- 9 A No, sir, I did not.
- 10 Q Did Malcolm have a phone?
- 11 A If he did I didn't notice. But Malcolm, he didn't come
12 back down through there because he went up towards my
13 brother's room. He didn't even come back down through there
14 until the police got there.
- 15 Q So you're saying that you didn't have a phone.
- 16 A No, I did not.
- 17 Q Which earlier previously you stated that someone called
18 you on your cellphone while you were at work, do you recall
19 that?
- 20 A I recall that your mother called me on my cellphone at
21 my job, yes.
- 22 Q So in between that day -- and you stated that the
23 incident happened on -- the incident happened that Sunday
24 night. Between Sunday night and Monday was your -- where
25 was your phone Sunday?

LUCTERCIA CALDWELL - CROSS

1 A My phone was in my purse.

2 Q So you had the phone at the time of the robbery.

3 A My phone was dead because I was in the hospital with my
4 mama.

5 Q But you realize that you just stated that you didn't
6 have a phone.

7 A Okay. I didn't have my phone on the table but my phone
8 was dead.

9 Q But you did have a phone.

10 A Yes, I had a phone.

11 Q All right. And what happened exactly when they came to
12 the hospital? What did she say when the defendant, Geraldo
13 Land, and his mother came --

14 A You and your mother, you rolled up on me all in my face
15 saying what do my parents got that y'all don't have. Why
16 would y'all have to come in my parents' house to steal
17 anything, and you're going to tell me that I knew you better
18 than that. And I told you I know you but didn't know you
19 like that. And I told you that, yes, it was you that came
20 in my parents' house and I stated that.

21 Q So you stated that. And you stated that that time
22 right there. So why did you not get that to the
23 statement -- why did you not give that to the police when
24 that situation happened?

25 A I talked to -- whoever that was that recorded me,

LUCTERCIA CALDWELL -- CROSS

1 that's who I talked to.

2 Q That recording is from September, the robbery happened
3 in April.

4 A I done talked to him like two or three times.

5 Q So where are the --

6 A You would have to ask him that.

7 Q And at that point in time you stated that you knew me
8 but you didn't know me like that.

9 A Not for you to know that I think you'll come in my
10 parents' house to rob my parents' house.

11 Q Now, earlier you stated that you had been knowing me
12 for -- since you've lived on Ramsey Road.

13 A Exactly. And still didn't know you like that.

14 Q How long was it ago that you stayed on Ramsey Road?

15 A I stayed on Ramsey Road in 2008.

16 Q 2008?

17 A 2008.

18 Q So that would be ten years ago?

19 A Somewhere around there, yeah.

20 Q How did you come to meet the defendant, Geraldo Land,
21 when he stayed on Ramsey Road?

22 A I knew you through your mother. When I used to see you
23 I didn't even know you were your mom's son and I still
24 didn't know you then. I didn't know your name really like
25 that until you told me that you liked my daughter.

LUCTERCIA CALDWELL - CROSS

1 Q That I told you that. So I've never -- the derendant,
2 Geraldo Dametrius Land, you knew him from his mother, and
3 then -- you didn't know him that he was his mother's child
4 but you knew him from his mother, then you didn't know his
5 name until he told you --

6 MS. LIVELY: Your Honor, I'm just going to object to
7 him testifying, as well as the fact that it seems really
8 kind of getting out there irrelevant. I know it's cross
9 examining but I would just ask that we kind of try to keep
10 in a lane here in regards to this case.

11 THE COURT: Well, he's following up on her knowledge so
12 I'll allow you him to go forward. Let's not go over and
13 over and over again.

14 Q So you said that -- what did the defendants have on
15 again now?

16 A You had on a loud orange shirt. I don't know what
17 color pants you had on. I know you had a scarf around your
18 mouth. John Wilmore, I do remember that gray coat that he
19 had on, it was like a sweat jacket or something, I do
20 remember that. And he had a scarf around his mouth.

21 Q So let me ask you this: What distinctive features did
22 you see to identify the witness? Would you say that it had
23 a hoodie on and you said that earlier --

24 A John Wilmore, he had the same coat on when he was in
25 the house. You wasn't even there so you hadn't been playing

LUCTERCIA CALDWELL - CROSS

1 cards. I'm saying once you came in the house, like I said,
2 it was only covering your mouth and noticed from up here to
3 up this way, it was you.

4 Q And how did you know that? What distinctive features?
5 Nose, eyes, light skin, what distinctive features?

6 A It don't have anything to do with the light skin, I was
7 just saying I knew it was you.

8 Q And you recorded on the record that you did state on
9 the record when you recorded your statement that you didn't
10 say nothing, they was in and out, but you're saying that you
11 knew the individual by their voice.

12 A John Wilmore didn't even say anything. I'm saying --
13 like I said, you said something but you only said something
14 when Richard looked up to see what was -- he didn't know
15 what was going on behind him at the moment. He looked up
16 and you just said, "nuh-uh," that's all. I don't know what
17 that meant, don't try to fight or not, I don't know, but I
18 heard the nuh-uh.

19 Q So you're basically -- now you're stating that I was
20 behind Richard, but previously at an earlier time to this
21 recording you stated that John John held a gun to his head,
22 correct?

23 A No, I didn't.

24 Q You stated that Jasmine was not in the house.

25 A I didn't see Jasmine.

LUCTERCIA CALDWELL - CROSS

1 Q You hadn't seen Jasmine since you've been there?

2 A Like I said, I didn't get over there until 10:30 -- I
3 didn't get to my mama's between 9:30 and 10:00, I didn't see
4 Jas. I hadn't been at my mama's house no more that day. I
5 didn't see Jas none that day, none.

6 Q And the defendants, they didn't rob you or take your
7 money.

8 A I only had \$20 on the table, no. They didn't even
9 reach for my money, no. And it wasn't in any cut bucket.

10 Q Wasn't nothing in the cut bucket.

11 A No, nothing.

12 Q So whose money did the defendants take?

13 A My father, Walter Caldwell, Richard Woods and Malcolm
14 Woods. Left me with my \$20 on the table, that's what they
15 left me. That's all I had when they came in.

16 Q Why did it take you until September to come in and get
17 in contact with the police?

18 A I didn't get in contact with them, they got in contact
19 with me.

20 Q They didn't -- you didn't contact them.

21 A No, I didn't. Even when they came that night they
22 didn't talk to me. They talked to my daddy and Richard, and
23 Malcolm went out there and he talked to them. They didn't
24 even talk to me.

25 Q They didn't even come in the house.

LUCTERCIA CALDWELL - CROSS

1 A No. They didn't come in my daddy's nouse.

2 Q They just stood out there in the yard?

3 A Out on the side of the deck, yes.

4 Q Did they do any pictures or anything?

5 A I didn't see them do no pictures.

6 Q You didn't see them do any pictures. Did you see any
7 evidence, no --

8 A I didn't see them do any of that.

9 Q They just came out there and took a report?

10 A That's all I seen.

11 Q And left.

12 MR. LAND: No further questions at this time, Your
13 Honor.

14 THE COURT: Redirect?

15 MS. LIVELY: None from the State, Your Honor.

16 THE COURT: You can step down and be excused. Let's
17 take a refresher break. I know it's 5:00, but let's take a
18 short break and let me check with the solicitor and see
19 where we are as far as what we've got to go forward in
20 anything today or we'll wait and start in the morning.
21 We'll take a break while I assess that.

22 (A recess was taken.)

23 MR. LAND: I need to subpoena Adam Bailey who is the
24 responding officer.

25 THE COURT: You can subpoena whoever you want.

TYLER COVINGTON - DIRECT

1 MR. LAND: I know but I need his contact, he's an
2 officer with Chester County. He was on the witness list for
3 the solicitor.

4 THE COURT: Well --

5 MR. LAND: I was wondering if I can get the information
6 to subpoena him from her and contact information from her.

7 THE COURT: Ms. Lively?

8 MS. LIVELY: I'm sorry?

9 THE COURT: He wants to know how to subpoena -- where
10 to subpoena who?

11 MR. LAND: Mr. Adam Bailey.

12 THE COURT: Adam Bailey.

13 MR. LAND: The responding officer to the case.

14 THE COURT: From the Chester Police Department.

15 MS. LIVELY: The Chester Police Department.

16 THE COURT: The Chester Police Department, they can
17 tell you.

18 MR. LAND: All right.

19 THE COURT: I guess. Let's bring in the jury and we'll
20 take this brief witness.

21 (The jury returned to the courtroom.)

22 THE COURT: We've got one brief witness we'll do and
23 we'll stop for the day. I might have to tell you this, the
24 air condition is out and the part is on order. So like we
25 already had one juror with short sleeves and shorts, I

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1 authorize all of you who would like tomorrow to wear short
2 sleeves, in fact, I recommend it, and shorts if you would
3 like. We usually don't have them wear snorts, although he's
4 got them on and it's fine with me, but some judges don't
5 like them in the courtroom, it don't bother me
6 particularly -- I'm not going to wear them. I'm cheating a
7 little bit because I just now found a fan up here so I'm
8 cheating a little bit, it wouldn't cool the whole group of
9 you. Call your next witness.

10 MS. LIVELY: Thank you, Your Honor. The State would
11 call Tyler Covington to the stand.

12 The witness, TYLER COVINGTON, was first duly sworn and
13 Testified as follows:

14 DIRECT EXAMINATION1

15 BY MS. LIVELY:

16 Q Officer Covington, where do you currently work?

17 A Chester City Police Department.

18 Q How long have you worked there?

19 A Since November of 2016.

20 Q And on April the 12th of 2017, did you have the
21 opportunity to respond to a 911 call here in the City of
22 Chester?

23 A Yes, ma'am.

24 Q Just tell the jury what it was that you were responding
25 to.

TYLER COVINGTON - DIRECT

1 A On April the 12th at approximately 10:00 in the morning
2 I responded to Wal-Mart on the bypass, spoke with one of the
3 victims in the case, the Richard or --

4 Q If I give you your investigative report would that help
5 refresh your recollection?

6 A Yes.

7 MS. LIVELY: If I may approach, Your Honor.

8 Q If you'll just briefly review that. Don't read off of
9 it but just answer my question after that.

10 A Spoke with Joseph Woods. He stated that a Mr. John
11 John is what he referred to him, last name Wilmore, came up
12 to him in the parking lot while he was working and stated
13 that he was going to go see Mr. Caldwell --

14 MR. LAND: Objection, Your Honor, hearsay.

15 THE COURT: I sustain the objection.

16 Q All right. Now, whenever you responded to this
17 particular place, was it the Wal-Mart here in Chester City?

18 A Correct, 1691 J. Cochran.

19 Q And who specifically was it again that you were
20 actually speaking to at that time?

21 A I was speaking with Mr. Joseph Woods.

22 Q And whenever you were speaking to him at that time,
23 what was his demeanor?

24 A He seemed pretty upset I guess because somebody had
25 came to his job. He stated that the person who pulled up,

TYLER COVINGTON - CROSS

1 the John John was going to see see a Walter Caldwell and
2 that --

3 Q Did you know anything about the events that had
4 occurred --

5 MR. LAND: Objection, Your Honor.

6 THE COURT: I overrule your objection.

7 Q Did you know anything about the events that had
8 occurred on April 9th into midnight April the 10th involving
9 Mr. Joseph Woods?

10 A I had heard about the burglary through our pass-on
11 through the shifts, however I didn't know the specifics of
12 the case.

13 Q So in your showing up on that day, was it just in the
14 capacity of your job in responding to a 911 call?

15 A Correct.

16 Q All right. And once again in regards to Mr. Woods
17 demeanor, what was that again?

18 A He seemed upset.

19 Q Now, did you actually see for yourself anyone in the
20 area that you had any concerns about regarding either having
21 threatened or made any type of comments to --

22 A No. He had stated that it had happened 20 minutes
23 before he called 911, he said the people had left in a gray
24 Chevy Impala.

25 MS. LIVELY: Thank you. Answer any questions the

TYLER COVINGTON - CROSS

1 defense may have. Do you still need that, Officer
2 Covington?

3 THE WITNESS: If I can keep it.

4 CROSS EXAMINATION

5 BY MR. LAND:

6 Q Officer Covington, what exactly did you respond to on
7 April the 12th?

8 A Somebody who wanted to speak with the police.

9 Q And what did they want to speak to the police about?

10 A After I got there he said it was in reference to a
11 burglary that had happened.

12 Q And it was in reference to a burglary that happened?

13 A Not a burglary, I'm sorry, a robbery.

14 Q It was in reference to a robbery that happened, when,
15 on April the 12th?

16 A No, it happened on April 10th.

17 Q And what in reference to the burglary that happened on
18 the 10th did he call you on April the 12th for?

19 A He stated that a John John Wilmore had come up to him
20 in the parking lot and said that he was going to go see a
21 Walter Caldwell. Mr. Woods stated that he thought that he
22 maybe wanted to fight Mr. Caldwell and he was concerned. He
23 said that he had also called Mr. Caldwell, Mr. Caldwell said
24 he wasn't worried about what had happened.

25 Q Did Mr. Woods say that he's -- or who was with John

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1 John?

2 A I don't recall if he said anybody was with him. I know
3 he said the vehicle was registered to a Let Let Foster.

4 Q Did you track down the vehicle?

5 A No, I couldn't find the vehicle.

6 Q Did you ever track down John John?

7 A No.

8 Q Did you ever go to Mr. Woods' house, or did you send an
9 officer to Mr. Woods' house to ensure his safety?

10 A No, I spoke with Mr. Woods.

11 Q You spoke with Mr. Woods?

12 A Correct.

13 Q Immediately after the incident happened?

14 A What's that?

15 Q Immediately after the incident happened?

16 A Which incident, the one at Wal-Mart? I was speaking
17 with him.

18 Q You spoke to him.

19 A Un-huh.

20 Q And so basically April the 12th you were just contacted
21 from Wal-Mart just about John John pulling up.

22 A Correct.

23 Q Did he ever say anything about Geraldo?

24 A Not that I recall.

25 Q Did he ever say that Geraldo was out there approaching

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1 him?

2 A He just said it was a John John Wilmore was the one
3 that I can testify to.

4 Q John John Wilmore. Any illegal actions take place
5 after that, from that situation?

6 A Not that I took action on, no. I had added a report to
7 the supplemental and that's all.

8 Q You reported --

9 A I had a supplemental to the initial report.

10 Q Did you have anything to do with the investigation that
11 happened at the robbery?

12 A No.

13 Q No investigation?

14 A No.

15 Q No contact period with that case.

16 A No.

17 MR. LAND: No further question, Your Honor.

18 THE COURT: All right. Any --

19 MS. LIVELY: That's all for this witness, Your Honor.

20 THE COURT: You can step down and be excused. And
21 we'll quit for the day and start back at 9:30 in the
22 morning. Dress comfortably for the occasion and we'll see
23 you around 9:30 in the morning. Have a pleasant evening.

24 (Court recessed for the day and resumed on Thursday,
25 July 12, 2018 at 9:30 a.m.)

1 THE COURT: Anything from the State before the we bring
2 the jury in?

3 MS. LIVELY: Yes, sir, Your Honor. It was brought to
4 our attention yesterday by the defendant that there is a
5 phone that supposedly he is wanting to either use during the
6 trial as evidence or something to -- just from what I've
7 heard, and I guess he can probably give you better
8 information, to establish where he may or may not have been
9 on the night of robbery. Your Honor, this case has been
10 pending obviously since 2017 --

11 MR. LAND: Your Honor, I'm not going to use the phone.

12 THE COURT: He's not going to use the phone.

13 MS. LIVELY: Perfect, thank you.

14 MR. LAND: But I do have my motion for discovery that I
15 do want to receive that, I will need that.

16 THE COURT: What about the motion for discovery --

17 MR. LAND: Like I say, I'm going to represent myself,
18 my lawyer doesn't have it up here, I don't have it. I do
19 need it because of the testimony that's going on today I
20 want my motion so I can review some things that --

21 THE COURT: You kind of lost me. What is it?

22 MR. LAND: My motion of discovery.

23 THE COURT: Well, we've already talked about that at
24 the first of the trial. The State has given you
25 everything -- they tell me they've given you everything they

1 have.

2 MR. LAND: Yes, sir. I need to get my motions from --
3 my motion was at the house, I couldn't -- you rescinded my
4 bond so I couldn't go home and get it.

5 THE COURT: What is your motion?

6 MR. LAND: The motion of discovery is like the
7 statements, the first thing -- all of the stuff that the
8 officers said and all that that's in the motion.

9 THE COURT: They tell me they've given you everything
10 they've got.

11 MR. LAND: I don't have any of that, I don't have any
12 of that, sir. I honestly I have -- the only thing I have,
13 Your Honor.

14 THE COURT: Well, your attorney has everything.

15 MR. DUNN: I think what he's saying is the lady back
16 here has his paperwork and he just needs to get it from her.

17 MR. LAND: I don't have a copy from the lawyer.

18 THE COURT: Well, just hand it up to the bailiff and
19 the bailiff can hand it to him.

20 MR. LAND: Another thing I want to take up with you,
21 Your Honor. I asked Mr. Dunn about where my motion is at
22 and he said it's not his problem no more and I need to tell
23 you I cannot get my witnesses.

24 THE COURT: Well, here's the deal on that. In South
25 Carolina you cannot have what's called hybrid

1 representation, you can't be your lawyer and have an
2 appointed attorney. He's either your lawyer -- I didn't
3 have to appoint stand-by counsel so you could be there
4 without anybody to get advice on procedural matters.

5 MR. LAND: Yes, sir.

6 THE COURT: But he's not your attorney, that was your
7 decision. So all he can do and all he's bound to do is
8 assist you in any kind of procedure matters you may have.
9 But he's not -- he's helped you with subpoenas, that's was
10 over and above what he's required to do. You're your
11 lawyer, and you can ask him for procedural matters but I
12 told you yesterday, you can't ask him about trial strategy,
13 so that's about as plain as I can be on that.

14 MR. LAND: Can I get the contact information from him
15 for my witnesses? Because I don't have them.

16 THE COURT: Have you given him everything he needs?

17 MR. DUNN: I gave him the contact information at the
18 break. Just for the Court's edification and the record,
19 Thomas Love will be here at noon today, I put him under
20 subpoena before I got fired and I talked to him and told him
21 to be here at noon today. Jasmine Caldwell was told to be
22 here today at noon. Pack Cup was told to be here today at
23 noon. These were all of the subpoenas that's I've issued
24 before I got fired. Ms. Burris, I talked to her on Tuesday
25 and told her she would need to be ready today, some time

1 today. I tried calling her last night and I just had to
2 leave her a message so I don't know what her status is.
3 John Wilmore was here all day yesterday, he was under
4 subpoena, I don't know where he is, he's still under
5 subpoena, so -- those are the five subpoenas I have issued
6 that were issued while I was the attorney, Your Honor.

7 THE COURT: So your witnesses are subpoenaed to be
8 here.

9 MR. LAND: Right. I do want to issue one more subpoena
10 for Andrew Staffileno, investigator.

11 THE COURT: Well, we're on the record at this point,
12 when we take a break you can look in to that, but right now
13 we're going to go forward with calling witnesses.

14 MR. LAND: Yes, sir.

15 THE COURT: And for counsel and Mr. Land's benefit I'm
16 going to order lunch in for the jury today so we can move
17 forward and hopefully finish today.

18 MS. LIVELY: Your Honor, I'm a little concerned about
19 this other witness he wants to bring in because they were
20 not on the witness list so the jury would not have been
21 given the opportunity to state whether they knew this person
22 or had any bias or, you know, personal relationship with
23 whoever this Andrew person he's talking about. He's not on
24 the defendant's witness list.

25 MR. LAND: That is Mr. Dunn's investigator, Andrew

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1 Staffileno.

2 THE COURT: Well, we can cross that bridge when we get
3 there.

4 MS. LIVELY: Yes, sir. I just want to bring that to
5 the Court's attention.

6 THE COURT: Now, based on -- if we get through before
7 noon you have -- well, we'll just have to see how we do.
8 Are we ready for the jury?

9 MS. LIVELY: Yes, sir, Your Honor.

10 THE COURT: Mr. Land, anything else before the jury
11 comes in?

12 MR. LAND: No, sir. If we get through before noon I've
13 got to contact my witnesses.

14 THE COURT: You need to be getting -- they're supposed
15 to be here around noon, it would be better if they would be
16 here a little earlier than that if there is anyway to rush
17 them up. I don't know how long the State's case is going to
18 take, and once they get through then it's your turn to go
19 forward.

20 MR. LAND: Right.

21 THE COURT: I'll talk to you about your right to remain
22 silent when the State finishes, we'll just have to see where
23 we are when we get through with the State's case.

24 (The jury returned to the courtroom.)

25 THE COURT: Good morning, members of the jury. We have

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1 some fans circulating air, it's not the coolest air but at
2 least it gets you some relief. Call your next witness.

3 MS. LIVELY: Thank you, Your Honor. The State would
4 call Officer Adam Bailey to the stand.

5 The witness, ADAM BAILEY, was first duly sworn and
6 Testified as follows:

7 DIRECT EXAMINATION

8 BY MS. LIVELY:

9 Q Good morning, Officer Bailey.

10 A Good morning.

11 Q Where do you currently work?

12 A I work for the Chester City Police Department.

13 Q And how long have you worked there?

14 A I've been employed since October of 2016.

15 Q 2016. All right. And did you work last night?

16 A I did.

17 Q All right. And so were you involved in responding to a
18 911 call that occurred on April the 10th at around midnight?

19 A Yes, ma'am.

20 Q That was 2017, I apologize, April 10th, 2017 around
21 midnight.

22 A Yes, ma'am.

23 Q Please tell the jury what it was that you were
24 responding to.

25 A At that time it came out as a robbery that had occurred

ADAM BAILEY - DIRECT

- 1 in the Brooklyn area on Ashford Street.
- 2 Q And is that in the city limits of Chester?
- 3 A That is in the city limits.
- 4 Q And let me ask you this: How many calls had you been
- 5 on by that time for something like a robbery?
- 6 A That was my first one, I believe.
- 7 Q How long had you been out of the academy by that time?
- 8 A A little over a month.
- 9 Q A little over a month? Okay. And so are you an
- 10 investigator or a detective?
- 11 A No, ma'am.
- 12 Q What are your responsibilities then when you respond to
- 13 something like a 911 call?
- 14 A We go there and assess the situation and gather
- 15 statements and things as need-be and move on from there.
- 16 Q You move on from there. Do you actually do any
- 17 investigative work such as DNA collection, evidence
- 18 collection, pictures or anything like that?
- 19 A No, ma'am.
- 20 Q And were you trained to do that?
- 21 A No, ma'am.
- 22 Q All right. So on that evening did you just respond,
- 23 which is your job as a responding officer?
- 24 A That's correct.
- 25 Q Now, tell the jury when you got there -- well, first of

ADAM BAILEY - DIRECT

1 all, look at your paperwork, there's been a little bit of
2 back and forth about timing for that night. Tell the jury,
3 what time did the call come in, the 911 call come in?

4 A It was showing here I was dispatched three minutes
5 after midnight.

6 Q Three minutes after midnight, which would make it what
7 date?

8 A It says the 10th of April.

9 Q So April 10th. So once you got there, do you recall --
10 just tell the jury what you saw whenever you got there.

11 A When I got there there was several people out in the
12 yard at the time. You could tell that a lot of people
13 seemed under duress.

14 Q Pull your microphone, I'm having a little bit of a hard
15 time hearing you. Some people were under what?

16 A Duress.

17 Q Duress, okay. And so what did you do when you saw
18 this?

19 A By the time I made contact with the people there. I
20 spoke with Malcolm and a Joseph Woods, and they stated that
21 they had been robbed and the money had been taken from them.

22 Q All right. So they had been robbed and money had been
23 taken from them. At that time were they able to provide you
24 with any information as to possible suspects?

25 A Yes, ma'am.

ADAM BAILEY - DIRECT

1 Q And whenever they provided that information to you, did
2 you document that in your incident report?

3 A Yes, ma'am, I did.

4 Q At the time that this information was provided to you,
5 did you know who these potential suspects were?

6 A No, ma'am, I did not.

7 Q Did you have any information from the people you talked
8 to that night as to where the suspects were?

9 A I did not.

10 Q Did you see any type of -- or did you receive any
11 information which would have allowed you to then pursue a
12 possible suspect or suspects?

13 A No, ma'am, I did not.

14 Q So after you made that assessment, what was the next
15 step in what you had to do?

16 A I collected witness statements that night, and the
17 incident was forwarded to investigations after that.

18 Q All right. Now, on the incident report I do see that
19 there's certain information that you have to fill out in
20 order to do a report. Is that a fair statement?

21 A Yes, ma'am.

22 Q All right. What kind of information do you actually
23 document in the incident report as being the first initial
24 responder?

25 A Could you elaborate a little bit?

ADAM BAILEY - DIRECT

1 Q Sure. Tell the jury, what do you have to actually put
2 if here to and fill it out to show that an incident
3 occurred?

4 A We have caller information, victim's information,
5 there's a narrative basically, just a description of what
6 happened and what we did that night.

7 Q Now, this narrative is based on what?

8 A Information that I had collected on scene and that was
9 known to me at the time.

10 Q And collected on scene from whom?

11 A From Mr. Woods, Malcolm and Joseph Woods.

12 Q And did you document them in your actual report?

13 A I did.

14 Q And whenever you document them, how do you list them in
15 the report?

16 A In the report they're listed as the victims.

17 Q All right. And do you put other information regarding
18 what their height, weight and that type of information?

19 A Yes, ma'am.

20 Q Now, in looking at this particular information, do you
21 also document whether or not someone is -- or appears to you
22 under the influence of alcohol or drugs?

23 A Yes.

24 Q Okay. I'm not trying to trick you. So whenever you
25 actually put this information in there, is that to assist

ADAM BAILEY - DIRECT

1 with investigations once they were to take over the case?

2 A Yes, ma'am.

3 Q Now, in this particular incident report whenever you
4 documented who the victims were, did you also list whether
5 or not alcohol and/or drugs had been used?

6 A Yes, I did.

7 Q In regards to Joseph Woods, what was your recollection
8 regarding whether you believed he was intoxicated?

9 A It was unknown.

10 Q And how about Malcolm Woods?

11 A Also indicated unknown.

12 Q Oh, I'm sorry, and how about Mr. Walter Caldwell?

13 A Unknown as well.

14 Q Now, I know you'd only been out of the academy for a
15 couple of weeks, which you've already testified, but if the
16 witnesses that you were talking to showed any indications of
17 intoxication or inability to speak or something that would
18 have given you concern about their statements, would you
19 have indicated that in your report?

20 A Yes, ma'am.

21 Q And in your report you have no indication that this was
22 an issue.

23 A That's correct.

24 Q Now, did you actually get to speak with Walter Caldwell
25 that night?

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1 A I believe I did.

2 Q And once again, you said you took statements from a
3 couple of the individuals?

4 A Yes, ma'am.

5 Q Did you ever talk to Luctercia Caldwell that night?

6 A I don't believe so.

7 Q Now, did you know any of these victims before going
8 there that night?

9 A No, ma'am.

10 Q And is everything that's in your report, does it
11 reflect what you did as well as the statements that you took
12 from those particular victims that night?

13 A Yes, ma'am. ✓

14 Q Did you have anything else to do with investigation?

15 A No, ma'am.

16 MS. LIVELY: Thank you. Answer any questions that the
17 defendant has.

18 MR. LAND: Please the Court, Your Honor?

19 CROSS EXAMINATION

20 BY MR. LAND:

21 Q Good morning, Officer Bailey.

22 A Good morning, sir.

23 Q So you say you've been to the police academy, correct,
24 sir?

25 A Yes, sir.

ADAM BAILEY - CROSS

1 Q And at the time of April the 10th of 2017 you had just
2 recently left the police academy.

3 A That's correct.

4 Q So the things you learned were still fresh on your
5 mind.

6 A Somewhat.

7 Q Somewhat? Okay. When did you leave the police
8 academy?

9 A I graduated beginning of March.

10 Q Beginning of March. And it happened in April?

11 A That's correct.

12 Q You say somewhat?

13 A Yes, sir.

14 Q Did you have training to interview victims at the
15 police academy?

16 A Brief.

17 Q Brief? What about training to interview victims?

18 A What's that? I'm sorry.

19 Q Training to interview victims.

20 A Same thing.

21 Q Training to gather evidence?

22 A Gather evidence? A little bit.

23 Q Can you tell me some of the training about the
24 evidence?

25 A As far as mostly on evidence collection, a lot of

ADAM BAILEY - CROSS

1 times, you know, it gets forwarded to investigations. Like
2 I said, at the time I was still fresh out of the academy and
3 I don't remember every single thing that's always said at
4 the time. It's one of those things that I guess I get
5 better as time goes on, you learn more.

6 Q What kind of evidence did they teach you that you
7 received at the academy?

8 A I can't recall right off. Things are different. Like
9 you learn different things and I can't remember everything
10 that they say off the top of my head.

11 Q Did they tell you to take pictures?

12 A I can't recall what they said.

13 Q You agree that it's important to get statements while
14 they're fresh?

15 A Yes.

16 Q You agree that it's important to investigate the
17 full -- were you the only officer there that night?

18 A At that time, yes.

19 Q At that time. Do you recall -- did you go in the house
20 that night?

21 A No, I did not, everybody was outside.

22 Q Everybody was outside? Everybody? Did you have to
23 call in the K-9 unit to maybe see if they could smell the
24 track of where the criminals went to?

25 A No, I did not.

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1 Q But you would agree that these are serious charges,
2 robbery -- did they teach you at the academy, that robbery
3 and burglary, all of those are serious charges?

4 A Yes, sir.

5 Q You agree?

6 A Yes, sir.

7 Q Would you agree that they need to be taken seriously?

8 A Yes, sir.

9 Q And you say that -- you said that all of the victims
10 were outside?

11 A The ones that I spoke to, everybody that I spoke to was
12 outside.

13 Q Everyone that you spoke to was outside.

14 A That's correct.

15 Q And you said that you did speak to Walter Caldwell.

16 A I believe I did.

17 Q You believe you did. Why did you not receive a
18 statement from Walter Caldwell who was the man of the house?

19 A I can't recall why anybody -- why -- if there was
20 somebody I was not to get a written statement from I don't
21 recall why I would not have gotten it.

22 Q Do you recall how many written statements you got that
23 night?

24 A I believe I got two.

25 Q You believe you got two. And what were -- do you

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1 recall what those written statements said?

2 A I don't.

3 Q Do you recall that one of them was just an amount of
4 money?

5 A Possibly. Like I said, I don't recall.

6 MR. LAND: Your Honor I would like to refresh his
7 memory.

8 THE COURT: Hand him that to refresh his recollection.

9 A Yes, I do.

10 Q All right. And you said you spoke with Malcolm and
11 Joseph Woods?

12 A That's correct.

13 Q And both of them told you that they were robbed?

14 A Yes, sir.

15 Q Did you inform them to write that on their statements?

16 A I'm not allowed to tell to them what to write on their
17 statements.

18 Q Did you tell them to write statements of what took
19 place?

20 A Yes, I did.

21 Q And why is one statement --

22 MS. LIVELY: Your Honor, those are not in evidence, I
23 would object to him publishing them.

24 THE COURT: You've got to get them into evidence before
25 you can put them before the jury.

ADAM BAILEY - CROSS

1 Q Do you want to tell them -- so you asked him to write
2 down what happened?

3 A I did.

4 Q So why was one statement just says \$1,800?

5 MS. LIVELY: Objection, Your Honor, that's speculative.
6 He's asking him to tell why the witness wrote something on
7 the statement.

8 THE COURT: He can't tell you why somebody else did
9 something.

10 MR. LAND: Yes, sir.

11 THE COURT: So I sustain the objection.

12 MR. LAND: Yes, sir.

13 Q Out of all the witnesses that were out there, exactly
14 how many witnesses did you talk to?

15 A I can't tell you. I can't recall how many people I
16 spoke to that night.

17 Q You can't recall how many people. But you did not take
18 any pictures.

19 A No, I did not.

20 Q You did not dust for any fingerprints or anything like
21 that.

22 A No.

23 Q You did not call the K-9 unit.

24 A No.

25 Q You did not ask the neighbors about anything did they

ADAM BAILEY - CROSS

1 see?

2 A I only spoke to the people that were outside.

3 Q You did not see the crime scene where it happened at
4 because you did not go in the house, and the crime happened
5 in the house so you did not see the crime seen at all.

6 A I didn't go in the house, no.

7 Q You didn't go in the house. How much money was taken?
8 Did you know how much money was taken?

9 A Let me refer to my report. It looks like in my
10 narrative I have documented a total of about \$2,550.

11 Q How did you verify the amount of money?

12 A I just have to go by what I was told that night.

13 Q And you didn't go in the house you say?

14 A That's correct, I did not go in the house.

15 Q So do you think -- do you know if any of the witnesses
16 were drinking?

17 A I do not, no. Individuals -- it says unknown. I put
18 unknown there because they were not intoxicated and I cannot
19 speak to that.

20 Q You cannot -- you say unknown but you say they were not
21 intoxicated.

22 A I said they were not intoxicated.

23 Q They were not intoxicated?

24 A That's correct.

25 Q So why did you put unknown instead of no?

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1 A Because having consumed alcohol and being intoxicated
2 are two different things.

3 Q So basically nobody checked the area or anything that
4 night?

5 A No, sir.

6 Q You said you did speak to Mr. Caldwell.

7 A I believe I did.

8 Q You believe you did? But he did not give you a
9 statement?

10 A That's correct.

11 Q Walter and Joseph gave you -- Malcolm gave just an
12 amount of money of what happened.

13 A I'm sorry, I couldn't understand you.

14 Q I said Malcolm Woods, he did give you a statement of
15 just \$1,800; is that correct?

16 A That's correct.

17 Q He did not say he was robbed or anything that night.

18 A He told me verbally but he apparently did not put it on
19 his written statement.

20 Q Did you write any notes from that night?

21 A I just did the initial report and whenever I had some
22 of the narrative, that's all I have on it.

23 Q Okay. Did you -- did it look like -- well, you can't
24 say it looked like it happened in the house because you
25 didn't go in the house. But weren't you -- were you even

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1 more concerned about the situation to call backup or to find
2 out more information or call other officers to search the
3 area?

4 A I had forwarded the situation, the incident to the
5 investigations department after that, they would have been
6 the ones to follow-up.

7 Q But you would agree that it would be of the essence to
8 do that as soon as possible, like that night to search the
9 area for anything, would you agree?

10 A Agree.

11 Q And you did not go in the house, no DNA was recovered
12 that night, no fingerprints, no photos, no nothing?

13 A No.

14 Q Was any of the victims hurt that night?

15 A I don't think so.

16 Q Did you check to see if they had any marks or any
17 bruises or anything?

18 A I spoke to them and they told me they were okay that
19 night, they were shaken up, I guess.

20 Q And what time did they tell you that the robbery
21 occurred?

22 A I believe they said it was a little before midnight.

23 Q A little before midnight, like such as?

24 A I don't know off the top of my head.

25 Q And you received the call at what time?

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1 A Right around midnight.

2 Q Right around midnight. And what time did you arrive to
3 the scene?

4 A I got there five minutes after.

5 Q Five minutes after midnight?

6 A That's correct.

7 Q And by the time you got there there was nobody inside
8 and nobody outside besides the victims.

9 A There were several people outside.

10 Q Did you investigate those people that were outside?

11 A I spoke to the victims, and everybody else was pretty
12 much saying the same thing.

13 MR. LAND: No further questions at this time, Your
14 Honor.

15 THE COURT: Redirect?

16 MS. LIVELY: Thank you, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. LIVELY:

19 Q Officer Bailey, the defendant just asked you why
20 Malcolm Woods only put an amount on his statement when he
21 wrote that out for you, do you recall that?

22 A Yes, ma'am.

23 Q I'm going to show you what has been marked as State's
24 Exhibit Number 16. Will you please tell the jury whose
25 statement that is?

ADAM BAILEY - REDIRECT

1 A This is Malcolm Woods.

2 Q Malcolm Woods. Okay. And do you recall getting that
3 statement from Malcolm Woods on the evening of -- well, the
4 early morning of April the 10th of 2017?

5 A Yes, ma'am.

6 Q And this is the statement that you recall receiving
7 from him, correct?

8 A That's correct.

9 MS. LIVELY: The State would move to introduce the
10 statement into evidence at this time as State's Exhibit
11 Number 16.

12 THE COURT: Any objection?

13 MR. LAND: No, sir.

14 THE COURT: In without objection?

15 MS. LIVELY: Thank you.

16 (The statement was received as State's 16.)

17 Q Now, does Malcolm Woods provide a statement to you that
18 gives you more information regarding what happened to him
19 that night than just an amount?

20 A Yes, ma'am.

21 Q Please read to the jury what Malcolm Woods stated
22 happened that night?

23 A His statement reads, "I was sitting at the table when
24 John Wilmore and Snoop Lowery ran in with a gun. \$500 was
25 taken from me and \$1,800 was taken from my brother, and 250

ADAM BAILEY - REDIRECT

1 was taken from Mr. Walter Caldwell."

2 Q Okay. So not only did he provide you with amounts but
3 he told you who did it.

4 A That's true.

5 Q Do you know who it was that actually called 911?

6 A I do not.

7 Q You don't? When you got there did anyone tell you they
8 were the ones that called 911?

9 A No, ma'am.

10 Q You need to speak up. I know you're tired.

11 A I didn't.

12 Q Okay. I'm requesting to show you what's been marked as
13 State's Number 17 and ask you if you recognize this?

14 A Yes, ma'am.

15 Q Is that one of the statements you got that night from
16 the victim, Joseph Woods?

17 A Yes, ma'am.

18 MS. LIVELY: Your Honor, the State would move to enter
19 State's Exhibit Number 17. I showed it to him.

20 THE COURT: Any objection?

21 MR. LAND: No, sir.

22 THE COURT: In without objection.

23 MS. LIVELY: Thank you.

24 (The statement was received as State's 17.)

25 Q Is this the statement that you received from Joseph

ADAM BAILEY - REDIRECT

- 1 Woods regarding an amount?
- 2 A Yes, ma'am.
- 3 Q And just tell the jury what it has on there.
- 4 A It's \$1,800.
- 5 Q Now, did you actually talk to Mr. Woods that night?
- 6 A Yes, ma'am.
- 7 Q And did you document that in your incident report about
- 8 what he told you happened?
- 9 A Yes, ma'am.
- 10 Q Did he indicate in that report who the suspects were?
- 11 A Yes, ma'am.
- 12 Q And did you document that in your report?
- 13 A Yes, ma'am.
- 14 Q And who did he tell you were the ones that robbed him?
- 15 A They identified John Wilmore, aka John John, and the
- 16 second one all they had was a Snook Poo Lowery.
- 17 Q Now, whenever someone writes a statement, are you
- 18 allowed to tell them what to put in it?
- 19 A No, ma'am.
- 20 Q All right. So if you asked him that he needs to add
- 21 more to that, would that be improper on your part?
- 22 A Yes, ma'am.
- 23 Q And whenever -- so when did the city get a K-9?
- 24 A The city does not have a K-9 to this day.
- 25 Q Y'all still do not have a K-9 unit.

ADAM BAILEY - RECROSS

1 A That's correct.

2 Q Could you have called out any dogs that night?

3 A Not from the city, no.

4 Q Then my next question is if you had gone into the home
5 to start to try to dust for fingerprints or collect any
6 alleged DNA that would be in there, what would have happened
7 to you? Are you allowed to go in and investigate if you're
8 not an investigator?

9 A No, ma'am.

10 MS. LIVELY: Thank you. No further questions, Your
11 Honor.

12 MR. LAND: Redirect, Your Honor?

13 RECROSS EXAMINATION

14 BY MR. LAND:

15 Q I was mistaken, Mr. Bailey. So Joseph was the one who
16 wrote \$1,800 when he gave a statement. But at the time of
17 the night you told him to write a statement that he just
18 gave you verbally, right?

19 A Yes, sir.

20 Q But he did not write the statement that he gave you
21 verbally.

22 A No, sir.

23 Q Does Chester County have a K-9 unit?

24 A The county does, yes.

25 Q Does Chester County and Chester City coincide? Meaning

ADAM BAILEY - RECROSS

1 do they -- were you -- would you be able to use Chester
2 County's K-9 unit if it was necessary?

3 A Possibly.

4 Q So there was a K-9 unit that was exposable in Chester
5 County at that time.

6 A I'm not sure if they had one in the county at the time
7 or not. I'm sure they had one but I'm not sure if it was
8 available that night.

9 Q You're not sure if it was available that night?

10 A That's correct.

11 Q But you're sure that they have a K-9 unit.

12 A Yes, sir.

13 Q You're sure that their K-9 is up and running and that
14 it's in Chester County. How far is Chester County from
15 Chester City?

16 A The city is inside the county.

17 Q No. How far is the city department from the county
18 sheriff's department?

19 A I don't know exactly.

20 Q Approximate if you would, sir.

21 A It's not far.

22 Q Not far. Maybe a mile or two?

23 A Probably.

24 Q So with that being said, it would take them
25 approximately from where you are on Ashford Street to the

ADAM BAILEY - RECROSS

1 Chester County it would take them approximately -- how long
2 would it take them to get there?

3 A It depends on where the people were coming from. Like
4 I said, I don't know where they were at that night.

5 Q But if they were coming from the county sheriff's
6 office, how long would it take?

7 A I wouldn't think it would take them long if they were
8 coming from the sheriff's department.

9 Q Let me ask you another question. Did you have a body
10 cam on that night?

11 A I did not.

12 MS. LIVELY: Objection. That's outside the scope of my
13 redirect.

14 THE COURT: I sustain the objection.

15 MS. LIVELY: Thank you.

16 Q Again, let me ask you this: You did say that you told
17 him to write the statement that he gave you verbally?

18 A I told him to give me a written statement of what
19 happened that night.

20 Q Of what happened that night, right. So you think that
21 he might have misheard you because --

22 MS. LIVELY: Objection, Your Honor, he's asking him to
23 speculate.

24 THE COURT: Yeah, that --

25 Q Do you think -- did he hear you that night when you

ADAM BAILEY - RECROSS

1 told him to write what happened?

2 MS. LIVELY: Objection, Your Honor.

3 THE COURT: He can't say whether a party heard him or
4 not.

5 Q So what did you tell Mr. Woods and Malcolm when you
6 interviewed them to write the statement?

7 A You mean Joseph Woods and Malcolm Woods?

8 Q Joseph and Malcolm Woods.

9 A I asked them to give me a statement of what happened
10 that night.

11 Q You asked them to give you a statement of what happened
12 that night.

13 A Yes, sir.

14 Q And did Joseph Woods give you a statement written of
15 what happened that night?

16 A He gave me the statement, it's already admitted into
17 evidence, that's all that I got.

18 Q Say that again.

19 A He gave me the statement that was entered into evidence
20 and that's all that I got from him that night.

21 Q Would that be the statement of \$1,800?

22 A From Joseph Woods?

23 Q Yes, sir.

24 A Correct.

25 Q But you do recall that you did tell him to give you a

ADAM BAILEY - RECROSS

1 statement of what happened that night.

2 A I asked him to give me a statement, yes.

3 Q But you said he wasn't impaired, you don't know if he
4 was drinking or not --

5 A He was not impaired, no.

6 Q He was not impaired. But you gave him a direct
7 statement to write what happened that night.

8 A I asked him to give me a statement.

9 Q You asked him, correct?

10 A Correct.

11 Q And his statement states \$1,800.

12 A That's correct.

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

14 THE COURT: You can step down and be excused, thank
15 you. Call your next witness.

16 MS. LIVELY: Thank you, Your Honor. The State would
17 call Investigator Justin Moss to the stand.

18 The witness, JUSTIN MOSS, was first duly sworn and

19 Testified as follows:

20 DIRECT EXAMINATION

21 BY MS. LIVELY:

22 Q Investigator Moss, please state your full name for the
23 record.

24 A Justin Keith Moss.

25 Q Where are you currently employed?

JUSTIN MOSS - DIRECT

1 A At the Chester County Sheriff's Office.

2 Q In April of 2017 where were you employed?

3 A At the Chester Police Department.

4 Q All right. And what were your duties at the Chester
5 Police Department back in April of 2017?

6 A I was assigned to investigations.

7 Q How many investigators at the city at that time were
8 assigned to that particular area?

9 A Myself and Lieutenant Lolita Fourney.

10 Q And what was your actual title at that time?

11 A A Sergeant.

12 Q So you were Sergeant Moss then.

13 A Yes, ma'am.

14 Q Now, Sergeant Moss, how long had you been with the city
15 as an investigator in April of 2017?

16 A Approximately two years, maybe a little less.

17 Q Okay. And what had you done prior to then?

18 A Worked patrol and I was a community officer.

19 Q And when you were working patrol, would that be similar
20 to what Officer Bailey was just testifying about?

21 A Yes, ma'am.

22 Q And as a patrol officer, what were your general duties?

23 A Pretty much what they teach you at the basic academy is
24 if you arrive on scene, and if it's a scene where you know a
25 lot of evidence needs to be collected like such as a

JUSTIN MOSS - DIRECT

1 shooting or something you're taught to tape off the scene
2 and call for an investigator and start an evidence log of
3 anyone coming in and out, just pretty much just secure the
4 scene such as this. He pretty much did what he was supposed
5 to is arrive on scene, talk to the complainants and
6 witnesses. Sometimes you'll get statements from certain
7 witnesses or complainants or victims but they're willing to
8 tell you verbally but they won't put it on paper because
9 they don't want to have to sign it. You deal with people
10 that are of different education levels who may not be able
11 to write that good, so they can tell you better than they
12 can write. And then you just pretty much take everything
13 you have, make an initial report and pass everything that
14 you was able to collect on to investigators. If you see
15 something of evidentiary value then you would call out a
16 detective to come and collect that. Because at the city the
17 investigators are also the evidence collectors, the crime
18 scene analysis people in the case.

19 Q Okay. So your staff is a little bit more limited in
20 regards to what options y'all have in an investigation.

21 A Yes, ma'am.

22 Q All right. Now, Sergeant Moss, in April of 2017, did
23 you get assigned the case involving what we've been
24 discussing here for the past couple of days, and that is the
25 case against Geraldo Snoop Land?

JUSTIN MOSS - DIRECT

1 A Yes, ma'am.

2 Q All right. Please tell the jury how that case came to
3 you, and when it did what you did.

4 A It pretty much started off with an initial report and
5 two statements. What Lieutenant Fourney and myself did, we
6 tried to contact the victims. And it took us awhile to
7 contact the victims because they had a lot of stuff going
8 on, either it was conflicting with their work schedule, or
9 like Mr. Caldwell's wife was sick with cancer and eventually
10 passed away, so it took us awhile to be able to set up the
11 interview with them. Once we were able to set up an
12 interview, and the reason we recorded, whether it's on video
13 or audio, is because that's way better than a written
14 statement if they go into more detail and tell you. So we
15 call them in and we interview them on audio at the time. We
16 didn't actually get body cameras because the State was going
17 through a process of coming up with body cameras and the
18 city didn't have the funds, so that's why miss Luctercia
19 Caldwell's was on video and the other two were on audio
20 because we didn't have a way to do video. But you get more
21 detail out of people when they talk instead of writing
22 because people's hands get tired, so we did that.

23 Q Let you stop you there because I'm going to ask you
24 about some specifics during the time.

25 A Okay.

JUSTIN MOSS - DIRECT

1 Q Now, let's just confirm, this occurred, according to
2 the incident report, which of course you would have
3 received, the call came in when?

4 A At midnight, right at midnight of the 10th.

5 Q And this was in the City of Chester.

6 A Yes, ma'am.

7 Q And the location of the actual robbery and burglary was
8 whose house?

9 A That would be Mr. Walter Caldwell's house.

10 Q All right. And whenever you received the statements,
11 which are in evidence as State's Exhibits Number 16 and 17,
12 from both of the Woods brothers, were you able to find any
13 other written statements from any other witnesses that could
14 have been there that night?

15 A No, ma'am.

16 Q All right. And in the incident report, is there
17 another victim that's actually documented on the incident
18 report?

19 A Walter Caldwell.

20 Q So is that the Walter Caldwell you're referring to that
21 you were trying to get in contact whose wife was sick?

22 A Yes, ma'am.

23 Q Now, I'm going to go through -- whenever you were
24 actually doing an investigation and it gets assigned to you
25 and you don't really have, you know -- were there any videos

JUSTIN MOSS - DIRECT

1 of what had happened?

2 A No, ma'am.

3 Q Was there any type of, let's see -- no one was shot,
4 correct?

5 A No, ma'am.

6 Q Was there any information given to you by the witnesses
7 and victims that anything had been left behind by the
8 suspect?

9 A Are you talking about ones we were able to interview
10 them?

11 Q Correct.

12 A No, ma'am.

13 Q So whenever you started this process of actually doing
14 your investigation, do you supplement your reports as you
15 go?

16 A Yes, ma'am.

17 Q All right. And is that standard practice within the
18 city?

19 A Yes, ma'am.

20 Q All right. So whenever you're actually able to
21 determine that there's a particular suspect or an individual
22 that you see as either a person of interest or a suspect in
23 the case, do you then start to include them in your reports?

24 A Yes, ma'am.

25 Q All right. So I'm going to take you to the first

JUSTIN MOSS - DIRECT

1 documented piece of information, which is dated April the
2 12th of 2017. Do you recall being in the courtroom whenever
3 Officer Covington, who is also a patrol officer, testified
4 yesterday?

5 A Yes, ma'am.

6 Q His report is actually included in your final package
7 of supplemental reports; is that correct?

8 A Yes, ma'am.

9 Q In that he'd already testified that Mr. Joseph Woods,
10 who was working at Wal-Mart at that time, had a concern.
11 And did you follow-up on that concern?

12 A Yes, ma'am. I spoke with Joseph Woods --

13 Q You did.

14 A -- about the incident that took place.

15 Q All right. So did you also provide this as a part of
16 your investigation?

17 A Yes, ma'am.

18 Q All right. And that was dated from April 12th of 2017?

19 A Yes, ma'am.

20 Q So how many days after the actual robbery did this
21 incident occur?

22 A Two days.

23 Q So at that point in time were you given information
24 regarding a possible vehicle that could have been used by
25 the defendants?

JUSTIN MOSS - DIRECT

1 A Yes, ma'am.

2 Q And what kind of vehicle is that?

3 A Gray Impala.

4 Q All right. And were you able to actually find out any
5 other information to assist you with possibly locating that
6 vehicle?

7 A The only thing that I had was someone said that John
8 Wilmore's girlfriend owned a gray Impala, or some sort of
9 gray sedan.

10 Q And in this particular case, did you run into a lot of
11 just, for lack of a better term, street information about
12 what was going on with these individuals?

13 A Yes, ma'am.

14 Q From your investigation, were you able to determine
15 that all of these people knew each other?

16 A Yes, ma'am.

17 Q All right. What if any problems or resistance did you
18 and Lieutenant Fourney run into in trying to investigate
19 this case?

20 A One of the victims actually didn't want to talk to us
21 at all, which was Malcolm Woods, he didn't want to cooperate
22 mainly because he was going to be missing out on money at
23 work and this was going to take time off of his work
24 schedule.

25 Q Was that surprising to you?

JUSTIN MOSS - DIRECT

1 A No, ma'am. We run into stuff like all of the time
2 where one second a victim wants to do -- or cooperate and
3 give a written statement and then they realize how much time
4 it's going to take out of their normal lives and they change
5 their mind.

6 Q Fair enough. The next entry that I have here in your
7 report is actually from May 15th of 2017. Could you please
8 tell the jury who it was that you had spoken to and what the
9 purpose of that particular report was?

10 A Do you have a copy of it?

11 Q Oh, I apologize.

12 (Break in proceedings.)

13 Q So does that refresh your recollection as to the status
14 of your investigation as of May the 15th of 2017?

15 A Yes, ma'am.

16 Q All right. And around May 15th of 2017, tell this jury
17 what you were doing to follow-up with the victims in this
18 case.

19 A I spoke with the Woods brothers, which is Malcolm and
20 Joseph, or Joseph would be Richard, and set up an interview
21 for them to come in at noon and neither one of them showed
22 up.

23 Q When were they supposed to show up, Sergeant Moss?

24 A The same day at noon.

25 Q All right. Okay. And during that time, were you aware

JUSTIN MOSS - DIRECT

1 of the condition of Mr. Walter Caldwell's wife by May of
2 2017?

3 A I can't recall if I was aware of her situation or not
4 by that time.

5 Q The next investigative note that you provide to your
6 actual investigation is dated May 17, 2017. Do you recall
7 that or do you need a copy to refresh your recollection?

8 A That's on the timeline.

9 Q Here, I'm going to pass this up to you to refresh your
10 recollection in case you need to.

11 A Okay.

12 Q As of May 17th, 2017, who were you aware of were
13 victims or at a minimum witnesses and victims of what
14 occurred on that night?

15 A Malcolm Woods, Joseph Woods and Walter Caldwell.

16 Q As of May 17th, 2017, did you receive additional
17 information as to who else may have been present that night?

18 A Yes, ma'am. Little Bopeep, which would be Luctercia
19 Caldwell, Walter Caldwell's daughter.

20 Q Once you received that information what did you do?

21 A I tried to make contact with her. I think I eventually
22 had to get her phone number through one of her daughters and
23 was able to make contact with her and set up an interview
24 for her to come and talk to us.

25 Q And on May the 17th, 2017, did you actually interview

JUSTIN MOSS - DIRECT

1 anyone who was a victim or a witness in this case?

2 A I interviewed Walter Caldwell, and it was documented on
3 the voice recording that y'all -- I believe we've already
4 heard.

5 Q Correct. Now, I'm going to show you what's actually in
6 as Defendant's Exhibit Number 1. Is this the interview that
7 you conducted of Mr. Walter Caldwell on May the 17th of
8 2017?

9 A Yes, ma'am.

10 Q Were you in the courtroom whenever portions of it were
11 played yesterday?

12 A Yes, ma'am.

13 Q If I can retrieve that from you. Now, whenever you had
14 the interview with Mr. Caldwell -- this information is
15 already in evidence so I'm going to ask you, did he provide
16 you anything else regarding information that there was
17 another witness -- a possible witness to the suspects
18 leaving the home?

19 A He said that Chris Peterson and his girlfriend were
20 standing on a street corner and seen two subjects run from
21 the house toward a car that was waiting, a gray vehicle that
22 was waiting. And I believe he said that Chris Peterson said
23 that the car was already running, like somebody was waiting
24 on the guys running from the house.

25 Q Did you try to make contact with Mr. Chris Peterson?

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1 A Not that I recall. You would have to ask Lieutenant
2 Fournery but I don't believe I did.

3 Q And has he ever come forward to willingly give you a
4 statement at any point in time?

5 A No, ma'am.

6 Q Now, whenever you -- after you interviewed Mr.
7 Caldwell, at that time did you already have photo ID lineups
8 prepared for the individuals who were suspects in this case?

9 A At his first interview I did not.

10 Q Okay. And very -- one of the things that I wanted to
11 find out from you, and I'm sure that it would be helpful to
12 the jury as well, at what point in time do you recall being
13 able to attach the nickname Snoop with the defendant,
14 Geraldo Land?

15 A Okay. So the first thing that we were given was
16 Snookie Poo Lowery, which Geraldo Land's mama's last name is
17 Lowery or her maiden name is Lowery, so they believed that
18 Snookie Poo's last name was Lowery. Mr. Woods came to me
19 and said that he found out what Snookie Poo Lowery's was,
20 which was Snoop Land which is also Geraldo Land. So he said
21 he knew Geraldo Land from his -- Geraldo Land's daddy and
22 him are cousins and that their family are connected, and
23 that he knew who Geraldo Land was because he had given him
24 rides home before, and that's who held a gun to his head.

25 Q Okay. Now, let me ask you this: When did you actually

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1 finally get to interview Joseph Woods?

2 A On June the 1st.

3 Q Okay. All right. So according to your investigative
4 notes you actually interviewed Walter Caldwell May 17th of
5 2017, is that what you just stated?

6 A Yes, ma'am.

7 Q So by that time had you had any conversations with
8 Joseph Richard Woods regarding this case?

9 A Not that I recall. I remember just trying to get in
10 contact with him and trying to set up an interview, and then
11 he came and spoke to us on June 1st.

12 Q Okay. So the first time -- which is what you testified
13 to was you tried to set it up on May 15th and --

14 A Yes, ma'am, they didn't show up.

15 Q And they didn't show up. Okay. So at that point in
16 time you still did not have that information as to who the
17 defendant, Geraldo Land, was?

18 A No, ma'am.

19 Q And after you met with Mr. Caldwell on May 17th, 2017,
20 did you have information as to who Snoop was?

21 A All we knew was Snoop.

22 Q Okay. All right. Now, on May the 18th I'm showing an
23 investigative note for you, and I'm going to refresh your
24 recollection. What were you attempting to do on May the
25 18th?

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1 A We went by -- the Woods brothers stay at a address that
2 we went by and knocked on the door and nobody was home so we
3 left cards in their door.

4 Q Once again, what were you trying to do?

5 A Contact the victims/witnesses.

6 Q And this was the Woods brothers.

7 A Yes, ma'am.

8 Q So on May the 18th you still did not know who Snoop
9 was, correct?

10 A No, ma'am.

11 Q After that occurred and you left your cards in the
12 door, I'm going to show you your updated investigative notes
13 from May 22nd of 2017. Tell the jury what if any response
14 you got from anyone from leaving your cards in the door.

15 A Joseph Woods contacted 911 requesting that we call him
16 back. And Mr. Woods didn't answer the phone whenever we
17 called back.

18 Q All right. So as of this time -- this is now May the
19 18th, correct? I'm sorry, May the 22nd.

20 A Yes, ma'am.

21 Q So you've attempted several times at this point to get
22 Joseph Woods and Malcolm Woods to meet up with you, is that
23 fair to say?

24 A Yes, ma'am.

25 Q At that point in time did you have any information as

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1 to who Snoop Lowery, or Snookie Poo Lowery was?

2 A No, ma'am.

3 Q Did you know who John Wilmore was?

4 A Yes, ma'am.

5 Q Okay. But as for this defendant, Geraldo Land, his
6 name had not come to you yet, correct?

7 A No, ma'am.

8 Q All right. Including when you met with Walter
9 Caldwell, did Walter Caldwell know who Snoop was?

10 A Not that I recall.

11 Q Okay. So I'm going to show you your investigative
12 notes from June 1st of 2017, and ask you if -- where were
13 you in the stage of your investigation at that point?

14 A I was finally able to interview Joseph Woods, and he
15 pretty much corroborated Walter Caldwell's story to the
16 events that took place that night.

17 Q And after you -- and when you interviewed him, was that
18 audio and video recorded?

19 A I believe it was just audio.

20 Q It was just audio. And why was that?

21 A Because we didn't have a way of video recording it at
22 the time.

23 Q Did the city have body cameras at that time?

24 A No, ma'am. Like I said, the State was going through
25 the process where they were changing over and mandating the

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1 body cameras so we hadn't received them.

2 Q So you had not received body cameras by June of 2017.

3 A No, ma'am.

4 Q All right. But you did interview Mr. Joseph Woods. At
5 that time were you able to determine who Snoop, Snookie Poo
6 Lowery, what his real name was?

7 A Yes, ma'am.

8 Q And what was his name?

9 A Geraldo Snoop Land.

10 Q When you realized -- or that information was given to
11 you, did you have a follow-up meeting with the victim, Mr.
12 Walter Caldwell?

13 A During his initial interview he was saying that he knew
14 who Snoop was and that -- but he don't know if he would be
15 able to identify him, so he was the main one that I wanted
16 to show the photo lineup to.

17 Q Okay. I'm going to show you your investigative notes
18 from June the 7th, 2017. Please tell the jury what happened
19 on that date of June the 7th, 2017.

20 A I received the photo lineup of John Wilmore and I spoke
21 with Walter Caldwell, he stated he would come on the morning
22 of 6/8 to identify the subject. And I spoke to Joseph Woods
23 at the Wal-Mart parking lot and showed him a photo lineup of
24 Mr. Wilmore, and the victim positively identified the
25 subject, John Wilmore.

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1 Q Okay. Were you able to request and receive random
2 photographs in order to prepare a lineup including this
3 defendant, Geraldo Land?

4 A Whenever you sent -- it takes SLED longer than it does
5 the county. The county jail --

6 Q That's fine, you don't have to go into that, I don't
7 want to go into that. What I want to know is, were you able
8 to actually have a lineup prepared so that you could show it
9 to Mr. Caldwell?

10 A Yes, ma'am.

11 Q I'm going to show you what's already in evidence as
12 State's Exhibit 1 and State's Exhibit 2. First I'm going to
13 ask you about State's Exhibit 2. Will you please explain to
14 the jury, what is that form -- what is the purpose of that
15 form?

16 A This form is to pretty much explain to whoever we're
17 showing the photo lineup to the process that's going to be
18 taken and we pretty much read it out to them. And then
19 after the photo lineup is showed to them, then the second
20 part of the form is pretty much stating whether they did or
21 did not select a photograph, and then if they did select a
22 photograph then they write which picture they picked, which
23 would be either the bottom left, bottom right, bottom
24 middle, then the number is, and they sign and date it.

25 Q Okay. At any time during this process, do you give

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1 indication as to who the victim should pick out of the six
2 pack?

3 A No, ma'am.

4 Q If you did what would happen to the lineup?

5 A It's no good.

6 Q It's no good?

7 A Yes, ma'am.

8 Q Did you provide Mr. Walter Caldwell with a lineup
9 that's listed as State's Exhibit Number 1?

10 A Yes, ma'am.

11 Q All right. And please tell the jury who Mr. Caldwell
12 picked out of that lineup.

13 A Geraldo Land, I believe the -- picture number four,
14 bottom left corner.

15 Q Okay. And after he picked out Mr. Geraldo Land, did
16 you have him actually document and sign his name underneath
17 that photo?

18 A Yes, ma'am. He signed right underneath the picture
19 that he picked out.

20 Q And why do you have them do that?

21 A So they can't say that we made them pick that picture,
22 or so they can't say that we circled the picture.

23 Q All right. So after you now have a photo
24 identification of who Geraldo Land is and you know his real
25 name --

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1 A Yes, ma'am.

2 Q -- at any point in time did you try to reach out to the
3 defendant?

4 A I couldn't find him.

5 Q After the photo ID lineup was given to you, what other
6 things did you try to do in order to build your case other
7 than talking to these witnesses and getting a firm
8 identification on the defendant?

9 A At the time, like I said, we had came across Little
10 Bopeep's name but we hadn't spoken to her yet. Once the
11 subject turned himself in we pressed an interview, he didn't
12 want to give an interview, but he said if you want to talk
13 to Little Bopeep, she knows I wasn't there, so we said
14 Little Bopeep was probably somebody we needed to talk to if
15 they're an alibi for him. So we pulled Little Bopeep in and
16 talked to Little Bopeep and y'all seen the interview, she
17 said, "Yeah, that's him, 100 percent positive."

18 Q And Little Bopeep again, what's her name?

19 A Luctercia Caldwell.

20 Q Why did it take you so long to actually get Ms.
21 Caldwell in --

22 A It was hard to find her too. Like I said, once he --
23 we tried to locate her. Eventually I had to get her phone
24 number from her daughter. I think we got in contact with
25 Mr. Caldwell and then Caldwell gave us her daughter, and her

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1 daughter gave us her phone number and then she contacted us.

2 Q Were there any concerns about this defendant making
3 contact with the witnesses and victims in this case?

4 A Yes, ma'am.

5 Q And what concerns did you have?

6 A The concerns that I had is that Little Bopeep and
7 himself told me that he went to Walter Caldwell's house and
8 pretty much showed out in the yard, and his mama said that
9 they made him take his shirt off and showed that that ain't
10 my son, y'all ain't fixin' to put this on my son. And then
11 they left there and went to Luctercia's job and confronted
12 her on the job and pretty much showed out at her job also.

13 Q And where was she working at the time?

14 A At the Chester Regional.

15 Q Chester Regional?

16 A Yes, ma'am.

17 Q All right. Now, were you able to actually go back into
18 the home after you were assigned this case to collect any
19 type of what we all see on TV like DNA and fingerprints and
20 touch DNA analysis and that type thing?

21 A No, ma'am.

22 Q Why is that?

23 A By the time that I was assigned the case or I started
24 looking into the case, the crime scene had been contaminated
25 so much there was no reason for us to go in and try to

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1 collect it.

2 Q Okay. Would any evidence that you would have collected
3 by that time been something that would have been valuable to
4 your case?

5 A It wouldn't have been valuable to the case. And the
6 defense could have also used it because they had been there
7 to play cards before and they had access to the house
8 before, that DNA could have already been there. They could
9 have used it as all kind of stuff.

10 Q And the information that you had at that point in time
11 was what in regards to both the defendants and their access
12 to that house?

13 A I'm sorry, say that one more time.

14 Q Had the defendants been in that house before?

15 A Yes, ma'am.

16 Q And on the evening that the robbery --

17 A The witnesses and victims both stated that both
18 subjects had access to the house, had been there several
19 times to play cards.

20 Q And as of the night of the actual burglary and robbery,
21 had one of the defendants been in the home?

22 A Yes, ma'am.

23 Q All right. Who was that?

24 A Mr. Wilmore.

25 Q So would you expect to find his fingerprints and any

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1 kind of DNA of this defendant in the home?

2 A Yes, ma'am.

3 Q All right. So other than that, was there anything else
4 that you could have gone into the home and gotten in order
5 to assist with this case?

6 A I guess I could have went and took pictures, but -- I
7 did go to the house to look around just to get a visual of
8 what the crime scene looked like, but I never took any
9 pictures.

10 Q And whenever you -- did you see what had happened to
11 the door, how they got into the door?

12 A No, ma'am. There was no forced entry into the door.

13 Q All right. And then also the room itself, did you --
14 were you able to determine from walking into the room
15 whether it was a large room or --

16 A It was a small room.

17 Q A small room?

18 A Yes, ma'am.

19 Q And were you able to confirm whether or not that the
20 house had lights in it, that --

21 A Yes, ma'am, it had lights.

22 Q It had lights in it. Okay. Now, once again you said
23 you finally interviewed Luctercia Caldwell, and on that
24 interview was it actually audio and video recorded?

25 A Yes, ma'am, audio and video.

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1 Q And that would be through the body camera videos that
2 you now have at the city.

3 A Yes, ma'am. We had been assigned body cameras, and we
4 were -- at the time that I left the city we were actually
5 using them to do all of the interviews with so you could get
6 a video of the person giving the interview. And I believe
7 Luctercia might have been one of the first people that we
8 used the body cameras on to do an interview.

9 Q All right.

10 MS. LIVELY: Thank you so much, Sergeant Moss. Please
11 answer any questions that the defendant has for you.

12 THE WITNESS: Yes, ma'am.

13 MR. LAND: Please the Court, Your Honor?

14 THE COURT: Yes, sir.

15 CROSS EXAMINATION

16 BY MR. LAND:

17 Q Sergeant Moss.

18 A Yes, sir.

19 Q So you were over the investigations at the time of this
20 case, right?

21 A I was over the -- I was the lead investigator on this
22 case, Lieutenant Fourney would be over investigations.

23 Q You was the lead investigator on this case.

24 A Yes, sir.

25 Q All right. And when did you first hear about this

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1 case?

2 A I can't recall the first time I heard about the case.

3 The case was actually assigned to me later, but I had
4 already been looking into the case before the date that
5 actually shows up on the paperwork.

6 Q So the case, it happened on April 9th/April the 10th
7 and you would be coming in the day of the 10th, correct?

8 A Yes, sir.

9 Q But you didn't do anything the day of the 10th, did
10 you?

11 A Not that I recall.

12 Q You didn't investigate -- you didn't follow-up on
13 Malcolm or Joseph Woods' statement.

14 A I can't remember the exact date that I started actually
15 looking into the case.

16 Q But it wasn't the 10th.

17 A I can't remember the exact date that I started looking
18 into the case.

19 Q You can't remember the exact date?

20 A Yes, sir.

21 Q Did you do -- do you have any notes from the 10th of
22 April?

23 A Not that I recall.

24 Q Do you have any notes from the week of the 10th of
25 April?

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- 1 A Not that I recall.
- 2 Q Do you have any notes from you doing an investigation
- 3 any time in April?
- 4 A Not that I recall.
- 5 Q Not that you recall. Do you have any notes on you
- 6 doing anything -- now previously -- you just said you don't
- 7 have any notes on it, but previously you stated when that
- 8 incident happened on April the 12th that you contacted
- 9 Joseph Woods.
- 10 A April the 12th, yes, sir. I spoke with Mr. Woods in
- 11 reference to the call at Wal-Mart where Mr. Wilmore
- 12 approached him, that was the first time I had contact
- 13 with --
- 14 Q On April the 12th.
- 15 A Yes, sir.
- 16 Q But you don't have any notes on there.
- 17 A Any notes?
- 18 Q Yes.
- 19 A I don't have my notes with me, they should be part of
- 20 the case file.
- 21 Q But you just stated for the record that you didn't have
- 22 any notes from anything in April.
- 23 A I said I didn't recall. I didn't said I didn't, I said
- 24 I don't recall.
- 25 Q You said you didn't recall, excuse me, sir. So now you

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1 say that on April the 12th you talked to Joseph Woods,
2 correct?

3 A Yes, sir. In reference to Mr. Wilmore coming to
4 Wal-Mart and confronting him at Wal-Mart.

5 Q Do you recall just telling the solicitor several
6 minutes before that before May 17th that you hadn't had any
7 contact with Joseph Woods?

8 A I don't recall that.

9 Q You don't recall that?

10 A No, sir.

11 Q You stated that you hadn't had any contact with Joseph
12 Woods to have him tell you anything about who or the name of
13 the defendant, Geraldo Land.

14 A Exactly, he didn't, he said John Wilmore.

15 Q He didn't --

16 A On the 12th.

17 Q But you said that you hadn't had any contact with him.

18 A I don't recall saying that. If I said it I don't
19 recall saying that.

20 Q So correct me that you didn't do any follow-up anytime
21 that week or anytime in April, right?

22 A I spoke with Mr. Woods on the 12th, or some time around
23 the 12th. And then on May the 5th the case was actually
24 assigned to me.

25 Q Right. So on the 12th what did Mr. Woods say to you?

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1 A He stated that -- that was the same day that we told
2 him we needed to speak to him in reference to the robbery on
3 Ashford Street, and that -- and he stated that he would come
4 and speak with us.

5 Q So you spoke to him on April the 12th but then you
6 didn't speak to him again until when?

7 A Mr. Woods was finally interviewed on June the 1st.

8 Q June 1st?

9 A Yes, sir.

10 Q So you didn't -- after you spoke to him on April the
11 12th -- after you were assigned the case on May the 5th you
12 still had not got in contact with Mr. Woods or discussed
13 anything about the case.

14 A Yes, sir.

15 Q Had you investigated Malcolm before June the 1st?

16 A Malcolm Woods wouldn't contact us at all.

17 Q Had you investigated Mr. Caldwell?

18 A Mr. Caldwell did come and speak with us on May the
19 17th.

20 Q And on May the 17th you stated that -- but you are head
21 of investigations, correct?

22 A No. I'm not the head of investigations, I'm the
23 Sergeant.

24 Q So what does that mean? That means that you
25 investigate --

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1 A That means up under the lieutenant.

2 Q Up under the lieutenant. But what range does that give
3 you to do an investigation on your case?

4 A I investigate whatever cases are assigned to me by my
5 lieutenant.

6 Q Okay. Do you do the same thing that Officer Bailey
7 did? Are you the same rank as Officer Bailey?

8 A No.

9 Q So you have the rights to investigate evidence --

10 A Officer Bailey is a patrol officer, he responds to
11 calls, I investigate crimes that have occurred.

12 Q Right. So you understand that time is of the essence
13 in any investigation.

14 A Yes. But when you have witnesses or victims that are
15 scared to cooperate then it tends to slow down your
16 investigation a little bit.

17 Q Do you have it recorded anywhere where any witness was
18 scared to cooperate? Do you have it recorded? Do you have
19 video? Do you have audio? Do you have written statements?
20 Do you have any information, any evidence backing up your
21 statement that witnesses were afraid to cooperate?

22 A I do.

23 Q Can I see it?

24 A You questioned them yesterday and they told you that
25 they were scared.

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1 Q Told them they were scared? Who?

2 A Yesterday they told you they were frightened, they were
3 scared, that's the reason they waited to call 911.

4 Q Did she say that they were scared to cooperate though?
5 That's the question that I'm asking you. At anytime did
6 they say --

7 A Did they ever say it? I would assume that they were
8 scared. If someone held a gun to my head I would be scared.

9 Q The question that I'm asking you is did you have
10 evidence, written or recorded, that they stated that they
11 were afraid to cooperate with the officers?

12 A Can I recall a time that they said they were scared?
13 You would have to listen the interviews, I don't recall as
14 it has been over a year ago.

15 Q Do you have any evidence of that? Do you have it
16 written?

17 A No.

18 Q Do you have any reports -- was it ever written or
19 reported to the sheriff's department or the city department
20 that --

21 A I have a supplemental where Mr. Woods was on his job
22 and --

23 Q Can I finish asking my question, Mr. Moss?

24 A -- and Mr. Woods was scared enough to call and make a
25 report that a subject came and approached him on his job, I

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1 think that would be some kind of fright. If he wasn't
2 scared he wouldn't have called 911.

3 Q Can I finish asking my question?

4 A Yeah, go ahead.

5 Q Do you have any reports recorded anywhere, anytime from
6 any witness --

7 A No, sir.

8 Q -- wait, let me finish -- from any witness being
9 threatened by Geraldo D. Land?

10 A No, sir.

11 Q You don't?

12 A No, sir.

13 Q You have no reports -- that's never been reported to
14 the jailhouse.

15 A I do have it on where I spoke with Luctercia Caldwell
16 where you came to her job and where you came to Mr. Walter
17 Caldwell's house showing out also.

18 Q But did she say threatened any time, any place,
19 anywhere?

20 A I guess it depends on what your definition of
21 threatened is. I guess someone coming to my house in a
22 hostile manner and taking their clothes off screaming and
23 cussing would be a threat to me.

24 Q At her house? Did the defendant go to her house?

25 A Walter Caldwell's house, yes, sir, you did.

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1 Q Was Luctercia Caldwell at Walter Caldwell's house?

2 A No, she was at work. You and your mother went to her
3 work.

4 Q She was at work. And do you have it recorded -- did
5 she -- if she was frightened did she report that she was
6 threatened?

7 A If you would listen to the interview where you and your
8 mother came to my office y'all both told me that's what
9 y'all did.

10 Q We told you what?

11 A That y'all went to the Caldwell's house, showed out at
12 the Caldwell's house cussing and raising all kind of sand
13 and then --

14 Q So the interview where my mother says that we went
15 there cussing, we told you that we went there cussing and
16 showing out?

17 A If you would like to play it you sure can.

18 THE COURT: That's not a good answer, just answer the
19 question.

20 THE WITNESS: Yes, sir.

21 Q So did we not tell you -- so did -- what investigation
22 did you do in the case?

23 A The entire investigation.

24 Q Did you take any photos?

25 A No, sir.

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1 Q Did you follow-up on the lead of the car?

2 A Oh, we couldn't locate the car. We didn't have a tag
3 for the vehicle.

4 Q And another thing you said earlier, you stated that you
5 looked for the defendant, Geraldo D. Land. Where did you
6 look?

7 A Your mother's house, your baby mama's house and we
8 couldn't locate you.

9 Q And when did you look?

10 A I don't recall what the date was. You had an arrest
11 warrant so we were looking for you.

12 Q Okay. So you're -- you stated for the record that you
13 did not look for the defendant anytime prior to the arrest
14 warrant being served when you were out there investigating
15 your case, correct?

16 A No, sir.

17 Q So basically you did not go to question Geraldo D.
18 Land, who was a possible person in this case.

19 A No, sir.

20 Q So you did not investigate him until --

21 A Did we look for you? Yes. Did we find you? No.

22 Q Excuse me. You were not looking for him until he was
23 accused -- until you had already charged him with the crime,
24 correct?

25 A No, sir. We were looking for you, we couldn't locate

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1 you.

2 Q So you just stated that you didn't go to the house
3 until 6/9 when the warrants were signed.

4 A Exactly, when we had the arrest warrant.

5 Q So how were you looking for him if the same way that
6 you went to the house on 6/9, which is locked in your
7 address in the log-in system?

8 A There's things that, you know, law enforcement has to
9 follow, which is jurisdiction, and your mother's house and
10 your baby mama's house is outside of my jurisdiction. And I
11 didn't know where your mother or your baby mama stayed at
12 until I spoke with county in reference to coming and picking
13 you up.

14 Q So you could not -- basically you're saying that your
15 jurisdiction restricted you from doing your investigation.

16 A Yes. You can't go in the county unless a county deputy
17 assists you.

18 Q But could you have had a county deputy assist you to go
19 and investigate and knock on the door where Geraldo is
20 locked in the system where he lives at?

21 A Yes, sir.

22 Q Could you have called him and asked him questions
23 without there being any --

24 A I didn't have your phone number.

25 Q No, excuse me. Could you have asked him any questions

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1 at that time when you had an officer follow you there?

2 A I guess if you would have been willing to cooperate.

3 Q If I would have been willing to cooperate.

4 A Yes, sir.

5 Q Okay. How many times did you speak with Mr. Caldwell?

6 A Maybe three times.

7 Q Maybe three times. How many times did you speak with

8 Mr. Joseph Woods?

9 A Three times.

10 Q How many times did you speak with Bopeep?

11 A Once on the phone and once in the interview. Twice.

12 Q How many times did you speak to Malcolm?

13 A Malcolm, zero.

14 Q Zero. So you didn't speak to any of them before a
15 month and a half after the incident occurred besides Joseph
16 on April the 12th.

17 A Walter Caldwell on May the 17th.

18 Q That's a month and a half after the incident occurred.

19 A Just giving you dates now.

20 Q All right. Now, you stated earlier that what a person
21 says is more reliable than what they write.

22 A Is that what I said?

23 Q Yes. You stated that what they say on the recording --
24 some people have a hard time writing this and that, you
25 stated that. You recorded -- you were there and present

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1 when Mr. Walter gave his statement.

2 A I'm confused.

3 Q I'm asking were you present when Mr. Caldwell gave his
4 statement that you recorded?

5 A Yes.

6 Q Were you present when Ms. Luctercia Caldwell gave her
7 statement?

8 A Recorded, yes.

9 Q You were there.

10 A Yes.

11 Q You state --

12 A What I stated is that when people give verbal
13 statements they go into more detail is what I said.

14 Q Right. And you stated earlier that she was 100 percent
15 sure of what she said when she stated that on the recording,
16 right?

17 A She did.

18 Q Now, you stated that their stories corresponded with
19 each other, correct?

20 A They did.

21 Q So why is -- are you -- do you recall that on her
22 recording she says that John Wilmore had the gun to
23 Malcolm's head -- I mean, to Joseph's head?

24 MS. LIVELY: Your Honor, I'm just going to object to
25 him pitting witnesses, it speaks for itself.

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1 THE COURT: You can't ask him about what other
2 witnesses testified about.

3 MS. LIVELY: Thank you.

4 Q You stated that their statements coincided, right?

5 A Yes.

6 Q So you were saying -- what were you meaning by their
7 statements coincided?

8 A They corroborated each other, pretty much their stories
9 were all the exact same.

10 Q It was all the exact same.

11 A From what happened and to who done it.

12 Q From what happened to who done it.

13 A Yes.

14 Q So you stated that you heard the statement from
15 yesterday.

16 A Yes, I heard the statement yesterday.

17 Q And in that statement from yesterday --

18 A I was present during the statement.

19 Q Say that again.

20 A I was present during the statement.

21 Q Tell me, what did they tell you happened in that
22 statement?

23 A As far as what?

24 Q As far as what happened, who --

25 A Two subjects came into a house where they were playing

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1 cards uninvited and stuck guns to one of the victim's heads,
2 took all of the money off the table and then both subjects
3 ran.

4 Q Who stuck guns to the victim's head?

5 A Geraldo Land.

6 Q They said that in the recorded statement that you took
7 last year on -- that you stated you heard yesterday?

8 A I'm confused by what the question is.

9 Q I'm asking you, you just stated for the record that
10 they stated on the record that Geraldo Land put a gun to
11 someone's head.

12 A Yes.

13 Q Did they say that on that recording that you heard
14 yesterday?

15 A Mr. Woods did say that on his recording.

16 Q Mr. Woods. We're talking about did Mr. Caldwell say
17 that.

18 A Mr. Caldwell did state that someone stuck a gun to
19 Mr. Woods' head.

20 Q Who did he state stuck a gun to his head?

21 A He said one of the suspects.

22 Q He did give a name in that recording though, didn't he?

23 A Did he?

24 Q Did he? I'm asking you. I am asking you.

25 A Are you asking me --

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1 THE COURT: He's asking you did he name -- did Mr.

2 Caldwell name who the gun was pointed at.

3 A Did he name who the gun was pointed at? He said that
4 the gun was pointed at Mr. Woods -- the side of Mr. Woods'
5 head.

6 Q Did he tell you who pointed the gun at his head in that
7 recording?

8 A I don't recall.

9 Q You don't recall. Did you not state for the record
10 that you heard that recording yesterday?

11 A I did.

12 MS. LIVELY: Your Honor, I'm just going to object to
13 him pitting witnesses. I believe that the statements very
14 clearly -- the jury, that's their province, they can listen
15 to the statements and determine the credibility --

16 THE COURT: He can ask him about --

17 MR. LAND: Your Honor, for the record he stated --

18 THE COURT: Just a minute. He can ask him about what
19 was said during the statement, not what was heard yesterday.

20 MS. LIVELY: Yes, sir. That's what I'm objecting to.

21 THE COURT: Yeah. He can testify as to what he recalls
22 of the statements.

23 MS. LIVELY: Right. But not what -- I was talking
24 about he asked him yesterday.

25 THE COURT: The statement speaks for itself.

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1 MS. LIVELY: Yes, sir. Let the statement speak for
2 itself, yes, sir. Thank you.

3 Q And so the statement that you just stated, you stated
4 that Mr. Walter Caldwell told you that someone stuck a gun
5 to Joseph's head.

6 A Yes.

7 Q Do you recall who it was that he stated on the
8 recording --

9 A Geraldo Land. What eventually came through the
10 investigation to the name of Geraldo Land.

11 Q So on the recording you were stating -- when you
12 took --

13 A I don't recall what is stated in the statement, but
14 through the investigation.

15 Q How many times did you record Mr. Walter Caldwell?

16 A Once.

17 Q When you recorded him, do you recall him saying Geraldo
18 Land on the recording?

19 A I don't recall.

20 Q You don't recall.

21 A But through the investigation it was determined that
22 Geraldo Land was the one holding the gun to Mr. Woods' head.

23 Q And when you recorded Ms. Bopeep, or Ms. Luctercia
24 Caldwell, do you recall what she stated?

25 A At the part that you're talking about, the video -- the

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1 audio becomes distorted so you really can't make out exactly
2 what she's saying. You could fill in the distorted part
3 with a million different things.

4 Q Because Lieutenant -- do you recall in there --

5 A Sergeant.

6 Q No. Do you recall in that recording where Lieutenant
7 Fournery asked her who held the gun to her head and she
8 stated -- what did she state?

9 A During that part I remember the video being distorted,
10 something was going on with the audio.

11 Q Were you there whenever the video was taken?

12 A I do, it was over a year and a half ago.

13 Q But were you there?

14 A Was I there? Yes.

15 Q And do you recall what she said?

16 A Do I recall word for word what she said?

17 Q No, not word for word. Do you recall who she stated
18 placed a gun to Mr. Malcolm Woods' head?

19 A No.

20 Q You don't.

21 A I don't recall. But through the investigation it was
22 determined that Geraldo Land pointed a gun at the victim's
23 head.

24 Q Do you recall that Mr. Malcolm Woods -- excuse me, that
25 Mr. Walter Caldwell stated that he was sure that it was John

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1 John? Because when Malcolm -- when Joseph looked up he seen
2 John John and he told him on that statement that you
3 recorded, that you were there when this happened? You were
4 there when it was recorded?

5 A Do I recall word for word what happened? No.

6 Q No. Do you recall that he stated he was sure it was
7 John John Wilmore, because when he looked up he seen John
8 John Wilmore holding a gun to his head? Do you recall Mr.
9 Walter Caldwell stating that?

10 A I don't recall that.

11 MR. LAND: Your Honor, can I play that for him?

12 THE COURT: No, because he says he doesn't recall. You
13 can't pit him against the statement of another witness.

14 MR. LAND: I can't pit him against the statement.

15 THE COURT: No. He says he doesn't recall.

16 MR. LAND: He doesn't recall. I can't refresh his
17 memory?

18 THE COURT: Not with the tape, no.

19 MR. LAND: Beg the Court's indulgence for a moment.

20 (Break in proceedings.)

21 THE COURT: We'll take a break and if you can find that
22 testimony I'll let you play it to refresh his recollection.
23 So let's -- we haven't had a morning break yet. And I'll go
24 ahead and tell you now since we probably won't have another
25 break before, we ordered lunch today so we'll have lunch

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1 here, so instead of an hour and 15 minutes we'll take 35 or
2 40 minutes and move on so hopefully we can finish today. We
3 don't have to, but based on what I think the number of
4 witnesses will be called and what else we have to we may
5 can. So go to the jury room for a morning break.

6 (The jury left the courtroom.)

7 MR. LAND: I have another question.

8 THE COURT: Okay.

9 MR. LAND: Can I get the State to give me a copy of --
10 because they did give me a copy of the transcript from the
11 last trial from the officers. Because my transcript has
12 everything but the officers' testimony from the last trial.

13 THE COURT: Well, they don't have to, that's not their
14 responsibility. I don't have a transcript. He wants a
15 transcript of Moss' testimony from the prior trial.

16 MS. LIVELY: Your Honor, it was never requested by the
17 court reporter by myself or the defense, and we have the
18 court reporter here in the courtroom.

19 THE COURT: So it's not available.

20 MR. DUNN: Your Honor, while he's doing that, one of
21 the witnesses that was subpoenaed has indicated to me that
22 Mr. Land has told him he's not going to be needed and he is
23 asking to be released, I don't feel comfortable --

24 THE COURT: What is the witness' name?

25 MR. DUNN: Pack Culp.

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1 THE COURT: Say it again.

2 MR. DUNN: Theddo, T-h-e-d-d-o, Culp, C-u-l-p.

3 THE COURT: Do you want Mr. Culp to stay?

4 MR. LAND: He can be excused, Your Honor.

5 THE COURT: You can be excused, Mr. Culp, thank you for
6 coming.

7 (Break in proceedings.)

8 THE COURT: Do you have it?

9 MR. LAND: Yes, sir.

10 THE COURT: Okay. Bring in the jury.

11 (The jury returned to the courtroom.)

12 THE COURT: Are you going to play the part that you say
13 is inconsistent or playing to refresh this witness'
14 recollection about the statement?

15 MR. LAND: Yes, sir.

16 Q For the record just to be sure, you stated that to your
17 recollection Mr. Walter Caldwell stated that he identified
18 Snoop as the individual who had the gun to Mr. Joseph Woods'
19 head, right?

20 A I said through the investigation it was determined that
21 Geraldo Land was the subject that held the gun to Mr. Woods'
22 head.

23 Q And you also refuted the fact that -- let me play that
24 part right there first and we'll see what Mr. Woods said.

25 And just to be sure this is you recording this --

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1 A Yes. I didn't refute anything, I said I didn't recall.
2 I didn't say whether it happened or didn't happen, I just
3 said that I didn't recall.

4 Q Just to be sure I'm going to start it at the beginning
5 of it just to make sure just to hear your voice and make
6 sure this is your voice.

7 (The statement was played.)

8 Q Is that you?

9 A Yes, sir.

10 Q That is you.

11 A Yes, sir.

12 Q Say your name for the record.

13 A At the time it would have been Sergeant Moss.

14 Q Sergeant Moss.

15 (The interview was played.)

16 Q You heard Mr. Walter Caldwell said that was John John
17 was the one with the gun.

18 A He said that John John was the one with the gun.

19 Q Did you hear Mr. Walter Caldwell said John John was the
20 one with the gun to the head?

21 A I did not. I heard him say that Snoop was the one that
22 was reaching for the money. It's hard for me to hear.

23 MR. LAND: Your Honor, may I publish it just to let him
24 hear?

25 THE COURT: Yeah, play it.

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1 (The audio statement was played.)

2 Q Did you hear him?

3 A Yes, sir, I heard it.

4 Q Was it you, Mr. Moss, that asked him that question?

5 A Asked him the question, yes, sir.

6 Q But you don't recall that to this day.

7 A I do now. Like I said, it's been over a year ago.

8 I've worked several cases, there's a bunch of different

9 cases I work, I can't remember every detail of every case.

10 Q Yes, sir, I understand that. One more question, sir.

11 You stated that you didn't recall that he told you that he

12 looked up -- that he informed you that Joseph Woods --

13 excuse me, I want to ask you this question. How was Ms.

14 Woods -- Mr. Caldwell able to identify Land in the lineup if

15 he stated and told you that he didn't know that they said.

16 who was they --

17 MS. LIVELY: Objection, Your Honor, that's speculation.

18 THE COURT: I sustain the objection. You can't ask him

19 why somebody else did something, we've gone down that road

20 before.

21 MR. LAND: Yes, sir.

22 THE COURT: And you've played the part that I said you

23 could play.

24 MR. LAND: You said the part where he said he remember

25 what Walter Caldwell told him that --

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1 THE COURT: Go ahead and play that then, but I'm
2 allowing this for a very limited purpose.

3 MR. LAND: Yes, sir. Thank you, Your Honor.

4 (The audio statement was played.)

5 Q Did you hear him say -- do you recall him telling you
6 that he looked up and said that it was John John?

7 A Now that I was hearing the recording, yes, I can recall
8 it.

9 Q You do? All right. So with that being said and with
10 another witness' story conflicting that, did it ever
11 consider to you that maybe Mr. Land is innocent? Did you
12 ever assume that -- did you ever follow the statutes of the
13 law which state that a defendant is innocent --

14 MS. LIVELY: Objection, Your Honor, that's asking for a
15 conclusion.

16 THE COURT: Yeah, I sustain the objection.

17 MS. LIVELY: Thank you.

18 Q Do you agree that a defendant is innocent until proven
19 guilty?

20 A Yes. That's why we're here today.

21 Q That's why we're here today. Did you -- you told Mr.
22 Land's -- Mr. Land's mother gave you a statement, correct?

23 A Yes.

24 Q You told Mr. Land's mother that you would follow-up
25 with the things that she told you, correct?

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1 A I did.

2 Q But did you or did you not interview any of his alibi
3 witnesses?

4 A I interviewed Little Bopeep.

5 Q But did you interview alibi witnesses which would be
6 Mary Burris --

7 A I was told that Little Bopeep knows that Geraldo Land
8 didn't do it and that's who I needed to talk to, so I went
9 and spoke to Little Bopeep.

10 Q Did you or did you not -- for the record I was asking
11 you a question -- did you or did you not interview Mary
12 Burris or Thomas Love, who was given to you as alibi
13 witnesses?

14 A I don't know who interviewed them two, I didn't
15 interview them two.

16 Q You didn't though.

17 A No.

18 Q After you told his mother that you would follow-up and
19 investigate what she told you, correct?

20 A I followed up with one of the witnesses that she --

21 MS. LIVELY: Your Honor, I'm just going to object,
22 because he's talking about a statement that's not in
23 evidence.

24 THE COURT: Yeah, that's --

25 MS. LIVELY: And if he opens the door, Your Honor, then

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1 that statement could possibly come in, he needs to be aware
2 of that. Thank you.

3 Q Sergeant Moss, you did say for the record that you
4 heard some of Walter Caldwell -- did you hear Walter
5 Caldwell on the stand yesterday? You were in the courtroom,
6 correct?

7 A I was here, yes, sir.

8 Q Did you hear him state that he felt that Jasmine
9 Caldwell was involved in this robbery?

10 A Yes, sir.

11 MS. LIVELY: Objection, that's a misrepresentation.

12 THE COURT: You can't ask him about other witness'
13 testimony. You've got to ask him what he knows.

14 Q Do you recall Mr. Land telling you about Jasmine
15 Caldwell?

16 A Yes.

17 MS. LIVELY: Your Honor, I'm going to object. If he's
18 going to start getting into his statement, once again I'm
19 going to ask the Court to allow me to proffer that and put
20 it into evidence, and that's a narrow line.

21 THE COURT: You've put him on notice.

22 MR. LAND: Yes, sir.

23 MS. LIVELY: Thank you.

24 Q So did you ever investigate Jasmine Caldwell?

25 A I did not investigate her. I spoke with her briefly on

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1 the side of the road.

2 Q On the side of the road. Did you know Jasmine Caldwell
3 before this incident happened?

4 A Do I know who she is? Yes, I know who she is.

5 Q So you knew where was before this happened?

6 A Yes, sir.

7 Q So you interviewed her. When was that that you
8 interviewed her?

9 A I didn't interview her.

10 Q When was it that you spoke with her on the side of the
11 road?

12 A I pulled up to her. I told her that Geraldo Land said
13 that I -- either you or John John told me that I needed to
14 talk to her and I needed her to come to the office and give
15 me a statement about the incident that took place and she
16 said okay, and I never heard anything else from her.

17 Q Were you aware that Mr. Caldwell thought that she was
18 involved in the robbery?

19 MS. LIVELY: Objection, Your Honor.

20 THE COURT: I sustain the objection.

21 Q Did you or did you not investigate -- did you not
22 interview her after that moment when you seen her on the
23 side of the road?

24 A She never came to be interviewed.

25 Q You didn't find it no need or necessary to locate her?

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1 A I did locate her and let her know she needed to be
2 interviewed in reference to this case, and either you or
3 John John said that she was a witness for them and she never
4 showed up.

5 Q So you did tell her that but you never did follow-up.

6 THE COURT: He's testified to that, let's move on.

7 Q Did you follow-up with Mr. Caldwell after the initial
8 time when you told him -- did you follow-up interview him
9 after you informed him that you needed to contact him?

10 A No, he made contact with me.

11 Q He made contact with you.

12 A Yes.

13 MR. LAND: A moment's indulgence, Your Honor.

14 (Break in proceedings.)

15 Q How many times did you go over to locate Mr. Caldwell?

16 A None. Once. I went and spoke with him one time in his
17 yard and told him that I needed to talk to him about the
18 incident that took place and he said okay, and then
19 eventually he came and spoke with me on his own will. And
20 then he came back on his own will to do the photo lineup.

21 Q So how did he interview (sic) Mr. Land in the photo
22 lineup when he said that he couldn't say that he seen me?

23 MS. LIVELY: Objection, Your Honor. Once again --

24 THE COURT: That's going back to how somebody else did
25 something or why and he can't testify to that.

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1 MR. LAND: Yes, sir. Okay.

2 Q Do you recall -- how many times did you speak with
3 Mr. Woods?

4 MS. LIVELY: Your Honor, I'm just going to object,
5 asked and answered.

6 THE COURT: Yeah. He's already answered, you've asked
7 him that. Move onto something else. I'll let you ask him
8 one more time but you can't keep going over the same stuff.

9 Q Did you speak to Mr. Woods any throughout this
10 investigation?

11 A Which Mr. Woods?

12 Q Malcolm Woods.

13 A Is Malcolm the one that works at Wal-Mart?

14 Q No, sir.

15 A No. I did not speak with Malcolm Woods at all.

16 Q You didn't speak with Malcolm Woods in your entire
17 investigation?

18 A No, sir. He wouldn't come and speak with us.

19 Q Do you have a statement from Malcolm Woods?

20 THE COURT: He said he didn't speak to him.

21 Q Did you receive any information in the cellphone that
22 John Wilmore was supposedly texting, that you said he was
23 texting?

24 A No. They weren't able to get into the phone because it
25 had a pass code on it. The phone couldn't be -- nobody

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1 could get into the phone.

2 Q Nobody could get into the phone?

3 A No, sir.

4 Q Because it had a pass code on to it?

5 A Yeah. He had some type of -- I don't know if it was a
6 pin code or a word code or what it was, but it was some kind
7 of a code that couldn't be broken.

8 Q Did you still have the phone? Did you try to take it
9 to the --

10 A I don't know if the phone is in evidence or where it's
11 at.

12 Q If you had the phone would you have been able to see
13 who Mr. Wilmore was texting that night?

14 A It had a pin code on it, he wouldn't provide the pin
15 code.

16 Q Did the defendant, Mr. Land, turn himself in for the
17 record?

18 A Yes, sir.

19 Q He did turn himself in. And you did not investigate
20 any of his alibi witnesses as you said, right?

21 A I did investigate Little Bopeep, Luctercia Caldwell,
22 which name was provided by yourself. And I tried to speak
23 with Jasmine Caldwell who would not come and speak with us.

24 Q You tried to speak --

25 A And what I remember --

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1 THE COURT: Just wait, let him ask you a question.

2 A This goes back to the question that you just asked, but
3 you go ahead.

4 Q Go ahead.

5 A What I remember is whenever you came in and you and
6 your mom gave a statement that your mother was mostly your
7 alibi. The whole time she was up there -- I think she even
8 gave a written statement as to being your alibi.

9 Q She verified my story of where I was that night.

10 A She didn't verify anything.

11 Q She just gave you an alibi.

12 A Yes.

13 Q Did you investigate anything that she told you?

14 Because I believe that --

15 A Such as?

16 Q Did she tell you that I went to Mary Burris' house? At
17 some point in time in your interview with her did she tell
18 you that?

19 A Did she?

20 Q I'm asking you.

21 A Oh, yes, she told me.

22 Q Did you investigate what she told you?

23 A She said at some point that you went to Mary Burris'
24 house.

25 Q Did you investigate Mary Burris? Did you go and see

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1 her?

2 A Did I personally? No. Did Lieutenant Fournery? I'm
3 not sure, you would have to ask her.

4 Q Did you investigate anything that she said such as --

5 A Jasmine Caldwell and Luctercia Caldwell.

6 Q Thomas Love?

7 A Thomas Love, no.

8 Q So you didn't investigate what she said about the alibi
9 witnesses.

10 THE COURT: He's testified who he talked to and who he
11 didn't.

12 MR. LAND: Yes, sir.

13 Q So let me understand this one more time, sir. You did
14 go and look for Geraldo Land.

15 A I did.

16 Q Prior to him -- prior to -- did you look for him prior
17 to him being charged with these charges to --

18 A No.

19 Q You didn't?

20 A Not that I recall.

21 Q And why is that?

22 A Why is what?

23 Q Why didn't you look for him prior to you charging him
24 with the charges?

25 A Because I had probable to cause to get a warrant for

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1 your arrest.

2 Q But you were head of this investigation, correct?

3 A Yes, sir.

4 Q Did you know Geraldo Land before the situation?

5 A I did.

6 Q You did?

7 A Yes, sir.

8 Q How did you know him?

9 MS. LIVELY: Your Honor, I'm just going to warn the
10 defendant at this point --

11 THE COURT: Yeah, he's representing himself.

12 MS. LIVELY: Okay. Go for it, open the door.

13 Q You did?

14 A I did.

15 Q You knew Mr. Geraldo before this?

16 A I did. I dealt with you several times.

17 Q You dealt with him several times.

18 A Yes, sir.

19 Q What on several times?

20 A When I was a corrections officer at the jailhouse and
21 you was under arrest several times and you were at the
22 jailhouse and that's where I knew you from.

23 Q Was I ever arrested -- that's when you interacted -- so
24 you knew him -- what did you know Geraldo as?

25 A What you mean?

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1 Q What name did you know him as?

2 A Geraldo Land, or Mr. Land.

3 Q Mr. Land. That's all you knew him.

4 A At the jailhouse you referred to people as their last
5 name, you don't typically deal with them on a first name
6 basis.

7 Q So you knew Geraldo Land. So you knew Geraldo Land,
8 who he was. And once you got his name why didn't you go and
9 interview him?

10 A I hadn't seen you in a long time, I didn't know where
11 you were at.

12 Q You didn't know where I was at. How did you find the
13 location to serve the warrants to me?

14 A The county supplied the addresses.

15 Q The county supplied the address. Do you have access to
16 the county?

17 A During my investigation did I have access to the
18 county? No. I didn't call them and ask them if they knew
19 your whereabouts. Once a warrant was issued we needed help
20 locating you so I contacted their narcotics, I guess
21 fugitive task force and they say that they knew where your
22 mother and your baby mama lived at so that's where we went.

23 Q That's the thing, the question I just asked you, you
24 went around --

25 A I just answered it.

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1 Q You said you didn't have access. I asked you -- you
2 said you didn't call them, but I asked did you as an officer
3 of the law in Chester County, Chester City, did you have
4 access to the Chester County system?

5 A Yes, sir.

6 Q You did have access?

7 A Yes, sir.

8 Q So you could have went to Chester County system and
9 located the address prior to these charges and to
10 investigate, correct?

11 A Yes, sir.

12 Q But you did not.

13 A No, sir.

14 Q And why were the lineups taken from Chester County
15 instead of from SLED?

16 A You could get them faster, the same day. You just go
17 over and tell them you need a photo lineup and they print
18 one out.

19 Q They printed one out. But if you get one from SLED
20 then what happens?

21 A It takes a few days.

22 Q But is it more efficient?

23 A Same thing.

24 Q Same thing.

25 A Yeah.

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1 Q And so did you speak with Joe Arthur or Junior Foster?

2 A First time I've ever heard the names.

3 Q Sugar Caldwell?

4 THE COURT: Just answer whether you talked --

5 THE WITNESS: Oh, I'm sorry. I'm shaking my head, I'm
6 sorry, sir.

7 A No, sir.

8 Q So you didn't speak to anyone outside of anyone that
9 was at the house that day outside of the witnesses?

10 A No, sir.

11 Q How did you verify how much money was taken that night?

12 A Verify?

13 Q Yeah. How did you know how much money was taken that
14 night?

15 A The victims and the witnesses said how much money was
16 there.

17 Q The witnesses and the victims --

18 A Stated how much money they had.

19 Q But basically you have no set way to actually prove
20 that.

21 A No, sir.

22 Q Do you normally not follow-up with potential witnesses?

23 A I tried to follow-up with all of the potential
24 witnesses.

25 Q But you did not try to followup --

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1 A Sometimes witness are harder to locate than others.

2 Q Sometimes witnesses are harder to locate than others.

3 A I would hope that if I had an alibi that my alibi would
4 go up and speak to the police on my behalf --

5 THE COURT: Well, it's not important what you hope or
6 what you don't.

7 THE WITNESS: Yes, sir.

8 THE COURT: But I think he's talked about -- unless
9 you've got somebody new you want to ask him about I think
10 he's told you everybody that he's talked to; is that
11 correct?

12 THE WITNESS: Yes, sir.

13 Q So just to be clear, you never received any messages
14 out of the phone from John John?

15 A The phone was locked, sir.

16 Q The phone was locked.

17 A There was no way to access anything from inside the
18 phone.

19 MR. LAND: And just to be clear for the record, Your
20 Honor, not being repetitive --

21 Q -- you did not receive or do any investigation until a
22 month and a half after the robbery occurred outside of
23 April 12th where you stated that you talked to Mr. Woods.

24 A Yes, sir, April 12th. I then spoke with Mr. Caldwell
25 on May 17th.

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1 Q And just for the record you stated that you do
2 understand that Mr. Walter Caldwell stated that he did not
3 see Geraldo Land.

4 MS. LIVELY: Objection, Your Honor, he's pitting the
5 witnesses. This is asked and answered.

6 THE COURT: You can't pit one witness against the
7 other.

8 MR. LAND: Okay.

9 Q Just for the record you did investigate Mr. Caldwell,
10 right? You did interview him on the recorder.

11 A Yes, sir.

12 Q You did also interview Ms. Bopeep and record her.

13 A Yes, sir.

14 Q And you do recall now that Mr. Caldwell stated --

15 MS. LIVELY: I'm going to object, Your Honor, asked and
16 answered.

17 THE COURT: That's been asked and answered.

18 MR. LAND: One moment, Your Honor.

19 (Break in proceedings.)

20 Q Sergeant Moss, as the head of this investigation, did
21 you ever ask any of the neighbors what they saw that night?

22 A No, sir.

23 Q I mean, even after you got on the case you never still
24 went and asked any of the neighbors did they see anything or
25 anything?

JUSTIN MOSS - REDIRECT

1 A No, sir.

2 MR. LAND: No more questions at this time, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. LIVELY:

5 Q Tell this jury how you know Geraldo Land.

6 A I know him because I used to be a corrections officer
7 when I first started off in law enforcement at the Chester
8 County Detention Center and that's where I initially met him
9 as an inmate.

10 Q As an inmate? How long ago was that?

11 A Six or seven years ago, probably a little longer than
12 that.

13 Q And since that time had you had other dealings with
14 him?

15 A Not that I can recall right offhand.

16 Q Okay. So whenever this actual incident occurred and
17 you finally got the name of Geraldo Land from Mr. Joseph
18 Woods, did you know exactly who he was talking about?

19 A Yes, ma'am.

20 Q And that's from your prior dealings with him?

21 A Yes, ma'am.

22 MS. LIVELY: Thank you, no further questions.

23 THE COURT: Recross? It will be just on that --

24 MR. LAND: Yes, sir.

25 RECROSS EXAMINATION

JUSTIN MOSS - RECROSS

1 BY MR. LAND:

2 Q So you state that you did know Geraldo Land from his
3 prior dealings.

4 A Yes, sir.

5 Q As your duties as a corrections officer at the Chester
6 County Detention Center, right?

7 A Yes, sir.

8 Q And how long did you work at the Chester County
9 Detention Center, sir?

10 A About 16 months.

11 Q And when you were an officer at the Chester County
12 Detention Center you know what an inmate's record is and
13 what they've been charged with?

14 A I really don't. Whenever I was working there I didn't
15 pay attention to what people's charges were, I just dealt
16 with them on a man to man basis.

17 Q So in your dealings with Geraldo, had you ever had any
18 bad issues or bad dealings?

19 A No, sir.

20 Q Has he ever attacked you or been disrespectful?

21 A No, sir.

22 Q Did he ever strike you as a violent type guy?

23 A No, sir.

24 Q Based on that right there -- so upon your dealings with
25 him y'all never had any bad terms or anything.

JUSTIN MOSS - RECROSS

1 A No, sir. From the time I worked in the corrections
2 facility all of the way up until you turned yourself in all
3 the way up to now I've never had a disrespectful or any type
4 of altercation with you.

5 Q Right. Do you recall at the time that you were with
6 Mr. Land at the facility?

7 A Do I recall such as -- like do I remember seeing you
8 there as I worked there?

9 Q Yes.

10 A Yes, sir.

11 Q Do you recall that -- was Mr. Land ever there for --
12 was he there for -- do you recall what Mr. Land was there
13 for?

14 A Do I recall? Like do I know exactly what you were
15 there -- no, sir, I do not. Like I said, when I worked in
16 the facility I didn't look at people's records because it's
17 not my place to know what they're in the jailhouse for.
18 That's just -- I really didn't pay attention to what
19 people's charges are.

20 Q One last question. When you were investigating the
21 case of Geraldo Land, did you feel like that was something
22 that was of his character?

23 MS. LIVELY: Your Honor, he's opened the door.

24 MR. LAND: No further questions, Your Honor.

25 MS. LIVELY: I'm asking based on him opening the door,

JUSTIN MOSS - RECROSS

1 Your Honor, if I may ask this witness to testify in regards
2 to that specific issue.

3 THE COURT: I didn't understand the question. What was
4 the question?

5 MS. LIVELY: He said whether it was his character or
6 not, that's what he asked. And we can have Mike replay
7 that.

8 MR. LAND: The witness didn't answer the question.

9 MS. LIVELY: That's not the point. The question was
10 asked in front of the jury.

11 THE COURT: You asked about --

12 MS. LIVELY: I asked him.

13 THE COURT: Wait, what was the question?

14 (The question was read by the court reporter.)

15 THE COURT: I will allow her to ask about your
16 character because you put it into evidence.

17 MR. LAND: I'm going to object to this because this
18 does not state my character.

19 THE COURT: Let me let the jury go out. I'm not sure
20 if lunch is here yet so we're going to finish this witness,
21 but I need to take this up outside of your presence.

22 (The jury left the courtroom.)

23 THE COURT: Ms. Lively, I don't believe the witness
24 answered -- is there any answer to the question?

25 MS. LIVELY: Well, he'd asked him originally -- and we

JUSTIN MOSS - RECROSS

1 may have to go back -- whether or not he'd ever been
2 disrespectful, whether or not he'd ever seen him be -- or
3 had any experience with him being violent, he said a lot of
4 different things where he continues to interject his
5 character in asking these questions. The problem is is that
6 because he's acting as his own lawyer it just puts this
7 whole new spin on it is that is he able to ask those type of
8 questions but because it is himself he's talking about he
9 should be able to get away with it. Absolutely not. The
10 thing is the rule is very clear, once you establish that you
11 are going into a person's character then you open the door
12 for anything regarding that person's character in the past,
13 not for the purpose of proving that he committed this
14 current crime, but for the purposes of impeaching that
15 character evidence. And that's the point, Your Honor, is
16 that once you actually open that door -- and I tried through
17 some of my objections to tell him you're walking a tight
18 line here, because what's ending up happening he's talking
19 about statements that he went in, and I told you which was
20 self-serving when him and his mom went and spoke to Sergeant
21 Moss where he said some of the same stuff, and now he's
22 actually gone in to where he was actually incarcerated at
23 some time in the past, whether or not he knew what type of
24 charges that he had. Well, he's opened the door now. I can
25 ask Sergeant Moss, "Well, were you aware that these were the

JUSTIN MOSS - RECROSS

1 charges?" If he can say yes or no, but he has opened the
2 door to that, Your Honor. By cutting me off at the knees
3 he's being able to leave this information out there to the
4 jury that he's a non-violent person, which we know is not
5 the fact. I mean, he's got a felon in possession of a
6 firearm and ammunition and he's got two --

7 THE COURT: Well, he's already testified he doesn't
8 know what the charges were.

9 MS. LIVELY: And that's the reason why -- the problem
10 is is that if he says he doesn't know what the charges are,
11 then he says, "Well, have you ever known me to be of a bad
12 character or known about my character?" What he's done then
13 is he has now put that issue in front of the jury.

14 THE COURT: No. But he's putting himself one on one as
15 to how this witness, Mr. Land, related to this witness, not
16 his character in general.

17 MS. LIVELY: But, Your Honor, he's one in the same.
18 That's the problem that the State is having in regards to
19 doing that is if his attorney had asked that question it
20 would completely open the door in regards to whether or not
21 there was anything in his character that I could go back and
22 ask him about and he can say no, I'm not aware of that. But
23 he's already said that he's aware that he has been
24 incarcerated before, and he says he doesn't look at the
25 charges so he didn't know what those charges were. But then

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1 he says, "Is there anything in the past that would give you
2 any indication as to what my character was," or whatever it
3 was that Mr. Watkins said that he said. So he opens the
4 door to his character at that point which allows me not for
5 the purpose of proving the crime but for the purpose of
6 showing that this character is something now that is at
7 issue that he should be allowed to respond to, and that's
8 what I'm looking at. If he's trying to introduce any type
9 of evidence of character that he is someone who is a
10 non-violent person, which he asked that question of one of
11 the witnesses yesterday, whether or not he's been known to
12 be a violent person, now he's asking whether or not -- "Have
13 I always been nice to you? Have I always cooperated? Have
14 I always done all of these things?" And then he starts
15 saying, "Is that a part of my character?" Once he throws
16 that out there he said the magic word.

17 MR. LAND: That's dealing with me and his relationship
18 from where he say he know me from the jailhouse. He stated
19 he didn't know my charges, he stated that he just know me
20 from the jailhouse and that he had dealings with me. And as
21 in our interactions --

22 THE COURT: I don't think you can go outside the
23 parameters of what this witness knows about his character.
24 He's asking what this witness knows about the character but
25 I don't believe you can go into other character evidence,

JUSTIN MOSS - RECROSS

1 because he was asking him a one on one situation, not
2 character in general.

3 MS. LIVELY: Well, Your Honor, in State v. Taylor it
4 says that where the defendant introduces evidence as to a
5 particular fact where he says here are you aware -- has my
6 character ever been that I've been somebody who has either
7 been disrespectful or uncooperative or anything like that --

8 THE COURT: What were the facts in that case?

9 MS. LIVELY: The facts in this case -- I would have to
10 pull it up -- basically what it says is the State can
11 introduce evidence, an explanation or rebuttal, even if such
12 evidence would be irrelevant had it been offered initially.
13 It says that if it goes to the witness' answer in regards to
14 credibility and character then it's admissible.

15 MR. LAND: It says what, if it goes the witness'
16 answer?

17 THE COURT: That kind of goes back to what I said, he's
18 asking this particular witness the relationship the two of
19 them have had, not his character in general, his character
20 as observed by Mr. Moss.

21 MS. LIVELY: Do you see the conundrum the State is in,
22 Your Honor? Because he's acting as his own attorney. His
23 attorney could not ask that question. True. Because now
24 he's being allowed to testify by asking him about their
25 relationship which is completely inappropriate at that

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1 point. He is testifying without actually testifying because
2 he is asking him about his character and about his
3 personality in dealing with Sergeant Moss, and that's
4 completely --

5 THE COURT: How do you plan to put it in? What are you
6 going to present that differs from what Mr. Moss has said
7 about his character?

8 MS. LIVELY: I'm going to put in his record.

9 THE COURT: How are you going to get it in?

10 MS. LIVELY: I'm going to ask him whether or not he's
11 familiar as a corrections officer as to what a prior
12 criminal history looks like, does he see this.

13 THE COURT: I think you would have to have the records
14 custodian to get the records in.

15 MS. LIVELY: Okay. I'll call a records custodian in
16 rebuttal if necessary then. I still believe at this point
17 in time, Your Honor, this is completely inappropriate in
18 regards the entire testimony he just now had with Sergeant
19 Moss. He was basically testifying, he was not cross
20 examining this witness. That would have been improper cross
21 examination through his attorney, Geoff Dunn, if he'd done
22 that, because that is basically offering testimony in
23 regards to his potential character. So I would ask that
24 entire line of questioning be stricken.

25 THE COURT: I'm going to leave it in and we'll see

JUSTIN MOSS - RECROSS

1 where it goes. I'm not going to let you put in any records
2 without it being properly authenticated.

3 MS. LIVELY: That's all I have.

4 THE COURT: Do we have another witness for the State?

5 MS. LIVELY: Yes, I do. Are we done with this witness?
6 I don't know.

7 THE COURT: Well, I don't know.

8 MR. LAND: I'm done with him, Your Honor.

9 THE COURT: Are you finished with this witness?

10 MR. LAND: Yes, sir.

11 THE COURT: He withdrew the question anyway, you never
12 answered so I don't know whether that's another issue. He
13 asked the question and then very quickly kind of withdrew it
14 and there never was an answer, so there's no testimony from
15 this witness about a general character if there was
16 specific -- we've already gone over that so we will deal
17 with the rest of that later.

18 (The jury returned to the courtroom.)

19 THE COURT: Members of the jury, this may seem
20 meaningless but I have to do this to keep the record
21 straight, that was the last question so I'm going to let
22 this witness step down. I understand that lunch is here,
23 we'll take 45 minutes for lunch, which will start us back
24 around 1:00. Enjoy your lunch, we'll call you back in here
25 at 1:00.

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1 (A lunch break was taken.)

2 THE COURT: State ready?

3 MS. LIVELY: Yes, sir.

4 THE COURT: Mr. Land?

5 MR. LAND: Yes, sir.

6 (The jury returned to the courtroom.)

7 THE COURT: The State can call its next witness.

8 MS. LIVELY: The State would call investigator Keith
9 Lewis to the stand.

10 The witness, KEITH LEWIS, was first duly sworn and
11 Testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LIVELY:

14 Q Investigator Lewis, please tell the jury who you are
15 currently employed by.

16 A I'm employed by the Sixth Circuit Solicitor's Office.

17 Q And prior to being employed there what did you do?

18 A I was the chief deputy of the Fairfield County
19 Sheriff's Office. I live in Winnsboro. I started in law
20 enforcement in 1977 and I retired in 2015 and came to work
21 for the new solicitor.

22 Q And is a part of your job requirement to assist
23 prosecutors whenever they are preparing for trial?

24 A It is.

25 Q And sometimes whenever you get a case file, what are

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1 the type of things that you may have to follow-up and do to
2 help prepare that case?

3 A A lot of times I go out and find witnesses, reinterview
4 witnesses that's already been interviewed, a lot of times go
5 to the crime scene or the location where something happened
6 and reevaluate it.

7 Q Okay. Does it help you to understand when bringing a
8 case to trial having been to the crime scene and actually
9 seeing it for yourself?

10 A It does.

11 Q All right. Now, in regards to this particular case,
12 which occurred in April of 2017, are you familiar with the
13 preparations that the State, myself, you, had to go under in
14 order to prepare for court?

15 A I am.

16 Q All right. And in doing so, did you go through the
17 entire case file and determine some of the things that we
18 may need to follow-up on?

19 A I did.

20 Q Was there a time whenever we went to the victim, Mr.
21 Walter Caldwell's home?

22 A We did.

23 Q All right. Do you remember the location of the home?

24 A If I'm not mistaken it's [REDACTED], which is
25 like less than a mile from the courthouse.

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1 Q And did I accompany you?

2 A You did.

3 Q Were there other officers from the city police there
4 when we arrived?

5 A Yes. Lieutenant Fourney with the city police
6 department met us there.

7 Q All right. Now, what was the purpose for going to the
8 crime scene at that time?

9 A To actually see the room to where they was playing
10 cards, see how big the room was and how it really looked,
11 how the table was set up, and just how the room was.

12 Q Okay. And were you present whenever the pictures
13 labeled and in evidence as State's Exhibit 4 through 10 were
14 taken? I'll show them to you to refresh your memory.

15 A I was.

16 Q All right. And is that the same home where the
17 burglary and robbery took place on April 10th, 2017?

18 A It is?

19 Q And whenever you went to the home was the victim, Mr.
20 Walter Caldwell, present?

21 A He was.

22 Q Were any of the other victims present, do you recall?

23 A I don't recall if any of the other victims were there.
24 Some of his family members were there, I do remember that.

25 Q And whenever you went into the home, which door did you

KEITH LEWIS - DIRECT

1 actually enter?

2 A I entered the door which comes from the deck, which is
3 on the side of the house.

4 Q And whenever you -- when we went to the house, did you
5 take a tape measure with you in order to actually determine
6 the size of the room?

7 A I did. I wanted to actually get a sketch of the room
8 and how big it was and how it was shaped.

9 Q And why is that important?

10 A Just so that if it comes to a case to where the jury
11 needs to know you can explain to the jury actually how big
12 the room was and the furniture that was in the room and
13 how -- to try to simulate how it looked.

14 Q Okay. So to give a visual representation of the scene.

15 A Yes.

16 Q And in the photograph -- and let me refer specifically
17 to which one, if I may get this back from you, please.

18 Thank you. I'm going to specifically refer to State's
19 Exhibit Number 9 first and then State's Exhibit Number 10.
20 Now, in State's Exhibit 9 and State's Exhibit 10, were you
21 able to actually see personally yourself how far the chair
22 at the head of the table would be from the door when the
23 door would swing open?

24 A Yes.

25 Q All right. And about how much space would be there?

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1 A Well, if the chair was against the table the door could
2 open all the way up. If the chair was back from the table
3 you would have to move the chair to actually open the door
4 all of the way.

5 Q All of the way. Okay. So a pretty close distance.

6 A Yes.

7 Q All right. Now, whenever the door was open and you
8 stated that the chair was pushed in, that it was at a close
9 distance, correct?

10 A Yes.

11 Q All right. Now, whenever you were there, were you able
12 to actually physically measure out the dimensions of the
13 room?

14 A I was.

15 Q And did you do anything in order to demonstrate the
16 dimensions of the room for this jury based upon your actual
17 measurements when you went to the victim's home?

18 A Yes. I actually used this tape that's on the floor
19 here. You would have to excuse the different colors, I
20 didn't have enough of the same colored tape, but the tape
21 actually is the size of that room.

22 Q Now, what I'm going to do is actually --

23 MS. LIVELY: Your Honor, if the jury needs to stand to
24 actually see.

25 THE COURT: They can stand if they need to see.

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1 Q Yes. And Investigator Lewis, if you will stand and
2 actually come around, and if you'll stand over here so that
3 the jury can see. And I'll have you tell the jury kind of
4 the dimensions of what you've laid out for them, okay?

5 A This would actually be the deck of the house back here.
6 When you came up the steps to the deck, the door that goes
7 into the room is at this particular spot here. The table
8 and chair, this would probably be the chair and the table
9 was approximately right here. And I'm sorry but we didn't
10 have enough room, but this indentation here is an actual
11 indentation in the house. Apparently there's a chimney here
12 and the fireplace or the stove must be in this room over
13 here, but it sticks out into this room and there's paneling
14 around it, but that's why that sticks out. And then there's
15 a door here that actually goes into the rest of the house.
16 Over here there's a door that goes into the kitchen. This
17 particular wall here is what I call a half wall. It's got
18 some bar stools sitting here and you can be in the kitchen
19 and actually see in the kitchen.

20 Q Okay. Now, what are the actual dimensions then of the
21 room as you documented from being there that day?

22 A From this corner to this corner is 12 foot, nine
23 inches. From this wall to this wall is nine foot and six
24 inches. And of course, this is the same, the 12/9. And
25 from this corner to that corner is 11 feet. So it's really

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1 a 12 by 11 or 12 by 12 room.

2 Q And with the table and the chairs in there that's
3 indicated on that picture, is there plenty of room to move
4 around?

5 A Well, it was pretty tight in there. Because over here
6 on this wall, I'm not sure what we actually call it but I
7 call it a stand-up cabinet that's actually got dishes and
8 got glass doors on it, and so it sticks out here a good
9 ways.

10 Q Okay. All right. Thank you, you can have a seat. And
11 I'm going to show you what's marked as State's Exhibit
12 Number 4 that -- you've already indicated that you recognize
13 all of these photos, correct?

14 A Yes.

15 Q And State's Exhibit Number 4, did you have any
16 information that that would have been the entryway of the
17 suspects on that night?

18 A No. That is actually the front of the house that
19 actually faces Ashford Street.

20 Q It faces Ashford Street.

21 A Yeah.

22 Q And then I'm going to show you State's Number 5 and 6.
23 Actually I'm going to show you 7 first because this might
24 help you. In State's Exhibit 7 in the left of the picture,
25 what is that showing us to the left?

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1 A That is the deck. And that picture was taken from the
2 steps that actually brings you up onto the deck that will
3 bring you in to that doorway over there.

4 Q Okay. So is this away from the street or on the
5 street?

6 A That is on the side of the house. Ashford Street you
7 can see is right there where that vehicle is parked.

8 Q Okay. And once again in State's Exhibit Number 6, is
9 this the angle going up towards that back door?

10 A That's pretty much the same picture, the photographer
11 is a little bit farther back and you can actually see the
12 steps that goes up to the deck.

13 Q That goes up to the deck? And Investigator Lewis, did
14 you have any other dealings or investigative work performed
15 in regards to this particular case?

16 A I did.

17 Q Okay. What other things did you actually do to assist
18 in preparing this case for trial?

19 A I interviewed Walter Caldwell, Joseph Woods, and I
20 attempted to interview Malcolm Woods.

21 Q Okay. And in interviewing them, was it to follow-up to
22 see if there was any additional information that could be
23 gathered by our office?

24 A It was.

25 Q And in regards to Malcolm Woods, why were you not --

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1 you said that you did not speak to him. Why is that?

2 A Well, I did speak to him. I wasn't able to interview
3 him because he didn't want to cooperate. He actually met me
4 here at the courthouse and was very adamant that he didn't
5 want to be a part of this, that he was scared for his safety
6 and he just didn't want to cooperate.

7 Q Okay. After speaking with those three individuals, did
8 you have anyone else involved in the case that you actually
9 spoke to? Well, let me ask you this: Not State's witness,
10 but were you provided information through the defense as to
11 potential alibi witnesses for the trial?

12 A I was not.

13 Q Okay. Did you ever have the opportunity to meet a
14 person by the name of Thomas Love who was listed as a
15 potential witness for the defense?

16 A No.

17 Q Do you know a gentleman that works at Wal-Mart who had
18 some dealings with Geraldo Land around the time of this
19 incident?

20 A Are you referring to Mr. Joseph Woods?

21 Q No, I'm not talking about Mr. Joseph Woods. I'm
22 talking about -- here. I'll see if I can refresh your
23 memory.

24 MS. LIVELY: If I may approach.

25 THE COURT: You may.

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1 Q I show you what has been provided to the State from the
2 defense and ask you just to kind of review that quickly.

3 A Okay.

4 Q And after receiving that information, was there a time
5 whenever you actually went out to speak with Mr. Love who
6 works at Wal-Mart?

7 A No.

8 Q No. You don't recall that.

9 A No.

10 Q How about Ms. Burgess? Did you ever get the chance to
11 speak with her?

12 A No. And I don't see her name on here.

13 Q I'm sorry, it might be Ms. Jacobs, I apologize.

14 A No, I did not.

15 Q Okay. Let me grab that. And once again, this
16 information came to the office through the defense like
17 right before trial; is that correct?

18 A That's the first time I've ever seen that.

19 Q Okay. Perfect. Now, Investigator Lewis, whenever you
20 actually --

21 MR. LAND: Object, Your Honor.

22 THE COURT: Wait, he's objecting.

23 MR. LAND: Can I see that paper that she just handed
24 him?

25 MS. LIVELY: Oh, sure. That was filed by your attorney

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1 on your behalf.

2 (Break in proceedings.)

3 MS. LIVELY: Those are my notes, thank you. I have no
4 further questions.

5 A Could I clarify something that I kind of felt like I
6 was left out on?

7 Q Sure. Do you need this to refresh your memory?

8 A No. But I would like for the jury to know that part of
9 my job when we do get information that there are alibi
10 witnesses, I do go out and interview those witnesses to see
11 if their alibi is correct, if it's the right timing and
12 stuff like that. I've never seen that list until today.

13 Q Okay.

14 MS. LIVELY: Thank you. Answer any questions the
15 defense might have.

16 CROSS EXAMINATION

17 BY MR. LAND:

18 Q Good afternoon, sir. What's your name again, sir?

19 A Keith Lewis.

20 Q Mr. Lewis, you just stated that you did not see that
21 list until today, correct?

22 A That's correct.

23 Q But did the solicitor just ask you did you do any
24 follow-up on that about those witnesses?

25 A She asked me if I did and I told her no.

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1 MR. LAND: Can I see that piece of paper that you just
2 submitted to him?

3 MS. LIVELY: It's not in evidence.

4 MR. LAND: Your Honor, can we admit that piece of paper
5 into evidence?

6 MS. LIVELY: Your Honor, that's his own motion, I don't
7 understand. It has my personal writing on it, I was not
8 planning on putting it into evidence because it has my notes
9 from the trial on it.

10 MR. LAND: She just handed it to the witness, Your
11 Honor.

12 MS. LIVELY: To refresh his recollection.

13 MR. LAND: I want to refresh his recollection.

14 THE COURT: Let me let the jury go out while we take up
15 this matter.

16 (The jury left the courtroom.)

17 THE COURT: Let me see what we're talking about.

18 MR. LAND: Your Honor, I have a copy of it. I have a
19 copy of it.

20 THE COURT: What's the issue, he wants to put the
21 motion in?

22 MS. LIVELY: The issue is he wanted me to give him
23 mine, which if you flip it over on the back, Your Honor,
24 it's got all of my witnesses, it's got their tag numbers to
25 their cars, their telephone numbers, that's my copy.

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1 THE COURT: Any objection to him putting his copy in?

2 MS. LIVELY: No, that's fine. I just didn't want to
3 give him my information.

4 THE COURT: Bring the jury back in.

5 (The jury returned to the courtroom.)

6 THE COURT: Without objection you can put that in.

7 Q Mr. Lewis, you stated that you haven't seen this list
8 until today.

9 A That's correct.

10 Q And you didn't -- can you read that date for the court,
11 the day that it was filed?

12 A March 29th, 2018 is the date that's on this letter.

13 Q And what is the date today?

14 A July 13th, I think. 12th.

15 Q From March 29th until July the 12th, would that be
16 enough --

17 MS. LIVELY: Your Honor, I'm going to object for just a
18 moment. May we approach?

19 THE COURT: What's the question?

20 MS. LIVELY: He's getting ready to ask a span of time
21 and there's something that happened in that span of time and
22 Your Honor knows what I'm talking about, which is going to
23 cause a problem.

24 THE COURT: I'll let the jury go back out again while
25 we take this up.

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1 (The jury left the courtroom.)

2 THE COURT: What's the question going to be?

3 MR. LAND: The question is going to be will there be
4 sufficient time from March the 29th until July the 13th for
5 him to witness -- to interview my witnesses, the alibi
6 witnesses.

7 MS. LIVELY: But, Your Honor, we had a trial in between
8 then, which we actually had the opportunity to talk to these
9 witnesses whenever they got here, so that's going to be a
10 problem. Because then he's going to try to put that
11 perception out there that we never actually talked to these
12 witnesses and that's not the case, we did talk to those
13 witnesses. If he's going to try to say the span of time
14 from whenever that was actually filed by his attorney up
15 until today was the span of time where we never went and
16 talked to his witnesses, that's absolutely not true because
17 we did talk to them before trial.

18 THE COURT: Did this witness testify that you talked to
19 them?

20 MS. LIVELY: I'm sorry?

21 THE COURT: Did this witness testify to --

22 MR. LAND: He just testified on the record that he'd
23 never seen the list or that he never spoke to those people.

24 MS. LIVELY: He said he'd never seen the list, okay?
25 And then he can ask him whether or not he actually talked to

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1 those people. But I was only agreeing to let him use that
2 to refresh his recollection, I did not agree for that to go
3 into evidence if that is the thing it is, because that --

4 THE COURT: I thought you said without objection it
5 could come in.

6 MS. LIVELY: To him asking him if he recollects from
7 it, not whether or not it's in evidence. He never had it
8 marked or anything. If he is going to mark it and put it
9 into evidence I need to know, because my thing is I said
10 that he could use it --

11 THE COURT: Let's back up just a minute.

12 MS. LIVELY: Because I don't want that going back in
13 there. It has a date on it that's very specific and we're
14 not supposed to be getting into things about the prior trial
15 and I'm trying to be real careful about that.

16 MR. LAND: I do have one thing to say because she just
17 made reference, if we're not supposed to be getting into
18 things about the prior trial, she just made reference on the
19 record of a trial that she said that before trial. You just
20 made reference to that prior trial, did you, when you
21 said -- when I had this paper I didn't have time -- he said
22 he'd never seen the paper. She stated, well, prior to trial
23 he didn't give us names of the witness, he gave us just
24 before trial, so --

25 MS. LIVELY: I didn't say the last trial, I said before

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1 trial. All they know about is this trial we're here for
2 this week.

3 THE COURT: I'm going to let you ask him if he
4 interviewed those witnesses but I'm not going to let you
5 bring up anything that remotely suggests to the jury that
6 this case has a trial before.

7 MR. LAND: That's what I'm asking. I'm asking him did
8 you interview those witnesses, he's going to say no. I'm
9 going to say had you had time from the March 29th until the
10 time this motion was filed, meaning that to July the 13th,
11 would that have been sufficient time for --

12 THE COURT: No. I think you can ask him if that is
13 sufficient time for him to talk to them. Has Mr. Lewis
14 talked to those witnesses during that period of time?

15 MR. LAND: Did you talk to these people, Mr. Lewis?

16 THE WITNESS: I've got to be careful what I say here
17 because I was out of state during the first trial so I
18 wasn't here during the first trial, and that's why I had
19 never talked to them.

20 MR. LAND: See, he wasn't even here.

21 MS. LIVELY: And I'm trying to be careful, too, because
22 there was a time when we went on some dirt road to talk to
23 one of these guys and then he finally showed up and talked
24 to us. So that's the reason why I'm trying to be careful
25 too because that was right around the time of the trial.

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1 THE COURT: I think all you can ask this witness is
2 without going into specific dates because that motion is a
3 motion for him to prove alibi.

4 MR. LAND: Yes, sir. With respect to that to be able
5 to prove alibi she called it a retrial. So even if he
6 hadn't did it by the first trial, which he stated just now
7 on the record that he was out of town, so why wouldn't she
8 do it before the second trial if he --

9 THE COURT: Well, I don't know. You're always asking
10 people why they didn't do things.

11 MR. LAND: Excuse me, Your Honor, I'm not asking why,
12 I'm just saying --

13 THE COURT: Here is what I'm going to rule. I rule
14 that he can ask him if he's aware -- what position he has on
15 these alibi witnesses. You can ask him if he's talked to
16 them, and you can ask him if he's talked to them since
17 March 29th until today's date.

18 MS. LIVELY: So just a straight question about whether
19 he interviewed any of those witnesses.

20 THE COURT: Yes.

21 MS. LIVELY: I think that's fine.

22 MR. LAND: Yeah. So basically I can ask him did he
23 talk to him, did he interview them or have you talked to
24 them since March the 29th between this time.

25 MS. LIVELY: I don't want the date in there, because

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1 the date implies that we don't know what these people are
2 going to say. They've already testified, Your Honor, there
3 was no reason for us to follow-up with them after that point
4 in time, otherwise I would have.

5 THE COURT: Well, that's just the dilemma that exists.
6 I think he has the right to ask this witness because the
7 witness testified that he made on behalf of the solicitor an
8 investigation and I think he can be asked if he talked to
9 those particular witnesses. I'm going to change my tune a
10 little bit. I'll allow you to ask him whether or not he at
11 anytime without giving specific dates has talked to the
12 witnesses. That way you can always, of course, argue to the
13 jury there's been time since April the 9th or 10th of 2017
14 until now that he's had a long time span with which to
15 interview witnesses.

16 MS. LIVELY: And that's fine. I'm just trying to avoid
17 that March 29th date because it triggers --

18 THE COURT: Yeah. I'm not going to let you go into
19 that. The question is whether or not he's interviewed those
20 witnesses.

21 MR. LAND: Right. Whether or not he interviewed them
22 at all.

23 THE COURT: Beg your pardon?

24 MR. LAND: Whether or not he has interviewed them at
25 all.

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1 THE COURT: If you want to say have you interviewed so
2 and so and you interviewed so and so.

3 MR. LAND: Right. Then I can ask him have you
4 interviewed them at all, I can ask him -- I don't have to
5 show him the list, I can ask -- the solicitor showed him a
6 list, correct, of the names.

7 MS. LIVELY: And he said he didn't recognize it.

8 MR. LAND: He said he didn't recognize it.

9 THE COURT: Then he can't be questioned about not
10 following up on that if he says he didn't see it. So all
11 you can do is ask him if he interviewed those particular
12 witnesses, that's all you can ask.

13 MR. LAND: And one more question, Your Honor. So I
14 can't ask him you did tell me that you didn't see the
15 witnesses -- the list of the witnesses, the solicitor never
16 provided that for you. I can't say that, that the
17 solicitor --

18 THE COURT: I think he can ask whether or not -- I
19 think you can ask whether or not he saw a list of the alibi
20 witnesses and did you interview those. Of course, he's
21 already said he didn't see it.

22 MS. LIVELY: I was just going to say, I just asked him
23 that just to clarify what he's done and what he hasn't done.
24 I asked him if he talked to these witnesses, no, that's it.
25 And Lolita Fourney is going to testify about that.

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1 THE COURT: I'm just going to allow him to ask again.

2 MS. LIVELY: That's fine.

3 THE COURT: If he has interviewed any of those three, I
4 think there was three witnesses.

5 MR. LAND: Right. Did you ever see a witness list for
6 the defense.

7 THE COURT: No, not witness list. That's not a witness
8 list, that's your alibi list.

9 MR. LAND: Excuse me, alibi list.

10 THE COURT: No, don't say list. You can just ask him
11 whether or not he has interviewed those three people, that's
12 it.

13 THE WITNESS: Your Honor, for the Court's knowledge
14 when Ms. Lively, the solicitor, mentioned a dirt road, I do
15 recall that we did go to a dirt road and did talk with a
16 gentleman that worked Wal-Mart, and I'm not 100 percent what
17 his name was now, I don't have my notes with me. But I did
18 talk to somebody who was an alibi witness.

19 THE COURT: Of course you would have to testify to
20 that.

21 THE WITNESS: And I really just didn't remember it at
22 the time until she said something about a dirt road.

23 THE COURT: Okay. All right. Bring in the jury.

24 (The jury returned to the courtroom.)

25 Q Mr. Lewis, for the record, you stated that you had

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1 never seen the defense -- alibi list for the defense.

2 A That is correct.

3 Q Did you at anytime investigate any of the witnesses --
4 you can't say on this list --

5 MR. LAND: May I approach the witness?

6 THE COURT: Just ask the names -- you've got -- just
7 ask him about the names.

8 Q Did you at anytime interview Mary Jacobs?

9 A Not that I recall, no.

10 Q Thomas Love?

11 A I'm not sure about Thomas Love. I did interview a guy
12 that was an alibi witness that worked at Wal-Mart and I
13 think his name might have been Love but I don't have any
14 notes with me and I'm not sure if that's the correct name.

15 Q What did Mr. Love say to you?

16 A That he had been with you on the night of the robbery.

17 Q Did you interview Ms. Nichole McIlwaine?

18 A No, I did not.

19 Q Did you ever -- what day -- do you recall what day did
20 you go to the house to take those photos and --

21 A This would have been -- I can't tell you the exact
22 date, it would have been probably the end of February or the
23 beginning of March of this year.

24 Q Of 2018?

25 A Yes, sir.

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1 Q Are you sure -- do you understand and know that the
2 robbery happened in April of '17?

3 A I am.

4 Q Would it have been even more beneficial for you to do
5 those pictures with a closer time of date to the incident?

6 A Well, it would be, yes. But I'm an investigator for
7 the Sixth Circuit, I work Fairfield, Chester and Lancaster
8 counties, I'm just in all three counties and I get to them
9 as quick as I can, or whenever the solicitor calls the case
10 or gets prepared for a case to go to court.

11 Q All right. Did Mr. Caldwell tell you that he had did
12 some repairs to the house?

13 MS. LIVELY: Objection, Your Honor. He's asking him to
14 respond to hearsay.

15 THE COURT: I sustain the objection.

16 MS. LIVELY: Thank you.

17 Q How long have you been doing investigations, Mr. --

18 A Total?

19 Q Yes, sir.

20 A Probably 34 years.

21 Q What kind of investigations have you done?

22 A I've done arson investigations, homicide
23 investigations, regular criminal investigations, narcotics,
24 criminal sexual conduct cases. I've done just about every
25 kind of case.

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1 Q You've done previous robbery cases, burglary cases?

2 A Oh, yes, sir.

3 Q In those cases, what type of evidence do you usually
4 try to find?

5 A Eye witnesses.

6 Q Eye witnesses? And those kind of things, do you
7 ever --

8 MR. LAND: Court's indulgence for a moment just to
9 gather my thoughts.

10 (Break in proceedings.)

11 Q In those --

12 MR. LAND: One moment, Your Honor. Court's indulgence
13 for one moment.

14 (Break in proceedings.)

15 Q Mr. Lewis, was there recordings ever of you
16 interviewing Mr. Caldwell -- you said you interviewed
17 Mr. Caldwell?

18 A I did talk to Mr. Caldwell.

19 Q Did you interview Mr. Woods?

20 A Which one?

21 Q Mr. Joseph Woods.

22 A I did.

23 Q Did you interview Mr. Malcolm Woods?

24 A I talked with him but he didn't want to cooperate.

25 Q And why did he say he didn't want to cooperate?

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- 1 A He told me he was scared of you.
- 2 Q He told you he was scared of me?
- 3 A Yes, sir, that's what he said.
- 4 Q That's what he said. Did you record those interviews?
- 5 A No, sir, I did not.
- 6 Q And how long have you been in investigations?
- 7 A Thirty-five years.
- 8 Q Thirty-five years. Would you think it would be good to
- 9 record those type of investigation interviews?
- 10 A No, sir.
- 11 Q You don't?
- 12 A No, sir.
- 13 Q Are you -- you said that Malcolm said that he didn't
- 14 want to testify because he was afraid of me.
- 15 A Yes, sir.
- 16 Q Do you know that Mr. Malcolm Woods was on the record
- 17 for stating that he -- what he stated on the record?
- 18 A I don't understand the question.
- 19 Q Do you know what Malcolm Woods stated on the record?
- 20 MS. LIVELY: Objection, Your Honor, he's pitting
- 21 witnesses.
- 22 THE COURT: I sustain the objection.
- 23 MS. LIVELY: Thank you.
- 24 Q Did you have any body camera on?
- 25 A I don't have a body camera.

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1 Q Did you have any tape recorder?

2 A I don't have a tape recorder.

3 Q So you didn't record any of your investigation.

4 A No, sir. I just kind of go through what they've

5 already told law enforcement when the case happened, and I

6 go through that and make sure that they were still telling

7 me the same thing that they told law enforcement.

8 Q So as your time of the investigation they were still

9 telling you the same thing that they told law enforcement.

10 A Yes, sir.

11 Q But you didn't record it.

12 A No, sir.

13 Q Who else did you investigate, did you interview?

14 A Mr. Walter, Joseph, talked with Malcolm. I did not

15 talk to Ms. Caldwell, she was in Texas at the time. And I

16 did talk to a gentleman that worked at Wal-Mart about you,

17 your alibi witness.

18 Q Did you -- at anytime did you listen to their

19 recordings?

20 A Bits and pieces of them I did.

21 Q And their testimony is that -- when did you actually

22 interview them?

23 A It would have been the end of February to the beginning

24 of March of this year.

25 Q End of February. And had their stories changed from

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1 their recordings?

2 A Pretty much the same thing.

3 MR. LAND: No other questions, Your Honor.

4 THE COURT: Redirect?

5 MS. LIVELY: No, Your Honor. Thank you.

6 THE COURT: You can step down. Thank you.

7 MS. LIVELY: Your Honor, may I have just one moment?

8 (Break in proceedings.)

9 MS. LIVELY: Your Honor, at this time the State rests
10 its case.

11 THE COURT: Members of the jury panel, the State has
12 rested, that means the State has presented its case, its
13 evidence. Under certain circumstances it could at a later
14 time present other evidence, but basically you've heard the
15 State's position on this case. We have to take a matter of
16 law up outside your presence at this time. I know you've
17 been in and out and about, but we do have -- trials are -- I
18 say sometimes, trials are sort of like ballgames, you've got
19 certain things that happened and then breaks and certain
20 things that happen and maybe another break. We have to take
21 a break at this time but it won't be a long one. Follow the
22 bailiff to the jury room.

23 (The jury left the courtroom.)

24 THE COURT: Any matter from the State?

25 MS. LIVELY: Not from the State, Your Honor.

1 THE COURT: Anything from the defense?

2 MR. LAND: Not at this time.

3 THE COURT: All right. Did you get that?

4 MR. LAND: I do have one matter.

5 THE COURT: Do you have any matters for the Court at
6 this time?

7 MR. LAND: Yes, Your Honor. I may want to place
8 Mr. Moss back on the stand, I'm not sure.

9 THE COURT: You can during your case.

10 MR. LAND: I can?

11 THE COURT: While you're standing, we've reached a
12 point in the trial where you have a right to present a
13 defense. You don't have to present a defense because you
14 are presumed innocent and the State has to prove your guilt
15 beyond a reasonable doubt, so you don't have to prove
16 anything. The State has the burden of proof as I said to
17 prove your guilt beyond a reasonable doubt. However, you
18 can call witnesses if you wish, you can testify if you wish.
19 You have the absolute right to remain silent, and you if you
20 remain silent and do not testify I will tell the jury that
21 you have exercised that right and they cannot use that
22 against you in any way whatsoever. They cannot discuss it
23 in the jury room or in their own minds while deliberating
24 the fact that you exercised your constitutional right to
25 remain silent. I will advise them that you are presumed

1 innocent, you do not prove your innocence, the State has to
2 prove your guilt beyond a reasonable doubt in order to
3 convict you. If you do testify the State can ask you about
4 those offenses that we went over earlier this week, ask them
5 in general terms whether or not you have prior convictions
6 for crimes that carried in excess of one year imprisonment
7 and we've already gone over that. Now, if you testify and
8 you are asked about those prior convictions I will tell the
9 jury that they cannot use those against you as far as
10 whether or not you are guilty of this offense, they can use
11 that only regarding whether to believe you or not, that is a
12 prior record comes in only regarding your credibility or
13 believability and not as evidence that you committed these
14 offenses. Do you understand all of that?

15 MR. LAND: Yes, sir.

16 THE COURT: All right. Have you reached a decision as
17 to whether you will testify or exercise your right?

18 MR. LAND: I haven't decided yet.

19 THE COURT: Okay. Well, let's take a refresher break
20 about five minutes just so we can use the restroom or
21 whatever and then we'll come in and start on your case.

22 MR. LAND: Yes, sir.

23 (A break was taken.)

24 THE COURT: Is the State ready to proceed?

25 MS. LIVELY: Yes, Your Honor.

JASMINE CALDWELL - DIRECT

1 THE COURT: Are you ready to proceed, Mr. Land?

2 MR. LAND: Yes, sir.

3 THE COURT: Bring in the jury.

4 (The jury returned to the courtroom.)

5 The witness, JASMINE CALDWELL, was first duly sworn

6 And testified as follows:

7 DIRECT EXAMINATION

8 BY MR. LAND:

9 Q Good afternoon, Ms. Caldwell.

10 A Good afternoon.

11 Q What is your relationship to -- first, where do you
12 live at now?

13 A I did live at [REDACTED], now I live at Chester Homes.

14 Q When did you move from [REDACTED]?

15 A I would say the first weekend of the year.

16 MS. LIVELY: Your Honor, I'm having a little bit of
17 trouble hearing her.

18 THE COURT: I am too. Pull up and make sure you speak
19 into the microphone.

20 A The first beginning of the year.

21 Q So you were there last year. You were living there in
22 April?

23 A Yes.

24 Q So what is your relationship to the Caldwells?

25 A Walter Caldwell is my grandfather.

JASMINE CALDWELL - DIRECT

1 Q Walter Caldwell is your grandfather?

2 A Uh-huh.

3 Q What would Bopeep be to you, Luctercia?

4 A That's my aunt.

5 Q That's your aunt. So you were there the night of
6 April the 10th of 2017?

7 A I was there that prior date, but the night of the
8 robbery I was not there.

9 Q The night of the robbery you were not there.

10 A No.

11 Q You were not there when the robbery happened?

12 A No, I wasn't.

13 Q You were there prior to the robbery.

14 A Earlier that day, yes. But the night when it took
15 place, no, I was up the street.

16 Q Who was there when you were there?

17 A When I left out of the house it was my baby, he was
18 sleeping before I left the house, my grandfather, Walter, my
19 aunt, Luctercia, we all call her Bopeep, Malcolm and Richard
20 Woods. They were still at the table playing cards when I
21 left.

22 Q So Luctercia was there when you left the house?

23 A Uh-huh.

24 Q She seen you leave the house?

25 A Yes.

JASMINE CALDWELL - DIRECT

1 Q Do you know what time it was when you left?

2 A It was like around nine or ten, between nine and ten
3 when I left.

4 Q Say again who all was there when you left.

5 A It was Walter, my grandfather, Luctercia, both Richard
6 and Malcolm Woods was still at the table playing.

7 Q Was John John there when you left the house?

8 A No, he had been left.

9 Q He had been left.

10 A Uh-huh.

11 Q About how long?

12 A I would say around seven or eight, because he said he
13 had to go to work. Plus he was driving his girlfriend's car
14 and she had needed her car so he had left.

15 Q And what car was that?

16 A She drives a white vehicle, I think it's a Honda Accord
17 or something like that, but it's white.

18 Q Did you talk to John John that night before he left?

19 MS. LIVELY: Objection, Your Honor, to any type of
20 hearsay.

21 THE COURT: I sustain the objection. You can ask her
22 if she talked to him but you can't ask what she said.

23 MR. LAND: That's what I said, I asked her did she
24 talk.

25 Q Did you talk to John John that night?

JASMINE CALDWELL - DIRECT

1 A Yes. I had talked to him prior to that day, that
2 night, no.

3 Q You didn't talk to him while he was there playing
4 cards?

5 A When he was playing cards we talked like before they
6 started playing cards, we was outside talking, then they
7 played cards, because I don't play cards. I sit outside
8 with the kids and make sure they're okay and he just texted
9 me for a cigarette and --

10 MS. LIVELY: Objection, Your Honor, as to any hearsay
11 statement.

12 THE COURT: You can't go in to what somebody else said
13 or texted.

14 A No. We just talked before they started playing cards,
15 that was it.

16 Q How long have you known John John?

17 A I've known him for a little minute.

18 Q All right. You say you left and went to about 10:00,
19 right?

20 A Uh-huh.

21 THE COURT: Try to say yes or no.

22 A Yes.

23 Q Okay. And was anybody else coming when you were
24 leaving?

25 A When I was leaving out Mr. Joe Arthur, he was coming,

JASMINE CALDWELL - DIRECT

1 he was pulling in the yard. So instead of locking the door
2 behind me I told him my grandfather, Walter, that Mr. Joe
3 was coming in behind me so I wasn't going to lock the door.
4 When I was in the process of going down the deck and the
5 bottom of the steps we met each other, we spoke, we greeted,
6 he went in the house and I went around the house to go up
7 the street to where I was going to go that prior night.

8 Q Mr. Joe Arthur?

9 A Uh-huh.

10 Q Was Mr. Pack Culp as you know him, was he there?

11 A I seen him there playing cards, but before I left the
12 house he was not there.

13 Q He was not there.

14 A Nuh-uh.

15 Q Did your grandfather, Walter, ever accuse you of having
16 anything to do with the robbery?

17 A Yeah. As soon as I walked in that morning about
18 6:40 -- because I left where I was at 6:36 and I got home,
19 that's when he told me --

20 MS. LIVELY: Objection, Your Honor, as to what he said.

21 THE COURT: Yeah, I sustain the objection. You can't
22 go into what he said, that's hearsay.

23 A Okay. Well, yes. He assumed that I had something to
24 do with it as soon as I walked in the door.

25 Q Why did he assume that you had something to do with it?

JASMINE CALDWELL - DIRECT

1 MS. LIVELY: Objection, Your Honor, she can't --

2 THE COURT: I sustain the objection. She can't tell
3 why he did anything.

4 Q So were you ever interviewed by any police?

5 A I had one investigator -- not no police. I had an
6 investigator come to my job and one come to my house like I
7 would say two days ago.

8 Q Do you know who those investigator were?

9 A No.

10 Q So you never talked to Sergeant Moss?

11 A He stopped me and he told me that John John had
12 wanted to -- I needed to talk to him, but he never gave me a
13 specific date or told me that I needed to come in for an
14 interview or anything like that.

15 Q Never gave you any specifics. He knew that you were
16 staying at the Caldwell's home?

17 MS. LIVELY: Objection as to leading.

18 THE COURT: She can't testify to what somebody knew.

19 Q Did he ever come to your address to follow-up with you?

20 A No.

21 Q Did he ever interview you?

22 A No.

23 Q And the time when you talked to him, how long did you
24 talk to him when he stopped you on the side of the road?

25 A I'd say like five minutes. I told him I seen the man

JASMINE CALDWELL - DIRECT

1 and he left.

2 Q That was it.

3 A That was it. And for me to come by and see him.

4 Q He didn't give you a specific time or a specific date?

5 A No.

6 Q Do you know the other defendant, Geraldo Land?

7 A Yes.

8 Q How do you know him?

9 A By his son and his -- the baby mother and his son.

10 Q Did you see him that night?

11 A No.

12 Q Had you talked to him that night?

13 A No.

14 Q And when you got back to your house the next morning,
15 who was still at your house?

16 A My baby, he was still asleep, and my grandfather.

17 Q Just your grandfather and your baby? And as soon as
18 you walked in the door --

19 A I didn't even make it in my room and take my shoes off
20 before he started snipping at me.

21 Q All right. Do you know who robbed the party?

22 A No.

23 MR. LAND: Beg the Court's indulgence for one second.

24 THE COURT: Yes, sir.

25 (Break in proceedings.)

JASMINE CALDWELL - DIRECT

1 Q Do you recall how long after the robbery it was that
2 you talked to Officer Moss?

3 A I'm not too sure.

4 Q But did he have on -- was he in a car, in a parked car
5 or --

6 A Yes. He was on duty at the time when he pulled me
7 over.

8 Q He was on duty at the time?

9 A Uh-huh.

10 Q Okay. And you said just five minutes?

11 A Yeah, not longer, maybe even less.

12 MR. LAND: No further questions at this time.

13 THE COURT: Any questions for this witness?

14 MS. LIVELY: No questions.

15 MR. LAND: I would like to call Sergeant Moss back to
16 the stand.

17 The witness, JUSTIN MOSS, remained sworn and testified
18 As follows:

19 THE COURT: You're still under oath.

20 THE WITNESS: Yes, sir.

21 DIRECT EXAMINATION

22 BY MR. LAND:

23 Q Sergeant Moss --

24 A Yes, sir.

25 Q -- do you recall talking to Ms. Caldwell, Jasmine

JASMINE CALDWELL - DIRECT

1 Caldwell?

2 A Yes, sir.

3 Q Do you recall not giving her a time of following up
4 with her?

5 A I just told her that I needed to speak with her in
6 reference to the case that we're here for.

7 Q Were you aware that she stayed at the residence of [REDACTED]
8 [REDACTED]?

9 A Yes, sir.

10 Q Did you ever follow-up to go to the residence to talk
11 to her after you told her you needed to talk to her?

12 A No, sir.

13 Q Why didn't you, sir?

14 A I felt if she had some important information that she
15 felt like I needed to know that she would contact me,
16 because I already told her that I knew -- that someone
17 wanted me to question her about the case.

18 Q But you did tell her that you needed to talk to her,
19 right?

20 A I did.

21 Q You also knew that she stayed at [REDACTED].

22 A I did.

23 Q Were you aware that she was accused of having something
24 to do with this?

25 MS. LIVELY: Your Honor, objection as to leading, as

JASMINE CALDWELL - DIRECT

1 well as testifying once again.

2 THE COURT: Yeah, don't go into testifying. But I
3 think he can lead. This an adverse witness -- a witness --
4 the words aren't coming out right, but I will let him cross.

5 Q Were you ever informed that she was a part of the
6 robbery?

7 A On the day that I talked to her when she was walking
8 down the sidewalk after she got up here and testified she
9 did bring to my memory that she did advise me that day that
10 her granddaddy thought she had something to do with it.

11 Q Did you talk to her grandfather about why he thought
12 she was a part of robbery?

13 A No, sir.

14 Q Do you recall that one of the defendants telling you
15 that --

16 MS. LIVELY: Objection, Your Honor.

17 THE COURT: I sustain the objection.

18 MS. LIVELY: Thank you.

19 Q Did you -- so you do recall -- you were informed of
20 that, that she was accused of having something to do with
21 the robbery.

22 A Yes. Ms. Caldwell told me that.

23 Q Mr. Caldwell told you that.

24 A Ms. Caldwell.

25 Q Ms. Caldwell told you that. So after she told you

JASMINE CALDWELL - DIRECT

1 that -- was that the first time that you heard that?

2 A Yes, sir.

3 Q So after she told you that, do you feel that it might
4 have been important for you to investigate her -- to go to
5 [REDACTED], her residence where you seen her coming from that
6 day --

7 A I saw her coming from the store, I didn't see her
8 coming from the residence.

9 Q Well, you knew she was going to [REDACTED].

10 A Yes, sir.

11 Q Do you feel that it might have been important for you
12 to go in and investigate her?

13 A No, sir.

14 Q Did you know that John John texted her that night?

15 MS. LIVELY: Objection, Your Honor.

16 THE COURT: I sustain the objection.

17 MS. LIVELY: Thank you.

18 THE COURT: You can ask another question.

19 Q Did you?

20 THE COURT: I sustained that objection. Ask another
21 question.

22 Q Just to be clear for the record, you learned that she
23 was accused of being involved in the robbery.

24 A She told me that, yes. From anyone else, no.

25 Q She told you that.

JASMINE CALDWELL - DIRECT

1 A She told me that herself, yes sir.

2 Q And upon that time you told her that you needed to talk
3 to her.

4 A Yes, sir. I told her that John John Wilmore -- when I
5 first got to her I couldn't remember if it was John John or
6 you that told me to talk to her. When I seen her walking
7 down the road I pulled up to her and I said, "John John said
8 that you may be an alibi for him for the robbery that took
9 place at your grandad's house." She said, "My granddaddy
10 thinks I had something to do with it and I wasn't even
11 there." And I had nothing further after that to question
12 her about. If she wasn't there during the robbery I didn't
13 have anything else to talk with her about. And her grandad
14 or any of the other witnesses -- all of them said that she'd
15 left before the robbery.

16 Q Did you ever ask her grandfather about him accusing
17 her?

18 A No, sir.

19 Q Did you ever ask him why he accused her or why he
20 thought that?

21 A No, sir.

22 Q Did you ever talk to any of the other witnesses about
23 her being -- did they feel that she was involved?

24 A No, sir.

25 Q Do you feel like that would have been important?

JASMINE CALDWELL - DIRECT

1 A No, sir.

2 Q And why is that, sir?

3 A Because if it would have been important they would have
4 brought it up while they were being interviewed by me at the
5 city hall. The only person that ever brought that up was
6 her on the side of the road. No other witnesses, nor you,
7 nor did John John Wilmore bring up the fact that they were
8 accusing her of having anything to do with it.

9 Q Or if she informs you that her grandfather accused of
10 her of being part of the robbery, and her grandfather -- you
11 stated that he didn't tell you, would that mean that they
12 were -- wouldn't that clearly state they did not tell you
13 something about this case?

14 MS. LIVELY: Objection, Your Honor.

15 THE COURT: I sustain the objection. Go ahead and ask
16 another question.

17 MR. LAND: Yes, sir, Your Honor.

18 Q Let me ask you like this: So basically if her
19 grandfather accused her and he didn't tell you, then he
20 didn't tell you everything about his thoughts about the --

21 MS. LIVELY: Objection, he's asking to speculate.

22 THE COURT: He won't know whether Mr. Caldwell told him
23 everything or not, he doesn't know what is in Mr.
24 Caldwell's mind.

25 MR. LAND: Beg the Court's indulgence.

JASMINE CALDWELL - DIRECT

1 (Break in proceedings.)

2 Q Were you aware that Ms. Caldwell was there at anytime
3 that night? Were you in --

4 A Which Caldwell? Ms. Jasmine?

5 Q Yeah.

6 A Yes. She advised me that she was there, and John John
7 Wilmore advised me she was, that's the reason I was speaking
8 with her.

9 Q Did any of your witnesses to the crime --

10 A I didn't hear you.

11 Q Excuse me. Did any of the victims advise you that she
12 was there?

13 A They said that she was there earlier in the night but
14 she had already left.

15 Q That she was there earlier that night but she had
16 already left?

17 A She was gone, she wasn't present during the robbery.

18 Q She wasn't present during the robbery. Do you
19 recall -- do you know -- how did the door get left open?
20 How did they tell you the door was left open?

21 A How did they tell me the door was left open? They just
22 said that she walked out and the door wasn't locked whenever
23 she left out. And that one of the Woods brothers were
24 outside smoking a cigarette, when he came in the robbers
25 followed behind him.

MARY BURRIS - DIRECT

1 Q That's how -- the robbers followed behind him and he
2 was outside smoking.

3 A Malcolm Woods went outside and had a smoke break.

4 Q He was outside, and basically the robbers followed in
5 behind him.

6 A Yes, sir.

7 Q So --

8 MR. LAND: If further questions from this witness.

9 THE COURT: Anything from the State?

10 MS. LIVELY: No questions.

11 THE COURT: You can step down, thank you. Call your
12 next witness.

13 MR. LAND: I would like to call Ms. Burris to the
14 stand.

15 The witness, MARY BURRIS, was first duly sworn and

16 Testified as follows:

17 DIRECT EXAMINATION

18 BY MR. LAND:

19 Q How are you doing this afternoon, Ms. Burris?

20 A Huh?

21 Q How are you doing this afternoon?

22 A I'm great.

23 Q Can you state your name for the record?

24 A Mary Elizabeth McClurkin Jacobs Burris.

25 Q Ms. Burris, how long have you known the defendant,

MARY BURRIS - DIRECT

1 Geraldo Land?

2 A All of his life.

3 Q Ms. Burris, on the night of April the 10th, can you
4 just tell us what happened that night to your recollection?

5 A Yeah. After I found out that the place got robbed they
6 accused him, Snoop, of robbing this place, but he couldn't
7 have done it because he was at my house.

8 Q What time, Ms. Burris, did Snoop come to your house?

9 A It was between nine and ten.

10 Q Between nine and ten? And was Snoop alone when he came
11 to your house?

12 A No. He had his little boy with him, his baby.

13 Q He had his little boy with him?

14 A Yeah. I know he had him with him.

15 Q You know he had him with him?

16 A Yeah.

17 Q And at that time, how long would you say that Snoop was
18 there at your house?

19 A Until 12 or after.

20 Q Until 12 or after?

21 A Yeah.

22 Q What did Snoop do at your house that night?

23 A With them boys of mine watching videos, cracking jokes,
24 probably drinking beer. I wasn't in the room, I was in the
25 next room. But that was what they do when them boys get

MARY BURRIS - DIRECT

1 together, they watch videos, comedy shows mostly, it's just
2 a family thing. We've got a lot of boys in our family and
3 they tend to come together at certain times, you know. But
4 yeah, he was there at the house I know for sure.

5 Q And when he came to your house -- where did you stay at
6 at that time?

7 A [REDACTED], apartment [REDACTED].

8 Q And that's -- where do you stay at now?

9 A [REDACTED].

10 Q At the time of April 10th you were staying on [REDACTED]
11 [REDACTED].

12 A Correct.

13 Q Which is -- is that off of Dewey Street right there
14 beside Pickney Street?

15 A Yeah, right there on the corner.

16 Q If Snoop was at your house why didn't you go to the
17 police when you heard -- when did you hear that he had
18 something to do with this robbery?

19 A What, like a week or so I heard something from one of
20 the kids and I couldn't believe it. So I looked and
21 expected the police or a detective or someone that would
22 come to the house and, you know, interview me or something.
23 But they did come later a little bit before the trial, two
24 lady detectives, policemen, I feel like they were
25 detectives, they came and interviewed me on video camera,

MARY BURRIS - CROSS

1 okay. And that's all --

2 Q That was it?

3 A -- that they talked with me about. And all they asked
4 me was what happened, you know, what was he doing there and
5 everything. Well, that's a normal thing for him to come to
6 my house. He's just like my son. I've loved him all of his
7 life. All I know is he was there. When I wasn't looking at
8 it I was hearing it. Because when came in he always greet
9 me with a hug and a kiss. So -- and I know what I was doing
10 when you -- he come in, okay? And I heard him in there
11 cracking jokes and laughing and going on. So I pretty much
12 know most of the ones that was in there in my family. The
13 other guys that were there, I don't know anything about
14 those guys, they're friends of my sons, you know.

15 Q So you said that they did record you once. When was it
16 that they recorded you, do you remember?

17 A Well, a few days before court. I figured it was within
18 a week. They videoed my -- what I had -- my testimony or
19 whatever, what I know. And that's all I can speak on is
20 what I know.

21 Q Yes, ma'am. So you --

22 MR. LAND: Beg the Court's indulgence one second, Your
23 Honor.

24 (Break in proceedings.)

25 Q Mr. Burris, you know that Snoop was at your house

MARY BURRIS - CROSS

1 between the times of -- what time would you say the between
2 times of?

3 A I would think a good from 9:00 p.m. to at least 12.
4 Because at 12 he was still there but I went to bed. My
5 shows went off and that's what I do.

6 Q Yes, ma'am.

7 MR. LAND: Thank you. No further questions.

8 THE COURT: Cross?

9 CROSS EXAMINATION

10 BY MS. LIVELY:

11 Q And you agree that you love -- well, let's just be
12 clear first, Snoop is Geraldo Land, right?

13 A Yes.

14 Q Okay. I just want to make sure, because the jury
15 doesn't know him like you know him and I just want to make
16 sure we're clear about that. And on the night that this
17 happened you said he was there with his son; is that right?

18 A Yes.

19 Q And did he bring his son inside to you?

20 A Yes.

21 Q Did his son stay there that night?

22 A He was there until his father left.

23 Q Until Snoop left?

24 A Yes.

25 Q And when was that?

THOMAS LOVE - DIRECT

1 A That was at least 12, because I went to bed at 12 and
2 he was there.

3 Q Okay. And you said that the police did come and speak
4 to you and take a recorded statement, correct?

5 A Yes.

6 Q All right. And they took a written statement from you
7 as well, correct?

8 A Yes.

9 MS. LIVELY: Okay. Thank you. No further questions.

10 THE COURT: Redirect?

11 MR. LAND: No questions.

12 THE COURT: You can step down and be excused, we
13 appreciate your time. Call your next witness.

14 MR. LAND: I would like to call Thomas Love to the
15 stand.

16 The witness, THOMAS LOVE, was first duly sworn and
17 Testified as follows:

18 DIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q Thomas Love, right?

21 A That's right.

22 Q Were you ever interviewed by the officer or anything at
23 this time?

24 A Yes, they briefly spoke to me.

25 Q They briefly spoke to you.

THOMAS LOVE - DIRECT

1 A Yes.

2 Q Do you recall when that was?

3 A Probably the first week of April.

4 Q Tell us about yourself. Do you stay in Chester?

5 A I stay in Chester, have stayed here my whole life. I
6 work at Wal-Mart.

7 Q You work at Wal-Mart?

8 A That's right.

9 Q How long have you been working at Wal-Mart?

10 A I've been there since 2013.

11 Q Since 2000?

12 A Yes.

13 Q How do you know the defendant, Geraldo Land?

14 A I met him running down the street one day. I was
15 running down Pickney Street, which I do almost every day,
16 and he just stopped me and he asked me what I was training
17 for, and I let him know I didn't really have a specific
18 training, I was just out running and he asked me if I wanted
19 to run so he gave me his number. And like maybe less than
20 six months later I called him -- or actually I called him
21 Valentines Day in 2017 and I asked him if he wanted to go
22 running. I called early in the morning and he was ready, so
23 we ended up going running on Valentine's Day morning.

24 Q Where did y'all run to?

25 A We ran to Wal-Mart.

THOMAS LOVE - DIRECT

- 1 Q To Wal-Mart.
- 2 A Yeah. We ran from his mom's house to Wal-Mart.
- 3 Q Right. And around the time of April the 10th of last
- 4 year, was you around Geraldo? Were you still talking to
- 5 Geraldo?
- 6 A Yeah. I was going over there almost every day during
- 7 that time.
- 8 Q Did you hear about a robbery that happened on April --
- 9 the night of April 10th?
- 10 A Yeah, I did.
- 11 Q How did you hear about that robbery?
- 12 A Woods told me it happened.
- 13 Q Who was Woods?
- 14 A Joseph Woods, my coworker.
- 15 Q How do you know Joseph Woods?
- 16 A Me and him had the same position at Wal-Mart that we
- 17 both push the carts.
- 18 Q Y'all both push the carts.
- 19 A That's right.
- 20 Q So how long have you known Joseph Woods?
- 21 A I've known Woods ever since July of 2013.
- 22 Q July of 2013?
- 23 A That's right.
- 24 Q Go ahead.
- 25 A I met Woods my first day at Wal-Mart, he was my

THOMAS LOVE - DIRECT

1 trainer.

2 Q He was your trainer?

3 A That's right.

4 Q Do you and Woods still work together at Wal-Mart?

5 A No, Woods is gone now.

6 Q What happened to Woods?

7 MS. LIVELY: Objection, Your Honor, as to relevance.

8 THE COURT: I sustain the objection.

9 Q So what happened when Woods told you about this? What
10 did Woods tell you?

11 MS. LIVELY: Objection, Your Honor, as to hearsay.

12 THE COURT: I sustain the objection.

13 Q So again, how did you hear about the robbery?

14 A Just Woods told me when I got to work the next day.

15 Q And what did he say?

16 MS. LIVELY: Object, Your Honor, as to hearsay.

17 THE COURT: I sustained the objection. He can't go
18 into what somebody else said, that's hearsay.

19 Q Okay. On April the 9th or April 10th, where were you?

20 A I was with Snoop.

21 Q And what time were you with Snoop?

22 A I was with Snoop from around ten until 11, and then I
23 left at 11, and I was back with Snoop probably 15 minutes
24 until 12:00.

25 Q Fifteen minutes until 12:00.

THOMAS LOVE - DIRECT

1 A That's right.

2 Q And where was Snoop -- okay. What time did you first
3 get around Snoop?

4 A I first came to Snoop's house at around ten.

5 Q Around ten.

6 A That's right.

7 Q And what did you and Snoop do?

8 A He was in the car. So I put my bike behind his house,
9 I was already scared somebody was going to take my bike and
10 I put it there. So I jump in the car, I was like, "Where
11 are you going?" He was like, "Nothing. We just going to a
12 couple of houses." So we rode around to a couple of houses
13 on the Gayle, it was like five houses that he's going to, I
14 don't know who they are or why. So then we ride around for
15 a few minutes. By the time that we get to Dewey Street some
16 house with a bunch of people in the yard, 15 people, or ten
17 or 15 people in the yard. All right. So I step out and
18 start kicking right there, we're just talking. His son is
19 in the back. These girls call me, because I already had
20 plans early in the day to go hang out with these girls that
21 night, so they called me at 11:00. They say, "Thomas, we're
22 ready." I say. "All right. Pull up, come pick me up from
23 Pickney Street." So they come to Pickney Street and pick me
24 up running down the road. They call me getting around the
25 corner, I strike out running, they pick me up by the laundry

THOMAS LOVE - DIRECT

1 mat, like the laundry mat is right down the street. They
2 pick me up and we go to their house. We're there maybe 30
3 minutes and I want to leave because it's not exactly going
4 the way I imagined, they're being rude, so I'm like, "Drop
5 me at the store." They drop me at the store. So I run back
6 over to Snoop's house because I told him I was coming back.
7 He's sitting in the car waiting on me when I get there.

8 Q Right. And is -- what time was that?

9 A That was like probably 15 minutes until 12:00.

10 Q 15 minutes until 12:00.

11 A That's right.

12 Q What was Snoop doing sitting --

13 A He was sitting there playing on his cellphone, talking
14 about leave him alone, he's -- he said -- chasing girls on
15 Facebook or something, he said he's chasing girls.

16 Q And what time -- how long were you sitting there with
17 Snoop -- when you got there, did Snoop seem strange in any
18 way, any matter?

19 A Not really, he seemed pretty calm.

20 Q He seemed pretty calm?

21 A He was just sitting there going through his phone.

22 Q And how long were you there after you arrived?

23 A Oh, when I arrived there at 11:15 -- I mean, about 15
24 minutes until 12, I was there for the rest of the night. I
25 didn't leave until around 5:00 that morning. Like the sun

THOMAS LOVE - DIRECT

1 was coming up when I left.

2 Q Right. And when you got there who was there with
3 Snoop?

4 A I didn't see nobody there.

5 Q See nobody there.

6 A I mean, the son might have been in the back seat but I
7 wasn't paying any attention.

8 Q Where did you meet Snoop back at?

9 A He was in front of his grandmom's house.

10 Q He was in front of his grandmom's house?

11 A That's right.

12 Q And you sat there with him?

13 A Yes. As soon as I jumped in the car we drove to his

14 mom's house. At his mom's house we just sat there in the

15 car for a couple hours and he goes to sleep. All right.

16 I'm just sitting there, I ain't got nothing to do. I try to

17 wake him up and tell him I'm leaving, he ain't getting up

18 and I didn't want to just leave him in the car so I ended up

19 dosing off, too. I woke up over in the morning and finally

20 I was like I've got to go because I've been over there too

21 long, I've got to go home and get in bed.

22 Q And do you have any reason to lie for Snoop?

23 A No, I wouldn't.

24 Q You wouldn't?

25 A No. Like I had only known him less than two months

THOMAS LOVE - CROSS

1 when all of this happened.

2 Q Less than two months?

3 A Yeah.

4 Q And in between the -- you say that you heard of the
5 robbery. How did you hear of the robbery?

6 A Woods told me about it.

7 Q Did you say anything to Woods when he informed you of
8 it?

9 A I just told him I didn't believe it --

10 MS. LIVELY: Objection to him responding to hearsay,
11 Your Honor. I ask that it be stricken.

12 THE COURT: Disregard that last question and answer.

13 MR. LAND: All right. Thank you. No further questions
14 at this time.

15 CROSS EXAMINATION

16 BY MS. LIVELY:

17 Q Mr. Love, do you remember meeting me and Investigator
18 Lewis at some point in time and speaking with us about this
19 case?

20 A That's right.

21 Q All right. So you did actually have contact with us
22 and we asked you about you being an alibi witness for the
23 defendant, right?

24 A That's right.

25 Q Now, Mr. Love, whenever you were actually -- how

THOMAS LOVE - CROSS

1 quickly did the defendant, Snoop, ask you to be an alibi
2 witness for him?

3 A As soon as he found out it happened.

4 Q As soon as he found -- and approximately --

5 A So it was probably -- it was either the day after or
6 the next day.

7 Q The day after or the next day of what?

8 A Of the robbery.

9 Q Of the robbery. Okay. So he already knew at that
10 point in time about the robbery and that he needed you.

11 A He knew that he needed me to testify that I was with
12 him.

13 Q Okay. All right. This was before he'd even had any
14 contact with the police; is that correct?

15 A I'm pretty sure it was, I don't know.

16 Q All right. So let's go into the night of April 9th
17 into April the 10th. Is that the night that you're actually
18 talking about here with the jury? Are you sure of that?

19 A I am.

20 Q All right. So in that night you're saying that from
21 ten until 11 you were with Snoop; is that right.

22 A That's right.

23 Q So do you know where he was at 9:00?

24 A No.

25 Q Where were you at 9:00?

THOMAS LOVE - CROSS

- 1 A I'm pretty sure I was at Wal-Mart.
- 2 Q You were at Wal-Mart. Okay. So whenever you got off
- 3 then you went over to Snoop's house and that's where he was;
- 4 is that right?
- 5 A That's right.
- 6 Q And who was at his house?
- 7 A I know it was him and his son, I didn't go in.
- 8 Q You didn't go in? All right. And where is his house?
- 9 A He stays -- I don't know the name of the street but
- 10 it's on the Gayle by the railroad tracks.
- 11 Q Okay.
- 12 A Right across the street from the church. Well, not
- 13 right across the street but diagonal from the church.
- 14 Q Okay. And you said that the only person that you knew
- 15 was there for sure was his younger son; is that right?
- 16 A That's right.
- 17 Q So you're giving us from ten until 11 that you were
- 18 actually with him and his son.
- 19 A That's right.
- 20 Q Were y'all -- did you stay at his house from ten until
- 21 11 or did you go somewhere?
- 22 A We was in the car the whole time.
- 23 Q You were in the car the whole time?
- 24 A That's right.
- 25 Q Were you in the car parked or were you driving around?

THOMAS LOVE - CROSS

1 A We drove around for a couple of places and then we
2 parked.

3 Q Where did you park?

4 A We parked at where Dewey Street meets Pickney Street.

5 Q What street?

6 A Dewey Street.

7 Q Dewey Street meets Pickney?

8 A That's right.

9 Q All right. So let's talk about this. Now, how long
10 have you been sitting here in the courtroom?

11 A How long have I been sitting here?

12 Q Yeah, today.

13 A Today I've been probably 50 minutes.

14 Q Okay. Were you in here when ever Ms. Mary testified?

15 A I was.

16 Q Okay. So let's write her name down here. All right.

17 We've got Mary. Now --

18 MR. LAND: Objection as hearsay.

19 THE COURT: No. He's just saying he was here when she
20 testified, that's not hearsay.

21 MR. LAND: Okay.

22 THE COURT: He's the one that's saying it, he's the one
23 who saw it.

24 Q All right. Ms. Mary has already testified that Geraldo
25 Land was at her house from 9:00 until 12:00 a.m. Do you

THOMAS LOVE - CROSS

1 agree or disagree with that?

2 A Neither. I did hear she said that but I can't prove
3 it.

4 Q Oh, no. And I'm not asking you -- I'm asking you to
5 explain how he could have been at her house from nine until
6 12 if you were with him from ten until 11 riding around in
7 the car.

8 A I'm not sure.

9 Q Are there two Geraldo Lands? Two Snoops?

10 A To be honest I'm not sure. I know that I had accurate
11 information, I'm not sure what that is.

12 Q Okay. All right. So let's just write down what you
13 know for sure, okay? All right. So we've got you. You
14 said that you were at Wal-Mart that night working. Do you
15 remember about what time you got off?

16 A I don't.

17 Q You don't? Okay. But you do know that by 10:00 you
18 were at Snoop's house and he was there with his son.

19 A That's right.

20 Q So we're going to put that down here. Would you agree
21 that 10:00 is between 9:00 p.m. and 12:00 a.m.?

22 A Yes.

23 Q Okay. I have to ask some obvious questions, just work
24 with me here, okay? So now you're with him from 10:00 until
25 11:00; is that right?

THOMAS LOVE - CROSS

- 1 A That's right.
- 2 Q All right. Until 11. And that's p.m., correct?
- 3 A Yes.
- 4 Q All right. Okay. So we've got you and Snoop and
- 5 his -- what's his son's name?
- 6 A Snoop, Jr.
- 7 Q Seriously?
- 8 A Yes.
- 9 Q Okay. Snoop, Jr. So you, Snoop, Jr. and Snoop, Sr.
- 10 are driving around from nine -- from ten until 11; is that
- 11 right?
- 12 A That's right.
- 13 Q Okay. What kind of car was he driving around in?
- 14 A It was a blue Mercury.
- 15 Q Is that his car or mama's car?
- 16 A I'm not sure who's car it is.
- 17 Q All right. So y'all were in this blue Mercury, you're
- 18 driving around, and where was Snoop Jr.?
- 19 A In the back.
- 20 Q In the back seat. So for about this hour he's still in
- 21 the back seat, y'all are driving around. And what were
- 22 y'all doing while you were driving around?
- 23 A We were just kicking back talking.
- 24 Q Kicking back talking. All right. Now, at some point
- 25 in time you said that there had been some girls that you

THOMAS LOVE - CROSS

1 were going to try to either hook up with or see that night;
2 is that right?

3 A Yes.

4 Q Okay. At what point in time then did you actually make
5 this happen and you left Snoop, Sr.?

6 A They picked me up like right there after 11:00.

7 Q Right after 11.

8 A That's right.

9 Q Now, did you tell Snoop, Sr. where you were going or
10 what you are doing?

11 A Yeah.

12 Q So he knew that you were heading out with some girls.

13 A Yes.

14 Q So then from 11 until what time were you away from
15 Snoop, Sr.?

16 A Probably 11 to around 11:45.

17 Q Okay. So from 11 to 11:45 you were not with Snoop.

18 A That's right.

19 Q How are you so sure of the time?

20 A Because I went back to my phone the next day, like the
21 next day when I found out that they was saying he robbed
22 them --

23 Q Well, I'm not asking you about what's on your phone,

24 I'm asking you specifically as in time-wise now, you knew

25 what time it was that he went back over to see him.

THOMAS LOVE - CROSS

1 A The time when I called him and let him know I was
2 outside.

3 Q Okay. So you called him to let him know that you were
4 outside. Outside where?

5 A Outside -- or coming down the street of Pickney Street.
6 I called him and let him know I was passing Check Cash.

7 Q Okay. So you called him and let him know. And at that
8 point in time where did you actually go where you physically
9 saw him again?

10 A Like right there. Like maybe a football field away was
11 where his car was parked.

12 Q I'm sorry, let me be more specific. Was he back at his
13 house, was he at a friend's house or was he somewhere else?

14 A The next time I seen him he was at his grandmom's
15 house.

16 Q And is his grandmom Mary Jacobs?

17 A No.

18 Q Okay. So at 11:45, once again, which is between nine
19 and 12 he was not at Mary's house but he was at his
20 grandmom's house.

21 A Yes.

22 Q Thank you. All right. So what were you doing with
23 these girls while you were away from Snoop, Sr.?

24 A We was talking.

25 Q What else were you doing?

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- 1 A We were just conversating.
- 2 Q Do you recall giving me a sworn statement regarding
- 3 what you were doing that night?
- 4 A I do.
- 5 Q You do?
- 6 A That's right.
- 7 Q Do you want me to ask you what you were doing once
- 8 again for you to tell this jury or do you just want to go
- 9 ahead and tell them what you were doing that night.
- 10 A All right. I was with these girls and we was smoking.
- 11 Q Smoking what?
- 12 A Grass.
- 13 Q Marijuana?
- 14 A Yes.
- 15 Q Thank you. So from this time when you were not with
- 16 Snoop from 11 until about 11:45 you were getting high.
- 17 A Correct.
- 18 Q Okay. All right. But you're still pretty sure about
- 19 your timeline between 11 and 11:45 even though you were
- 20 getting high.
- 21 A I'm positive.
- 22 Q All right. But also you're pretty positive that
- 23 whenever you look at this timeline, that Snoop, Sr.
- 24 obviously cannot be in two places at one time.
- 25 A That's right.

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1 Q Now, whenever you finish getting high and you went to
2 the grandmother's house, Snoop's grandmother's house, what
3 did you do next? What did you and Snoop do?

4 A We just sat in the car, we talked for a few minutes.
5 We talked for maybe five minutes and then we rode to his
6 mom's house and we sat in the driveway or the rest of the
7 night.

8 Q And where was his son at that time?

9 A I can't directly remember where his son is.

10 Q All right. Do you recall stating that whenever you got
11 back at 11:45 to meet with Snoop he was in his car with his
12 son at 11:45?

13 A I don't remember that.

14 Q I'm going to ask you -- don't read it out loud. Look
15 at seven, eight nine and ten. Do you recall now?

16 A Yes.

17 Q Thank you. So his son was in the car at 11:45 at night
18 with him whenever you met back up with him.

19 A That's right.

20 Q So he was not over at his great aunt's house, Mary
21 Burris.

22 A Who wasn't over there?

23 Q Snoop nor Snoop, Jr. because he was with you.

24 A That's right.

25 Q And you stayed there until approximately -- well, you

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1 said that you fell asleep there, right?

2 A That's right.

3 Q In the car?

4 A Yes.

5 Q And when you woke up it was approximately what, 4:30 in
6 the morning, something like that?

7 A It was something like 4:30 or 4:45, something like
8 that. But I didn't go to sleep until closer to three.

9 Q And you never specifically went to the police yourself,
10 did you?

11 A No, I didn't.

12 MS. LIVELY: That's all of the questions I have.

13 THE COURT: Redirect?

14 MR. LAND: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. LAND:

17 Q Mr. Love, now how far is the location where you say you
18 left Snoop from -- left Snoop at to where his grandmother's
19 house is?

20 A Maybe a mile and a half.

21 Q Maybe a mile and had a half.

22 A Maybe.

23 Q And how far is Snoop's grandmother's house from Snoop's
24 mother's house?

25 A Fourth of a mile or eight of a mile.

THOMAS LOVE - REDIRECT

1 Q Fourth of a mile, eight of a mile. And where is all of
2 this located?

3 A It's all on Pickney Street.

4 Q It's all on Pickney Street.

5 A Yeah.

6 Q And you said at 11 you left, right after 11 you left to
7 go with the girls, correct?

8 A That's right.

9 Q And how -- tell the jury how did you know what time
10 that you met them back with Snoop?

11 A Because I looked at my phone and I looked at the time
12 when I got around the corner when I made my come around the
13 corner call.

14 Q And what does your phone say?

15 MS. LIVELY: I just object to him referring to anything
16 that his phone said. He can talk about how he saw the call
17 but I don't know if he's going to get into a text message or
18 anything like that, Your Honor, so we need to address it
19 outside of the jury.

20 THE COURT: Well, my phone has a clock on it so I
21 don't --

22 MS. LIVELY: I agree. I just don't want him to get
23 into a text message --

24 THE COURT: You can't get into any text messages.

25 MR. LAND: Yes, sir, I understand.

THOMAS LOVE - REDIRECT

1 Q What time did your phone say?

2 A It was 11:50.

3 Q Did you tell this to the officers when they
4 investigate -- they interviewed you?

5 A No.

6 Q And when you left to go with the girls, was Geraldo
7 Land, Jr. with him?

8 A Yes, sir.

9 Q He was. And when you left the house was on -- what did
10 you leave from?

11 A I left from where Dewey Street meets Pickney Street.

12 Q Would it be [REDACTED] ?

13 A It would be the aunt's address.

14 Q It would be Mary Burris' house that you left Snoop and
15 Snoop, Jr. at.

16 A Yeah.

17 Q And you left after 11:00, correct?

18 A Yeah. It was right there after 11 when I left.

19 Q And the time on your phone that you arrived back with
20 Snoop was -- what time was it?

21 A It was 11:50.

22 Q And you say that -- how long -- approximately how long
23 would it take to get from Mary Burris' -- the location that
24 you left to Snoop's grandmother's house driving?

25 A Driving?

1 Q Yeah.

2 A Two minutes maybe.

3 Q Two minutes maybe?

4 A Maybe.

5 Q And how long would it take driving from Snoop's

6 grandmother's house to Snoop's mother's house?

7 A Thirty seconds.

8 Q And you know -- again, you have no reason to lie for

9 Snoop.

10 A No, no reason at all.

11 Q Did Snoop ever ask you to lie for him?

12 A No. I have never been asked to lie for him.

13 MR. LAND: No further questions, Your Honor. Thank

14 you.

15 THE COURT: Recross?

16 MS. LIVELY: Nothing.

17 THE COURT: You ask step down and be excused, we

18 appreciate your time. Call your next witness.

19 MR. LAND: I would like to have a break to speak with

20 you.

21 THE COURT: We'll take a break at this point. It's

22 probably a good time to take a break anyway so we'll take

23 about a ten to 12 minute break.

24 (The jury left the courtroom.)

25 THE COURT: Mr. Land, do you have any charges you want

1 me to give? Do you have any requested charge?

2 MR. LAND: Say again?

3 THE COURT: Do you have any requests to charge, that is
4 requested provisions of law that you wanted me to tell the
5 jury about?

6 MR. LAND: Do I have any?

7 THE COURT: Do you -- over the break, we're not going
8 to make this a long break, you can ask Mr. Dunn.

9 (A break was taken.)

10 THE COURT: I have the requested charge from the State.
11 Do you have any charges, Mr. Land?

12 MR. LAND: This is what you're going to charge the
13 jury?

14 THE COURT: I'm not going to charge all of it but
15 certain parts of it, yes, particularly the first paragraph,
16 which is right under number one. That pretty much sums up
17 the rest of the charge.

18 MR. LAND: How would that be relevant in this case,
19 Your Honor?

20 THE COURT: Because two people, you supposedly, or you
21 allegedly and Mr. Wilmore, I think he's already accepted
22 responsibility, so Mr. Wilmore and one other person, the
23 State contends it was you, committed this offense and so
24 each of you are liable for the acts of the other, that's the
25 law.

1 THE DEFENDANT: So each of us are liable --

2 THE COURT: For whatever one does the other by law is
3 presumed to have done it also.

4 MR. LAND: Whatever if they're together?

5 THE COURT: Yeah. If they're together acting together
6 then both of them are responsible for each other's acts.

7 MR. LAND: This is what you're charging before the
8 closing?

9 THE COURT: Yeah. Well, not before the closing but
10 before the jury deliberates. I can tell you real quick...
11 Are you going to have any further witnesses?

12 MR. LAND: I'm not sure.

13 THE COURT: Well, just real quick. I'm going to charge
14 identity, charge alibi, and, of course, the various
15 offenses. Then the usual things, the verdict must be
16 unanimous, charge the -- explain the indictments. Talk
17 about the fact, as I did yesterday, that there is only one
18 charge and they are looked at separately except for the
19 pistol charge. Tell them you're presumed innocent, the
20 State must prove your guilt beyond a reasonable doubt. And
21 again, alibi witness, identification and accomplice
22 liability. And if you choose to remain silent I will charge
23 them that you have that right and they cannot use that
24 against you like I told you I would a little bit ago. I
25 think that pretty much covers --

1 MS. LIVELY: And in your standard ones, Your Honor, do
2 you also have the information there regarding
3 circumstantial, direct evidence as well as --

4 THE COURT: Well, I wasn't going to charge
5 circumstantial evidence, I don't think this is a
6 circumstantial case. I don't know --

7 MS. LIVELY: What other just standard charges do you --

8 THE COURT: Well, I just tried to go over those,
9 multiple charges.

10 MS. LIVELY: Right, I got that. Let me ask
11 specifically though because I did write those down, I'm
12 sorry. I had the accomplice liability, hand of one,
13 identity, alibi, the specific offenses or charges,
14 presumption of innocence, the --

15 THE COURT: Reasonable doubt.

16 MS. LIVELY: Reasonable doubt. And --

17 THE COURT: Credibility.

18 MS. LIVELY: -- do you use firmly convinced?

19 THE COURT: Yes, firmly convinced.

20 MS. LIVELY: All right.

21 THE COURT: Credibility of witnesses.

22 MS. LIVELY: Yes, sir. That's one I didn't write down,
23 I apologize.

24 THE COURT: I didn't say it, I skipped over it.

25 MS. LIVELY: Okay. Your Honor, I wanted to make sure

1 also that you were okay with the verdict form. I know that
2 we were trying to do it to your liking and I know that
3 Ms. Rawls was very kind to actually draft --

4 THE COURT: I've looked at them, they look fine to me.

5 MS. LIVELY: And I'm sure we want to let him look at it
6 as well. Ms. Rawls said she would make us a copy. Thank
7 you, Your Honor.

8 THE COURT: The indictments I'm not going to send back
9 in this case, we'll have these what we call the verdict
10 forms for the jury to put the unanimous verdict on.

11 MR. LAND: Yes, sir.

12 MS. LIVELY: Thank you, Your Honor.

13 THE COURT: You need to make a decision as to whether
14 you have any other witnesses or not, because we've reached
15 that point where if you do not the State -- I'll ask if they
16 have anything in reply, we'll see if they do, if not then
17 the case is closed and we're in a position to start arguing
18 and charge to the jury. It's right on the cusp of that time
19 when it gets a little dangerous to send a jury out and the
20 charge is rather long, but I'll kind of make a decision on
21 that after I find out what you plan to do with the other
22 witnesses.

23 MR. LAND: One moment, sir.

24 (Break in proceedings.)

25 MR. LAND: I won't call anymore witnesses, Your Honor.

1 THE COURT: Does the State have anything in reply?

2 MS. LIVELY: We do not, Your Honor.

3 THE COURT: Well that puts us in a situation. It's
4 3:15. I would hope -- how long does the State think it will
5 argue?

6 MS. LIVELY: Your Honor, first of all I wanted to just
7 ask because we end up having to do this at every time, are
8 you wanting us to do it according to the Beatty Rule or are
9 we going to do the good old standard --

10 THE COURT: Well, I think under Beatty, which is still
11 bouncing around --

12 MS. LIVELY: It's still bouncing around --

13 THE COURT: -- you have to open in full, and then since
14 he does not have the right to the last argument Mr. Land can
15 respond and you have the last closing to respond to his
16 response.

17 MS. LIVELY: Right. So it's like I get two bites at
18 the apple. I still don't know why that --

19 THE COURT: Well, the second bite is not a full bite.

20 MS. LIVELY: Yes, in response to him, correct. It does
21 not matter to me, I'll leave it up to the Court or --

22 THE COURT: I think I'm going to follow Beatty. How
23 long do you think you'll argue?

24 MS. LIVELY: I wouldn't think more than 30 minutes at
25 the most.

1 THE COURT: Well, probably if both of you take 30
2 minutes then we're up to 4:15, that's too late to send out.
3 Do either one of you have any real aversion to arguing this
4 afternoon and charging in the morning? I hate to waste an
5 hour.

6 MS. LIVELY: I know, I agree with you, Your Honor. You
7 don't think we could fit it all in? I bet if we gave the
8 jury the option they would probably want to go ahead and
9 hear everything to get the case.

10 THE COURT: Well, if both of you take about a half an
11 hour that takes us to 4:15, my charge will be about 40
12 minutes probably, 30 or 40 minutes. Still we could get it
13 to them late afternoon, but I know they might rather work
14 later into the night --

15 MS. LIVELY: I know. But I don't put that on court
16 personnel as well, Your Honor.

17 THE COURT: Let's do arguments this afternoon and I'll
18 do the charge some time in the morning. Do you understand,
19 Mr. Land?

20 MS. LIVELY: Can we do arguments in the morning then?
21 I mean, if we get them here first thing in the morning and
22 do the arguments and then we can take some other matters
23 that we have to do since we already have to be here tomorrow
24 anyway.

25 THE COURT: Well, I know that's the way we try to do

1 it. I think that's probably the better way, I hate for you
2 to split up arguments and charge.

3 MS. LIVELY: I do, too. I think that the jury might --
4 especially since I have to -- the way that in my reply to
5 him but in the first part I have to really focus on the law,
6 I just think it's important for them to hear it in
7 conjunction with your charges.

8 THE COURT: Well, Mr. Land, what are your thoughts? Do
9 you have any one way or the other? If we wait come back in
10 the morning and you have overnight to think about what
11 you're going to argue to the jury?

12 MR. LAND: I mean, if we're going to wait -- if that's
13 the case that we're going to give the openings and then send
14 them away, yeah, I would rather --

15 THE COURT: You would rather do your closing tonight?

16 MR. LAND: No, sir. If I do my closing I would like
17 for them to be able to deliberate and meditate after they
18 hear my closing.

19 THE COURT: Well, let's just postpone everything until
20 the morning then. I don't know if the solicitor had
21 anything else to do or not.

22 MS. LIVELY: I think most of what we had, Your Honor,
23 we actually excused them right after -- we don't have
24 anything else today, do we? No, sir. We kind of -- when we
25 saw that the case continued to move as it was we went ahead

1 and sent everybody home.

2 THE COURT: You have a question, Mr. Land?

3 MR. LAND: Yes, sir, I do have a motion. I wanted a
4 motion for the reconsideration of my bond not to be
5 rescinded as was. What my lawyer didn't tell you was that
6 I'm under GPS for federal, and not only am I on GPS I can
7 only go to work, church and school. I've been on bond on
8 house arrest for ten months and as you've seen I have not
9 affected any witness, I haven't ran, and I wouldn't run
10 because --

11 THE COURT: I'm not going to change it at this time.
12 We've only got one more night and if you're found not guilty
13 then it's just one more night. I'm going to require you to
14 stay in tonight. Anything else this afternoon?

15 MS. LIVELY: Just is he going to rest on the record
16 before we send the jury out?

17 THE COURT: Yeah. When the jury comes in you need to
18 say that you have no more witnesses and then I will --

19 MR. LAND: It's not on the record that I rested?

20 THE COURT: Yeah. You need to put that in the record
21 when they come in.

22 MR. LAND: But it's not on the record yet?

23 THE COURT: Well, it's on the record but it's not in
24 front of the jury.

25 MR. LAND: Can I have one second of the Court's

1 indulgence, Your Honor?

2 (Break in proceedings.)

3 MR. LAND: Can I motion the Court since I've got to be
4 back here in the morning to think about it overnight whether
5 I want to testify on my own behalf or not?

6 MS. LIVELY: We've got plenty of time, Your Honor.
7 This case has been -- I object to that, Your Honor. He has
8 to make a decision just like any other defendant whenever
9 going through court, he's had plenty of time. If he's going
10 to testify he needs to do that today.

11 THE COURT: Yeah. If you're going to testify we'll
12 work it in today, I'm not going to give you overnight.

13 MR. LAND: Can I get a few moments to think about it?

14 THE COURT: I'll give you five minutes to think about
15 it because you've had, like they say, ten months, or more
16 than ten months.

17 (Break in proceedings.)

18 THE COURT: Are you resting?

19 MR. LAND: I'm resting.

20 THE COURT: Bring us the jury.

21 (The jury returned to the courtroom.)

22 THE COURT: Mr. Land?

23 MR. LAND: I rest, Your Honor.

24 THE COURT: All right. Anything in reply?

25 MS. LIVELY: Nothing in reply, Your Honor.

1 THE COURT: Members of the jury panel, you've now heard
2 all of the evidence, Mr. Land has rested and the State has
3 no further witnesses. So we've reached a point in the trial
4 where the next stage is the arguments of the attorneys and
5 then my charge on the law and that would take a good while,
6 so we're not going to try to do that this afternoon because
7 that would take us well into the evening. So we're going to
8 stop for the day and start back at 10:00 in the morning.
9 Now, you're not in a position to make up your mind yet
10 because you haven't heard the closing arguments and you
11 haven't heard my charge on the law. So even though you've
12 heard all of the testimony and all of the exhibits have been
13 placed into evidence you're not in a position to try to make
14 up your own mind yet, of course, and you're not in a
15 position to discuss the case yet. So don't discuss the case
16 among yourselves or try to make up your own mind until I
17 instruct you to do that after I charge you on the law
18 tomorrow. And keep in mind, of course, not to discuss the
19 case with anyone outside of the courtroom, avoid any news
20 coverage if there's any. So I'll let you go and I'll see
21 you at 10:00 in the morning and we'll try to get you started
22 right at 10:00 and have the case to you, which means the
23 likelihood is you might have another lunch. I don't think
24 it will be the same thing but we might get into lunchtime
25 tomorrow. Have a pleasant evening.

1 (The jury left the courtroom.)

2 THE COURT: We will be at ease.

3 (Court recessed for the day and resumed at 10:00 a.m.
4 On Friday, July 13, 2018.)

5 THE COURT: Is the State ready to proceed?

6 MS. LIVELY: Yes, Your Honor. One thing I did want to
7 do before we got started just because I understand with me
8 dealing with a pro se defendant, he obviously doesn't know
9 the rules in regards to closing arguments so I just wanted
10 to make sure. One of the things that's occurred during this
11 case is that the defendant has taken opportunities to
12 testify through questioning other witnesses, so he needs to
13 understand that this is not his opportunity to testify for
14 the jury about what happened that night, he can only put in
15 facts that are in evidence in his argument. And he's
16 already kind of -- he's skirted past and across that line,
17 and I understand we have been trying to bring him back in
18 and be as fair as possible and I totally understand that.
19 And it's probably -- gosh, when I worked in the 15th
20 Circuit, I think that's the last time I even objected during
21 a closing was over 11 years ago, and that's not something I
22 like to do, but if he starts to testify then I'll object to
23 facts not in evidence. I want him to understand the
24 difference before we get started. Thank you, Your Honor.

25 THE COURT: Mr. Land, you understand that your closing

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1 has to be based on what has been testified to by the
2 witnesses and the exhibits? You can't testify. You can't
3 start telling the jury your side of the story unless it is
4 based on something that has been testified to by one of the
5 witnesses or supported by exhibits, do you understand that?
6 You had a right to testify and I discussed that with you and
7 you opted not to testify, so closing argument is not an
8 opportunity for you to testify.

9 MR. LAND: Yes, sir. Basically closing argument, I can
10 use anything that was stated in the trial, any evidence that
11 was entered.

12 THE COURT: Any evidence that's in the record, any
13 evidence that was presented by testimony or the exhibits.

14 MR. LAND: I understand, Your Honor.

15 MS. LIVELY: Thank you, Your Honor.

16 THE COURT: Okay. Bring in the jury.

17 (The jury returned to the courtroom.)

18 THE COURT: Good morning members of the jury. You will
19 now hear the State's closing argument, first closing
20 argument and the State would have the right to reply to the
21 defendant's closing argument, which will come second. So
22 you will hear the State and Mr. Land and then the State
23 again, and then I will charge you the law. We'll probably
24 take a break at some point, I don't know how long the
25 arguments will take, I know about how long my charge will

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1 take, so you may very well have a break before you hear my
2 charge. At this time I will call upon the State.

3 MS. LIVELY: Thank you, Your Honor. Ladies and
4 gentlemen, when I first talked to you on the day that this
5 trial started I told you very clearly that the information
6 that you were going to receive was going to come from that
7 witness stand, and it was going to come from people who know
8 the defendant. This is not one of those circumstances where
9 we have a picture that is pulled off of some convenience
10 store robbery where the cashier didn't know this person, no
11 one knows or can identify this person because this is a
12 random event, we don't have that here. What we have --

13 MR. LAND: Your Honor, I object. She has that picture
14 right there on the --

15 THE COURT: She can do that.

16 MR. LAND: She can do that even though it was never --

17 THE COURT: I thought it was in evidence.

18 MR. LAND: It wasn't singled out like that in evidence.

19 THE COURT: It's in evidence, she can use it.

20 MR. LAND: Oh, okay.

21 THE COURT: Objection overruled.

22 MS. LIVELY: Thank you. So what we have is a situation
23 where, as I told you before, these are people who know each
24 other. So what that makes it is even that more of a crime,
25 not just because he put a gun to someone's head, not because

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1 they took the money, but on top of all of that, the fact
2 that he betrayed people that are not only his family members
3 but his friends for money, and that was it. That's all this
4 is about. He, Geraldo Land, knew Joseph Woods, Malcolm
5 Woods, Luctercia Caldwell, Walter Caldwell. He's been to
6 Walter Caldwell's house before, played cards in his house
7 before, knows the layout of the house. Knew what he was
8 getting in to when John Wilmore that night playing cards
9 texted him and told him, "Man, there's money on this table"
10 --

11 MR. LAND: Objection, Your Honor.

12 THE COURT: Wait, he objected.

13 MR. LAND: She just stated that John Wilmore texted me
14 that's nowhere in evidence.

15 MS. LIVELY: The statements of the witnesses --

16 THE COURT: All right. Just -- wo --

17 MS. LIVELY: I'm sorry.

18 THE COURT: Was that in evidence?

19 MS. LIVELY: The statements of the witnesses that he
20 was texting someone the whole time.

21 MR. LAND: But it never said he was texting Geraldo.

22 THE COURT: Well, she's not saying what the text was,
23 she was just saying they saw him texting.

24 MR. LAND: No. She said he texted Geraldo, Your Honor.

25 MS. LIVELY: Okay. I will change it.

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1 THE COURT: Let's back up. Disregard that argument of
2 the solicitor and let me hear -- your voice is kind of --
3 you're talking low, which is fine, but I'm having a little
4 trouble hearing you.

5 MS. LIVELY: Okay. All right. I will speak up so that
6 everybody can hear me. So John Wilmore is texting during
7 the whole night. And if you remember the witnesses said we
8 didn't know what he was doing, we didn't know what he was
9 texting, okay? And we don't, all right? But do you
10 remember them also saying Pack Culp was there and John
11 Wilmore kept telling him, "You don't want no part of this.
12 You don't want no part of this. This ain't you. This ain't
13 you." So the witnesses said you know, we thought that was
14 weird but then he leaves. After that John Wilmore leaves,
15 and within minutes the robbery happens. So here is what
16 we're dealing with, okay? We're dealing with a man who
17 knows the system. There's testimony that he's been
18 incarcerated before. Sergeant Moss knew him when he was a
19 corrections officer, this is someone who knows what he's
20 doing. He's a dangerous person. He will go into the home
21 of someone he knows with a weapon and put it to their head
22 for money. That's a dangerous person. That makes him
23 violent. He's controlling. He was not going to go into a
24 home of someone he didn't know, because he wanted to know he
25 could go in there and control the situation. And that's

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1 exactly what both of them thought would happen was they
2 would go into that home, people knew them, saw them with
3 guns and out of fear, out of not wanting to be involved with
4 the police, out of not wanting to have them come and testify
5 in court they thought they could get away with it. I'm
6 asking all of you to not let this violent man who is going
7 to go into a friend's home with a gun get away with it.
8 He's a manipulator. He's trying to manipulate the system.
9 He's cold. I added that yesterday. I was thinking about
10 it --

11 MR. LAND: Objection, Your Honor.

12 MS. LIVELY: This man --

13 THE COURT: Wait. What's that?

14 MR. LAND: Can she suggest stuff like that? She's just
15 making this -- just speak stuff.

16 THE COURT: Stand up so I can hear you.

17 MR. LAND: I said can she just suggest stuff like that
18 about his character when she's made a deal with his
19 character and that was in evidence? She also made a deal
20 about his character not being in evidence. She just said he
21 was -- all things about character which is not in evidence
22 because she ruled that it shouldn't be. She just basically
23 her whole --

24 THE COURT: Just disregard, there's no evidence --
25 well, say again what you're saying.

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1 MS. LIVELY: If I can finish my sentence and Your Honor
2 can rule. He's cold because he will drive around with his
3 young child in the back seat of a car as evidenced --

4 THE COURT: That's in evidence.

5 MS. LIVELY: -- by his own witnesses.

6 MR. LAND: Yeah, but that ain't what I was talking
7 about. She said a whole lot before that.

8 THE COURT: I overrule the objection.

9 MS. LIVELY: Once again, controlling, has to have it
10 his way. Driving around with your five or six year old son
11 in the back of a car with a man who is smoking pot with
12 girls, driving around the neighborhoods. That's what --

13 MR. LAND: Objection, Your Honor. Is she implying that
14 that Thomas -- that he was riding with us smoking marijuana
15 with girls? That's what it sound like she just implied.

16 THE COURT: I sustain the objection. There wasn't any
17 testimony about him smoking with the girls so disregard.

18 MS. LIVELY: Yeah. He said he was smoking marijuana
19 with the girls, Your Honor. I can pull that up if
20 Mr. Watkins wants to.

21 THE COURT: That's fine, I overrule the objection.

22 MS. LIVELY: Thank you. This is my first slide so
23 we're trying to get to the next slide, okay? All right. He
24 has no boundaries. This is the thing, whenever there was
25 testimony about the locations of these places, that's the

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1 other thing you need to keep in mind. Remember, I told you
2 that he knew the victims, right? Well, everybody lives so
3 close to each other. You know their mom, the aunts,
4 everybody is -- remember, whenever Thomas Love was talking
5 he said, "Oh, within 30 seconds you could drive here.
6 Within not even two minutes you could get to this place."
7 Well, where does Mr. Walter Caldwell live? Oh, he's not
8 even a mile from the courthouse. So that's another thing.
9 You're dealing with a community of people who know each
10 other. So what happens whenever you're a victim a crime and
11 you know the person or you know the people who were
12 involved? It becomes very complicated in a small community.
13 And that's the reason why a lot of what you saw happen
14 whenever you saw people coming and testifying, and for the
15 lack of people coming and testifying, that is the nature of
16 a crime such as this where you have to try to get people to
17 understand we need to see justice through the State when
18 someone commits a crime, and that's exactly what we're
19 trying to do. We need to keep dangerous people who are
20 willing to break into people's houses with guns off the
21 streets. That's what we have to do, okay? Okay. So what
22 were the crimes committed? If you remember whenever I first
23 talked to you, I actually had each one of these charges
24 here, and the Judge is actually going to read you what the
25 actual law is here in South Carolina, and you, as the jury,

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1 determine what the facts are that you saw, that you heard
2 from that witness stand to determine whether or not the
3 defendant is guilty beyond a reasonable doubt. So the first
4 thing I told you about was burglary first degree. Did
5 Geraldo Land, Snoop Land, enter the home of Walter Caldwell
6 at night with a weapon with the intent to commit a crime
7 therein, which the crime therein would be the armed robbery.
8 The answer to that is yes. He did go in with a weapon.
9 Even though you heard the witnesses whenever they either got
10 tripped up or when they were trying to go back and remember
11 exactly what was said, it's been -- you know, time
12 unfortunately is definitely something that works against the
13 State because, you know, you have to rely especially on eye
14 witnesses to remember things again. So what we have is if
15 they get something -- if they get tripped up or they get
16 something wrong here is the thing that you need to remember,
17 they never changed their story or their account of what
18 happened as to who the two burglars were. That never
19 changed, ever. The thing that they got tripped up on, if
20 you even want to call it that, was, well who was pointing
21 the gun at who when. The other thing that they always
22 confirmed was that both of them had guns. So it's not that
23 you had one person with a gun controlling the room while the
24 other person was taking the money, you had two people in
25 that home with guns. Now, who was the person who had the

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1 best view of the person with the gun to their head? It was
2 Joseph Woods. Because you heard him, when he went to bow
3 up -- because he didn't know at that moment when they busted
4 in that they had a gun, that they both had guns, and he felt
5 that gun to his head and someone mumbles whatever was
6 mumbled, that's when he sat back down. He looked up into
7 the face of Geraldo Land. Now, armed robbery. We have two
8 charges for armed robbery here because he took the money
9 from Walter Caldwell and Joseph Woods. Both of them
10 testified they had money on the table and the money was
11 taken, okay, armed with a gun. Then assault and battery
12 first degree. He held the gun to Joseph Woods' head with
13 the apparent ability to inflict some serious injury and/or
14 possibly even death if that gun had gone off. By the grace
15 of God we're not here on a murder because that gun did not
16 go off, okay? So we have two armed robberies, assault and
17 battery first degree and then burglary first degree. The
18 possession of a weapon during the commission of a violent
19 crime. Burglary is a violent crime. The worst type of
20 crime, along with murder, that you commit is going into
21 someone's home, their dwelling, their castle, their place of
22 security, and ripping it away from them. Now, let's find
23 out why. A lot of times -- the State doesn't have to prove
24 necessarily a motive. We don't have to say we know for a
25 fact the reason why Geraldo Land targeted Walter Caldwell is

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1 because of this, but the thing is the evidence is already
2 there. We know why. The why is, first of all it's known to
3 be a card house, okay? That's just Mr. Caldwell. They've
4 had that house there, he said he has lived there I don't
5 even remember how many years, and it's a perfect target for
6 people in the community who know that. They know there's
7 going to be money there, okay? That night we know even more
8 about money being there because Wilmore is sitting there
9 playing cards with the victims before they're robbed,
10 texting to someone, kind of giving hints to Pack Culp, "This
11 ain't for you. You don't want this," so he leaves. Wilmore
12 knew cash was present because he was there. He knew no one
13 had weapons on them. You heard Luctercia Caldwell say,
14 "Yeah, my dad has a gun but he didn't have one in that
15 room." He knew the victims. He knew the victims. They
16 believed they were going to get away with it. That is the
17 why. They didn't believe those victims would come here and
18 testify in front of all of you this week. And as you heard,
19 one of the victims didn't come. You heard Malcolm Woods'
20 name, his statement is in evidence about being robbed, about
21 who came in and robbed him that was written that night of
22 the robbery. But you heard Investigator Lewis say he was
23 scared of him. Now, here are all of the witnesses. And I
24 know sometimes it gets to be a lot when you're sitting here,
25 you're not taking notes so I'm just bringing this back to

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1 you because I'm going to touch on them a little bit. So the
2 State called Joseph Woods, Walter Caldwell, Luctercia
3 Caldwell. Those are the three victims, even though there
4 was also Malcolm Woods, those are the three that were here
5 to testify. Tyler Covington was the officer for the city
6 that actually responded to the 911 call by Joseph Woods at
7 Wal-Mart, okay, whenever John Wilmore pulls up and starts
8 making comments that there were threats being made by John
9 Wilmore to Walter Caldwell. Then there was Adam Bailey who
10 was the young officer who had just gotten out of the
11 academy. And then also agent -- or Investigator Moss and
12 then Mr. Lewis. The defense called Jasmine Caldwell, Mary
13 Jacobs Burris and Thomas Love. So let's talk about each one
14 of the victims, because they are victims. There's no
15 question that they were robbed that night. So number one we
16 know a robbery, a burglary took place. Two people came into
17 that home armed with weapons and took their money. No one
18 is denying that that happened, okay? So we're already
19 there. So the question then isn't what happened it's who,
20 all right? So Joseph Woods, why would he lie and say it was
21 Snoop or Geraldo Land? There's absolutely no evidence, none
22 whatsoever in this entire case that he has any kind of bias,
23 dislike of the defendant. None. And on top of that they
24 are related. And if you remember when you hear him talk
25 he's like, "I can't believe he did that to me, you know,

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1 because we're related." So there is no reason for that.
2 He's known him for years as Snoop. Now, that may come as a
3 surprise to some of you that they may not know each other's
4 legal name.

5 MR. LAND: Objection, Your Honor. She said he'd known
6 him for years. The witness clearly stated that he did not
7 know the defendant. For years he knew the defendant, and
8 then he later found out that the defendant was kin and
9 related to him through his father, Geraldo Land, and his
10 grandfather --.

11 THE COURT: I overrule your objection. Go ahead.

12 MS. LIVELY: Thank you. They've played cards together,
13 he's given him rides home, all right? They've never fought.
14 So there's no benefit for him to accuse a relative of being
15 the person who held a gun to his head and stole his money.
16 Think about how that would tear up a family. There is no --
17 there's more of a reason for him not to do that then there
18 is for him to stand his ground and come in here and look at
19 all of you and tell you, "I know it was him. I looked up in
20 his face." There is no motive to lie. And that 911 tape is
21 powerful. You're talking about minutes after it happened,
22 okay? Whether it was 15 minutes, two minutes, three
23 minutes, whether they ran out the door to try to chase
24 somebody down who just had a gun to their head or not,
25 that's not the point at all. The point is what does he say

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1 on that 911 tape. All right. Now, Joseph Woods. I submit
2 to you that he's telling the truth, but you're the ones who
3 determines the credibility of the witnesses. He was the one
4 who had the gun pointed at his head and had the closest view
5 of Snoop, and he clearly said, "I looked up into his face
6 and he's doing like this." All right. He called 911,
7 reported the crime and immediately identified John John
8 Wilmore and Snoop or Snookie Poo, okay? Remember, he
9 doesn't know the real name. Now, here is what I did, and I
10 submit to you you can listen to it for yourself and I'm
11 going to play it at the end of my argument to listen to.
12 How many times -- now, the 911 tape is a total of three
13 minutes and 31 seconds, okay? During that three minutes and
14 31 seconds I submit to you he said at least 15 times that he
15 either looked into their faces, saw who did it, knew who did
16 it, knows who they are, don't know Snoop's name but I know
17 who robbed him. Within three minutes and 31 seconds he
18 makes some kind of statement like that to the 911 operator
19 at least 15 times. And that's within minutes of it
20 happening. Now, at what point in time would he have been
21 able to formulate, "I'm going to put this on Snoop, who I
22 don't even 100 percent know his real name, because, you know
23 what? I just don't like him." There's no evidence of that.
24 Is there a mistaken identity? No, there's no evidence of
25 that. What we do have evidence of is a clear identification

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1 from the moment after in the heat of the moment by the
2 victim, Joseph Woods. Now, here is another thing. Three
3 days later Wilmore -- and remember, he also says, "They know
4 who I am. I work at Wal-Mart, Joseph Woods," it's on the
5 911 tape, and Wilmore comes to his job, says he's going to
6 Walter Caldwell's house. Within three days someone is
7 trying to control the situation. The codefendant of this
8 defendant, who went in there with guns with him, shows up at
9 Joseph Woods' job. Now, I submit to you if you're at your
10 job and someone who just robbed you who also had a gun and
11 makes a threat to another victim, are you scared if you call
12 911? And also, does that show the kind of control and
13 manipulation that we're dealing with with these defendants?
14 No boundaries. No boundaries. Immediately had to take back
15 control because they had heard through the grapevine,
16 through Thomas Love, or remember whoever else that there was
17 talk that it was Snoop and John John Wilmore who went in.

18 MR. LAND: Objection, Your Honor. What did she say
19 right now? You said they heard Thomas Love?

20 MS. LIVELY: And then he provided a verbal statement --

21 THE COURT: Objection overruled.

22 MS. LIVELY: -- to law enforcement confirming it was
23 Snoop that held the gun to his head and robbed him. He
24 then, like I said, is related to Snoop, realized that
25 relationship and later on because he started to figure out,

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1 "You know what? I hadn't really thought about it, hadn't
2 hung around with him that much, how do I know this person?"
3 And that's whenever he realized what the real name was. And
4 remember this is important, okay, you heard this through his
5 alibi witness, Thomas Love, the police did not know who they
6 were looking for after the 911 call except for John John
7 Wilmore. That's the only name that actually came out as a
8 normal man. The name they had was Snookie Poo Lowery
9 initially, okay? So they didn't even have Snoop yet. And
10 within two days the alibi witness is confronted by Geraldo
11 Land and said, "Man, I need you to cover for me. For what,
12 Snoop? The police hadn't even known to look for you yet."
13 Control. He was trying to control the investigation, the
14 victim, the whole situation that night when he went in there
15 to the victims, the people he knew who didn't think he would
16 do something like that to them and take their money, he
17 started his web of control. Now, the night of the crimes
18 we've got the 911 tape. And remember, there was questions,
19 "Well, what time did you call? Was it 11:30 or was it
20 11:45? What time were you there, was it 11:00 or was it
21 midnight?" The 911 tape clearly shows, and you heard the
22 officer testify, that the dispatch he went out, that was
23 Adam Bailey, was at 12:03 a.m. So right at that time is
24 whenever the call was made to dispatch. Now, whether they
25 waited ten minutes or 15 minutes or whatever, that's really

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1 not going to matter, because what does matter is the time
2 whenever law enforcement reported and whenever they got
3 there and took statements from the actual victims in the
4 case, okay? So where that may become important is when the
5 defendant is trying to get his cover-up alibi to confirm the
6 times whenever he was with that alibi, which, of course, we
7 know he's got two alibis that conflict that I'll talk about
8 it in a minute. Now, Walter Caldwell. He was the older
9 gentleman who owns that home on Ashford Street, been there
10 for years. Now, here again, why would he lie? What would
11 be his motive to say that it was Snoop? He didn't even know
12 his real name at the time of the crime. To me that's big,
13 and this is the reason why. The only thing he knew -- and
14 remember he said, "I could tell by your height, you know, I
15 only saw half his face, you know, so" -- and he even
16 admitted, "I didn't know who you were at the time."
17 Whenever he talked to Investigator Moss he said, "I don't
18 know who he is. I don't know who he is," okay? He's not
19 related to him, he does not know, he was being honest. So
20 that's what makes his photo ID lineup so powerful in this
21 case. Because what you have is if Joseph Woods would have
22 picked out Snoop, all right, then you would be like it's
23 because he recognizes him as having been a family member,
24 okay? That would be a typical -- that's what I would argue
25 if I was a defense attorney. I would say that's why he

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1 picked it out, that one looked familiar to him so he picked
2 him out, right, because he knows him, he's related. Walter
3 Caldwell is not related. Walter Caldwell goes into -- after
4 his wife has died -- that's another thing. Right in the
5 middle of all of this horrific stuff going on his wife dies.
6 They finally get him over there to -- on June the 8th to do
7 a photo ID lineup, he picks out Snoop point blank. No one
8 was there to tell him, "Pick out Geraldo Land." No one was
9 standing over his shoulder and saying, "This is the person
10 you're supposed to pick out because there is some kind of
11 conspiracy and we want to frame this guy for doing this."
12 That's not happening here. Use your common sense when you
13 think about how this unfolded and when you think about what
14 happened and what Mr. Caldwell told you. He has no reason
15 to lie, no bias. And there was an argument whether or not
16 he thought his granddaughter was involved, okay? That came
17 up through the defense. And here is the thing, she
18 testified to you, she wasn't even there at the time of the
19 robbery. And when Walter Caldwell was interviewed, Joseph
20 Woods was interviewed and Luctercia Caldwell was interviewed
21 none of them said they thought she was involved, okay?
22 Yeah. Maybe the day after something like this happens
23 you're upset, you're terrified and you start accusing
24 anybody and anyone who you think may have been involved or
25 may have known somebody involved, but you get over it. And

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1 she came in and told you, "I had nothing to do with it and I
2 wasn't even there when it happened," okay? So let's not get
3 caught up with the smoke and mirrors of what didn't happen
4 and let's focus on what did, okay? All right. So then we
5 have Luctercia Caldwell. She's moved to Texas. She's made
6 a career change, she has made a move to better her life,
7 she's got a new job, but she came back. She came back and
8 she got up there and told you what happened. After she
9 visited her mother dying in the hospital that Sunday she
10 goes home and there's only a few people left playing cards.
11 And Luctercia, she's like, "I didn't even have anything to
12 drink. I just went in there with 20 bucks, sat down at the
13 table, got there about 9:30 or 10:00. She confirms who all
14 was there, which is what everybody else is saying. She then
15 said John Wilmore at some point gets up and leaves, okay?
16 She even heard Wilmore saying to Pack Culp, "This ain't for
17 you, you don't want this, you don't want no part of this,"
18 okay? She didn't know what he was talking about. But
19 Wilmore leaves. Then here is the burglary and armed
20 robbery. She is seated -- as you heard this is like -- it's
21 the porch here, okay? Busting into the doorway and you've
22 got Joseph Woods sitting right here, all right? You've got
23 Walter Caldwell, you've got Malcolm Woods and then you have
24 Luctercia who has a perfect view to the doorway, hasn't had
25 anything to drink, a well lit room, looking and she sees

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1 Geraldo Land. She sees John Wilmore. And in her statement
2 at some point, actually Investigator Moss and Luctercia kind
3 of giggled because she said, "I couldn't believe it, he was
4 wearing the same thing he was wearing earlier when he just
5 left us." That is the kind of audacity and control that
6 both of these defendants had at least in their minds, like,
7 "I even have the nerve to go back in with the same clothes I
8 was wearing because I know you're not going to tell on me."
9 And why is that? Because as you heard whenever Covington
10 showed up at the Wal-Mart that day there's consequences.
11 How about Luctercia telling you that Land and his mom went
12 to her job within days of this happening, went to her job.
13 If that's not meant to intimidate someone or control what's
14 going on then I don't know what is. That's what he was
15 doing. And in her statement when she finally came in -- it
16 took months for the officers to get them in there, okay?
17 And I'm not going to make apologies for any of the victims
18 here. We have cases here all of the time that we deal with
19 where there are hesitant victims and this was one of those
20 cases, all right? And for good reason. I think all of you
21 understand that very clearly now as to why. One thing she
22 did say was she was 100 percent it was Snoop and Wilmore,
23 100 percent sure, okay? When they went to her work it
24 didn't feel good, she felt threatened. Once again, no
25 reason to lie, no bias. She even said at some point in time

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1 according to her that Snoop liked her daughter. That's it.
2 Not that he broke up with my daughter, that he beat up my
3 daughter, that he hurt my daughter, nothing. She didn't say
4 one negative thing about him at all, none of them did. And
5 if they had, well then maybe they would have put a
6 reasonable doubt in your mind, but not one of them gives you
7 that because it didn't exist, okay? Now, all of the victims
8 confirm. Now, let's look at all of them, we'll put them all
9 together, okay. All of them confirmed the approximate time
10 of the crime, it was between 11 and 11:45 p.m. All of them
11 confirmed John Wilmore was there earlier that night and then
12 left. Joseph Woods, Malcolm Woods, Walter Caldwell and
13 Luctercia Caldwell were present during the crimes. Only two
14 suspects came in and robbed them at gunpoint. Both suspects
15 had guns. Both suspects had on hoodies. All four -- and
16 the reason why I say all four is because we do have the
17 written statement of Malcolm Woods, all four witnesses
18 confirmed it was Snoop and John Wilmore that came in with
19 guns and took their money, okay? "I was sitting at the
20 table when John Wilmore and Snoop Lowery ran in with a gun.
21 500 was taken from me, 1800 was taken from my brother, and
22 250 was taken from Mr. Walter Caldwell." Joseph Woods. "I
23 looked up when I felt a gun to my head. I looked up into
24 the face and saw Geraldo Land." All confirmed that Joseph
25 Woods had a gun to his head. Money was taken, they were

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1 uninvited guests at nighttime with weapons in their hands.
2 Guns used in the commission of a violent crime. Clear
3 identification. So the investigative witnesses. And I'm
4 just going to go ahead and tell you, it's not easy whenever
5 you're part of the State and you know you're putting up
6 somebody who doesn't have a lot of experience, because I
7 don't know what some of these officers are going to say or
8 not say, it's not a perfect situation. So Adam Bailey,
9 yeah, he basically didn't know what he was doing whenever he
10 went to a robbery because he's on patrol. So should he have
11 done more? Absolutely. Would he do more now? Absolutely.
12 Did he do it that night? No, he didn't. So there were
13 things that myself and Investigator Lewis had to go back and
14 do; take pictures, you know, map out the room. Because when
15 I bring a case in here to a jury I want you to have as much
16 information as possible so you can make the right decision,
17 and that's exactly what happened. Tyler Covington came in
18 and he testified about the 911 call and going to Wal-Mart
19 only because that's all he did. We have Investigator Moss
20 who was actually assigned as the primary investigator. They
21 had two investigators for the city. He told you he knew
22 Snoop from prior incarcerations, but at that time he didn't
23 know that's who he was dealing with, okay? He knew about
24 the April 12th call to law enforcement regarding John John
25 Wilmore because they did have that name, all right? So they

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1 clearly did have the name of one of the suspects, all right?
2 So from April the 12th until June the 1st -- and you can
3 actually go through testimony when you look at all of the
4 different times whenever Investigator Moss and Lieutenant
5 Fourney tried to get up with the victims. First of all
6 Walter Caldwell's wife died April 24th, so he was in the
7 middle of all of that along with Luctercia. Then he went by
8 I think it was May to where he knew the Woods brothers
9 lived, asked them to call. No response. Then they went by
10 there again and put cards in the door, "You need to call
11 us." They don't have any other information. Now, could
12 they have done more? Sure. I always want them to do more.
13 Even when I have everything I want more, because I want to
14 make sure you have everything you need. But what we have
15 here are victims who are scared, and we have victims who are
16 going through a family crises. We have victims who
17 realized, "Once I make that statement, once I take that step
18 I'm in it and everybody is going to know it." Look what had
19 already happened. Luctercia already got confronted in her
20 job and Joseph Woods already had to deal with John Wilmore
21 coming to his job, and they hadn't even had a chance to talk
22 to the police yet other than the 911 call and you're already
23 getting that kind of a reaction. So when the officers
24 finally got them to come in and talk and give a statement,
25 those statements were recorded and you have access to listen

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1 to them again if you need to. You have that information.,
2 okay? Then whenever it was actually Joseph Woods that came
3 in and finally was able to say, "Hey, I know it was Geraldo
4 Land, that's his real name," that's whenever they were able
5 to do the photo ID lineup, put his picture in there and show
6 it to Walter Caldwell, who had no idea what his real name
7 was. And as I stated before, Mr. Lewis actually talked to
8 Thomas Love to find out what it was he was going to say.
9 Lieutenant Fourney talked to the other alibi witness, we
10 knew what she was going to say, so we knew before walking
11 into the courtroom that their alibis conflicted. What else
12 was there for us to do when we know that his own alibis
13 didn't know where he was? They got it wrong, and the reason
14 why they got it wrong, ladies and gentlemen, is because he
15 wasn't with either one of them. Now, intimidation of the
16 witnesses, I've already talked to you about that. One of
17 the victims didn't even come in here and testify, Malcolm
18 Woods. Now what matters? And I have to talk to you about
19 this, because I think that in all fairness I'll just tell
20 you one of my first shows is Criminal Minds, I watch all of
21 this stuff, it's probably -- I'm a glutton for punishment, I
22 guess, because of my job. But one of the things is is that,
23 you know, we know this goes on in real life, okay, I get
24 that. And the thing that -- I will just tell you just a
25 short story. I know this is not in evidence so I hope he

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1 will allow me to tell you a story. My parents, who are both
2 in their seventies, they watch CSI --

3 MR. LAND: Objection, that's not in evidence, Your
4 Honor.

5 THE COURT: I sustain the objection. He objects
6 because it's not in evidence.

7 MS. LIVELY: I can't tell them a hypothetical story
8 about my parents?

9 THE COURT: No.

10 MS. LIVELY: All right. Maybe one day I'll meet y'all
11 at Wal-Mart and I can tell y'all about it. So what the
12 point of this is is that there are so many things out there
13 right now on television that shows us all of this stuff that
14 can be gathered through collection of evidence, okay? So
15 let me tell you the reality of how that works. In going
16 into this particular crime scene Investigator Moss was
17 exactly correct, what could they have gotten from dusting
18 for fingerprints that night? That would have proved that
19 John Wilmore was there. Guess what? We already know he was
20 there, because every single one of the witnesses said he was
21 there, okay? So that would not have proved anything. Now,
22 would it have shown that Snoop was there? Well, he wasn't
23 there playing cards, right? He comes in on his own. The
24 only thing that he -- that the witnesses testified to was
25 that he put his arm around Joseph Woods' neck and held a gun

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1 to his head. So the only thing that would have fingerprints
2 on it would be that gun. So no fingerprints. He could have
3 gone in there, and gotten fingerprints but it would basically
4 show Joseph, Luctercia, Walter and John Wilmore. All right.
5 So let's back up. What about collecting DNA? DNA is a
6 fantastic tool, it's fantastic when you have it. Sometimes
7 it can be fantastic when you don't because it actually
8 releases people who may not be guilty of a crime. So who
9 would we find DNA in this particular situation? All right.
10 DNA would come from blood, saliva, we don't have that here.
11 Remember, I told you that we do not have a murder, no guns
12 were discharged so we wouldn't have any touch DNA from any
13 type of shell casings or anything like that. The defendants
14 didn't injure themselves. Sometimes you might have someone
15 injuring themselves like leaving a scene, busting through a
16 window or something and they might leave some blood behind.
17 That didn't happen either. So there would be no DNA
18 evidence to be collected then. The guns were never found.
19 This is not a convenience store. I keep bringing that up as
20 a point, because this was a home, this is a controlled
21 environment with no video where these two defendants could
22 walk in and make -- do what they wanted to in that home and
23 leave and that's exactly what they did. It was a perfect
24 setting for an inside job by people who knew the victims,
25 which is exactly what happened. All right. The defense

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1 witnesses. Jasmine Caldwell. I've already talked about
2 her. Granddaughter. Not present during the robbery. Could
3 not provide any of you any relevant information to help you
4 make your decision, okay? She does not help us. But what
5 she does do coming from the defense is confirm that John
6 Wilmore was there that day, okay? She said/she was accused
7 of possibly being involved. That shows us how upset her
8 grandfather was, okay? But remember, when he had the moment
9 of having to talk to the police and give his statement he
10 never mentions Jasmine as being somebody he really believed
11 was involved. And Mary Jacobs -- and I'll just tell you,
12 whenever I have a family member, especially an older family
13 member who comes in who obviously has love for the
14 defendant, cares for the defendant and wants to help the
15 defendant, you know, it's hard for me to say, you know,
16 you're a liar, you're just doing this because you love him
17 and all of this stuff. Here is the thing, she's definitely
18 biased because of that relationship, all right, hands down.
19 She had a reason to try and help him, absolutely believed
20 that 100 percent, and that's what she was trying to do. But
21 here is the thing, remember how she said, "Well, he would
22 always just come by, you know, he was always hanging out
23 with my sons." She wasn't actually interviewed once, you
24 know, once the State got notice about her being an alibi
25 because she didn't reach out to the police. The police --

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1 we found out about her almost a year later. So how can she
2 be so sure on that night that it was like every other night
3 when he would stop by? She can't. She's either confused on
4 the date or just not credible, ladies and gentlemen, and
5 that's just the bottom line. Now, Thomas Love. He then
6 says he agreed to cover for Snoop two days after the robbery
7 before we even knew who Snoop was, before the police even
8 know who he was. He's already controlling that situation.
9 He said he was smoking pot the night of the robbery so his
10 timeline is unreliable. This is someone who was under the
11 influence of an illegal drug, okay? Now, what does he also
12 provide to us? He provides to us how close by everything is
13 as they're driving around. He says clearly, which I have to
14 admit it was actually one of those times where when you
15 can -- he couldn't deny the timeline, right? He could not
16 deny the fact that the aunt, the great aunt, Mary, had said,
17 "He was at my house from nine to 12 with the baby." Period.
18 "I know, I could hear him. I know it because I can hear
19 him, he didn't leave until after 12," okay? Thomas, "I was
20 with him from ten until 11. I met him at his house, not at
21 Mary's house, at his house. Not with him from 11 until
22 11:45. And then he goes back to the grandma's house, which
23 is where he is sitting in the car with the child in the car
24 talking until about 1:30 when he falls asleep, and then
25 leaves at 4:30 in the morning. That defendant cannot be in

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1 two places at one time, and the reason why is because he was
2 committing burglary and armed robbery at the home of Walter
3 Caldwell on this night. And when the noose started to
4 tighten around his neck, he started the manipulation by
5 trying to get witnesses to come in and cover for him at any
6 cost. He's throwing this out here to manipulate each and
7 every one of you and hoping, "Well, maybe they'll believe
8 Thomas and not Mary. Maybe they'll believe Mary and not
9 Thomas." But either way he's counting on that. And I've
10 already talked about Ms. Mary so I won't talk about that.
11 But the bottom line is is that they're both biased and
12 they're both not credible. So I'm going to talk to you now
13 about the law and then I'm going to sit down and let Mr.
14 Land have his opportunity to talk to you. I've already told
15 you, burglary first degree is the defendant entering a home
16 in the nighttime with a weapon and he commits a crime
17 therein. He possessed that weapon while committing that
18 violent crime, okay? Commits robbery with a deadly weapon,
19 a pistol, a gun. Assault and battery first degree. That
20 was what I told you earlier, and that is holding a gun to
21 Joseph Woods' head with the present ability to use that gun
22 to cause physical injury. One of the things that the Judge
23 is going to actually charge you on in the law is hand of one
24 is hand of all, accomplice liability. There's been no
25 question that two people went into that house that night,

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1 both people had guns, money was taken, a crime was committed
2 within a dwelling, it happened at nighttime, okay? So what
3 the Court is going to tell you and what the law is that you
4 must apply to this case is that it doesn't matter which one
5 of them pointed the gun at Joseph Woods' head, they're both
6 equally guilty. And that's the law. If they're both going
7 in there for the purposes of committing a crime as
8 accomplices, they're working together, so whatever one does
9 the other one is also guilty of and that's our law. And
10 you'll be charged on alibi, and I believe that through the
11 evidence that you've seen on that witness stand the State
12 has shown you beyond a reasonable doubt that the defendant
13 does not have a credible alibi for that night. And you,
14 only each one of you can determine the credibility of each
15 witness that was sitting in that witness stand. That lies
16 on you, not on me, not on Geraldo Land and not on Your
17 Honor, that all lies with you. What I'm going to do, ladies
18 and gentlemen, is ask you to be firmly convinced that this
19 defendant is guilty and that he should not win the bet that
20 the victims would back out. I'm going to now --

21 (The 911 audio is played.)

22 MS. LIVELY: Thank you for listening. Thank you for
23 your patience. Find him guilty, ladies and gentlemen. He
24 is guilty.

25 THE COURT: Mr. Land?

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1 MR. LAND: Please the Court, Your Honor? Good morning
2 men and women of the jury. Today in my closing I want to
3 first say that I'm here today because I'm innocent. Not
4 only do I know I'm innocent as well as the solicitor who
5 just got up here, Sergeant Moss, Lieutenant Fourney, they
6 all know I'm innocent. They're here today because a lack of
7 investigation. I'm starting off my closing by just pointing
8 to specific points to show you how they're trying to paint a
9 picture that cannot be painted because it's not true,
10 because when you tell a lie you have to tell another lie to
11 build on that lie and it just continues. So their lack of
12 investigation first started when the first incident
13 happened, the responding officer. The responding officer
14 stated he did not go in the home, he did not take any
15 pictures, he did not check the area. You just heard on the
16 911 tape that he said that they left on foot running. No
17 K-9 units was called. No running -- nobody was out there,
18 nobody didn't check the area. They did not find the area.
19 The responding officer also stated that he didn't know -- it
20 was unknown if they were drinking, which that defendant,
21 Joseph Woods, admitted on the stand that he was drinking.
22 Not only did he admit on the stand he was drinking he stated
23 that after it happened they got two or three more cases, he
24 stated more cases on the stand. Not only that, they didn't
25 ask the neighbors anything. They didn't have any body cams.

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1 They asked that defendant (sic) who was just now recorded to
2 give a written statement, and at that time he gave a written
3 statement stating \$1,800. No Snookie Poo Lowery, no John
4 John Wilmore, no anything but \$1,800 after the officer asked
5 him, a man that is not intoxicated, that does not have
6 any -- supposedly not intoxicated to give him a statement,
7 and he stated \$1,800. Not only did he not do that, but he
8 did not call anybody in to investigate the area, which the
9 solicitor stated these are serious charges. So like he made
10 the statement he did not take any DNA, he made the statement
11 of that no DNA could have been found at the case. But the
12 statement, one of the witnesses -- well, the witnesses'
13 story varied tremendously. One of the witnesses said that
14 they weren't covered, another witness said they were
15 covered. Now, if you look at this exhibit that's already in
16 evidence, Exhibit 1, it's a picture of Geraldo Land. You
17 see this chin hair. Hair has DNA. So had they taken DNA
18 and if you were reaching over a person you will find DNA.
19 They did not look for any DNA. They did not look for --
20 like she stated, John Wilmore was there. But one thing that
21 never changed throughout this story, through all of the
22 witnesses, Geraldo Land was never there. Not only was he
23 never there but he hadn't been there in awhile. Yes, they
24 knew Geraldo. They knew Geraldo from being over there. But
25 even the witness that stated on their recording that he knew

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1 Geraldo, he stated, "I know Geraldo." He stated, "Snookie
2 Poo Lowery." Snookie Poo Lowery is a real person, it's not
3 Snoop. He stated -- if you know a person, why wouldn't you
4 know their nickname or their real name, why wouldn't you
5 know any name that they call him? Not only does he state
6 that he knows this person, but when he sat on the stand and
7 you ask the man, "You're saying that you know Snookie Poo
8 Lowery," or, "Now you're saying Geraldo Land. What features
9 did you see? How did you identify him?" He said, I knew
10 you." But you did not know his name, you know Snookie Poo
11 Lowery, which is a light skinned individual." You stated
12 when asked on the stand, "What distinctive features?" If
13 the witness was uncovered completely what distinctive
14 features would you know? Would you know the goatee? Would
15 you know his nose? Would you know the scar on his eye or
16 scar on his face? What did you know? What distinctive
17 features?" He said, "I don't know, I can't recall." That's
18 another saying that -- to not admit that I don't know. He
19 cannot say that he has seen any distinctive features. But
20 you know an individual by Snookie Poo Lowery, which is not
21 his name, not his nickname and another individual, light
22 skinned individual. Now, had -- going on with Sergeant
23 Moos. Sergeant Moss did not do an investigation once it was
24 turned over to him from the responding officer, which
25 Sergeant Moss said that he was over investigations.

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1 Sergeant Moss did not do any contact information until a
2 month and over a half after he received the case when
3 Sergeant Moss came in that Monday that it happened.
4 Sergeant Moss, he didn't interview any witnesses to the end
5 of May or July. He did not interview any witnesses from the
6 alibi, which you heard that one of the alibi witnesses state
7 that he knew what time it was because of his phone. Had he
8 interviewed or followed up with it he would have been able
9 to look at the individual's phone and see the time, but he
10 did not. Why? Because he felt no need to because he did
11 stick to the statute of the law which is innocent until
12 proven guilty, and if he had stuck to that then he would
13 investigated Mr. Land. Because Mr. Moss sat on the stand
14 and said that, "Yes, I found you in the system." He got
15 statements -- excuse me, he got a warrant on 6-8, he came to
16 the defendant's house, Geraldo Land, the defendant's house
17 which was in the system. He also stated that he knew
18 another place. He checked the defendants mother's -- excuse
19 me, the defendant's son -- the defendant son's mother's home
20 that day. Now, before you said that you didn't know where
21 to find him, but you only found in the system one location
22 for him, so how did you go about finding his son's mother's
23 place? You did not follow-up on none of his witnesses. You
24 did not even look for Mr. Land. But it is shown throughout
25 this case that Mr. Land is never here. The things that

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1 don't change in this case, Mr. Land has always proclaimed
2 his innocence. Mr. Land has never ran. Mr. Land has
3 always -- every witness has said that Mr. Land wasn't there.
4 Mr. Land has never been there. Excuse me, they didn't say
5 he'd never been there, they said Mr. Land hadn't been there
6 and hadn't been there in awhile. "We hadn't seen Mr. Land."
7 Not only that, even witnesses say Mr. Land, he's never
8 disrespected us, always respected. Even the man of the
9 house, Mr. Caldwell, which Sergeant Moss stated that he went
10 to his house and showed out, Mr. Walter Caldwell sat on the
11 stand and "You've never disrespected me at my house. You
12 had respect for me and my wife that's passed." Why would
13 Mr. Land would have robbed him? The solicitor said that
14 they don't need a motive because they have no motive. Mr.
15 Woods stated -- she just play his 911 tape but she does not
16 play his recorded. Mr. Woods stated that he did not know
17 Mr. Land. He stated he went to the streets to find out
18 Mr. Land's name, and when he went out there he found out it
19 was Snoop Land. And then when he went to the streets he
20 found out that his name was Geraldo Land. Then when he
21 found out his name was Geraldo Land he found that his father
22 was Gerald Land, and he found out that through his father,
23 Gerald Land, his grandfather, Clenzo (phonetically) Land, he
24 was related to them. He did not know any of these names,
25 because if he knew that he was related to them years ago

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1 then he would have knew Mr. Land. He didn't know Mr. Land
2 at all. He recorded -- it's recorded what he stated, "I
3 just want my money back." And you have it clear that the
4 investigator went to him, went to his house constantly time
5 and time again trying to get them, they didn't want to
6 report it. They had nothing to say. After a month and a
7 half he finally goes there, they say, "Yeah, we're coming to
8 see you," they never show up because they're not sure who
9 robbed them. They only state one person on the recording,
10 Mr. Wilmore. As it says, he says that he looked up into
11 Mr. Wilmore's face, as well Mr. Caldwell stated clearly on
12 the stand yesterday that he changed his story. They've
13 already changed their story so many times I don't know what
14 to believe. Why did they put Geraldo Land in there besides
15 the fact that a light skinned individual? Now, he went --
16 he stated Mr. Moss, never did he once come to investigate or
17 question the defendant, which the defendant was never
18 charged with anything so he had rights to come. He told you
19 as he stated on the stand that he could have came to the
20 county and followed and went and searched for Geraldo, he
21 didn't. Never did he even question that after Jas told him
22 that her grandfather stated -- not only Jas but another
23 defendant told him that Jas had something to do with the
24 robbery. She just made a perfect point that it seemed like
25 it could have been an inside job. Why did you not

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1 investigate this? Not only did you not investigate any of
2 Jas, you didn't investigate any of the people that were
3 there to verify that. You didn't investigate Pack Culp, and
4 every witness said that John John was saying something to
5 Pack Culp. Nobody investigated Pack Culp. If you wanted to
6 know, why didn't you investigate any of the witnesses that
7 were there to see if he really said that to Pack Culp? If
8 he said to Pack Culp, "This is not for you," what was he
9 saying? Did you investigate Pack Culp to see did he say
10 that ever? Did you investigate to see that not only did he
11 say that but did you investigate any other witnesses that
12 was there? Because they said it was more of people there
13 playing cards that day. Did you verify that the money was
14 there that they said they lost? Luctercia Caldwell sat on
15 that stand and said, "John John had won and he left but
16 there was still money there." How much did he win? Did you
17 investigate and see that was it money there? You never
18 verified the money period. The defendant has no motive to
19 rob you, no motive. After Mr. -- you could tell after
20 Mr. Caldwell or Mr. Woods stated that, "I just want my money
21 back," he stated on his statement \$1,800. I don't care who
22 gives it to me. I don't know who it was." Mr. Walter
23 Caldwell stood (sic) on the stand and stated, "I didn't say
24 that." But he stated that he did not know who the second
25 defendant was. He stated that he looked up into -- he told

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1 him that he did not know who the defendant was. He stated
2 that he knew John John, him and Luctercia Caldwell's
3 statement coincided when they stated that we knew that it
4 was John John because he had the same coat on. This is
5 something that never changes, "He had the same coat on, he
6 was there with us, we knew that was him." Luctercia
7 Caldwell as well as Walter Caldwell stated that it was John
8 John with the gun around his head. Mr. Walt goes further to
9 say that, "I didn't even know who the second person was."
10 They said he had long arms. Again, he's placing sides -- he
11 even said on the stand height to an individual. They do not
12 know the individual. He states that, "I know it was John
13 John because Woods looked up and said it was John John that
14 he looked up to." He stated that on his record. And he sat
15 right here on the stand and he changed and said, "No, I
16 didn't say that." They changed their story because they're
17 being coached to make -- when he state that -- when I asked
18 him, "Did you ever tell anyone that you didn't think it was
19 Geraldo Land?" He was like, "I don't recall. Did you ever
20 tell -- did you know Larry, did you know him? Yes? How do
21 you know him? He's my brother-in-law. Did you ever tell
22 your brother-in-law that you didn't think that Geraldo Land
23 robbed you? I don't recall." The same exact tactic you
24 don't recall, the same exact tactic that Mr. Moss used when
25 he sat right there on the stand and said, "I don't recall,"

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1 until I brought it up on tape, "Do you recall now?" Yes, I
2 recall now." They're being coached by someone. He says --
3 now -- then another witness, we have another witness,
4 Malcolm Woods. Now, Malcolm Woods was a witness for the
5 State, Malcolm Woods was a witness for the State that was
6 not here. Every witness for the State is a subpoena.
7 Malcolm Wood was not subpoenaed for a reason. Malcolm
8 Woods -- you heard Sergeant Moss said Malcolm Woods did not
9 want to be here because he did not want to lose money. Then
10 you heard this investigator say that he didn't record him or
11 none of that but he said he was afraid of me. But the
12 investigator never said anything about -- the person over
13 the case never said anything about him being afraid of me.
14 He said that he kept telling me he didn't want to be here
15 for work. He did not want to be here. Malcolm Woods --
16 question yourself, because I'm not allowed to say anything
17 that's not in evidence. Question yourself and ask yourself
18 why would not the solicitor want someone who was there who
19 was a part of that as a witness here unless they did not
20 want them to say anything that would conflict their case
21 unless they did not want the whole story to be told. I
22 tried to subpoena Malcolm Woods but as you can see I
23 represent myself. My lawyer, he could not have it done, he
24 said he could not find him, which I am here representing
25 myself today because I stand for innocence. Pack Culp was

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1 never interviewed, nor was Johnny Arthur nor was none of the
2 witnesses interviewed that was there to verify how much
3 money was there before the robbery took place. Not only
4 were they not there -- not only were they not interviewed
5 they were not questioned. Jasmine Caldwell, she wasn't
6 questioned. She admits to -- her grandfather admitted that
7 he believed she had something to do with the robbery, but
8 Mr. Moss said he never told her that, he was never informed
9 of that. Well, he admits to it on the stand. It's
10 something not right here. I want you to see that there's
11 something not right with the story that they're telling.
12 There's something not right. Not only did they not
13 interview Jasmine but he didn't -- Jasmine even admitted to
14 that night her texting John John on her phone.

15 MS. LIVELY: Your Honor, objection, on the phone, facts
16 not in evidence.

17 MR. LAND: Facts in evidence? She admitted it on the
18 stand.

19 THE COURT: Stick to the facts.

20 MR. LAND: Right. She admitted to texting on her
21 phone. Never was she investigated. Never was her phone
22 confiscated to see if she had anything to do with it.
23 Sergeant Moss, he had a phone from John John, never did he
24 receive any information, never -- he said he couldn't
25 find -- he had a subpoena for it, he said it was locked.

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1 But if you've got a subpoena then you can get anything out
2 of that phone, never was it done. They have no motives.
3 They had constantly stated that this is a card house,
4 they're known for card houses. They constantly say it's
5 multiple and many people here, all sizes, all shapes. But
6 you didn't want him to say that. You heard Woods call say,
7 well, about that size. They don't -- the witnesses never
8 identified Snoop -- they identified Snoop by, "Oh, well
9 about your height." Mr. Caldwell said, "About your height
10 or reaching over that arm." Mr. Caldwell states on his
11 record that he did not see the individual. He states that
12 he wasn't sure it was Snoop. He states he doesn't know it
13 was Snoop. Mr. Walter Caldwell stated another thing that he
14 has never been disrespected by Snoop. The defendant -- Mr.
15 Moss stated that the defendant showed himself to the
16 individual, that they came to the individual's house. Now,
17 if the defendant came to the house -- now, if a man robbed
18 you, a person that you know they rob you one day and then
19 the next day they come to you as a man, I don't know what's
20 going on addressing that issue, asking you --

21 MS. LIVELY: Objection as to facts not it evidence,
22 he's testifying.

23 THE COURT: I sustain the objection. Stick to the
24 facts on the record.

25 MR. LAND: They stated that the defendant came there to

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1 their house after the robbery was done the next day or
2 whatever the case may be. And if the defendant came there
3 to your house, there were no police called, he didn't say,
4 "Well, the person who robbed me is here now." They did not
5 say, "Well, the person who robbed me is here threatening
6 me," they didn't call the police and say that. You know
7 why? Because that person didn't rob them. That person came
8 here to justify himself.

9 MS. LIVELY: Objection, Your Honor, facts not in
10 evidence.

11 THE COURT: I sustain the objection. Stick to the
12 facts in evidence.

13 MR. LAND: Luctercia Caldwell said that the defendant
14 and their mother came to the hospital. Luctercia Caldwell
15 also stated that she never called the police, she never
16 filed charges. It was never reported that the defendant
17 came by there and threatened her. The defendant called --
18 Sergeant Moss stated that the defendant stated that
19 Luctercia said that it wasn't him. Now, if the defendant
20 stated that he stated that -- she stated that, or if
21 Luctercia did not state -- Luctercia state that, she stated
22 on the stand that she said it was him that day at the
23 hospital, why would the defendant state that Luctercia
24 Caldwell just said it wasn't me? Why -- it doesn't make
25 sense, it doesn't add up. Look at the facts of the case. I

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1 am here today because I'm innocent. I'm here looking at
2 your juror's now standing before you because I'm innocent.
3 Not because I'm guilty and I'm trying to manipulate, no,
4 because of the simple fact that I'm here on trial. I'm here
5 fighting for my innocence. I'm fighting for my rights. I
6 have a right to be innocent until proven guilty. I'm
7 fighting to have them come and investigate. When it's a
8 robbery and your name is brought up you're supposed to
9 investigate both sides of the story. "We want to check this
10 out. We want to check and see how much money was there."
11 Because you're sitting right here telling me that you
12 believe them, they're having a card house. This is illegal,
13 state and federal, illegal against all laws, but you're
14 sitting right here telling me that -- I'm telling you I'm
15 innocent and you ain't going to investigate nothing that I'm
16 saying. You're going to believe these people but you ain't
17 going to investigate nothing. You're just going to go with
18 what they say. You didn't do no investigation, he didn't do
19 any investigation. He didn't even talk to a witness until
20 June 1st. After June 1st, on June 9th warrants were served.
21 He never checked into alibis, never. The witness, he stated
22 that on the stand. He never did any follow-up, never said,
23 "I don't know." But he himself stated on the stand that
24 "I've never seen anything bad about this guy. I never had
25 any run-ins, we've never had any bad," but you never came

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1 and checked on the defendant. You never came to any of his
2 alibis. The defendant gave a alibi -- he gave two alibi
3 witnesses; Joseph Woods -- excuse me, Thomas Love as well as
4 Mary Burris. The defendant gave two alibi witnesses. These
5 are the things that changed -- these are the things that
6 never changed in this case, the witness declaring his
7 innocence, it never has changed. The witness alibi,
8 declaring his alibi where he was has never changed. The
9 witness never being at the scene or not being over there has
10 never changed. These are the only constants throughout this
11 entire trial, the only constants throughout this entire
12 case. Everything else has changed. You've heard it on the
13 stand as these witnesses have come up here and said, "No,
14 we're going to change, we didn't say that now." And even
15 deny it after the fact that they heard their self until
16 Mr. Caldwell finally said "Yes, I did pick you because they
17 said you." Who was that? After he said that -- I done talk
18 to the case -- I didn't discuss the case with nobody. But
19 then on the recording you said, "I didn't know it was you,
20 they say." Who is they? Is it the solicitor or is it the
21 investigator or is it the other victims? He states that
22 Bopeep said nobody had no phone there, then she recants her
23 statement and says, "My phone was in my pocketbook, it was
24 dead." Mr. Caldwell testified on the stand that the next
25 day John John called him on his cellphone. They sit back,

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1 they wait -- I don't know what they did there. I wasn't
2 there, I'm innocent, I'm here to prove my innocence. Not
3 only that, the alibis. Thomas Love got up on the stand, he
4 stated that first -- let's deal with Mary Burris. Mary
5 Burris got up on the stand, her first question asked, "When
6 did Geraldo Land come to your house?" She stated between
7 nine and ten, that was her exact words. Now, she stated
8 between nine and ten Geraldo Land came to her house. She
9 Stated that he was with her son. She stated that they came
10 over, that there was more people there than just them and
11 her sons, it was other individuals there. Now, Thomas gets
12 on the stand. Thomas states that at ten -- between
13 somewhere around 10ish that he meets Geraldo Land and his
14 son in the car at his mother's house. Not long after they
15 got there they leave -- he puts his bike around the back of
16 the house, they leave. They stop at a few houses he says on
17 the Gayle and then they go and -- he says this -- they go to
18 Mary Burris' house on Dewey Street where Thomas leaves,
19 where -- remind you, Geraldo's mother's house is at [REDACTED]
20 [REDACTED] which is approximately five seconds off Pickney
21 Street. Now, Pickney Street -- Rose Street -- Dewey Street
22 is off of Rose Street and off of Pickney Street as well,
23 which is approximately -- from Rose to Dewey is
24 approximately two minutes, three minutes tops if you're
25 driving. Now, they return -- they go to Dewey Street. Now

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1 they're here. Thomas leaves somewhere between 11 and 11:15.
2 He leaves Geraldo, and as Thomas stated on the stand when he
3 first got up there, other individuals at Mary Burris' house
4 out here in the yard in the house, in the yard, they're out
5 here. Now, Thomas comes back, he states that he meets
6 Geraldo between 11:45 and 11:50, he says 11:45, I believe it
7 was 11:50 to be exact, he seen it on his phone. Now, mind
8 you, Mary Burris' house -- Mary Burris, she said Geraldo
9 left at least around 12, around 12, leaves at 12. 11:45 or
10 11:50 to 12:00, that at -- excuse me, 11:50 is very close to
11 12:00. Not only that, she reminded Thomas that when he came
12 back Geraldo still had his son with him. Not only did he
13 still have his son with him but he had been right there,
14 which was approximately two minutes away from Mary Burris'
15 house. The things that don't change in this case are
16 Geraldo, the defendant, Geraldo Land, declaring his
17 innocence, that Geraldo Land was never there. All witnesses
18 say Geraldo Land was never there. All witnesses say that he
19 hadn't been there in awhile. All witnesses say that, no, he
20 has never disrespected us, never had no issue with us. It's
21 no motive, it's no reason. Jasmine Caldwell stated John
22 John and Snoop, they have no ties.

23 MS. LIVELY: Objection, Your Honor, that's facts not in
24 evidence.

25 THE COURT: Yeah. Stick to the facts.

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1 MR. LAND: The things that did not change in this case,
2 that Geraldo Dametrius Land never at once denied -- never
3 declared anything but innocent. Geraldo Dametrius Land, the
4 defendant, he never ran, he never hid himself. From day one
5 when the incident occurred Sergeant Moss said he presented
6 himself, "I'm here." No police were called when he
7 presented himself to the house saying, "I'm here." No
8 police were called when he presented himself to Bopeep,
9 "What's going on? I'm here." Not only that, Geraldo
10 Dametrius Land turned himself in to the police on June 9th
11 when they published those warrants, Geraldo Dametrius Land
12 turned himself in. Never did he run, never did he flee,
13 never did he leave. Never was he hidden. Sergeant Moss
14 could have come and found him anytime and said, "Let me talk
15 to you about this case. What's going on? Let me see your
16 phone. Do you have any alibi witnesses I need to research
17 on?" Never was that done. Never was that done. He was
18 already presumed guilty obviously because they failed to do
19 their investigation, and they know that if they don't try to
20 convict Geraldo then they have to do their job to find who
21 really committed this crime. Every witness got on that
22 stand, man, and changed their story, man. You heard it for
23 yourself. They got on there, they lied. They got on there,
24 they changed their story time and time again, to eventually
25 Mr. Caldwell finally said, "Okay. I said that because I

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1 didn't see them." They didn't see me because I wasn't
2 there. I have no motive. They have no motive. They have
3 no reason. They even said that, he has no reason. Joseph
4 Woods states that "I have no reason. I was shocked, I don't
5 know." He could never state any features from his face.
6 One witness -- another thing, the witnesses stated that they
7 had on hoods with their face down. Another witness states
8 that not only that they had their hoods that they seen this.
9 Now, the other witness said that this was covered. Now, if
10 this was covered and this is covered, one witness said
11 this -- which witness do you believe? Which witness -- who
12 do you know, who knows what? Who seen what? How can you
13 see somebody, how can you identify somebody that you don't
14 even know? You don't even know their name. You're calling
15 him Snookie Poo Lowery. How can you identify somebody? If
16 you seen this person you would know that I seen your nose, I
17 seen your eyes. On the stand you had heard the man be
18 questioned five to ten times, "What distinctive features did
19 you see? I just know. I just know your face." But you
20 know a person's face but you can't even put a name on that
21 face, Snookie Poo Lowery. You're going to the streets to
22 find out who this person is, to the streets, you stated
23 that. You didn't even know y'all were related. You stated
24 that I found out that, "Oh, that was Gerald's son, that
25 was -- I found out that was my cousin." Even you went

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1 before the boy and said he was always respectful of us. He
2 was always saying yes, ma'am or no, ma'am. He even went as
3 far as to say it's against that man's character. It doesn't
4 even fit him. It's not befitting. Look at the facts of the
5 case like, man. Like these witnesses done got up here and
6 changed their story, man. I don't why I can't say because
7 they're running and illegal house, the police pressured
8 them, I can't say that because I don't know why. I'm not up
9 here hiding anything, I'm here before you today because I am
10 innocent. At the end of the day I'm innocent. It doesn't
11 make sense to be here if you're not innocent. Like you've
12 heard them say, this is a trial. This is a trial. This is
13 serious. This is my life I'm fighting for. This is not --
14 I'm not playing games. And as you heard them say, I've been
15 incarcerated before, so if you've been incarcerated before
16 you know that it would be simple --

17 MS. LIVELY: Objection as to facts not in evidence,
18 Your Honor.

19 THE COURT: I sustain the objection.

20 MR. LAND: She said I was incarcerated before.

21 THE COURT: Well, there was testimony that Mr. Moss
22 knew him.

23 MR. LAND: She said I was incarcerated before. See,
24 she's ready to object.

25 MS. LIVELY: Objection, Your Honor, that's

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1 argumentative in and of itself. I'm just objecting to the
2 facts not in evidence.

3 THE COURT: You can't talk about the solicitor.

4 MS. LIVELY: Thank you.

5 MR. LAND: I'm innocent, man. I'm innocent. And I
6 want to say that the defendant, Geraldo Land, no, I'm not a
7 lawyer. I don't know all of the legal rights of the law. I
8 can't say this and then say that because they know that --
9 because they know that -- see the bigger picture, because of
10 the simple fact that I'm innocent. I'm up here fighting
11 representing myself because the simple fact that these
12 people accused me and I didn't do it, so I'm up here doing
13 everything in my power to prove my innocence. I ain't told
14 y'all no lies, my story has never changed. My witnesses
15 have never changed, my alibi has never changed. I have
16 never said, "Change my alibi, I wasn't here, I was there."
17 No. It may be variations of --

18 MS. LIVELY: Your Honor, I just object to him
19 testifying and saying "I never said, I never said," he has
20 not testified.

21 THE COURT: You can't testify.

22 MR. LAND: The defendant, Geraldo Land, his story has
23 never changed. Not only has his story --

24 MS. LIVELY: Objection, Your Honor. Now he's making a
25 comment on whether not -- this goes to whether he testified

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1 or not and he's opening a door.

2 THE COURT: You can't testify.

3 MR. LAND: I'm saying the defendant --

4 THE COURT: Well, but you didn't testify so you didn't
5 give any story so there's no story as you say from you in
6 the record.

7 MR. LAND: The defendant's alibi hasn't changed. The
8 witnesses say the defendant was never there. Not only do
9 they say he was never there, they don't believe -- one
10 witness said on the stand -- I don't see how. They've all
11 changed their stories time and time again. They've all went
12 from blind to even denying the fact that it was even them
13 after it was played for them. These people will not -- you
14 see that for yourself, you can't deny that. I mean, like
15 think about it. What motive, why? It doesn't make sense.
16 If it doesn't add up and it doesn't make sense something is
17 just not right. Something is not right. They said and
18 stated that they didn't know who robbed them. Just think
19 about the witnesses. Only one witness is not here, witness
20 Malcolm Woods, he's not here today. Why is he not here? If
21 he is -- he could be subpoenaed to be here. Why is that
22 witness not here? Why does the State not want a witness
23 here? They can have every witness that they have here by
24 subpoena. Why is that witness not here? Why can my lawyer
25 not find him for me if he's for me -- excuse me, he's not my

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1 lawyer, was my lawyer -- why? Think about what's going on.
2 It's bigger than what it seems. Again, I say I'm innocent.
3 And no, the witnesses, they didn't sit up there and say
4 "Geraldo is innocent." But they sat up there on that stand
5 and they told you something different from what they
6 recorded, that first statement, and it's been 15 months
7 later and Geraldo -- the defendant has still declared his
8 innocence. The defendant has still -- they've still stated
9 that the defendant was never there. They still stated that
10 the defendant had no reason, the defendant was never
11 disrespectful; they still stated these things. They
12 stated -- they sat up here on this witness stand, Mr.
13 Caldwell stated "I didn't see him," then he stated on the
14 witness stand it was Geraldo Land who did this. After he
15 recorded this at a time that was 12 months earlier according
16 to -- closer to the robbery that I did not see the second
17 individual. I did not see -- I didn't know the second
18 individual, stated on the recorder that -- Joseph said that
19 he looked up, "I knew it was him," and Joseph said -- he
20 said he knew it was him and Joseph said it was him because
21 he looked up and he seen his face. John John Wilmore was
22 the one with the gun behind his head. "The second
23 individual, I don't know who it is," he states this. He
24 states this. And when he comes in here on the stand he said
25 maybe it's his height or maybe it's his long arms. He

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1 states on the recording when he says his height, maybe it's
2 his long arms. He states this. Luctercia Caldwell, she
3 states the exact same thing that, "Yeah, it was John John
4 that came in here and put the gun behind his head," and she
5 denies it right here on the stand. Not only that,
6 Investigator Moss stated on the record that Luctercia,
7 Bopeep, told him that Mr. Land, they were on -- him and his
8 mother approached her at the hospital this, that and the
9 third, immediately after the crime, the week of -- after the
10 crime happened. Now, he talked to her on June the 20th.
11 The defendant, Geraldo Land, they were arrested. Bopeep
12 still at the time of the defendants being arrested, she
13 still hadn't said anything. She told him on 6/20 that she
14 would come down there and never came on 6/20. On 9/19,
15 three months later after he tracked her down, she finally
16 gave a statement, and on her recorded statement what she
17 stated was, "No, it wasn't" -- excuse me. "No. I knew who
18 it was, it was them and it was John John with the gun to his
19 head, and I know, then and they had their face covered but I
20 knew them." She stated on the stand then, "I knew him eight
21 years," and this and that, "he talked to my daughter." Do
22 you want someone to talk to your daughter -- after she said
23 that she said, "I don't know you like they say you wouldn't
24 do that," but you just stated on the stand you knew him
25 eight years ago -- he asked you did you talk to your

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1 daughter, you stated that you told him to talk to your
2 daughter, you stated this on the stand. But then you turned
3 around you say that you didn't? Look at the facts of the
4 story, man. I'm innocent. The State know I'm innocent, the
5 investigators know I'm innocent. I don't know what I can
6 tell you. You've heard the witnesses lie time and time
7 again, change their story. You've heard them constantly
8 just say I couldn't see them on the tape, I couldn't see
9 him. How could you go from not seeing a person to
10 identifying a person in a lineup? How do you do that? It's
11 not possible unless someone is coaching them, unless someone
12 is coercing them, unless someone is telling you to do this.
13 You also hear Mr. Woods say they say on there after he just
14 stated that I didn't talk to nobody about the case. He
15 never denied that he didn't tell someone he didn't think it
16 was Geraldo. He never denied that he didn't tell his own
17 brother-in-law that he didn't think it was Geraldo. He
18 never denied these things on the record for a reason.
19 Innocent. The things never changed in this case, the
20 defendant, Geraldo Land, stating his innocence. The
21 defendant's alibis, the defendant never being at the crime,
22 the defendant being verified and certified by even those who
23 claim and accuse him saying that he's always been respectful
24 to them, respectful of their house, never threatening them.
25 All of these things matter like -- I'm innocent, man, I

CLOSING ARGUMENTS

1 didn't do it. I'm up here fighting for justice, fighting
2 for my life because I'm innocent. Not because I'm guilty
3 and because I'm innocent. It doesn't -- the story doesn't
4 even add up. It doesn't make sense. Just think about the
5 story that they're telling you, it doesn't add up, nothing
6 they're saying. I'm up here today because I'm innocent. I
7 am asking that the jury find me innocent today and bring
8 justice. I'm telling you it doesn't make sense. It doesn't
9 make sense if you're not innocent to be up here on trial,
10 that doesn't make sense. You can see Sergeant Moss stated
11 that the individual has been arrested before. No, I'm not
12 perfect by no means. But one thing I'm not, I'm not a liar,
13 I'm not a thief, I'm not a robber.

14 MS. LIVELY: Your Honor, I object, he's testifying now
15 to the --

16 THE COURT: You've got to stick to the facts.

17 MR. LAND: To the facts. I'm innocent. I'm up here on
18 trial. I'm innocent, I'm not guilty. My alibi never
19 changes, my story never changes, my declaration -- declaring
20 I'm innocent never changes. I mean, I'm up here on trial
21 because I'm innocent. Had I not been guilty I would have
22 took the time served plea.

23 MS. LIVELY: Objection, Your Honor. He's testifying.
24 I would ask that you strike that statement.

25 THE COURT: You can't testify. Strike that statement.

CLOSING ARGUMENTS

1 MR. LAND: I'm innocent. It's bigger than what it
2 seems. I rest. I would just ask the jurors to look at the
3 facts of the case.

4 THE COURT: We're going to take a short break before we
5 have the solicitor --

6 MS. LIVELY: That's fine, Your Honor, but it wouldn't
7 take five minutes.

8 THE COURT: Okay, let's do that then.

9 MS. LIVELY: Yes, sir, I promise.

10 THE COURT: We've been in here for over an hour.

11 MS. LIVELY: I know we have, I'm not going to do that
12 to the jury. He's trying to control you again. He's trying
13 to control the ability of an officer of the court to do her
14 job so that you can have the facts that you have to
15 determine what happened in this case. He's right, his alibi
16 has never changed. Why? Because they both said he was in
17 two places at one time, can't happen, didn't happen because
18 he was robbing Walter Caldwell. Why did him and John
19 Wilmore decide to go in there and rob that house? Bam,
20 because it's an illegal card house. Now, am I prosecuting
21 Walter Caldwell? No. That's not what's on trial today.
22 That's why they went into that place. Guess what? It's
23 illegal to rob a drug dealer too. Just because you go in
24 some place and think it's going to be an easy hit doesn't
25 mean you're not a burglar, not a robber, didn't put a gun to

CLOSING ARGUMENTS

1 somebody's head, didn't take their money. Oh, here's
2 another thing. It doesn't matter how much money was taken.
3 They could have taken a penny off that table and that's
4 still a robbery, okay? So that's the reason why the amount
5 doesn't matter. Now, let's think about the other thing, and
6 I promise you I'm going to stick to five minute. Mr. Lewis,
7 if I go over five minutes you tell me, because y'all have
8 the facts. I could sit here and play each and every one of
9 those statements to you guys, I'm not doing that. First of
10 all you're smart enough to figure out what's really going on
11 here, okay? This has been a long few days. You can listen
12 to every single one of those witnesses' testimony, all
13 right? I'm not going to play that for you. If you want to
14 come back in here and listen to it you can. No one said it
15 wasn't him. What they said, Walter Caldwell said, and I
16 know y'all remember this, is, "I don't know him. I didn't
17 know him. I just know him as Snoop." But guess what?
18 Months later he picked him out of a photo ID lineup, not
19 knowing his name he picks him out. Moss didn't tell him,
20 "Pick this one. Boy, we really want to get this guy, even
21 though he's always been respectful to me, even though I knew
22 him when he'd been incarcerated before, this is who we want
23 for this crime." That makes no sense. It makes no sense to
24 have you sit here for two days to try and convict someone
25 who didn't do this. It makes no sense. Now, Joseph Woods,

CLOSING ARGUMENTS

1 bottom line, please listen to his statement again because he
2 very clearly through the 911 tape that I played you through
3 what he actually said on that stand through his recorded
4 statement said, "I looked up into his face, it was Geraldo
5 Land." And one thing about Geraldo Land, which all of you
6 can see, is if you cover up this part of the face, which he
7 talked about the witnesses said that it was partially
8 covered, they had on a hoodie. Now, do they understand in
9 responding to the distinctive features? I don't know. But
10 when you cover up that face and you look at those eyes and
11 you look at that nose, and that person has a gun to your
12 head and they're mumbling, which we've seen, there's been
13 some mumbling going on in this courtroom, I don't know what
14 he said but it was enough for Joseph Woods to know who it
15 was for him to sit down for him to take his money. So
16 that's it. His alibi witnesses conflict. The State's
17 witnesses are very clear. They were intimidated, they were
18 scared. That's why they didn't want to testify, that's why
19 some of them wouldn't. All right. That's the bottom line.
20 I mean, I'm just asking, like I said before, for you to use
21 your common sense here. That's all I've asked. That's all
22 the State wants you to do, that's all these victims want you
23 to do. Keep this violent person who committed this crime
24 that he thought he could control off the street. Don't let
25 him control your common sense and what really happened here.

JURY CHARGE

1 Thank you.

2 THE COURT: We'll take a refresher break before I start
3 on my charge, so you can go to the jury room for about a ten
4 minute break.

5 (The jury left the courtroom and a break was taken.)

6 THE COURT: State ready?

7 MS. LIVELY: Yes, sir.

8 THE COURT: Mr. Land, are you ready?

9 MR. LAND: Yes, sir.

10 THE COURT: Bring the jury in.

11 (The jury returned to the courtroom.)

12 THE COURT: Members of the jury panel, it's now time
13 for me to charge you the law in this case, the law that you
14 are to apply. I remind you, I think I told you when we
15 started that I'm the sole judge of the law and you have to
16 take, accept and apply the law as I charge it even if you
17 think I charged the law in error, or even if you think the
18 law is different. It's up to you to determine the facts in
19 this case. You're not to infer from anything or intimate
20 from anything I say or do or have said or done indicating an
21 opinion of mine on the facts, that is solely your job. Mr.
22 Land is charged with several indictments. He's charged with
23 burglary in the first degree. All of these are alleged to
24 have occurred in Chester County on April 10th of 2017. The
25 burglary is alleged -- alleges in the indictment that he did

JURY CHARGE

1 enter the dwelling of Walter Caldwell without consent in the
2 nighttime with an intent to commit a crime, and that during
3 the time he either was in the house or leaving the house he
4 or another participant in the crime was armed with a deadly
5 weapon, that being a pistol. He is charged with a second
6 indictment that alleges that on the date when he committed
7 that burglary he did, in fact, visibly display a firearm or
8 a knife. In the laws of this state that is a separate
9 offense and I'll talk to you more about that later. He's
10 charged with assault and battery in the first degree with
11 the victim being Joseph Woods. It's alleged that on that
12 date that he did offer or attempt to injure Mr. Woods with
13 the present ability to do so, and did it by means likely to
14 produce death or great bodily injury, and that it occurred
15 in the commission of a robbery, burglary or theft by holding
16 Mr. Woods at gunpoint and robbing him. He's charged with
17 two counts of armed robbery, the victims are Joseph Woods
18 and Walter Caldwell. It's alleged in both of those that
19 while armed with a deadly weapon, that being a pistol,
20 Mr. Land did take and carry away from Mr. Woods, it's
21 alleged in one indictment, and Mr. Caldwell in another
22 indictment, goods and money by force, threats or
23 intimidation with the intent to deprive him of that
24 property. The fact that Mr. Land has several charges
25 against him is not any evidence that he committed any of

JURY CHARGE

1 these offense. As I told you earlier, you are to look at
2 each indictment individually and make a determination as to
3 whether or not the State has proven beyond a reasonable
4 doubt, which I'll talk to you about in a few minutes, that
5 the State has proven beyond a reasonable doubt the
6 necessarily elements of that particular offense. The only
7 exception is the weapons during the commission -- the
8 possession of a weapon during the commission of a violent
9 crime. As I told you, it's alleged that he possessed a
10 weapon, a pistol, during the commission of a violent crime,
11 which is burglary first. If you find him not guilty of
12 burglary first then, of course, you could not find him
13 guilty of possessing a weapon during a burglary first
14 because you have found that he did not commit that offense.
15 So that's the only exception to the fact that you look at
16 each of these charges independent of the others. Mr. Land,
17 like anyone charged in any offense in our system, is
18 presumed innocent of the charge against him. This
19 presumption of innocence is a substantial right. It's not a
20 mere legal theory or -- but it is a substantial right. The
21 presumption of innocence attaches to an individual -- by the
22 way, during this charge I may use the word defendant instead
23 of Mr. Land's name, if I use the word defendant I am, of
24 course, talking about Mr. Land. Any individual charged with
25 an offense in our system is presumed innocent of that charge

JURY CHARGE

1 until such time as the State is able to prove his guilt
2 beyond a reasonable doubt. The presumption of innocence, as
3 I said, attaches to the time Mr. Land was arrested, has
4 remained with Mr. Land as this case is processed through our
5 court system and remains with Mr. Land at this time. The
6 presumption of innocence in his favor remains with him as
7 you deliberate. The presumption of innocence in his favor
8 is removed if and when and only if and when you determine
9 unanimously that the State has proven as to an offense his
10 guilt beyond a reasonable doubt. The State is not required
11 to prove his guilt beyond every doubt but beyond a
12 reasonable doubt. Our courts have described a reasonable
13 doubt as the kind of doubt that would cause a reasonable
14 person to hesitate to act. Proof beyond a reasonable doubt
15 is proof that leaves you firmly convinced of the defendant's
16 guilt. Reasonable doubt does not require absolute
17 certainty. If you are firmly convinced of his guilt you
18 would find him guilty. On the other hand, if there could be
19 a real possibility that he is not guilty you would give him
20 the benefit of that doubt and find him not guilty. Again,
21 you are the judges of the facts, and as such you are the
22 judges of the credibility, that is the believability of the
23 witnesses who have testified. You must assess from the
24 witnesses what facts and what testimony you find believable.
25 Use your everyday common sense, your sense of logic and

JURY CHARGE

1 reason and your experiences in life in analyzing that. You
2 can believe one witness as opposed to several, several
3 witnesses as opposed to one, you may believe one -- part of
4 one or all of one's testimony or disregard it entirely. It
5 is solely up to you to determine what credibility to give to
6 the witnesses and determine the facts in this case and then
7 apply the law. You can use certain evaluators in
8 determining the believability, that is how a witness acts on
9 the stand, consistencies or inconsistencies with their
10 testimony or with earlier statements. Consider the
11 opportunity a witness has to know those things about which
12 they testify, and you can consider whether a witness has any
13 bias or prejudice, that is any reason to help or hurt one
14 side or the other. An issue in this case is the identity of
15 Mr. Land as the one who committed the charged offenses. The
16 State must prove the identity of Mr. Land as being that
17 person beyond a reasonable doubt. Identification is an
18 expression of a personable belief that the defendant was one
19 of the individuals who committed the offenses. It is up to
20 you to determine the reliability of the witness'
21 identification. In assessing the reliability of a witness'
22 identification of Mr. Land as the person who committed these
23 offenses you may consider anything that you find pertinent
24 to the issue of reliability identification, and you can also
25 use the witness' opportunity to view the subject at the time

JURY CHARGE

1 of the offense, the witness' degree of attention at the time
2 of the offense, the accuracy of the witness' prior
3 descriptions, the witness' certainty, whether the witness
4 knew the subject prior to the time of the offense, the
5 lighting at the time of the offense, the proximity of the
6 witness to the subject, closeness in time between the event
7 and the identification along with any other factors you deem
8 appropriate. Mr. Land has entered the defense of alibi.
9 This means he claims he was not at the scene of the crime at
10 the time it was committed, he was elsewhere and had nothing
11 to do with the crime. There is no burden on the defendant,
12 Mr. Land, to prove he was not at the scene of the crime,
13 that is there's no burden upon him to prove his alibi. The
14 burden is on the State to prove beyond a reasonable doubt
15 that Mr. Land was present at the scene of the crime,
16 actually participated in the crime and was not somewhere
17 else. The State has the burden of disproving the
18 defendant's alibi defense. There's a concept in our law of
19 a legal theory known as the hand of one is the hand of all,
20 sometimes referred to as technically accomplice liability.
21 That states -- that law is that if two or more people in
22 pursuit of a common design commit an unlawful act set out
23 together and each takes the part assigned to or agreed to
24 upon him and an unlawful act was committed, the act of one
25 is the act of all and all are guilty. Presence -- mere

JURY CHARGE

1 presence at the scene of a crime by prearrangement to aide,
2 encourage or abet in preparation of the crime constitutes
3 guilt as a principal. Under the hand of one theory, one who
4 joins with another to accomplish an illegal purpose is
5 liable criminally for everything done by his confederates
6 incidental to the execution of the common design. If one
7 combining and fettering with others to accomplish an illegal
8 purpose is criminally liable for everything done by either
9 him or his confederates, which follows incidentally in the
10 execution of the common design as one of the probable and
11 natural consequences, even if it was not intended as part of
12 the original plan. Mr. Land has exercised his
13 constitutional right to remain silent. Any individual
14 charged with an offense in our system, as I told you, is
15 presumed innocent and has an absolute right to remain
16 silent. The exercise by him of that right cannot be used
17 against him in any way whatsoever. You cannot discuss it
18 among yourselves, you cannot use it as a factor in your own
19 deliberations as to their determination as to what verdict
20 should be returned. As I told you before, he need not prove
21 his innocence. The State presumes he's innocent and you
22 must, as I told you, continue to exercise his presumption of
23 innocence until it is proven unanimously that he is guilty,
24 and the State has to prove his guilt beyond a reasonable
25 doubt. Again, he is presumed innocent and does not need to

JURY CHARGE

1 prove his innocence. Now, I want to talk to you first about
2 assault and battery. This is going to be -- it's not real
3 complicated but it's a little unusual. There are certain
4 degrees of assault and battery; first, second and third. I
5 think of them of stair steps. At the top you have first
6 degree assault and battery, second degree assault and
7 battery and then third degree assault and battery, and
8 again, I'll tell you more as we go along. He is charged
9 with the highest offense of first degree, but if you find
10 that he is not guilty of that you can consider whether or
11 not he is guilty of one of the other two, second or third,
12 and then I will go over those in just a minute. Now,
13 assault occurs when someone who is close enough to another
14 person to strike that person makes a menacing gesture as if
15 he is going to strike that person, that is called an
16 assault. The battery is the following through of the
17 assault, that is when someone rares back or makes -- just by
18 way of example, of grabbing and actually touches the other
19 person then that is a battery. The assault is the
20 aggressive move, the battery is the actual touching, the
21 following through of the assault. Now, for purposes of the
22 code section dealing with assault and battery there are two
23 definitions I have to give you, great bodily injury and
24 moderate bodily injury. Great bodily injury as used in the
25 code section I'm going over with you now means bodily injury

JURY CHARGE

1 which cause a substantial risk of death, or which causes
2 serious permanent disfigurement or protracted loss or
3 impairment of the function of a bodily member or -- excuse
4 me. Moderate bodily injury means physical injury that
5 involves prolonged loss of consciousness or that causes
6 temporary or moderate disfigurement or temporary loss of
7 function of a bodily member or organ, or injury that
8 requires medical treatment, and the treatment requires the
9 use of regional or general anesthesia. The person -- I will
10 now move into the actual elements of the offense. A person
11 commits the offense of assault and battery in the first
12 degree if the person, the defendant, offers or attempts to
13 injure another person with the present ability to do so, and
14 the act is accomplished by means likely to produce death or
15 great bodily injury, or occurred during the commission of a
16 robbery or burglary. Next step down that ladder or steps is
17 the offense of assault and battery in the second degree.
18 The person commits this offense if they unlawfully injure
19 another person or offers or attempts to injure another
20 person with the present ability to do so and moderate bodily
21 injury to another person results, or moderate bodily injury
22 to another person could have resulted. A person commits the
23 offense of assault and battery in the third degree if the
24 person unlawfully injures another person or offers or
25 attempts to injure another person with the present ability

JURY CHARGE

1 to do so. Those are the elements of assault and battery
2 first and second and third. Mr. Land is charged with first
3 degree burglary under section 16-11-311 of our code of laws.
4 Under this statute the State must prove the following four
5 elements in order to establish burglary in the first degree.
6 The State must prove each element beyond a reasonable doubt.
7 If the State fails to prove any single element you cannot
8 find Mr. Land guilty of first degree burglary. First there
9 must be an entry into a dwelling. The State must show there
10 was entry, that is that the defendant actually went in the
11 dwelling or some part of it. The place that he entered must
12 be a dwelling. Our law defines dwelling as any house,
13 outhouse, apartment building, erection, shed or box in which
14 they sleep or require a tenant, watchman, clerk, laborer or
15 person who lodges there for the protection of the property.
16 So the first element is he must have entered a dwelling.
17 The second is the entry must have been without consent.
18 Entering a dwelling without consent means to enter without
19 consent of the person in lawful possession. So you would
20 have to have entry into a dwelling without consent. The
21 third element is with intent to commit a crime therein.
22 There must have been an intent to commit a crime, any crime,
23 a felony or misdemeanor, whether or not that crime was
24 actually committed. Mere entry into a dwelling without
25 consent is not sufficient to constitute first degree

JURY CHARGE

1 burglary. There must have been an intent to commit a crime
2 once inside. Criminal intent is a state of mind which
3 operates jointly with an act or omission in the commission
4 of the crime. Criminal intent is a mental state, a
5 conscience wrongdoing. Criminal intent includes those
6 consequences which represent the very purpose for which the
7 act is done or are known to be substantially certain to
8 result regardless of one's desire. Intent may be shown by
9 acts and conduct of the defendant or circumstances which you
10 may naturally and reasonably infer intent. So we have entry
11 into a dwelling without consent with the intent to commit a
12 crime therein. The fourth element is that there must be
13 what the law calls an aggravating circumstance. If you find
14 that Mr. Land entered a dwelling without consent and with
15 the intent to commit a crime therein, you must then find
16 that while entering or in the dwelling or fleeing the scene
17 he was armed with a deadly weapon. The deadly weapon is
18 generally defined as an article, instrument or substance
19 which is likely to produce great bodily injury, or -- the
20 State does not have to prove both of these beyond a
21 reasonable doubt. It has to prove either he was armed with
22 a deadly weapon at the time of the entry if you so find, or
23 that the entering or remaining occurred in the nighttime.
24 Under our law nighttime for the purposes of burglary means
25 that period between sunset and sunrise during which there's

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1 not daylight enough to discern a person's face except by
2 artificial light and moonlight. The next offense I'm going
3 to go over is possession of a firearm during the commission
4 of or attempt to commit a violent crime. This is a
5 statutory charge under the laws of South Carolina which make
6 it a separate offense, possession of a firearm during the
7 commission of a violent crime. A firearm is defined as any
8 machine gun, automatic rifle, revolver, pistol, or any
9 weapon which will or is designed to or may readily be
10 converted to expel a projectile. Our code of laws provides
11 that burglary first degree is a violent crime under the
12 terms of this section. If you find Mr. Land guilty of a
13 separate offense of possession of a firearm during the
14 commission of a violent crime, you must first find him
15 guilty of a violent crime or attempt to commit a violent
16 crime, in this case again, burglary first degree. If you
17 find him guilty of burglary in the first degree you must
18 determine whether the State has proven beyond a reasonable
19 doubt that he was in possession of a firearm or visibly
20 displayed what appeared to be a firearm during the
21 commission of the burglary. There are two charges of armed
22 robbery with the victims being Mr. Caldwell and Mr. Joseph
23 Woods. To convict Mr. Land of armed robbery the State must
24 prove one, he committed a robbery; two, that he did so while
25 armed with a pistol or other deadly weapon. Robbery is

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1 larceny, stealing from the person or immediate presence of
2 another by violence, intimidation or by putting such person
3 in fear, the thing is in the presence of a person in respect
4 to robbery, and that thing is solely within that person's
5 reach, inspection, obligation or control that if not
6 overcome by violence or prevented by fear the person would
7 retain possession of it. Robbery is basically larceny,
8 again stealing, compounded or aggravated by intimidation or
9 force used in the taking of the property by a person of
10 another. Larceny is the felonious taking and carrying away
11 of the goods of another against that person's will, the
12 owner's will, or without their consent with the intent by
13 the person taking it to convert that to their own use and to
14 permanently deprive the owner of that property. There are
15 five elements the State must establish beyond a reasonable
16 doubt to prove larceny. Each of these elements must be
17 present to make out a crime of armed robbery. The elements
18 of larceny are the taking; second, the act of carrying the
19 property away; third, the property is the personal property
20 of someone else; fourth that the property was taken without
21 consent or against the will of the owner; and fifth, the
22 property was taken with the intent to steal it. The
23 carrying away of stolen property is an indispensable element
24 of larceny and can be established by the slightest removal
25 of the property with the felonious intent. The defendant

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1 must have intended to permanently deprive the owner of
2 possession by converting the property to his own use to be
3 convicted of armed robbery. In addition to the elements of
4 larceny, the crime of robbery requires two additional
5 elements. First, the property must be taken from the person
6 or immediate presence of another, and the taking must be
7 accomplished by violence, intimidation or by putting the
8 person in fear. The violence must be actual personal
9 violence or the threat of it. The degree of force used is
10 immaterial so long as the force or threat is actually
11 sufficient to overcome the victim's resistance. This
12 violation or intimidation must either precede or be
13 contemporaneous with the taking. Finally to constitute
14 armed robbery the State must show the additional element
15 that the robbery was committed while armed with a deadly
16 weapon that would include a pistol. A deadly weapon is any
17 article, instrument or substance which is likely to cause
18 death or great bodily harm. Whether an instrument or object
19 is to be used as a deadly weapon depends on the facts and
20 circumstances of each case. Now, your verdict must be
21 unanimous, all 12 jurors must agree on the verdict. Once
22 all 12 jurors have agreed on the verdict knock on the door
23 and let the bailiff know, and the bailiff will come and we
24 will send for you as promptly as we can. If you want to
25 hear the statements that are recorded statements that are

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1 played let me know and we'll bring you back here in open
2 court and we will play them for you with nobody making any
3 comments or making any statements, we will simply bring you
4 in and play whatever it is you wish to hear. If you wish me
5 to go over any, part or all of the law, let me know. I can
6 have the written charge sent in to you or I can bring you
7 out and go over my charge with you here in courtroom. If
8 you have any questions, Mr. Foreman, write them down. The
9 clerk will make sure you have what you need, paper and
10 pencil, write down any notes, knock on the door, give them
11 to the bailiff, the bailiff will bring that note to me, I'll
12 go over the note with the attorney for the State and Mr.
13 Land and make a determination how to respond. It may be
14 that I can write an answer on the note itself. If I do that
15 keep any notes that we exchange back and forth and give them
16 back to the evidence because they must be part of the
17 record. If need be I can bring you back in and answer a
18 question here in the courtroom. Ms. Stikeleather, you'll
19 stay in here and not participate further, although we'll
20 provide you with lunch since you are here and lunch is here
21 and can be served in just a few minutes. I'm going to let
22 you go out at this point but don't start deliberating. I
23 have to go over my charge with Mr. Land and the State. If I
24 have made any error or if I misstated something or if I have
25 left something out or if I have added something that I

JURY CHARGE

1 shouldn't have charged you I would have to bring you back
2 here and correct you, because you must follow the law as I
3 charge it. So don't start deliberating until I send in word
4 by the bailiff. At that time the bailiff will bring into
5 you the exhibits and tell you to start deliberating. You
6 can eat lunch, of course, you can deliberate while you're
7 eating or you can eat lunch and not deliberate but the lunch
8 is here. So once we go over my charge with the attorneys
9 and determine whether or not to have you start deliberating
10 or if I need to bring you back in you can get your lunch and
11 have your lunch and start deliberating. Ms. Stikeleather,
12 you can stay and I'll let the rest of the jurors go to the
13 jury room at this time.

14 (The jury left the courtroom.)

15 THE COURT: I will have to bring them back out, I
16 forgot to go over the verdict form. Anything on the charge?

17 MS. LIVELY: Nothing from the State, Your Honor.

18 THE COURT: Mr. Land?

19 MR. LAND: Nothing.

20 THE COURT: Bring the jury back in, I need to go over
21 the verdict form, it completely slipped my mind.

22 (The jury returned to the courtroom.)

23 THE COURT: Mr. Foreman and members of the jury, I
24 didn't really make a mistake but I did with all of the paper
25 up here forget to go over the verdict forms with you. As to

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1 each indictment -- and you will not have the indictments
2 with you in the jury room, you don't need them, I've gone
3 over them with you, they simply contain the charges against
4 Mr. Land and the paperwork by which this case is processed
5 in our court system. You will have verdict forms to sign,
6 and on each there are at least two options, on the assault
7 and battery there are four options. And the fact that one
8 is higher on the page than the other is of no importance, I
9 have to put them in some order and that's just the way I put
10 them. As to whatever unanimous verdict of the jury is you
11 will simply pick out the right sentence on the verdict form,
12 Mr. Foreman, and put a X or a check in the line that
13 applies. The two options for burglary first are we find the
14 defendant guilty of burglary first degree, we find the
15 defendant not guilty. You would use the first line if you
16 find that the State has proven his guilt beyond a reasonable
17 doubt, use the second line if you determine the State has
18 failed to prove Mr. Land guilty of burglary in the first
19 degree beyond a reasonable doubt. As to the indictment for
20 possession or display of a firearm there are two choices, we
21 find the defendant guilty of possessing or displaying of a
22 firearm with a gun or knife during the commission of a
23 violent crime, or the other option is, of course, we find
24 the defendant not guilty. The State must prove his guilt
25 beyond a reasonable doubt before you can use that first

JURY CHARGE

1 line, keeping in mind that you would not find him guilty of
2 possession of a firearm during the commission of a violent
3 crime unless you find him guilty of burglary in the first
4 degree. The two armed robberies each say, we find the
5 defendant guilty of armed robbery, and the second option is
6 we find the defendant not guilty. Of course, use the first
7 line if you're convinced beyond a reasonable doubt of the
8 defendant's guilt. At the top of each indictment I've got
9 the names of the indictment numbers, but the numbers don't
10 mean anything to you so I've got the particular victims,
11 Mr. Caldwell's and Mr. Woods' name up at the top of the
12 indictment. Of course, you have to look at each one
13 separately. On assault and battery in the first degree as I
14 said there are four options. The fourth is we find the
15 defendant not guilty, use that line if you determine the
16 State has failed to prove his guilt beyond a reasonable
17 doubt of first, second or third degree burglary -- I mean
18 first, second or third degree assault and battery. Use the
19 first line if you find the State has proven his guilt beyond
20 a reasonable doubt as to first degree assault and battery,
21 use the second if you find that the State has proven his
22 guilt beyond a reasonable doubt to second degree assault and
23 battery, and use the third if you find he is guilty of
24 assault and battery in the third degree. Of course, you
25 would only pick one of those four, one of the top three if

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1 the State has proven one of those offenses beyond a
2 reasonable doubt, the last one if they failed to do so.
3 I'll let you go back, again, don't start deliberating yet.

4 (The jury left the courtroom.)

5 MS. LIVELY: Your Honor, may we approach?

6 (A bench conference was held.)

7 THE COURT: I'm going to allow you to leave. You can
8 certainly -- they will help you have some lunch if you want
9 to and you will be --

10 (The alternate juror left the courtroom.)

11 MS. LIVELY: Your Honor, at the last trial the only
12 hold out refused to deliberate, and Judge Gibbons actually
13 ended up holding him in contempt because he did not in voir
14 dire state that he had an issue with the city and stuff like
15 that. The bottom line is is that if we had known we could
16 have gotten him off the jury and put one of the alternates
17 on. I'm just concerned to cut the alternate loose at this
18 point, you know, at least for some period of time until we
19 know that the jurors are in there and they start
20 deliberating, just because if someone does decide not to
21 deliberate and that information is brought to us we don't
22 want this whole week of trial to be for nothing.

23 THE COURT: Well, do you have some authority that I can
24 replace a juror with another juror simply because that juror
25 is not participating? If you can find some law on that --

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1 we'll keep Ms. Stikeleather around.

2 MS. LIVELY: I'll do some research. Thank you.

3 THE COURT: Let's add these to the exhibits and you can
4 send them back. ✓

5 (The jury began deliberations and returned with a
6 Question.)

7 THE COURT: I received a note from the jury, they want
8 official clarification of differences of first, second and
9 third degree assault and battery, so I'll bring them back in
10 and charge them on that. Anything from the State before I
11 bring them in?

12 MS. LIVELY: No, Your Honor.

13 THE COURT: Mr. Land, anything?

14 MR. LAND: No, sir.

15 (The jury returned to the courtroom.)

16 THE COURT: I will recharge the law on assault and
17 battery. You remember what I told you about what an assault
18 is and what a battery is and following through. This is the
19 statutory section of our code that provides for these three
20 degrees of assault and battery. For the purpose of this
21 section great bodily injury means bodily injury which causes
22 a substantial risk of death, or which cause serious
23 permanent disfigurement or protracted loss of -- or
24 impairment of the function of a bodily member or organ.
25 Moderate bodily injury means physical injury that involves

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1 prolonged loss of consciousness, or that causes temporary or
2 moderate disfigurement, or temporary loss of the function of
3 a bodily member or organ or injury that requires medical
4 treatments, and the treatment requires the use of regional
5 or general anesthesia. A person commits the offense of
6 assault and battery in the first degree if that person
7 unlawfully offers or attempts to injure another person with
8 the present ability to do so, and the act is accomplished by
9 means likely to produce death or great bodily injury, or it
10 occurred during the commission of a robbery or burglary.
11 That is assault and battery first degree. A person commits
12 the offense of assault and battery in the second degree if a
13 person unlawfully injures another person, or offers or
14 attempts to injure another person with the present ability
15 to do so, and moderate bodily injury to another person
16 results in moderate bodily injury to another person could
17 have resulted. Third, a person commits the offense of
18 assault and battery in the third degree if the person
19 unlawfully injures another person, or offers or attempts to
20 injure another person with the present ability to do so. So
21 those are the laws on those three steps that I talked to you
22 about. I'll let you go back and continue to deliberate.

23 (The jury left the courtroom.)

24 THE COURT: Anything from the State on the recharge?

25 MS. LIVELY: No, Your Honor.

JURY VERDICT

1 THE COURT: Mr. Land?

2 MR. LAND: No, sir.

3 (The jury resumed deliberations.)

4 THE COURT: I'm told the jury has a verdict. For those
5 of you -- there is nobody in the gallery. Anyway, the Court
6 expects there to be no outburst, any outbursts will be dealt
7 with appropriately. I don't see any people here, but all
8 right. Is the State ready?

9 MS. LIVELY: Yes, Your Honor.

10 THE COURT: Mr. Land, are you ready?

11 MR. LAND: Yes, sir.

12 THE COURT: All right. Bring in the jury.

13 (The jury returned to the courtroom with a verdict.)

14 THE COURT: Mr. Foreman, I understand that the jury has
15 reached a verdict?

16 THE JUROR: Yes, sir.

17 THE COURT: If you will hand them to the bailiff and
18 she will hand them up to me. Madam Clerk?

19 THE CLERK: Your Honor, this is the State of South
20 Carolina versus Geraldo Land with an indictment number
21 2018-GS-12-453, burglary first degree, we defendants -- we
22 find the defendant guilty of burglary first degree. Signed
23 Ron J. Williams, foreperson, July 13, 2018. Also in
24 indictment 2017-GS-12-686, we the defendant -- we find the
25 defendant guilty of possession or display of a firearm or

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1 knife during the commission of a violent crime. Signed, Ron
2 J. Williams, foreman, July the 13th, 2018. Also indictment
3 number 2017-GS-12-689, assault and battery first degree, we
4 find the defendant guilty of assault and battery first
5 degree. Signed Ron J. Williams, foreman, July the 13th,
6 2018. The verdict for indictment 2018-GS-12-691 for armed
7 robbery, we find the defendant guilty of armed robbery.
8 Signed, Ron J. Williams, foreman, July the 13th, 2018. The
9 verdict for indictment of 2018-GS-12-692, armed robbery, we
10 find the defendant guilty of armed robbery. Ron J.
11 Williams, foreman, July the 13th, 2018. If this is your
12 verdict please say so by the raising of your right hands.
13 Thank you.

14 THE COURT: Let the record show all 12 jurors raised
15 their right hand. Anything from the State before the jury
16 is dismissed?

17 MS. LIVELY: Nothing from the State, Your Honor.

18 THE COURT: Mr. Land, anything before the jury is
19 dismissed?

20 MR. LAND: I am innocent, Your Honor, that's all I can
21 say.

22 THE COURT: Thank you for your assistance, you will be
23 mail a checked, you're free to leave. Thank you so much.

24 (The jury left the courtroom.)

25 THE COURT: The jury has been dismissed. Anything from

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1 the State?

2 MS. LIVELY: No, Your Honor. We're getting sentencing
3 sheets to go forward. We're ready to go forward with
4 sentencing.

5 THE COURT: Make sure you put on the possible penalties
6 on the top right-hand corner.

7 MS. LIVELY: Ill be glad to, Your Honor, I'll be glad
8 to do that. If Your Honor will allow me I'm just going to
9 step out and make sure -- yep, I think we've got them
10 coming. Thank you.

11 THE COURT: The jury has been dismissed. Do you have
12 any motions, Mr. Land?

13 MR. LAND: Yes, Your Honor. Can I speak with my lawyer
14 real quick?

15 THE COURT: Yes.

16 (Break in proceedings.)

17 MR. LAND: Your Honor, I want to ask for my other
18 motions to be re-motioned. I want to ask for the Judge to
19 supercede the jury's verdict on the 13th juror on the
20 evidence that I'm not guilty. Like I want to file that
21 motion and I guess ask for the Judge to supercede that based
22 on the evidence that I am not guilty.

23 THE COURT: So you're asking me to set aside the jury
24 verdict of guilty?

25 MR. LAND: Yes, sir.

SENTENCING HEARING

1 THE COURT: I deny that motion. I think there was
2 sufficient evidence, it's not for me to determine. I think
3 the State presented enough evidence in which the jury could
4 reach the conclusions that they reached and I'm not going to
5 set the verdict aside.

6 MR. LAND: I also ask that the verdict that -- what was
7 that about the State of the hand of all like and of all
8 like, my codefendant, he took probation, I turned down time
9 served. I'm completely innocent. I could have been at home
10 now. I am just asking for the Court just this -- I'm asking
11 for your discretion at the sentencing. That's all I can
12 say. I am innocent.

13 THE COURT: I understand your position. Have you got
14 the sentencing sheets prepared?

15 MS. LIVELY: I do, Your Honor. One moment. I wanted
16 to write in the information that Your Honor requested. Your
17 Honor, the State as stated before is ready to proceed to
18 sentencing.

19 THE COURT: I'll let you proceed at this time. Tell me
20 what you have in regards to sentencing.

21 MS. LIVELY: Yes, sir, Your Honor. Thank you. Your
22 Honor has all of the sentence sheet before you, and
23 obviously the guilty verdict by the jury which we believe
24 was more than sufficient evidence to support that verdict.
25 Your Honor, this is the second time the State has gone

SENTENCING HEARING

1 through this trial. That's no reflection at all in regards
2 to -- the defendant obviously has a right to a fair trial,
3 however the victims in this case, it has been a real tough
4 time for them to have to come here and go through this
5 again, as well as the fact that they this time had to
6 actually be questioned by the defendant himself, which was
7 very unnerving to them, and I know. Your Honor, this
8 defendant does have a prior record which we had already told
9 him and he's very aware of at the time that if and when he
10 was going to testify that the Court (sic) was going to seek
11 introduction at that time. For the Court's benefit, back in
12 2006 he was convicted of manufacturing distribution with
13 intent -- or manufacturing or distributing with intent to
14 distribute scheduled one, two or three drugs, he actually
15 got a five year sentence at that time and probation. He got
16 resisting arrest, another possession of meth or cocaine base
17 first offense. And then a second charge of possession of
18 meth or cocaine base first offense, that was 2006. In 2008,
19 Your Honor, he had possession of beer or wine by a minor,
20 which he was convicted of as well. Then in 2008, Your
21 Honor, he was convicted of manufacturing, distribution of
22 cocaine base first offense, he also was convicted and got a
23 YOA at that time. He had a manufacturing or possession of
24 other scheduled one, two, three drugs with intent to
25 distribute, and a possession of marijuana conviction. Your

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1 Honor, he also has another possession of marijuana charge
2 from 2010 and alcohol in a vehicle without the seal. Then,
3 Your Honor, he at some point in time through the feds was
4 picked up as a felon in possession of a firearm. Your
5 Honor, he was convicted of this or actually pled guilty, and
6 he still on supervised release at this time. Your Honor,
7 that began in -- it looks like he pled in September of --
8 no. He was arrested on September of 2011 and he continued
9 to be on supervised release. He had been sentenced to 57
10 months in prison and then three years of supervised release,
11 Your Honor.

12 THE COURT: Say that last part again.

13 MS. LIVELY: I'm sorry. He was -- he pled guilty on
14 November 15, 2011, and he was sentenced to 57 months in
15 prison, in federal prison, and then three years of
16 supervised release. He currently has a violation of his
17 supervised release pending with the feds and I've put them
18 on notice that he was on trial for these state charges in
19 the meantime, Your Honor.

20 THE COURT: All right. Anything else you want to say,
21 Mr. Land? I know you maintain your innocence, which is
22 fine, but the jury has decided otherwise and I have found
23 that the jury's verdict is supported by the record. I'll be
24 glad to hear anything you have to say about what kind of
25 sentence you should receive.

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1 MR. LAND: Your Honor, I'm already -- I am up here now
2 still proclaiming my innocence, because I'm -- I turned down
3 time served, Your Honor. They came and offered me pleas to
4 time served because I was innocent. If I was guilty I would
5 have ran with time served. My record shows that I've never
6 went to trial, I've always pled guilty, always. If I'm
7 guilty I'm a man, I'm going to take my responsibility, I'm
8 going to take my lick and deal with it, that's what I teach
9 my son. I'm asking you today -- and I know that it's in
10 your discretion, Your Honor, that you have the power to do
11 anything. Your Honor, I'm telling you I'm innocent. I'm
12 already going to have to go and face the feds. I'm asking
13 for leniency, Your Honor. I mean, like the codefendant,
14 they -- he's on probation, PTUP. I mean, Your Honor, I'm
15 asking that you -- I know I've got to go to feds for two
16 years but I took that chance because I'm innocent. I
17 already -- I'm just asking that -- if anything, Your Honor,
18 just let me go to the feds for them two years, Your Honor.
19 I'm innocent, man. I can't say anything besides I'm
20 innocent and that, as my record shows, I have never
21 burglarized. You just heard my entire record, I've never
22 theft. I've never did anything that had any theft or
23 robbery, any violence, never. But I understand that I've
24 been found guilty, Your Honor, and I understand that it's in
25 your hands to sentence me. So Your Honor, I'm just asking

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1 that you send me home, send me to the feds because I know
2 I've got to see them two years for me going to trial. I've
3 already been offered a plea of time served so it couldn't
4 have been that much of an issue for them to take a plea of
5 time served, Your Honor.

6 THE COURT: Well, I can't address anything that you
7 have done as far as not taking a plea offer, that's not
8 before me at this time. My concern is that you've been
9 found guilty of holding a pistol at somebody's head,
10 committing a burglary and two armed robberies and pretty
11 egregious stuff.

12 MR. LAND: Your Honor, I do agree it is egregious, I do
13 agree. I understand the nature of those crimes, Your Honor.
14 With that being said, Your Honor, I would have took the plea
15 if I was guilty. But I understand I have been found guilty,
16 but I'm asking you to understand, you heard those witnesses,
17 their testimonies that they lied on the stand, you heard
18 them -- that they basically conflicted their stories. Even
19 the witnesses that is not here, they didn't want to say that
20 Malcolm, the brother of Joseph Woods, he stated in the
21 transcript that they all said they didn't know, they thought
22 it was a light skinned gentleman. I'm here today because
23 I'm innocent. I'm asking for leniency. Your Honor, I know
24 you have the power to do anything. I understand I've been
25 found guilty of serious charges, Your Honor. If anything,

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1 Your Honor, I'm asking for leniency, like send me to the
2 feds for them two years I've got to do already.

3 THE COURT: Well, I'm not concerned about the fed
4 stuff. Burglary first degree, 15 years. Assault and
5 battery first degree, ten years. Each armed robbery, ten
6 years. Assault and battery first degree, ten years. And on
7 the pistol weapon charge during the commission a violent
8 crimes five years. They're all to run concurrent.

9 MR. LAND: So how much time is that?

10 THE COURT: Fifteen years.

11 MR. LAND: I'm not crying. You know why I'm not
12 crying, Your Honor? Because I'll be back, because I haven't
13 done anything. I'm not sad, I'm not mad.

14 THE COURT: You have ten days to file an appeal from
15 this trial if you wish.

16 MR. LAND: I need to file it today.

17 THE COURT: All right.

18 MR. LAND: How do I file an appeal?

19 THE COURT: You can ask Mr. Dunn, he's your standby
20 counsel. I don't have anything to do with the appeal.

21 MR. LAND: The corrupt thing about it, the solicitor,
22 they know I'm innocent, Moss and all of them they know I'm
23 innocent. I'll be home very soon, it won't be long.

24 (End of the hearing.)

25

1 I, the undersigned, Michael C. Watkins,
2 Official Court Reporter for the Sixth Judicial
3 Circuit of the State of South Carolina, do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings had and
6 evidence introduced in the trial of the captioned
7 case relative to appeal in the Court of General
8 Sessions for Chester County, South Carolina, on the
9 11th to 13th days of July, 2018.

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

12

13

November 18, 2018

14

15

16


Michael C. Watkins

17

Court Reporter

18

19

20

21

22

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24

25

WITNESSES

L. Fourney - CPD

L. Fournery - CPD

DOCKET NO. 2018-GS-12- 453

The State of South Carolina
County of Chester

COURT OF GENERAL SESSIONS

May TERM 2018

ARREST WARRANT NUMBER/DOA

2017A1220100148 (DOA 06/14/2017)

ACTION OF GRAND JURY

RECEIVED
JEBILL

Foreperson of Grand Jury

Date: 5/8/18

VERDICT

Foreperson of Petit Jury

Date:

THE STATE
vs.

Geraldo Land

Indictment for
Burglary, First Degree

SC Code: §16-11-311(A)(1)(a)
CDR Code: 0079
Class: Felony, EXM

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

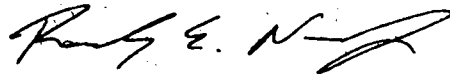
INDICTMENT

At a Court of General Sessions, convened on May 8, 2018, the Grand Jurors of Chester County present upon their oath:

BURGLARY, FIRST DEGREE

That Geraldo Land, did in Chester County on or about April 10, 2017, enter the dwelling of Walter Caldwell without consent, in the nighttime, and with intent to commit a crime in the dwelling and while effecting entry or while in the dwelling or in immediate flight from the dwelling, he or another participant in the crime was armed with a deadly weapon or explosive, to wit: a gun/pistol, in violation of §16-11-311(A)(1)(a), Code of Laws of South Carolina, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

WITNESSES

Justin Moss (CPD)

DOCKET NO. 2017-GS-12-686

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2017

ARREST WARRANT NUMBER/DOA

2017A1220100145 (DOA-6-14-17)

ACTION OF GRAND JURY

THE STATE

vs.

Geraldo Dametrius Land

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

**Possession or Display of Firearm or
Knife During Commission of a Violent
Crime**

SC Code: § 16-23-490

CDR Code: 0549

Class: Felony, F

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

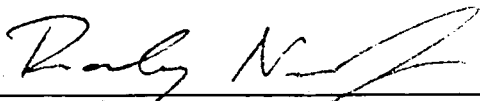
INDICTMENT

At a Court of General Sessions, convened on September 26, 2017, the Grand Jurors of Chester County present upon their oath:

**POSSESSION OR DISPLAY OF FIREARM OR KNIFE DURING COMMISSION OF A
VIOLENT CRIME**

That Geraldo Dametrius Land did in Chester County on or about April 10, 2017, possess or visibly display a firearm or knife, to wit: pistol during his/her commission of a violent crime, to wit: Burglary - 1st Degree, in violation of §16-23-490, *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

WITNESSES

Justin Moss (CPD)

DOCKET NO. 2017-GS-12-689

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2017

ARREST WARRANT NUMBER/DOA

2017A1220100153 (DOA-6-14-17)

ACTION OF GRAND JURY

THE STATE

vs.

Geraldo Dametrius Land

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

ASSAULT AND BATTERY 1ST DEGREE

SC Code: §16-3-600(C)(1), 16-3-600(C)(2)

CDR Code: 3412

Class: Felony E

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

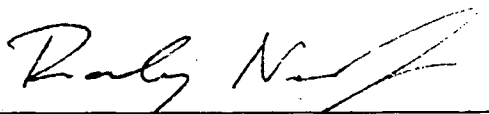
INDICTMENT

At a Court of General Sessions, convened on September 26, 2017, the Grand Jurors of Chester County present upon their oath:

ASSAULT AND BATTERY FIRST DEGREE

That Geraldo Dametrius Land did in Chester County on or about April 10, 2017, unlawfully injure Joseph Woods, or offer or attempt to injure the victim with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury or occurred during the commission of a robbery, burglary, kidnapping, or theft by holding him at gunpoint and robbed him, in violation of Section 16-3-600(C)(1) of the *Code of Laws of South Carolina, (1976), as amended*.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Randy E. Newman, Jr., SOLICITOR

WITNESSES

Justin Moss (CPD) ✓

ARREST WARRANT NUMBER/DOA

2017A1220100158 (DOA-6-14-17)

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-12-691

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2017

THE STATE
vs.

Geraldo Dametrius Land

Indictment for
Armed RobberySC Code: §16-11-0330(A)
CDR Code: 0139
Class: Felony, A

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

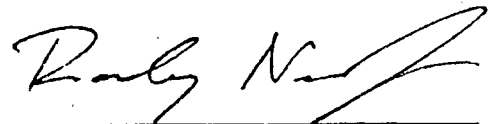
INDICTMENT

At a Court of General Sessions, convened on September 26, 2017, the Grand Jurors of Chester County present upon their oath:

ARMED ROBBERY

That Geraldo Dametrius Land did in Chester County on or about April 10, 2017, while armed with a deadly weapon, to wit: pistol, feloniously take and carry away from the person or presence of Walter Caldwell, by means of force, threats or intimidation goods or money of Walter Caldwell such goods or monies being described as follows: quantity of currency, with the intent to deprive the owner permanently of such property, in violation of § 16-11-0330(A), *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Randy E. Newman, Jr., SOLICITOR

WITNESSES

Justin Moss (CPD) ✓

DOCKET NO. 2017-GS-12-692

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2017

ARREST WARRANT NUMBER/DOA

2017A1220100159 (DOA-6-14-17)

ACTION OF GRAND JURY

TRUEBILL

THE STATE
vs.

Geraldo Dametrius Land

Foreperson of Grand Jury

Date: 9-26-2017

VERDICT

Indictment for

Armed Robbery

SC Code: §16-11-0330(A)

CDR Code: 0139

Class: Felony, A

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

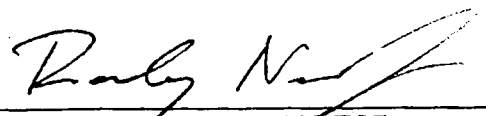
INDICTMENT

At a Court of General Sessions, convened on September 26, 2017, the Grand Jurors of Chester County present upon their oath:

ARMED ROBBERY

That Geraldo Dametrius Land did in Chester County on or about April 10, 2017, while armed with a deadly weapon, to wit: pistol, feloniously take and carry away from the person or presence of Joseph Woods, by means of force, threats or intimidation goods or money of Joseph Woods, such goods or monies being described as follows: quantity of currency, with the intent to deprive the owner permanently of such property, in violation of § 16-11-0330(A), *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Randy E. Newman, Jr., SOLICITOR

448
STATE OF SOUTH CAROLINA

COUNTY OF Chester
STATE VS.

Geraldo Dametrius Land

AKA:

Race: BLACK Sex: M Age: 30

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Chester, SC [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary / Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

[Signature]
Solicitor

12123
SC Bar#

Defendant

[Signature]
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter: *[Signature]*

CA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: ~~20170812687~~ 2018GS12 453

A/W#: 2017A1220100148

Date of Offense: 4/10/2017

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET #1

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

[Signature]
Solicitor

12123
SC Bar#

Defendant

[Signature]
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter: *[Signature]*

CA/217 (04/2018)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge *[Signature]*

Judge Code: 2049

Sentence Date: 7/13/18

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

449

COUNTY OF Chester
STATE VS.
Geraldo Dametrius Land

INDICTMENT/CASE#: 2017GS12686

A/W#: 2017A1220100145

Date of Offense: 4/10/2017

S.C. Code §: 16-23-0490

CDR Code #: 0549

AKA: _____

Race: BLACK Sex: M Age: 30

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Chester, SC [REDACTED]

DL#: [REDACTED] SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

SENTENCE SHEET

#5

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] Solicitor SC Bar# 12123 Defendant Pro Se Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (04/2018)

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]

Judge Code: 2048

Sentence Date: 7/13/18

450
STATE OF SOUTH CAROLINA

COUNTY OF Chester
STATE VS.

Geraldo Dametrius Land

AKA:

Race: BLACK Sex: M Age: 30

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Chester, SC [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery 1st degree (10-10)

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] Solicitor *12123* SC Bar# *705c* Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDoc.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.75

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter: *Mike Watkins*

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS12689

A/W#: 2017A1220100153

Date of Offense: 4/10/2017

S.C. Code § : 16-03-0600(C)(1)

CDR Code #: 3412

SENTENCE SHEET #2

☐ CONVICTED OF or ☐ PLEADS

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge: *John Har*

Judge Code: 2041

Sentence Date: 7/13/18

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

451

COUNTY OF Chester
STATE VS.
Geraldo Dametrius Land

INDICTMENT/CASE#: 2017GS12691
A/W#: 2017A1220100158
Date of Offense: 4/10/2017
S.C. Code § : 16-11-0330(A)
CDR Code #: 0139

AKA: _____
Race: BLACK Sex: M Age: 30
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Chester, SC [REDACTED]
DL#: [REDACTED] SID#: _____

SENTENCE SHEET

#3

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADS
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon (10-30 yrs)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: _____

[Signature] Solicitor 0123 SC Bar# _____ Defendant [Signature] Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 7/13/18
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOC.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____
§ 14-1-206 (Assessments 107.5 %) \$ _____
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ 100.00
§ 56-5-2995 (DUI Assessment) \$12 \$ _____
§ 56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso (Public Def/Probation) \$500 \$ _____
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____
§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca \$ _____
3% to County (if paid in installments) \$ 3.75

_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.
Presiding Judge [Signature]
Judge Code: 2017
Sentence Date: 7/13/18

TOTAL \$ 128.75
Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]
SCCA/217 (04/2018)

STATE OF SOUTH CAROLINA

COUNTY OF Chester
STATE VS.
Geraldo Dametrius Land

AKA:
Race: BLACK Sex: M Age: 30
DOB: SS#:
Address:
City, State, Zip: Chester, SC
DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
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☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
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§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS12692

A/W#: 2017A1220100159

Date of Offense: 4/10/2017

S.C. Code § 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

(10-30)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

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SPECIAL CONDITIONS:

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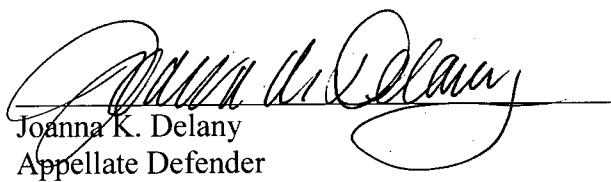
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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this 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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of August, 2019.

RECEIVED
AUG 12 2019
SC Court of Appeals