

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Chester County

Honorable Brian M. Gibbons, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JERRELL TROVASE BROCKMAN,

APPELLANT

APPELLATE CASE NO 2018-002014

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
DEFENSE EXHIBIT NO. 2 (DVD)**

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STATE OF SOUTH CAROLINA

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STATE,

Plaintiff,

Case No.

-against-

2018-GS-12-00056-58

JERRELL TROVASE BROCKMAN,

Defendant.

-----x

September 10, 2018

Chester, S.C.

B E F O R E:

HONORABLE BRIAN GIBBONS

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

CANDICE LIVELY, Esquire

Attorney for the State

WILLIAM FRICK, Esquire

Attorney for the Defendant

Aileen Butler

Official Court Reporter

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ROBERT SPROUSE

Ms. Lively

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Mr. Frick

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JOHNNY NEIL

Ms. Lively

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Mr. Frick

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LAKIESHA JONES

Ms. Lively

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Mr. Frick

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E X H I B I T S.

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
3	State's 1-14	Photographs premarked	
4	Defendant's 1	Photograph	30
5	Defendant's 2	Photograph	30
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1 (WHEREUPON, State premarked 1-14 photographs.)

2 THE COURT: All right. We are back on the record
3 for pretrial matters. Madame solicitor, what kind of
4 pretrial matters are you aware of.

5 MS. LIVELY: Your Honor, the one that I am aware
6 of is to suppress the evidence that was ceased at [REDACTED]
7 Gardendale Circle, which is the residence of Lakeisha
8 Jones where evidence that was later tested that was
9 located in outhouse that is attached to the back of
10 her property. The weapon that was used in the crime
11 as well as the tan purse that was described by the
12 victim was located in that particular outhouse. The
13 defense has filed a motion to suppress that evidence
14 stating that the police did not have a valid reason to
15 enter. They did not have a search warrant at that
16 time, Your Honor.

17 I do have witnesses, Your Honor, prepared to go
18 forward. I have Lieutenant Johnny Neal who was there
19 that evening and actually knocked on the door of Miss
20 Lakiesha Jones' home at [REDACTED] Gardendale Home. He did
21 tell her that they were in pursuit of someone, her
22 nephew. I'm sorry Jerrell Brockman. He was believed
23 to have committed a crime.

24 They put a perimeter around her house, Your Honor,
25 because at that time they did not have eyes on the

1 defendant and the dogs had not set up yet. If they
2 could have consent to search her property. At that
3 time she did agree to allow them to search around her
4 home which is whenever Chief Deputy Sprouse who is
5 here to testify as well and Brian Sanders did search
6 the perimeter around the home. At which time Chief
7 Deputy Sprouse did note that the door to the
8 outbuilding which is at the back of the home was open
9 and when he peered in he found he was able to see in
10 plain sight the gun as well as the tan purse.

11 Your Honor, I understand that I also have Miss
12 Lakeisha Jones here who is the property owner and who
13 would have standing to claim whether or not this was
14 an illegal search and seizure. And Your Honor, also
15 she has given testimony in a prior statement that he
16 does not live there. He did not have permission to be
17 in there and she usually locks that building and she
18 did not know that it was open that evening whenever
19 the officers actually came up on it.

20 THE COURT: So, I want to make sure before I hear
21 all this, the State's position is the defendant's lack
22 of standing to raise a search issue.

23 MS. LIVELEY: That would be one of the arguments.

24 THE COURT: In the event I find standing than the
25 search itself was a warrantless search, upon plain

1 view and/or hot pursuit or consent.

2 MS. LIVELY: Yes, sir. We do have some level of
3 consent and she's ready to testify about that as well.

4 THE COURT: Okay. Anything I need to hear from
5 the defense prior to the factual position put forward
6 by the State.

7 MR. FRICK: No, sir, I think that sums it up.

8 THE COURT: All right. Let's hear from the
9 State's witnesses and then we can have legal argument.

10 MS. LIVELY: The State would call Chief Deputy
11 Robert Sprouse.

12 ROBERT ANDREW SPROUSE, called as a witness, having
13 been duly sworn by The Clerk, was examined and
14 testified as follows:

15 DIRECT EXAMINATION.

16 BY MS. LIVELY:

17 Q Chief Sprouse, please tell us what your involvement was
18 in responding to the armed robbery case that occurred on
19 November the 8th of 2017.

20 A The Chester County Sheriff's Office was requesting our
21 assistance through the Chester Police Department in reference to
22 this matter.

23 Q All right. And whenever you arrived what location --
24 the actual armed robbery occurred on Church Street in front of
25 the First Baptist Church, correct?

1 A Correct.

2 Q All right. Where did you respond to first?

3 A I first responded to the church to help set up a
4 parameter and then get the canine unit.

5 Q All right. Once the canine unit actually came to that
6 particular area at the church where the crime had been committed
7 what did you learn after that point?

8 A Once I arrived on scene, once we made sure that we had
9 our perimeter set up during that time we learned that the
10 possible suspect might have caught a ride to another location.

11 Q All right. And did you have any other information as
12 to who the person may have been that caught this ride?

13 A Not to my knowledge at the time.

14 Q All right. So you had information that this person who
15 committed the crime could have been given a ride to another
16 location?

17 A Yes, ma'am.

18 Q Do you know what location that was?

19 A Yes.

20 Q And what location was it? What area?

21 A Gardendale Circle area.

22 Q Okay, Gardendale Circle area. Did you know exactly
23 which home or what specific area in Gardendale it was?

24 A No, ma'am.

25 Q All right. So did you then go to Gardendale Circle

1 Street?

2 A I did.

3 Q And whenever you got there did you -- was there another
4 perimeter set up by your dog trackers?

5 A While I was the in route that perimeter was being set
6 up.

7 Q Let me ask you real quick, before they left that area
8 had the dog actually been able to identify or actually mark on a
9 scent for the potential suspect in this case at the church?

10 A My understanding, yes.

11 Q Okay. All right. So then you moved over to
12 Gardendale. When you get there did you know exactly where you
13 were going?

14 A No, just to the Gardendale area.

15 Q And did you know anybody who lived on that street?

16 A I did.

17 Q What's the address of the person you know?

18 A 555 Gardendale.

19 Q And who lives there?

20 A Michael Roberts.

21 Q Okay, and he's actually in the courtroom, correct?

22 A Yes, ma'am.

23 Q What's his nickname?

24 A Pee Wee.

25 Q Pee Wee. So whenever -- did you have an opportunity to

1 talk to Pee Wee that night?

2 A Yes.

3 Q All right, and after speaking with him what did you
4 learn?

5 A I learned that Pee Wee recognized the individual that
6 had been taken into custody and he had a conversation with this
7 individual.

8 Q Okay. All right. So, in between all that time
9 whenever you got there, how quick was it that they were actually
10 able to get the defendant and detain him?

11 A It was very quickly.

12 Q All right.

13 A Prior to me arriving on scene individuals with canine
14 unit along with task force members ran the suspect and was able
15 to detain that individual.

16 Q All right, and the individual they detained was it this
17 defendant, Mr. Brockman?

18 A Yes, ma'am.

19 Q So at that time did he have anything -- any of the
20 stolen items, evidence or the weapon that was used on his
21 person?

22 A No, ma'am.

23 Q So in order to find and locate those items did you need
24 to be able to search that particular area where he could have
25 been?

1 A Yes, ma'am.

2 Q Now, did Mr. Roberts, also known as Pee Wee, was he
3 able to assist you with that?

4 A Yes, he was.

5 Q All right. Tell me what he was able to help you with?

6 A After the individual was detained, officers started
7 searching the area where he ran. Mr. Roberts was in his yard.
8 I'm familiar with Mr. Roberts so I had a conversation with Mr.
9 Roberts. Mr. Roberts did advise me that he had spoke to the
10 individual that we have in custody and that he actually come up
11 to him trying to use his phone and that he was familiar with the
12 individual that we had in custody and did state that if he did
13 anything wrong it would probably be at the location of the
14 residence at the corner of Gardendale.

15 Q All right, and did he point out the exact location of
16 where that would be?

17 A Yes, ma'am.

18 Q And was that actually -- and I'm just going to show you
19 what has been marked as State's Exhibit Number One. Is this the
20 the home on Gardendale that you went to?

21 A Yes, ma'am.

22 Q All right. And what is the actually street address of
23 that location?

24 A I believe it's is 556.

25 Q 546?

1 A Maybe.

2 Q Do you know the person that actually owns that
3 residence?

4 A I do not.

5 Q Did you talk to anybody who was actually staying in
6 that residence at that time?

7 A No, ma'am.

8 Q All right. Who was it that actually approached the
9 residence in order to speak with the legal owner?

10 A Lieutenant Johnny Neil.

11 Q All right. And after he actually went and spoke with
12 the person who owns the home what did you and the rest of your
13 officers do?

14 A I was advised Lieutenant Neil went to speak with the
15 home owner and get consent to search. That we had. Someone
16 stated that if there may have been property that's probably
17 where it would be.

18 Q All right. And you received this information from Mr.
19 Roberts who actually is familiar with the defendant, correct?

20 A Yes, and also advised us that's the location he
21 approached him coming from that residence.

22 Q Coming from the [REDACTED] Gardendale?

23 A Yes.

24 Q All right. I am going to show you now what is marked
25 as State's Exhibit Number three. And also once you identified

1 that --

2 MS. LIVELEY: Here, Your Honor. This is the one
3 I showed to him. (Handed) And I've shown these
4 photos to Mr. Frick.

5 Q What am I showing you here in State's Exhibit Number
6 Three?

7 A It's the storage room behind the house.

8 Q The storage room behind the house. Okay.

9 Now, tell the Court what the status of that storage room was
10 whenever -- was it you that actually went around the back of the
11 house?

12 A Yes, ma'am.

13 Q Was it dark?

14 A Yes, ma'am.

15 Q And did you have a flashlight or some other apparatus
16 so that you could see?

17 A Flashlight. Yes, ma'am.

18 Q All right. So when you turned -- tell us, did you turn
19 the corner to go to back of the house?

20 A Yes.

21 Q And what did you see whenever you turned the corner?

22 A Once I turned the corner -- from looking at the front
23 of the house I approached from the left side of the house. Came
24 around. I looked around to the side of the house and I'd seen
25 the door open and went straight to it.

1 Q Okay. So you went straight to that door. Did you have
2 any idea at that point in time what it was that you were walking
3 up to in regards to this building?

4 A No, ma'am.

5 Q All right. Now, you had your flashlight, so when you
6 walked up to it did anything catch your eye at any point in
7 time?

8 Q Well, the door was opened far enough to where I could
9 just look in with my flashlight. The first thing I noticed was
10 the pistol in the corner?

11 Q Okay. Now, I'm going to show you these two pictures.
12 The first one is a little bit blurry, but it's State's Exhibit
13 Number Six and the other one is State's Exhibit Number Seven.
14 State's Exhibit Number Six, will you tell the Court if this is
15 what you observed whenever you looked into that building?

16 A Yes, ma'am.

17 Q And what is it that we can see in the bottom left
18 corner?

19 A It would be the muzzle of the weapon that I saw.

20 Q And what is in the right -- closer to the right side of
21 the picture?

22 A Purse.

23 Q What was the description of the weapon and the purse
24 that were missing from the crime scene?

25 A It's a large black pistol and a tan colored purse.

1 Q Tan colored purse. Okay. So once you saw these items
2 at that point in time what did you do?

3 A I notified my investigation unit. More than likely I
4 found the evidence involved in the crime.

5 Q Okay. And whenever you actually were able to get
6 closer -- when you were able to get closer to the purse and the
7 items that were actually in that storage building, was there
8 anything that -- wait a minute. Let me back up for a minute. I
9 want to be sure I don't put words in your mouth.

10 Did you ever go into the storage building?

11 A Yes.

12 A Okay. So, did you see any items that caught your eyes
13 in regards to what was in that storage building.

14 A The pocketbook and the cards and everything were all
15 scattered across the table.

16 Q Okay. Now, whenever this happened, Chief Deputy
17 Sprouse, did you take a picture of the tan purse and send it to
18 anybody?

19 A I did.

20 Q Tell the Court about that?

21 A I took a picture of the purse and sent it to Major
22 Burly McDaniel.

23 Q All right. What was the purpose of doing that?

24 A I wanted the victim in this case to ID her pocketbook.

25 Q Okay. And are you aware if she was able to do so?

1 A Yes.

2 Q And once again State's Exhibit Number 14. These are
3 are the items that you saw?

4 A Yes, ma'am.

5 Q I am not sure if I showed you 14 or not I apologize.
6 Did you ever talk to Miss Jones that night?

7 A No, ma'am.

8 Q Okay. All right. Was that the extent of your contact
9 and involvement with this particular case?

10 A Yes, ma'am.

11 Q All right.

12 MS. LIVELY: Thank you. Answer any questions the
13 defense may have for you.

14 CROSS EXAMINATION

15 BY MR. FRICK:

16 Q Chief Deputy, did you go directly over to Gardendale or
17 did you come to town first?

18 A Went to -- when the call first came out I went to to
19 the church first.

20 Q And then when you all determined that a suspect went to
21 Gardendale that's when you went over there?

22 A Yes, sir.

23 Q Okay. When you got over to Gardendale did you have
24 any idea who you were looking for?

25 A At that time to my knowledge, no.

1 Q Okay. So, how did you come to determine who you were
2 looking for?

3 A Well, prior to me getting to Gardendale we had units
4 already in the area who saw someone. They detained that
5 individual after a short chase. Once I met -- I see they have
6 him detained, we start looking in the area that the subject had
7 run in. That's when I encountered Mr. Roberts.

8 Q Okay. Do you have any idea where this chase takes
9 place? From what address to what address?

10 A From the numbers I can say from 555 Gardendale back
11 towards the stop sign that leads out. I do not know the
12 addresses.

13 Q Around the curve this way or this way? (Indicating)

14 A Straight through.

15 Q Straight through?

16 A Straight through.

17 Q Okay. Okay. But the chase did not entail going to
18 546?

19 A No, sir.

20 Q Okay. You all had no information other than Mr.
21 Roberts telling you to even look at 546?

22 A Correct.

23 Q And I just want to make sure. My sinuses are clogging
24 my ear up. I apologize. I couldn't quite hear you.

25 You said when you looked into the shed you didn't know

1 whether that was the purse you were looking for or not? Is that
2 a fair assessment of what you're saying?

3 A No, sir.

4 Q Okay.

5 A When I first looked into the shed, when I looked in the
6 first thing I saw was a pistol.

7 Q Okay.

8 A When I shined my light I see purse and all the credit
9 cards and ID's or whatever it may be across the bench.

10 Q Okay. All right. And you said the door was open.
11 Give me some idea how open this door was?

12 A It was open. It was far enough open where I could
13 stick my body.

14 Q Well, I guess my question is, State's Number Three, I
15 would say that's a wide open door?

16 A It is wide open, yes.

17 Q Is that what it looked like when you walked up?

18 A No, sir.

19 Q So it was much more closed?

20 A I would say about half.

21 Q About half that. Okay. And so you walked up, looked
22 in, shined the flash light. Okay.

23 At that time of course you all didn't even know exactly who
24 you were looking for so there was no arrest warrant in hand,
25 correct?

1 A Correct.

2 Q This was no search warrant in hand, correct?

3 A Correct.

4 Q And you all didn't begin looking around the property
5 until you had gotten some approval from the property owner,
6 correct?

7 A Correct.

8 Q And that was Lieutenant Neil who got that?

9 A Yes.

10 Q Okay. Back on State's Number Three. Obviously this is
11 a little bit further away, but can you give me some idea of
12 where you saw items? Can you point to them on the picture?

13 A I can not point to them there because they are to the
14 left of the inside of the door frame.

15 Q Okay. Your testimony is, as you were standing at the
16 door you could see that?

17 A After looking, I stuck my head in and to the left
18 that's when I saw the pistol.

19 Q Okay. But you couldn't see without actually putting
20 your head inside the door, correct?

21 A Correct.

22 Q Okay. Thank you, sir.

23 THE COURT: Redirect?

24 MS. LIVELY: Yes.

25 REDIRECT EXAMINATION

1 BY MS. LIVELY:

2 Q Chief Sprouse, at that time even though you had Mr.
3 Brockman detained, had you had a clear ID by the victim that
4 that was the person who had robbed her?

5 A No, ma'am.

6 Q So at the time you were still looking for evidence of a
7 crime and possibly a different suspect, is that correct?

8 A Yes, ma'am.

9 Q All right. So, everything that was going on did this
10 all happen pretty fast in regards to response and doing
11 different perimeters and getting the dogs out there?

12 A Very quick.

13 Q Okay. All right, so in being able to get on that
14 property and look for any additional suspects or materials of
15 the crime were very critical?

16 A Very time sensitive.

17 MS. LIVELY: All right, thank you. Nothing
18 further.

19 MR. FRICK: Nothing further.

20 THE COURT: Thank you. You may step down. State
21 call your next witness.

22 MS. LIVELY: Yes, Your Honor. The State calls
23 Lieutenant Johnny Neil.

24 JOHNNY NEIL, called as a witness, having been duly
25 sworn by the clerk, was examined and testified as

1 follows:

2 DIRECT EXAMINATION

3 BY MS. LIVELY:

4 Q Lieutenant Niel, why did you go to the residence of [REDACTED]
5 Gardendale Circle on November the 8th, 2018?

6 A Chief Deputy Robert Sprouse advised me to go and make
7 contact with the homeowner and get consent to search.

8 Q Okay. And did you do so?

9 A Yes, ma'am.

10 Q Tell the Judge how you did that?

11 A I knocked on the door. I talked to the homeowner. I
12 can't remember her name at the time. She came to the door. As
13 a matter of fact a younger girl came to the door first and once
14 I said can I speak to the homeowner she went and got the other
15 lady and she came to the door.

16 Q Okay. All right. So whenever the other female came to
17 the door did she identify herself as being the homeowner?

18 A Yes, ma'am.

19 Q And whenever she identified herself as being the
20 homeowner what did you do?

21 A Once I did that I told her what was going on. I don't
22 think I told her who exactly we were looking for at the time.
23 And I told her what was going on. I said there was an open door
24 in the back and she said nobody is suppose to be back there and
25 she wanted that checked to make sure nobody was in there.

1 Q What kind of consent did she give you specifically as
2 to the property, the surrounding property?

3 A She said we could search it.

4 Q All right. Did she seemed concerned at that time?

5 A Yes, ma'am.

6 Q And so whenever she gave you consent to search the
7 surrounding area did you advise Chief Deputy Sprouse that he
8 would have the green light to go ahead and do so?

9 A Yes, I did.

10 Q Did you have anything else to do with this case other
11 than making contact with the homeowner and discussing with her
12 that you all wanted to search the property and getting that
13 consent?

14 A No, ma'am.

15 Q All right. Did you ever actually physically go into
16 the home or aske for consent to go into her residence?

17 A I didn't go into her home.

18 Q Okay. All right. And do you have any knowledge as to
19 when any law enforcement went into to her home that night?

20 A I don't believe anybody went into the home, but I know
21 I didn't.

22 Q Okay. All right. Thank you. Answer any questions the
23 defense may have.

24 CROSS EXAMINATION

25 BY MR. FRICK:

1 Q You got verbal consent, correct?

2 A Yes, I did.

3 Q No paperwork?

4 A I didn't get any paperwork at the time, no.

5 Q Okay. All right. And you're saying that she said you
6 could search the whole place?

7 A She gave us permission to search her property.

8 Q She didn't specifically say you can look around the
9 grounds?

10 A I told her that the door was open back there. She said
11 nobody was suppose to be back there. She said I want you guys
12 to check that as well. She may not have said it in the exact
13 words but she said that she wanted us to check that because
14 nobody was suppose to be there.

15 Q Well, I mean to get consent don't we have to have the
16 exact words. I mean, if she said I want you to go back there
17 but don't look into the shed you couldn't go in the shed, could
18 you?

19 A She didn't say don't look in the shed.

20 Q Okay. But she didn't say go look in the shed either,
21 did she?

22 A She said I can look -- we can look on her property.

23 Q On her property, correct?

24 A The shed is on her property.

25 Q On her property, correct? She said on her property,

1 correct?

2 A On the property?

3 Q Thank you, sir. That's all the questions I have.

4 THE COURT: All right. Thank you, sir, you may
5 step down. State call your next witness.

6 MS. LIVELY: Lakiesha Jones.

7 LAKIESHA JONES, called as a witness, having been
8 duly sworn by the Clerk, was examined and testified
9 as follows:

10 THE COURT: Make sure you speak through the mic.
11 All right, solicitor.

12 MS. LIVELY: Thank you.

13 DIRECT EXAMINATION

14 BY MS. LIVELY:

15 Q Miss Jones, do you live at [REDACTED] Gardendale Circle?

16 A I do.

17 Q How long have you lived there?

18 A Since 2011.

19 Q 2011. Pull the microphone to you. We got to make sure
20 our court reporter can hear you. Thank you.

21 Q And does anyone else live there with you?

22 A My niece did at the time.

23 Q All right. What's her name?

24 A Kiera Land.

25 Q Kiera Land?

1 A Yes.

2 Q Okay. Thank you. And how old is your niece?

3 A She's 18 now. She was 17 at the time.

4 Q Okay. Now, Miss Jones, does the defendant live at your
5 residence?

6 A No, he doesn't.

7 Q All right, and why not?

8 A Because he doesn't.

9 Q And has he lived there before?

10 A No, he never really lived there but he's spent the
11 night before. Stayed a while before.

12 Q Okay, so he spent the night before. And how long had
13 it been since he has spent the night at your house whenever this
14 happened?

15 A Years.

16 Q Years?

17 A Yes.

18 Q Okay. All right. So, there was no reason whatsoever
19 for him to be sleeping anywhere on your property that night,
20 correct?

21 A No.

22 Q Did he have permission to go into your outdoor shed?

23 A No.

24 Q All right. If he had gone into there would he have
25 been trespassing?

1 A I wouldn't consider it trespassing, but I didn't give
2 him authorization. I wouldn't say trespassing, no.

3 Q Is that because he's a family member?

4 A Correct.

5 Q All right. But you did not give him permission to go
6 into that shed, correct?

7 A No, I did not.

8 Q You did not. Now did you know that that shed or
9 outhouse or whatever you want to call was -- had been opened by
10 someone that night?

11 A No.

12 Q What did you tell the police in regards to your belief
13 as to this shed, as to whether it was locked or unlocked?

14 A Well, it should be locked. They didn't ask me anything
15 about the shed being unlocked.

16 Q They didn't?

17 A No.

18 Q So what do you recall about that night? Was it
19 Lieutenant Neil that came and asked you for consent to search
20 your property?

21 A He asked me could he search my yard. I gave him
22 consent to search my yard.

23 Q Okay.

24 A That's his specific words, he said yard and I gave him
25 authorization to do that.

1 Q Okay. So when they searched your yard he's still there
2 and at some point in time either him or someone else do they
3 tell you that that building -- that that door was open?

4 A No. Well, a police officer asked me what color bikes
5 did I have and I told him the color of my bikes.

6 Q Okay.

7 A And that's how I was made aware that the shed was open.

8 Q So they made you aware that the shed was open?

9 A Right. They asked me the color of the bikes.

10 Q Well, didn't you think that was odd that they would
11 know what the color of your bikes were unless the shed was open?

12 A What do you mean?

13 Q Okay. Are the sheds inside of -- I mean the bikes
14 inside of your shed?

15 A The bikes are in the shed, correct.

16 Q Right. So they would know what the color of the bikes
17 are unless the door was open, correct?

18 A That's correct. But he asked me the question. That's
19 how I found out that shed was opened when he asked me the color
20 the bikes.

21 Q Okay. So we can agree your shed was open?

22 A I'm assuming so. I didn't see it open but he asked me
23 the color of the bikes. He could have went in and seen it.

24 Q Okay. Did you tell him that the shed is -- your little
25 outhouse is normally locked?

1 A Yes.

2 Q All right. So when they asked you about the color of
3 your bikes -- I'm just trying to be clear Miss Jones. I'm not
4 trying to give you a hard time I promise. The judge has to hear
5 this. He has to understand.

6 The fact that they knew the color of your bikes, would that
7 be because the door was open and not locked like you thought it
8 was.

9 A I don't know.

10 Q Okay. That's fine. Now, Miss Jones, if the defendant
11 -- well, let me ask you this. Do you recognize that purse?

12 A No, I do not.

13 Q Do you have any idea as to why the purse of the victim
14 of an armed robbery would be inside of your shed?

15 A No, I do not.

16 Q You didn't put it there, right?

17 A No, I did not.

18 Q How about this gun? I am showing you State's Number 8
19 and State's Number 7.

20 A What's your question?

21 Q Have you seen this gun?

22 A No.

23 Q Did you put this gun into your outhouse?

24 A No, I did not.

25 Q Did you give the defendant permission to put this gun

1 out there?

2 A No, I did not.

3 Q And do you know the victim, Miss Catherine Waldren?

4 A No, I do not.

5 MS. LIVELY: One moment, Your Honor.

6 THE COURT: Okay.

7 MS. LIVELY: Thank you. Answer any questions the
8 defense has for you.

9 CROSS EXAMINATION

10 BY MR. FRICK:

11 Q Miss Jones, what did you tell Lieutenant Neil he could
12 search?

13 A My yard.

14 Q Your yard?

15 A Correct.

16 Q Did you believe that meant your shed?

17 A No.

18 Q And your shed is in fact attached to your house, isn't
19 it?

20 A Correct.

21 Q Let me show you State's Three, just so we're clear.

22 This is not a shed that's sitting out in the yard anywhere.

23 That is your house, correct?

24 A Yes.

25 Q Is that a door that attaches into inside there or is

1 there no door there?

2 A No door there.

3 Q Okay, so you can't go from the house into the shed?

4 A No.

5 Q But it's clearly on the house?

6 A Correct.

7 Q Okay. And you said sometimes Mr. Brockman had stayed
8 at your house?

9 A Yes, he has before.

10 Q It had been some time?

11 A Correct.

12 Q Sometimes you get tired of him? You didn't want him
13 hanging around the house?

14 A Yes.

15 Q At this point in time were you kind of tired of him?

16 A Yes.

17 Q Okay. Did he ever leave stuff at your house?

18 A Yes, he has.

19 Q Did he ever leave any clothes at your house?

20 A Yes.

21 Q I have not marked these. I will do so if the court
22 reporter allows me to do this already. I will show you two
23 pictures. There are four pictures on two pieces of paper.
24 There is some clothing in there. Do you recognize that
25 clothing?

1 A Yes.

2 Q Whose clothing is it?

3 A It looks to be Jerrell's.

4 Q Jerrell's clothing?

5 A Yes.

6 Q So he had items in your shed?

7 A Yes.

8 Q According to these pictures?

9 A Correct.

10 MR. FRICK: Your Honor, at this time I need to
11 mark these Defense's Number One and Two.

12 MS. LIVELY: No objection.

13 THE COURT: No objection. Entered Defendant's One
14 and Two.

15 (Defendant's Exhibit One and Two, photographs,
16 received in evidence as of this date.)

17 Q Did you ever feed Jerrell?

18 A Yes.

19 Q Would he come to your house and eat?

20 A All the time.

21 Q Had he recently done that when this happened?

22 A No, it been a couple of weeks before that I'm assuming.
23 I'm not sure exactly.

24 Q Okay. I think it was probably a few weeks ago if not a
25 month ago Lieutenant Foran (phonetics) came out and talked to

1 you about this? Do you recall that?

2 A It was few weeks before that.

3 Q Today? Fairly recently or some time in the pass? I
4 don't exactly know the date.

5 A Yeah, it was like last week.

6 Q Okay. She came out and talked to you about this
7 particular search, correct?

8 A Correct.

9 Q There were some question about a bowl that was in the
10 shed. Do you know what I'm talking about?

11 A Yes, there was a bowl back there.

12 Q Okay. How would that bowl have gotten back there?

13 A I'm assuming maybe Jerrell put it back there. I'm not
14 sure. I didn't put a bowl back there. There was a bowl back
15 there. I'd seen a bowl back there.

16 Q Okay. I believe you indicated to her that that was a
17 bowl that you had given him some food in?

18 A Yes, I feed him with a bowl before.

19 Q And so if the bowl got there he must have taken it back
20 there and eaten?

21 A He had to. I'm assuming.

22 Q And you didn't call the cops and get him charged with
23 trespassing?

24 A No.

25 Q You didn't necessarily want him there but if he was

1 there you didn't have a problem?

2 A Right. I mean, I didn't see the bowl there until after
3 all this went on. I went back there. No, but it wouldn't have
4 been trespassing, no.

5 MR. FRICK: Thank you, ma'am. That's all the
6 questions I have.

7 THE COURT: Any redirect?

8 REDIRECT EXAMINATION

9 BY MS. LIVELY:

10 Q Didn't you just testify that it had been years since he
11 spent the night at your house?

12 A That's correct.

13 Q And he did not have permission to be in your outhouse
14 that night, correct?

15 A Correct.

16 Q All right. And you didn't know the bowl was back there
17 and you didn't know his clothes were back be there, right?

18 A That's correct.

19 MS. LIVELY: Thank you. Nothing further.

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

21 THE COURT: State call its next witness.

22 MS. LIVELY: That is going to be it from the
23 State.

24 THE COURT: Any presentation of the facts for the
25 defense?

1 MR. FRICK: No, sir.

2 THE COURT: Let's hear argument.

3 Mr. Frick, it's your motion.

4 MR. FRICK: Your Honor, as I passed up I got a
5 couple of cases that I cite. The main one I am going
6 to rely on, State versus Missouri, it's a SC site.
7 That's 361 S.C. 107. And Your Honor, if you'll look
8 at that case, they talk about Steagald (phonetics)
9 which is United States case they cited a good bit.

10 Essentially in Steagald they are going into a
11 residence and you got to serve an arrest warrant on
12 somebody, but it wasn't their residence and basically
13 what that case says is you got to establish that the
14 person had a right to be there so they could exert
15 their Fourth Amendment rights to be there. Obviously
16 this is not Mr. Brockman's residence.

17 THE COURT: I want you to focus your argument on
18 whether or not he had a reasonable expectation of
19 privacy --

20 MR. FRICK: Yes.

21 THE COURT: -- in a storage shed that appears to
22 be part of the curtilage of this yard.

23 MR. FRICK: Well, I disagree it's part of the
24 curtilage. It's attached to the house, so it's
25 actually a part of the house.

1 THE COURT: I'm listening.

2 MR. FRICK: But Judge, if you would look on page
3 three of Missouri down at the bottom it's kind of a
4 similar situation. This is a guy that Missouri had
5 known for a while. They grew up together. He would
6 go over to the guy's house every now and then. In
7 this particular case he had been there that day during
8 the search.

9 THE COURT: You referring to footnote 115 or
10 section 115?

11 MR. FRICK: Yes, sir, 115.

12 So essentially the homeowner had shared his
13 privacy is what they say and that gave him the right
14 to declare his privacy in the area. He then had an
15 interest of privacy in the area. You don't
16 necessarily have to be an overnight guest to get this
17 privacy. It certainly helps, but that is not was
18 Missouri says. If you come over and visit and you
19 have your things there that gives you the ability to
20 declare your standing in having a Fourth Amendment
21 right in this place.

22 You saw the pictures in Defense's one and two. He
23 has items that are there. He can come over to the
24 house. Maybe she might be mad at him and not want him
25 there at some point in time, but he's welcome to come

1 over. She might not want him to go in the shed but
2 she didn't get mad at him when he went into the shed.
3 He would eat in the shed. So clearly she has shared
4 her privacy which gives him standing to have privacy
5 in this shed.

6 Now, going further on that, obviously the State is
7 going to argue that this is plain view. It is not
8 plain view.

9 The testimony from Chief Deputy Sprouse was he
10 actually had to stick his head inside the door. If
11 you got to stick your head inside the door and break
12 the plain that is not plain view, judge.

13 THE COURT: You think that's intrusive under the
14 the law?

15 MR. FRICK: If my client had done it and she
16 called the cops they would have charged him with
17 burglary.

18 THE COURT: Shining a flashlight through a crack
19 in the door is intrusive?

20 MR. FRICK: No, sir, that's not. That would be
21 plain view. But his testimony on the stand was to see
22 the items that they seized he actually had to stick
23 his head inside the door and look back to the left.
24 That is intrusive.

25 The area that they were told they had permission

1 to search was the grounds. That did not include a
2 shed that's attached to the house. And by sticking
3 your head inside the door, not just simply looking
4 with a flash light and going ah-hah, there it is.
5 Sticking your head in the door, you've gone across the
6 plain of the door, that's an entry. That requires a
7 search warrant or permission to let you in the house
8 which they did not have.

9 THE COURT: Okay. Thank you. Madam solicitor.

10 MS. LIVELY: Yes, sir, Your Honor. In Steagald
11 which is the one that is originally mentioned by the
12 defense, that particular case they had a legal arrest
13 warrant to arrest the defendant who they believed was
14 going to possibly be in the area at the time they were
15 doing a drug bust. It was the DEA. They detained two
16 people one of them by at last name Steagald outside
17 the house. Then they believed that Mr. Lyons who was
18 their subject had may be gone into the home. So they
19 go and knock on the door and there's a woman in there
20 who is actually the Steagald who is the appellant
21 here, female, she said she was in the house by herself
22 and that no one had come in here. So instead which
23 the officer testified to he had time to go a get a
24 warrant, a search want if necessary. They busted in
25 and at the time they detained her. They determined

1 that Lions was not to there and that they saw all this
2 cocaine in plain view.

3 We don't have a situation like that at all here.
4 What we have here we got a third party, who is not
5 under suspicion, not under arrest, that they approach
6 about actually going around the property to try and
7 find evidence of this crime that had just been freshly
8 committed.

9 They detained Mr. Brockman but still had not had
10 an ID by the victim at that time so everything time
11 was of the essence which is what Chief Deputy Sprouse
12 told you. So whenever they were able to determine that
13 the back outhouse door had been opened and whenever he
14 looked in with the flash light at that point in time
15 is he sees the evidence of the crime.

16 So, Your Honor, even Miss Jones has hesitantly as
17 she was about it, she stated, "Well, they wouldn't
18 have known the color of the bikes but for the fact
19 that the door was open." So they did not bust open
20 this door. They did not intrusively go into this
21 door. He saw these items, backed out and then got
22 Brian Sanders who is their CSI with the county to
23 actually come in and secure the area in order to make
24 sure that any weapon -- which they didn't know at the
25 time was a BB gun. Everybody believed that it was a

1 real gun at that time. Didn't no whether it was
2 loaded. Also, the purse that was strewed -- you saw
3 the picture of all the items that were strewed out
4 that way.

5 The other thing that Miss Jones says in regards to
6 the standing issue is that he did not have permission
7 to be on her property. She said, no, he did not.
8 Yeah, he stayed there before. Someone can squat on
9 your land. It doesn't make them somebody that you
10 give permission to do that. As a matter of fact, if
11 they are a trespasser or someone who does not have
12 permission under United States versus -- I don't know
13 how to say this, Hunyady, which was decided in 2003.
14 It's actually a Michigan case. It says if someone
15 knows that they're a trespasser, knows that they're
16 not suppose to be on the property, they do not have an
17 expectation of privacy.

18 THE COURT: What about State versus Missouri?
19 Doesn't that kind of fly in the face of the argument?

20 MS. LIVELY: Yes, and I'll be glad to distinguish
21 that, Your Honor.

22 THE COURT: Go ahead.

23 MS. LIVELY: I actually included this in my
24 information that I sent to Ryan for Your Honor to look
25 at.

1 This is very different because what you have is
2 this man in Missouri had a key to the apartment. He
3 had a suit and a shirt in the apartment. He had slept
4 there at least once before and he was sole occupant of
5 the apartment at the time it was searched. He was
6 there at the time it was searched. He had a key. So
7 he had permission to be in there. Here we have the
8 person who is the resident owner of this home who said
9 he did not have permission to be there. That she
10 thought the door was locked. And even whenever Mr.
11 Frick was asking, well, wasn't that his bowl, wasn't
12 that his. She's learning all this after the fact.
13 It's not because she said and then when you're eating
14 Jerrell, please feel free to go and sit in my back
15 shed and you can put clothes back there too. There's
16 been absolutely no testimony that there's permission
17 for him to be there. Therefore, what we have is
18 someone --

19 THE COURT: Isn't that in his subjective under the
20 law? Isn't that in his subjective belief?

21 MS. LIVELY: As to whether or not he has a
22 legitimate expectation of privacy in the home of
23 another, is it legitimate whenever she has not let him
24 come and stay.

25 THE COURT: Or reasonable?

1 MS. LIVELY: Or reasonable. Exactly. Under the
2 circumstances.

3 He at that point in time -- and also, you have to
4 determine whether or not society would deem that to be
5 reasonable with the information that we have at this
6 point in time. So that's exactly what we have. So if
7 the Court were to find, that was the first prong of
8 what we have to determine according to U.S. Supreme
9 Court is whether or not he has standing to claim it.
10 If he does have standing to claim it and Your Honor
11 determines that, then we go to next, which is was
12 there an excuse or reason for law enforcement to be
13 justified whenever they looked into the actual piece
14 of property to do so. To look in there. And there
15 have been cases where the Supreme Court have upheld
16 whenever law enforcement peeps through a window and
17 sees illegal activity going on and that they're
18 actually allowed to at that point in time to go into
19 the home because there's somebody who's either
20 committing an illegal act.

21 You can also -- this is the other thing to, this
22 is a curtilage around the home, outside the property,
23 even though it is attached to the home, Your Honor.
24 It is not inside the castle. The castle of the person
25 the home that it belongs to. That's why I asked that

1 question, did you all ever go in there. They did not
2 have to ask whether or not they could go into the home
3 because they didn't have any intentions of going into
4 the home. They were looking around the property, saw
5 the door open and that's whenever he peeped in and was
6 able to see these items which had been stolen and
7 identified by the victim.

8 THE COURT: Got you.

9 MS. LIVELY: And also, along with that is, is the
10 hot pursuit. Trying to find evidence of the crime.
11 Not knowing if there was another defendant possibly or
12 other suspect that could have be involved because we
13 did not have a specific identification on this
14 particular defendant as well. So there was a lot of
15 things going on that night and the State would contend
16 that all of the officers acted reasonably under the
17 circumstances and that the evidence that was seized
18 was done so properly.

19 THE COURT: Thank you, madam solicitor. You have
20 the last word, Mr. Frick.

21 MR. FRICK: Your Honor, he believed he could go
22 over there. Now whether she was mad at him that
23 night, she didn't call the cops to get him run off.
24 She testified she would be on the outs with him but
25 she wouldn't have considered him a trespasser. So I

1 believe he had a reasonable expectation that he could
2 go over there and go into the shed.

3 Your Honor, regarding the hot pursuit, I just
4 reiterate what I've already said before on this case.
5 I don't think I have anything further. But regarding
6 the hot pursuit, hot pursuit is I see you. I'm
7 chasing you. I know who it is. They didn't have a
8 clue who they were chasing. That's not hot pursuit.

9 THE COURT: All right. Thank you. All right, any
10 other matters on this? I'm going to go back to my
11 chambers and look at the law some more. Before I come
12 out an announce my decision anything else?

13 MS. LIVELY: Not from the State.

14 MR. FRICK: No, sir.

15 THE COURT: All right. Let me see the lawyers back
16 there regarding the scheduling issues before I start
17 going through all this and then I'll send you back
18 out.

19 (WHEREUPON, there was a brief recess.)

20 THE COURT: All right. On the issue of the motion
21 to exclude evidence seized by the defense, I am going
22 to respectfully deny the motion on standing grounds
23 and in my decision, even if the defendant did have
24 standing I would deny the defense's motion based upon
25 my understanding of the plain view rule. So I will

1 state for the record my reasoning in reaching this
2 conclusion.

3 First of all, for the standing issue, did the
4 defendant have a reasonable expectation of privacy and
5 based upon the totality of the circumstances that I
6 considered I find that he did not both subjectively or
7 either objectively. His right to be at this residence
8 had been expressly revoked by the homeowner. So how
9 can he have a reasonable expectation of privacy when
10 he had been expressly told by the homeowner that he
11 was not welcome there. That's what distinguishes this
12 case from the case that's cited by the defense. And
13 then whether or not this expectation was reasonable
14 based upon societal standards which I don't think it
15 was reasonable here.

16 In addition, under the plain view, so even if the
17 defendant did have standing to raise the issue of an
18 unlawful search I do find this warrantless search was
19 -- should be allowed -- the product of the search
20 should be allowed under the plain view exception.
21 Number one, the police had the consent of the
22 homeowner to, in her words, search the yard. Well,
23 they were in the yard when she gave them consent to
24 look in, look over and in looking from the yard into
25 this storage shed with flashlights is where the items

1 were in plain view. And of course -- and then of
2 course looking at this the incriminating nature of a
3 purse matching a description given by the victim as
4 well as weapon there that was immediately apparent
5 based upon them looking into this shed.

6 So, based upon all that I respectfully deny the
7 defendant's motion to suppress this evidence.

8 All right. Having said that, madam solicitor and
9 Mr. Frick, I wanted talk to you all back there about
10 the schedule for this week and of course I know, this
11 is a time sensitive matter for both parties. I'm
12 aware of that for both the State and the defense.
13 While I have been up here listening to arguments I
14 must have received seven or eight e-mails all
15 declaring various states of emergency throughout the
16 State of South Carolina. Most recently, less than 30
17 minutes ago, the governor has closed all state
18 agencies in 26 counties. Several of which border this
19 county, this circuit. So I think it's just a matter
20 of time honestly until that happens and I don't want
21 to run into potential juror issues and have to
22 interrupt this trial which would not be fair to
23 anybody.

24 Have you discussed this with your people, madame
25 solicitor?

1 MS. LIVELY: I did, Your Honor.

2 THE COURT: Okay. The jury hasn't put been sworn.
3 I just see no way we can reasonably go forward with
4 this trial this week based upon the situation we find
5 ourselves in weather related and then this emergency
6 situation.

7 Any objection to me continuing the case?

8 MR. FRICK: Your Honor, I don't object to that.
9 The only issue I would have is when we were before the
10 Court on the matter of bond back in May of this year
11 we were in front of Your Honor. I believe the State
12 said they were prepared to go forward this week. We
13 were prepared to go this week. I know everybody is
14 prepared to go this week. It's difficult for me to
15 fault the State in this circumstance, but judge, we
16 did say if it wasn't disposed of this week that we
17 could reconsider bond. I Would ask the court to do
18 that.

19 THE COURT: All right. I'll be glad to hear from
20 you.

21 MR. FRICK: My client has been incarcerated since
22 his arrest on this event, November 8th of last year.
23 Some ten months he has been incarcerated without bond
24 on this case. Your Honor, he is not a flight risk.
25 He is from Chester, however given the nature of the

1 circumstances. He's got family in Rock Hill that he
2 could stay with. I believe he's got a father in Rock
3 Hill and he could stay out of Chester County except to
4 come back for a trial date or for any meetings with
5 me.

6 Your Honor, I do understand the circumstances of
7 the case. I do understand the solicitor is going to
8 read my client's record, but I do not believe he is
9 truly a danger to the community. I ask you to take
10 all those circumstances into effect. Taken the fact
11 that we were prepared to go to trial. So it's not us
12 delaying it. I know it's truly not the State either.
13 But this is what we said.

14 I would ask you to consider it because while I
15 think the Court may set a trial date of course we
16 don't know what will happen on that trial date as
17 well.

18 THE COURT: Your right.

19 MR. FRICK: I ask you to grant my client what I
20 believe constitutional right to a bond as satisfying
21 the circumstances of not being a danger to the
22 community or flight risk and by being able to remove
23 any danger by being in York County should you grant
24 the motion. So I ask you to set a reasonable bond in
25 light of all the circumstances.

1 THE COURT: Thank you Mr. Frick. Madam solicitor
2 talk flight risk and danger to the community.

3 MS. LIVELEY: Yes, sir, Your Honor.

4 Flight risk, you know one of the things is he did
5 run from the police that night. Had to be detained.
6 He was hiding in the bushes whenever they found him.
7 So, he had to be tracked by dogs. So right there he
8 shows you that he was not cooperative with the police.
9 The other thing is, yeah, he does have ties here to
10 the community. I've given him that every single time
11 we have come before Your Honor. However, we don't
12 know when or not this is a steady -- he has a steady
13 home to live in. Here he is, he's breaking into his
14 aunts or the curtilage outbuilding and leaving food
15 and clothing back there as well as evidence of a
16 crime. So I have a huge concern about that.

17 Also, danger to the community is number one for
18 me. He's got a violent record. He is a documented
19 criminal gang member and I don't just throw that out
20 there. We've discussed this stuff. I've got pictures
21 of him off of facebook doing the gang symbol for being
22 a blood. He has admitted to being a blood. He has
23 got a Piru tattoo on his body. He is proud of being a
24 gang member. And in listening to conversations that
25 he's had with witnesses, you know, the conversations

1 he's had from the jail. Also now that he knows who
2 our witnesses are. I'm very concerned about there
3 safety as well as the safety of the community as a
4 whole.

5 Your Honor, this happened at a church parking lot
6 at about eight o'clock at night and it was very
7 brazen, very violent. And I can tell you Miss Waldrum
8 was terrified to come here, wanted this to be over
9 with and it's just one of those situations where if he
10 were to get out I really do believe that he would run
11 even though he doesn't have many community contacts
12 outside of this area. And if he didn't run I think
13 his violent pass we'd all regret it. I really do.

14 He has got possession of cocaine base conviction
15 2005, crack cocaine 2005. Assaulting a police officer
16 while resisting arrest where he got a YOA. He's got
17 possession of a weapon by a person who is not suppose
18 to have a weapon conviction from 2007, unlawful caring
19 of a weapon from 2007. Then he's got a forgery in
20 2013 conviction. CDV from 2013. Then he's got a
21 breach or obtaining signing property 2000 or less
22 conviction. Receiving value 2000 or less enhancement
23 under the property enhancement, Your Honor. And then
24 he's got these charges here and on top of that all the
25 information we have regarding his violent tendencies.

1 THE COURT: Thank you. Mr. Frick, your last
2 word.

3 MR. FRICK: Your Honor, just briefly on that.
4 The first time I heard about any gang stuff was this
5 morning when we were talking about the possibility of
6 what was going on in this case. So I can not speak to
7 that. And I know the State will give me that at the
8 appropriate time. As far as any witnesses in this
9 case. We've been provided discovery since November in
10 this case. There's nothing new in there so I don't
11 think anybody should fear any danger from Mr.
12 Brockman. There's been no new information provided
13 along those lines today so.

14 THE COURT: I do find he is an unreasonable
15 danger to the community based upon the totality of the
16 circumstances of what I understand these charges to be
17 as well as upon the nature of the charges. I will
18 therefore respectfully deny bond.

19 All right. Having said that, I just ruled on
20 these pretrial issues so I think it's best that I
21 continue to retain jurisdiction and this case. I will
22 be here the first week of November and the first week
23 in December. Madam solicitor you get with Mr. Frick
24 and you figure out whatever you got to do and let me
25 know.

1 MS. LIVELY: Yes, Your Honor. Thank you.

2 THE COURT: All right. That concludes the hearing
3 in this case today.

4 (END OF TRANSCRIPT)

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C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for Chester County, South Carolina, on the 10th day of September, 2018.

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

January 9, 2019

S/Aileen Butler

1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS

3 COUNTY OF CHESTER

4 2018-GS-12-56, 57, 58

5 State of South Carolina

6 Vs.

7 Jerrell Trovase Brockman

8

9 Chester, South Carolina

10 November 5, 7-8, 2018

11 Before the Honorable Brian M. Gibbons

12 APPEARANCES

13 For the State: Candice Lively, Kaitlyn Easler

14 For the Defendant: William Frick, Kay Boulware

15

16 Reported by: Michael C. Watkins

17 Official Court Reporter

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VOIR DIRE

1 THE COURT: Is the State ready to call the case?

2 MS. LIVELY: We are ready, Your Honor.

3 THE COURT: Defense ready?

4 MR. FRICK: Yes, sir.

5 THE COURT: All right, you may call the case.

6 MS. LIVELY: Thank you, Your Honor. This is State of
7 South Carolina versus Jerrell Trovase Brockman, indictment
8 number 2018-GS-12-056 for armed robbery, 2018-GS-12-057
9 assault and battery first degree, 2018-GS-12-058 kidnapping.

10 THE COURT: All right, thank you. All right. Ladies
11 and gentlemen of the jury panel, we're about to begin the
12 trial of the case called the State of South Carolina versus
13 Jerrell Trovase Brockman who as you've heard the solicitor
14 indicate has been charged with armed robbery, assault and
15 battery first degree and kidnapping. And if I didn't
16 explain this to you earlier the solicitors are what we call
17 prosecuting attorneys in South Carolina. Some other places
18 call them district attorneys or states attorneys but when I
19 refer to the solicitor that's what I'm talking about. All
20 right. So before we select a jury I'll remind you ladies
21 and gentlemen of the jury that y'all are still under oath.
22 Before we start selecting the jury I do have several --
23 numerous questions to ask to give the lawyers more
24 information in deciding who's going to be selected for the
25 jury. Before we go through those questions I'll have both

VOIR DIRE

1 (The remaining panel was dismissed.)

2 THE COURT: Ladies and gentlemen of the trial jury, I
3 want y'all to go -- at this time y'all are going to follow
4 your bailiff, he's going to show you where your jury room
5 is. As I indicated earlier today the trial of this case
6 will begin Wednesday morning, we didn't -- the lawyers
7 didn't want to start and not finish everything today, then
8 you're off tomorrow and then come back Wednesday so we'll
9 try to get started with everything on Wednesday. So I want
10 you -- they're fixin' to show you where your jury room is,
11 you will be there at 9:30 -- excuse me, 10:00 Wednesday
12 morning, 10:00 Wednesday morning, I have some other matters
13 I need to deal with before you come in here 10:00 Wednesday
14 morning. Now, having said that, y'all have been selected to
15 be fair and impartial jurors for both the State and the
16 defense. That means -- and I will give you instructions on
17 this when you come back Wednesday, your decision, your
18 verdict must be based solely on the evidence received in
19 this courtroom either from the witness stand right there
20 below me or from whatever evidence may come into the record
21 by way of exhibits, okay? Having said that you are not
22 allowed as a juror to go seek out information that's not
23 presented to you. In other words, when you leave here you
24 can't get on your laptops or your I-pads or whatever and
25 look for information about this case. You can't go online

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1 and try to look at news articles about this case, you can't
2 go on social media and try to pull up names of those
3 involved in this case. If you do that you are violating
4 your oath as a juror, okay? And you cannot do that because
5 remember, your verdict must be based solely on the
6 information presented in this courtroom. And you also can't
7 talk about the case. Number one, you don't know anything
8 about the case, you just know the names of the people and in
9 general what the allegations are and that's all you know at
10 this point in time, okay? So it's inappropriate to talk
11 about it with anybody. Certainly I'm not naive, you go home
12 and you tell your significant other, "I got selected to be
13 on the trial jury, it's a criminal case," just say, "The
14 judge said I can't talk about it, okay?" Blame it on me,
15 I'm used to being the bad guy, okay? That's fine. If
16 anybody persists however in trying to talk to you about the
17 matter and tries to approach you to talk about it you let me
18 know and I'll take care of it, okay? So at this time I want
19 y'all to head on back to your jury room, after they show you
20 where you're going to be you are free to leave, just be back
21 Wednesday morning in the jury room at 10:00 a.m. okay?

22 (The jury left the courtroom.)

23 (Trial proceedings recessed for the day and resumed at
24 9:45 a.m. on Wednesday, November 7, 2018.)

25 THE COURT: All right. This is on the case of Jerrell

PRETRIAL MATTERS

1 Brockman, pretrial matters. Mr. Frick, do you have a
2 motion?

3 MR. FRICK: Your Honor, as you see in the motion I
4 filed there is, in fact, two dog tracks in this case.
5 There's one over at the scene near First Baptist Church, and
6 then when they go to the Gardendale Circle there is a
7 subsequent track. First and foremost I think if the State
8 intends to introduce dog tracking evidence they've got to
9 comply with State versus White which says it is admissible
10 but it's got to go through a process and I think there's got
11 to be some qualifications of the dog to establish that the
12 dog is reliable and whatnot. Judge, my main issue in the
13 case is with the track over back at First Baptist Church to
14 Branch Street. If you look at the case I've handed up,
15 State versus White, it's page five in the case that I handed
16 you, it's 380 in the actual case itself, but they talk about
17 what is required in some jurisdictions to establish the
18 reliability of the dog. My main issue is four and five, the
19 dog being placed on a trail where the defendant is known to
20 have been within a reasonable period of time, and five, the
21 trail not otherwise being contaminated. Now, I'm not
22 conceding that the State has to establish the other factors
23 of reliability of the dog, and I think that's why they have
24 witnesses here today, but my main argument is going to be
25 about contamination of the scene and the reliability of the

PRETRIAL MATTERS

1 track.

2 THE COURT: Okay. Is State ready to proceed?

3 MS. LIVELY: Yes, Your Honor, we are.

4 THE COURT: Call your witness.

5 MS. LIVELY: I call Sheriff Alex Underwood to the
6 stand.

7 The witness, ALEX UNDERWOOD, was first duly sworn and
8 Testified as follows:

9 THE COURT: Good morning, Sheriff. Just speak into the
10 microphone and be loud. All right, Madam Solicitor.

11 MS. LIVELY: Thank you, Your Honor. Before I start
12 questioning this witness, and just to keep this brief, since
13 the defense is only arguing the issue of five and six under
14 the State v. White prongs it means that he concedes that the
15 dog handler satisfies the qualifications of an expert?

16 MR. FRICK: I'm not conceding it, but my main focus --
17 I expect you will probably be able to establish that is what
18 I'm getting at but under White I think you have to establish
19 it.

20 THE COURT: Go ahead and proffer what you feel you need
21 to proffer.

22 MS. LIVELY: I will. Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MS. LIVELY:

25 Q Sheriff Underwood, please tell the Court what your

PRETRIAL MATTERS

1 experience is in regards to bloodhound and tracking evidence
2 in the State of South Carolina.

3 A I've been trained in tracking and teaching bloodhound
4 training for since probably 1986 or '87. When I was
5 employed by the State Law Enforcement Division I was
6 assigned to the bloodhound tracking team where we trained
7 bloodhounds to track humans. We also trained the trackers
8 with man tracking without the dogs. We established other
9 training teams across the state such as York County, Akin,
10 Greenwood, Laurens, all around the state.

11 Q So basically for 32 years you've been as a trainer and
12 training had basically knowledge of the use of bloodhounds
13 for the purpose of human tracking.

14 A Yes, ma'am.

15 Q All right. Now, is there a difference between K-9 dogs
16 who actually sniff out drugs, and K-9's or bloodhounds who
17 are specific to human odor tracking?

18 A Yes. The K-9 dogs are mostly like patrol dogs, German
19 Shepherds, Malinois type of, they mainly concentrate on
20 finding drugs, article searches, bombs, dogs, stuff like
21 that. The Bloodhound is actually the true dog that's
22 capable of tracking the human scent.

23 Q And over your 32 years of experience, Sheriff, about
24 how many dog tracking deployments have you actually been
25 involved in involving a blood hound human odor track?

PRETRIAL MATTERS

1 A I've been in several thousands tracks.

2 Q Several thousands? All right. Since the time that
3 you've been here as a sheriff of this particular county, how
4 many have you been involved in?

5 A I go on every call that my guys go on.

6 Q All right. And in regards to your guys that you're
7 referring to, do you actually have anything to do with their
8 training for bloodhound human odor tracking?

9 A Yes. We actually -- we trained at minimum of once a
10 week with our bloodhounds. We also do a week long tracking
11 school back in the summer where we tracked and trained for
12 over 30 miles.

13 MS. LIVELY: All right. Your Honor, at this time the
14 State would offer Sheriff Alex Underwood as an expert in
15 bloodhound human odor tracking.

16 THE COURT: Any further voir dire?

17 MR. FRICK: No further voir dire or objection, Your
18 Honor.

19 THE COURT: All right. So qualified.

20 Q Okay. Now Sheriff Underwood, please explain to the
21 Court why a Bloodhound or certain types of breeds of dogs
22 are better at the human odor tracking than kind of what you
23 were mentioning in regards to the K-9 units?

24 A The Bloodhound has a nose to track humans and the body
25 is set up for tracking humans. With a Bloodhound when he

PRETRIAL MATTERS

1 puts his nose on a scent, on a human scent you can picture a
2 Bloodhound just wrinkly and long ears and that type thing,
3 when he puts his nose down his wrinkles comes over his eyes,
4 his ears come down and it forms a cone which makes him
5 absorb the scent. He is naturally a hunting dog so he's not
6 going to give up because his goal is to catch the prey.

7 Q All right. Now, whenever the dog, the Bloodhound,
8 actually through the cone gathers or registers this scent,
9 or locks in on this scent, at that point in time what do you
10 do as a handler to allow the dog to do the track?

11 A Well, what happens is that the human body -- the human
12 body is a living organism and so you're always dropping
13 cells and that type of thing, so the dog is going to track
14 the freshest scent. So once that dog locks in on that scent
15 the dogs gives you an encouragement and let's you know that
16 he's on the scent by barking or getting excited about the
17 trail. The dog is going to run what we call footstep for
18 footstep, so if a person runs in a straight line the dog is
19 not going to get off of that track because he's running
20 footstep for footstep, and at the end of the trail the dog
21 is rewarded the praised up with a lot of love and care.

22 Q Okay. So does the dog trail by sight or by scent
23 alone?

24 A By scent.

25 Q Okay. So if the dog were to look up and see someone

PRETRIAL MATTERS

1 running, what -- or would the dog do that? I mean, what
2 does a Bloodhound do?

3 A Well, the difference there is first if someone runs say
4 30 yards straight ahead and they make a right turn 15 yards
5 and come back ten, the dog is going to run that exact trail
6 and make that same loop to come back to the person. Once
7 the dog gets closer to the person the scent starts to get
8 fresher so he's really going to be focusing on that scent
9 and really trying to catch the person that he's after.

10 Q So the dog doesn't take a shortcut.

11 A No, ma'am.

12 Q All right. Now, in regards to this particular case
13 that we're here about that occurred on November 8th of 2017,
14 the dog that was deployed on that evening, her name is Sadie
15 Mae; is that correct?

16 A Yes.

17 Q What breed of dog is Sadie Mae?

18 A Sadie is a Bloodhound/Redbone.

19 Q Okay. And is there -- does that cause any kind of
20 concern in your expert opinion in regards to her ability to
21 track human odor?

22 A No.

23 Q All right. And please explain to the Court why that
24 is.

25 A Here in South Carolina with the humidity and the heat

PRETRIAL MATTERS

1 we've learned over 30 something years ago that the
2 Bloodhound, the full blooded Bloodhound is really big and
3 bulky and out of shape. So what we've done over the 30
4 years, we've crossbred that dog with a slimmer hunting dog
5 which is a Redbone, which gives you a slimmer dog that can
6 withstand the heat here in South Carolina, but it also has
7 the Bloodhound nose and the features of a Bloodhound.

8 Q And in order to make sure that this dog has what it
9 takes to be a part of the bloodhound tracking, do you go
10 through several trainings with that dog and her handler?

11 A Yes. What we do, we do not run our dogs on any cause
12 or any training missions under an hour time span. Because
13 what we want to do, we take into play where if a call
14 happens and somebody calls the bloodhound team, it's going
15 to take between 30 and 40 minutes at the worst to get the
16 dog actually on the scene, so we don't train anything under
17 an hour, so that increases the dog's sensitivity and being
18 able to track. It also teaches the dog that no matter what
19 time frame that the dog is on the ground on the scene that
20 she knows she needs to go ahead and hunt and find that
21 person.

22 Q Okay. Now, I've provided a copy to the defense on
23 this, and since this is the originals I'm just going to ask
24 you to refer to this packet of papers. And would you please
25 tell the Court how many trainings Sadie Mae has had up

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1 through the time whenever she was called and deployed on
2 this particular investigation?

3 A Sadie has completed a minimum of 60 training hours,
4 training missions.

5 Q Now, in regards to her actual deployment on cases, do
6 you know how many times she's been deployed on actual
7 investigations within the county?

8 A Sadie has been on more than ten or 15 calls, actual
9 calls.

10 Q And do you know how many arrests have been made, as in
11 not only does she assist with the investigation but y'all
12 were able to then make an arrest in the case?

13 A On actual calls that she's been on Sadie has
14 apprehended, I think, five or six people that were still on
15 the ground after the scene. But the other calls she's been
16 on, she's even found articles like toboggans, scarfs,
17 anything that DNA could be taken off of, something
18 materialized that led the investigators in the
19 investigation.

20 Q Okay. So the fact that -- is the arrest the goal in
21 regards to whether it's a successful track, or is it just
22 the continuing and assisting in the investigation?

23 A The continuing and assisting in the investigation is a
24 lot of what happens, but the arrest is always good for the
25 dog.

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1 Q All right. Now, how old is Sadie Mae?

2 A Sadie now, I think she's right around three years old
3 maybe.

4 Q Okay. So do you remember when y'all got her?

5 A We got Sadie when she was approximately four or five
6 month old, we got her from SLED.

7 Q Okay. All right. And once you got her, did you
8 immediately begin training her on the human odor tracking?

9 A Yes. What happens is that SLED may have a litter of
10 puppies and they start the training there with all the
11 puppies, and, of course, SLED is running calls all over the
12 state, they can't keep but so many dogs so a lot of times
13 they'll give them out to other sheriffs offices and I put in
14 a request to get one of those puppies.

15 Q All right. And have you -- in your expert opinion has
16 Sadie Mae proven to be a reliable human odor tracker?

17 A Yeah, she's real reliable.

18 Q Ad y'all continue to use her now, don't you?

19 A Yes, we do.

20 MS. LIVELY: I'm going to retrieve those records from
21 you.

22 Q Okay. Now, on the evening of November 8th of 2017, you
23 actually responded to this call-out regarding an armed
24 robbery at the First Baptist Church, correct?

25 A Yes, ma'am.

PRETRIAL MATTERS

1 Q And your deputy, Matt Faile, was also called out to
2 bring Sadie Mae, the K-9 or the Bloodhound, with him,
3 correct?

4 A Yes.

5 Q Now, is that something that's a normal procedure for
6 you, Sheriff, in your particular organization for you to go
7 out on such a call?

8 A Yes, I go out on all of them.

9 Q All right. So anytime that the Bloodhound is going to
10 be used for tracking, is it fair to say that you were there?

11 A Yes.

12 Q All right. So you were there for this particular
13 event. Do you recall how quickly you and your -- and Mr. --
14 or Deputy Faile were able to arrive on scene?

15 A That particular evening we were also doing operations
16 around the county so we were all out working anyway, I think
17 we were on the scene within five or ten minutes.

18 Q All right. And once y'all got on the scene -- and I
19 don't know if you're the one who can answer this question or
20 if it's going to be Deputy Faile, do you know whether or not
21 a perimeter had already been set up around the area where
22 the armed robbery had taken place?

23 A Yes. I think the city police officers already started
24 setting the perimeter. On this particular evening I had the
25 task force out, which is probably another 15 officers, and

PRETRIAL MATTERS

1 as they were coming to the location they were already
2 setting up a perimeter outside of that area too.

3 Q And when a perimeter is set up, what's the purpose of
4 that?

5 A The purpose of a perimeter is to keep the area from
6 being contaminated by anybody else. What we like to do is
7 have the perimeter set up, because the last person that left
8 the scene of the crime is the person that actually did it so
9 we want to lock down scene, make sure there's no other
10 contamination in there, that way we can deploy the dog.

11 Q Now, do you know whether or not on that particular
12 evening what was weather was like or had been for that day?

13 A I think it was right after dark or whatever, kind of
14 just like today, just kind of a cool day. It wasn't raining
15 and stuff like that.

16 Q If it had been raining, would that affect the ability
17 of Sadie Mae to be able to pick up a scent?

18 A It would have to be a drenching rain for it to actually
19 affect the dog.

20 Q Okay. Now, was there a drenching rain that night?

21 A No.

22 Q So whenever Deputy Faile showed up on the scene with
23 Sadie Mae, did you observe any of the interactions with her
24 and possibly gaining a scent in which to track?

25 A Yes. What happened is that the city advised us of a

PRETRIAL MATTERS

1 possible location where the robbery took place near the
2 church, and we -- my officer deployed the dog, cut around --
3 when I say cut that's a term we use, actually circled the
4 area outside of where the incident happened to try to pick
5 up the scene. The dog struck the scent and led him on to
6 the trail.

7 Q All right. And so was it Deputy Faile who actually
8 followed Sadie Mae's lead at that point?

9 A Yes.

10 Q Now Sheriff, at some point in time during the human
11 odor tracking by Sadie Mae, was there anything that came
12 over the radio that changed the tracking by the dog at that
13 time?

14 A Well, once the dog trailed from the actual scene up
15 through a park and a couple of blocks up the street there,
16 they came out at the stop sign, and the dog was what we call
17 cutting to try to figure out which way the suspect went
18 there. Information came over the radio I think from one of
19 our investigators that the subject had been picked up by a
20 female and given a ride to a different location.

21 Q Okay. Now, whenever -- did you have information
22 through that radio call about the person -- it was from a
23 Lavetta Turner, correct?

24 A Yes.

25 Q All right. And the information that she provided to

PRETRIAL MATTERS

1 you, did you believe that there was enough information to
2 believe that this subject was now in a new location?

3 A Yes, I did.

4 Q All right. So whenever something like that happens, is
5 it unusual for the dog to then be -- or the Bloodhound to
6 then be taken to a new location to continue the track?

7 A That's normal practice.

8 Q All right. Does that in any way hinder or contaminate
9 the dog's ability to continue on that same scent?

10 A No, it doesn't. The dog was actually locked in on the
11 scent from the crime scene, and taking the dog to a
12 different location, he's still locked in on that same scent.

13 Q Well, let me just ask you just a hypothetical question
14 as an expert, let's say that the defendant had been visiting
15 Ms. Lavetta Turner around 4:00 that day and hung out at her
16 house and then she took him over to Gardendale, which we
17 know is where his aunt lives, in your expert opinion would
18 Sadie Mae have picked up on that scent and followed that
19 sent to Gardendale?

20 A No. The dog actually ran the scent from the crime
21 scene to that location where she picked him up, and then
22 once we got to the second location where she dropped him off
23 the dog reestablished the scent there again and trailed the
24 same suspect.

25 Q So how old of a scent could the dog then pick up on?

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1 You were talking about how we sloth off skin cells and
2 things like that, if you get to the scene and it's been
3 about three or four hours since it occurred, what are the
4 chances that Sadie Mae could still pick up a scent?

5 A She could still pick it up. We actually have another
6 dog, we've trailed people 12 hours later.

7 Q Twelve hours later. Okay. So if that happens and it's
8 12 hours later, does that hinder the dog's ability to stay
9 on that scent in the line -- you were talking about how they
10 go foot by foot in the line that that suspect would have
11 taken.

12 A No, it doesn't hinder the dog. What it does, it just
13 makes the dog have to work harder to smell that scent if
14 it's that old. But the dog is still locked in on the
15 original scent.

16 Q Got you. All right, thank you. And at any time --
17 you've already talked about the setting up the perimeters,
18 was there anything in your expert opinion since you were
19 there the whole time that would have contaminated the scene
20 or would have hindered Sadie Mae from being able to stay on
21 that human odor track that she had on the defendant that
22 night?

23 A No. The perimeter set up pretty quickly, which is
24 ironic because I was surprised to not see people walking
25 around everywhere. But the perimeter set up very quick, and

PRETRIAL MATTERS

1 then even at the second location, once we got the
2 information we sent the task force guys to that area to go
3 ahead and lock that perimeter down also.

4 Q And whenever Sadie Mae arrived at the Gardendale area,
5 which was the second location, was she able to then, I
6 guess, reestablish or lock back in on that same scent?

7 A Yes, she was.

8 Q All right. Now, let me ask you this, if she -- if
9 she's actually put out of the vehicle and she doesn't catch
10 that scent -- no, let me take it back because this is what I
11 was going to ask you -- how do you know that she's still
12 locked in on that scent? What type of things do you do that
13 lets the dog know that the tracking is over so she doesn't
14 continue on that scent?

15 A Once she has apprehended the suspect then she's
16 praised, she's given gifts and rewards and just loved to let
17 her know that hey, this is the guy -- she actually wants to
18 put her paws on him and put her nose against him just to
19 verify that, hey, this is the guy.

20 Q Okay. Had she had the opportunity to be praised or
21 have her paws on the suspect at that point?

22 A From going to the first scene to the second scene, no.

23 Q And is that a standard procedure to just -- not to
24 interfere with the dog and just to leave them locked in on
25 that scent?

PRETRIAL MATTERS

1 A Yes, it is. Because we want her to continue to hunt
2 instead of thinking that it's over with.

3 Q So whenever you get to that second location and she's
4 put back out, how did -- were you there in that particular
5 area?

6 A Yes. I actually was at the stop sign when they got to
7 the second area.

8 Q So you were at the stop sign at the second area. What
9 did you observe in regards to the tracking by Sadie Mae at
10 that point?

11 A I observed Deputy Faile get the dog out, I think
12 somebody called and said they had spotted the subject. He
13 took the dog, cut the area like we normally do and the dog
14 struck the same scent and they proceeded on behind a few
15 houses or whatever and located the subject.

16 Q Okay. How did you know to stand at the stop sign at
17 that second location?

18 A Because I wanted to make sure that nobody went in
19 there, that we still had the scene secured and that the
20 perimeter was up.

21 Q Did you have specific information as to where Ms.
22 Lavetta Turner had dropped the suspect off?

23 A Yes. She said that she dropped him off at the stop
24 sign.

25 Q Okay. All right. And once again, how quickly was the

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1 suspect apprehended at that point?

2 A It was a matter of minutes.

3 Q All right. And whenever Sadie Mae actually got to the
4 suspect, was she rewarded, which is a standard procedure?

5 A Yes.

6 MS. LIVELY: Thank you, Sheriff. Please answer any
7 questions that the defense may have.

8 THE COURT: Mr. Frick?

9 MR. FRICK: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. FRICK:

12 Q Sheriff, the records that the solicitor asked you about
13 on the training of the dog, that includes up to present day,
14 correct?

15 A Yes.

16 Q So do you have any idea how many runs she had done
17 prior to this particular incident back in November of last
18 year?

19 A Not offhand.

20 Q And y'all have had her ever since she was --

21 A I think she was around six months old when we got her.

22 Q And got her directly from SLED?

23 A Yes.

24 Q And y'all have conducted all of the training on her
25 since then?

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1 A Yeah. SLED started the initial training and we did the
2 rest.

3 Q And you essentially are the training officer for the
4 sheriff's department for the dogs, correct?

5 A Yes.

6 Q And Sadie's job is -- is it specifically to track
7 people or is she multitasked?

8 A Just people.

9 Q Okay. All right. On this particular evening you, of
10 course, responded out to the scene, correct?

11 A Yes.

12 Q You said y'all got out there five to ten minutes after
13 it was called in, correct?

14 A Yes.

15 Q Do you have any idea how long it had been since the
16 incident occurred?

17 A No. I heard the incident over my radio when it
18 happened, and I'm not sure of the time frame between the
19 time the city called us to get there.

20 Q Okay. And when you got out there law enforcement had
21 been out there and the street was fairly secure.

22 A Yes.

23 Q Okay. Do you recall any traffic coming down the road?

24 A No, just law enforcement.

25 Q Okay. When Sadie picks up a track, can she identify a

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1 person or just the scent?

2 A The scent.

3 Q Okay. So that -- it's not like DNA, it doesn't
4 correlate back to a specific person the way she does.

5 A No. She's tracking the last person that left the
6 scene.

7 Q Okay. And in this case she hits on a track and it goes
8 over to Branch Street?

9 A I think that's the name of the street. It went across
10 the park --

11 Q Through the park and --

12 A -- and up I guess to Branch Street, the little back
13 streets over there.

14 Q Okay. Back over there that way. I agree with you,
15 it's some little street over there. I got you. When you
16 say contamination, what are we specifically talking about?

17 A What we want to do -- when I say contamination, we want
18 to set up perimeters so that no other human scent is in that
19 area. Nobody is walking through, nobody is coming out, law
20 enforcement hadn't gone looking and that type thing. We
21 wanted the last scent on the scene.

22 Q All right. So if other folks had walked through the
23 park prior to y'all being there, is that potentially
24 contamination?

25 A She's going to run the freshest scent, the freshest

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1 scent, which would be the last person that left and that's
2 why we set a perimeter to keep everybody out.

3 Q Okay. When you got on the scene, did you have a
4 suspect?

5 A I think there was information coming in but I'm not
6 sure if there was a suspect.

7 Q Okay. And in fact, the information was basically just
8 the description of a person, was it not?

9 A Right.

10 Q Not a specific person, just a description.

11 A Right.

12 Q Okay. I think -- is it fair to say it was described as
13 a 5-11 black male, about 200 pounds? You may not recall.

14 A Pretty much close, yeah, might have been.

15 Q And then when y'all get over to the stop sign -- is the
16 stop sign at Gardendale -- is Ball Park and Gardendale right
17 there?

18 A I think it is Ball Park and Gardendale, yes, sir.

19 Q When you get over there, do y'all have a potential
20 suspect or do you remember?

21 A No. I don't remember if we had a potential suspect
22 then.

23 Q Okay. Now, you didn't run Sadie Mae, right? It was
24 Deputy Faile, correct?

25 A Yeah.

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1 Q You were essentially there to assist and you just go on
2 all of these calls, correct?

3 A Right.

4 MR. FRICK: Thank you, sir. That's all of the
5 questions I have.

6 THE COURT: Any redirect?

7 MS. LIVELY: Yes.

8 REDIRECT EXAMINATION

9 BY MS. LIVELY:

10 Q Sheriff, you're obviously familiar with a CAD report
11 and the purpose of documentation of timing of dispatch and
12 things like that. Mr. Frick was just asking you about how
13 quickly a perimeter was set up. I'm going to show you the
14 CAD report as to the incoming call and how quickly someone
15 came on the scene, if you'll just look at that real quickly
16 and see --

17 A I don't have my glasses.

18 Q Oh gosh, will mine help?

19 A I think I can see it. What do you want to know about
20 it?

21 Q I want to know how quickly from the time the 911 call
22 came in to dispatch that someone was on scene.

23 A The call came in, dispatch time was 19:51, around the
24 time -- 19:51 and 34 seconds.

25 Q Okay. Pretty quick.

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1 A So the city was there pretty quick, yes.

2 Q Okay. Thank you.

3 MS. LIVELY: That's all of questions I have for this
4 witness.

5 THE COURT: Any recross?

6 MR. FRICK: Nothing further.

7 THE COURT: Thank you, sir, you can step down. The
8 State can call its next witness?

9 MS. LIVELY: Nick Harris.

10 The witness, NICHOLAS HARRIS, was first duly sworn and

11 Testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LIVELY:

14 Q All right. Officer Harris, where are you currently
15 employed?

16 A Chester City Police Department.

17 Q Were you the first person on the scene for this
18 particular event that happened about exactly one year ago
19 today?

20 A Yes, ma'am.

21 Q All right. Do you recall what time the call came out
22 over dispatch, the 911 call about an armed robbery?

23 A I believe it was 19:51.

24 Q Okay. And where were you when the call came out?

25 A I was sitting in front of True Value, which is about

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1 four businesses down the road from the actual incident
2 location.

3 Q Okay. So would it be fair to say you were there in
4 seconds?

5 A I think I looked at my video and I was there within 40
6 seconds, or 45 seconds, something like that.

7 Q And whenever you got there, what was the first thing
8 that you did?

9 A I went -- as soon as I arrived on scene there was
10 multiple church members standing outside, I asked them where
11 the victim was, they pointed inside what I want to call a
12 community room, had a piano, I guess that's where they kind
13 of gathered. She was sitting inside of a chair, she was
14 clearly distraught. I asked her what happened -- my main
15 goal at that point was to get the description of the person
16 since I knew it was so fresh, and she described him.

17 Q All right. So once that happened, were you able to
18 determine the location of where the armed robbery had taken
19 place?

20 A Yes, ma'am.

21 Q All right. And what did you do in regards to that
22 particular area?

23 A As soon as I got a description out due to the severity
24 of the crime I went ahead and directed some of my city units
25 that were on scene to go ahead and start putting up a

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1 perimeter because I knew I would be calling out dogs. I got
2 the description and went ahead and broadcast a description
3 out to my city units and contacted the sheriff's department
4 in order for them to get dogs on the way, and contacted my
5 lieutenant over investigations and informed her of the
6 situation.

7 Q Okay. I'm going to show you the CAD report, and just
8 as to refresh your recollection, what time was it -- so you
9 got there at 19:51. How quickly did you actually ask for
10 the bloodhound to be engaged and deployed for this
11 particular case? It's on the first page.

12 A It had been 19:56.

13 Q 19:56. So five minutes later?

14 A Yeah. It was within minutes from me being on the
15 scene.

16 Q Okay. Were there a lot of people in the area where the
17 victim had just been robbed?

18 A No. Because as soon as I had got on scene I took
19 everybody and put them inside of the community room and told
20 nobody to go into the general area and held them there.
21 There was some people parked across the street on the left
22 that wasn't even near the crime scene, they were allowed to
23 leave but they pulled out the opposite direction. But from
24 the time I went there nobody came near the scene and where
25 he had supposedly ran.

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1 Q Okay. What was the weather like that night?

2 A It was chilly but it wasn't, you know, raining or
3 anything like that. It was dark.

4 Q Did you have any involvement in the actual bloodhound
5 tracking of this particular suspect?

6 A No, ma'am. I stayed on scene with the victim and
7 coordinated with the sheriff's office as well as my officers
8 on where to set up, and that's about it.

9 MS. LIVELY: All right. Thank you, Officer Harris,
10 answer any questions that the defense has.

11 THE COURT: Mr. Frick?

12 MR. FRICK: Thank you.

13 CROSS EXAMINATION

14 BY MR. FRICK:

15 Q Officer Harris, obviously you are the first person on
16 the scene, first person to talk to Ms. Waldrip, correct?

17 A Yes, sir.

18 Q Okay. And what description did she give you?

19 A She gave me a black male standing about 5-11, stocky
20 build wearing a thick jacket, possibly a hat and all dark
21 clothes.

22 Q But couldn't give you any facial features?

23 A No. She said there was no facial features but he was
24 armed with a handgun.

25 Q Right. Okay. And how did she describe the gun, do you

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1 recall?

2 A I don't recall. I believe she said black handgun but

3 I'm not sure. I know she said he had a gun.

4 Q Your job was to get the information as to who a

5 possible suspect was and get it out there, correct?

6 A Get the description, yes, sir.

7 Q Do you recall whether anybody said anybody else had

8 walked through that area? Did anybody on the scene tell you

9 that somebody else had walked through that area?

10 A I asked and they said they hadn't seen anybody. And I

11 immediately established a viewpoint of that area and from

12 what I seen nobody had walked through that area since the

13 time I arrived. And like I said, I arrived pretty fairly

14 quickly.

15 Q You're equipped with body cam, correct?

16 A Yes, sir.

17 Q You had it operational during this, correct?

18 A Yes, sir.

19 Q So any of your interaction with the folks would be

20 recorded on that body cam, correct?

21 A Yes, where I was going back and forth.

22 Q All right. When you first got out there, of course

23 Ms. Waldrip is inside the building, correct?

24 A Yes, sir.

25 Q Do you bring her out and have her describe --

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1 A We walked out into the driveway, but probably I would
2 say 25 or 50 yards away from where the incident happened.

3 Q Just to get an idea of what the scene was.

4 A So she could point out exactly where it happened.

5 (At this time the video was played.)

6 Q Okay. When you get out there people are standing
7 outside, correct?

8 A They were standing up towards the front of the
9 building. I believe she might have said somebody locked up
10 earlier, I'm not 100 percent sure about that. But she did
11 say everybody was towards the community hall, that she was
12 the last one out.

13 Q The main thing I'm trying to show here though is what
14 she's showing you is the scene, right, that he went that
15 way, right?

16 A Yes.

17 Q And, of course, you relay that to the dog track team
18 and that's when they know that that's the direction where a
19 suspect went, correct?

20 A Yes. I was relaying so they would know which way the
21 suspect ran.

22 Q Again, your testimony is you don't recall anybody
23 telling you about someone else going through the scene?

24 A That particular scene I don't recall. I mean, they --
25 there was a lot going on at that particular point.

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1 Q I understand. All right. Well, let me show you this
2 real quick. There's a gentlemen up here, do you remember
3 this guy being -- oh, you can't see the picture.

4 A Yeah, I know that gentleman. I don't know him
5 personally but I remember -- know who he --

6 Q But he was out there for awhile, right?

7 A He was standing right there in that area he is standing
8 now.

9 Q Right. And -- well, he kind of moved around. But he's
10 out there the whole time, correct, and relayed you some
11 information, correct?

12 A Yes, sir.

13 (The video was played.)

14 Q So he tells you about some guy that walked through
15 carrying a chain saw.

16 A Yes.

17 Q And he described him -- did he give any other
18 description other than some guy walking through that area
19 with a chain saw?

20 A No. He said -- I believe that's all he gave me right
21 there.

22 Q Okay. And, of course, there is some discussion --
23 there was some issue with the perimeter, was there not?

24 A There was not enough units on scene within that short
25 of a period of time, but after minutes the rest of the

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1 sheriff's office task force arrived.

2 Q Right. But initially people were coming in and out of
3 the scene, correct?

4 A I think one came in the scene. According to that one
5 came in the scene before we were able to establish --

6 Q Okay. I can show you a whole body cam. Did you have
7 some issues with the perimeter? Did you not at some
8 point --

9 A There was not enough manpower on the ground at the time
10 to set up a fully fortified position.

11 Q Did you not at one point say, "We're going to have
12 perimeter class tonight?"

13 A Yes.

14 Q You didn't like the perimeter, did you? It was porous.

15 A Yes. I was trying to get on the same page with the
16 sheriff's office in order for us to assist each other better
17 in situations.

18 Q Okay. So initially people were coming in and out of
19 the scene that shouldn't have been coming in and out of the
20 scene, correct?

21 A I guess at one point there was.

22 Q Now, after it is all over with you went walking towards
23 the park; is that correct?

24 A Yes, sir.

25 Q Okay. Did you run across anybody in that park?

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1 A Lisa Holly.

2 Q Okay. But she was in the park, correct?

3 A Yes. That was after the scene had already been broke
4 down and they were moving to an alternate location.

5 Q Right. But they was still people in the park, right?
6 Y'all were still on the scene, correct?

7 A The scene had already been broke down and we were
8 moving to an alternate location.

9 Q Okay. You were just going out there to look.

10 A I was going out there to make sure -- usually whenever
11 criminals take off running or suspects they decide to drop
12 items that was associated with things, I was looking for a
13 pocketbook, a weapon, anything of the sort that could be
14 related to the crime.

15 Q Do you recall a vehicle driving up while y'all are
16 standing there -- the deputy has gotten there, I don't know
17 if the dog has arrived there, but there is a truck that was
18 driving up there.

19 A The truck that was there.

20 Q Well, it drives up the road while y'all are standing
21 there, does it not?

22 A Yes, sir. And that's why I held it, pulled it in there
23 and held it, so he wasn't allowed to come or go until we
24 were done.

25 Q Is that the vehicle you were saying that came through

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1 the perimeter that shouldn't have come through the
2 perimeter?

3 A Yes, sir.

4 Q And, of course, they weren't suspects. You talked to
5 them and ran them through CAD and all of that stuff, no
6 issues. But they drove up the road right beside the church,
7 did they not?

8 A Yes, sir.

9 Q Okay.

10 MR. FRICK: That's all of the questions I have. Thank
11 you.

12 THE COURT: All right, thank you. Any redirect?

13 MS. LIVELY: Not from the State, Your Honor.

14 THE COURT: Thank you, sir, you can step down.
15 Argument?

16 MS. LIVELY: Your Honor, I was going to call Matt
17 Faile, who was the actual --

18 THE COURT: All right, that's fine. Call your next
19 witness.

20 MS. LIVELY: Matt Faile.

21 The witness, MATTHEW FAILE, was first duly sworn and
22 Testified as follows:

23 DIRECT EXAMINATION

24 BY MS. LIVELY:

25 Q Deputy Faile, you work at the Chester County Sheriff's

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1 Office, correct?

2 A Yes, ma'am.

3 Q And what are your primary duties? Especially as of
4 November of last year what were your primary duties?

5 A I was a bloodhound dog handler and also am on the
6 interdiction team.

7 Q Got you. So who was your bloodhound that is used for
8 human odor tracking?

9 A Sadie Mae.

10 Q Now, have you been through training with the sheriff
11 regarding how to handle a bloodhound for the purposes of
12 human odor tracking?

13 A Yes, ma'am.

14 Q I see that you have your notebook with you here.

15 A Yes, ma'am.

16 Q The training records that you brought with you, are
17 those trainings that you actually went through along side
18 Sadie Mae from the time y'all got her in 2016 up until the
19 time of this incident?

20 A Yes, ma'am.

21 Q All right. And in regards to those trainings,
22 approximately how many have you been through?

23 A Over 60.

24 Q Over 60? And have you actually tracked with Sadie Mae
25 for human odor tracking purposes on cases involving

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1 investigations here in the county?

2 A Yes, ma'am.

3 Q All right. And in doing those trainings, are you
4 required to follow best practices in regards to how you read
5 what the dog is doing, how you know the dog has actually
6 been able to lock in on a scent?

7 A Yes, ma'am.

8 Q So whenever a dog has locked into a scent, what are you
9 supposed to do as the handler?

10 A As the handler we also are trained in man tracking
11 also. We also confirm that the dog is on the track, and
12 then once we confirm that she's on the track we encourage
13 her to hunt.

14 Q All right. And what does she get once she's actually
15 successfully -- or what you determine to be a successful
16 track, what do you do at that point?

17 A Once she finds the suspect or during training if she
18 finds the suspect that we have she places her paws on them,
19 and then we pull her off of them and then give her love and
20 affection and praise and tell her she's the best dog ever.

21 Q Okay. So Deputy Faile, in doing that, has she been a
22 reliable dog in regards to tracking purposes for human odor
23 tracking?

24 A Yes, ma'am.

25 Q All right?

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1 MS. LIVELY: Your Honor, at this time I would offer
2 Matt Faile as an expert as a dog handler for human odor
3 tracking.

4 THE COURT: Voir dire?

5 MR. FRICK: No voir dire.

6 THE COURT: So qualified.

7 Q Now, on this particular evening, Deputy Faile, you were
8 the one who was handling Sadie Mae. So if you would, tell
9 the Court how quickly you came on the scene in order to have
10 Sadie Mae possibly lock in on a scent?

11 A I was -- from the time that the city called me, or
12 dispatch called me I was there within five to ten minutes.

13 Q So what do you do in order to have Sadie Mae do her
14 job? What do you have to do, what information do you need?

15 A Well, I got the information from the city officer of a
16 possible area where the robbery happened and a possible
17 direction of travel that the suspect ran, then I get the dog
18 out and then cut a big area around where the location was.

19 Q How do you know that Sadie Mae is not going to lock in
20 on your victim?

21 A Because the victim went a different direction.

22 Q Okay. All right. So I just wanted you to explain that
23 because I think that's -- one of the questions that -- one
24 of the things that Mr. Frick was bringing up just a second
25 ago is there was some people that were walking around in

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1 that particular perimeter which may have not been completely
2 locked off at that point. How do you know that the dog is
3 locking in on something that is a potential investigative
4 value to you?

5 A Because she's going to lock in on the freshest scent
6 that left that area and the direction that the suspect went.

7 Q All right. And was the -- and the direction that Sadie
8 Mae went, was it consistent with the information the victim
9 had provided to law enforcement?

10 A Yes, ma'am.

11 Q And so whenever Sadie Mae locked in on that scent, do
12 you have her on a leash or is she like freely --

13 A She's on a leash.

14 Q All right. So she's on a leash. Are you -- is she
15 guiding you at that point?

16 A Yes, ma'am.

17 Q Where does she take you?

18 A She took me from the back of the church down Akin
19 Street on the side of the road, and then when we got to the
20 park where the sidewalk is in the park we cut down into the
21 park and down the sidewalk in the park across Bird Street,
22 across some back yards over to Branch Street, and then took
23 a left on Branch Street to the stop sign.

24 Q So you're at the stop sign at that time, and what does
25 Sadie Mae start to do?

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1 A She starts to go in to her panic where -- that's when
2 we start cutting her because she's trying to find the
3 direction of -- the next direction that the suspect went.

4 And by this time I was getting information that the suspect
5 had been picked up at that stop sign.

6 Q Okay. So when you received that information what did
7 you do at that point?

8 A I still cut her to make sure, and that's when the
9 supervisors come over there and said that they were moving
10 to Gardendale.

11 Q All right. So when you went to Gardendale, tell the
12 Court what you did at that time.

13 A As they were setting up a perimeter, as we were on the
14 way there as they were setting up a perimeter and I arrived
15 at Gardendale they jumped the suspect at a house in
16 Gardendale and they held the spot where they jumped the
17 suspect. So I cut Sadie around where the spot was and then
18 she locked in on the original scent that she had and locked
19 it in four-wheel drive and we was on from there.

20 Q And so is that a safer procedure for them to do,
21 knowing this was an armed robbery instead of trying to chase
22 the suspect himself as to allow the dog to pick the scent
23 back up?

24 A Yes, ma'am.

25 Q And was she able to actually locate the suspect in this

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1 case?

2 A Yes, ma'am.

3 Q And what did she do when she found him?

4 A She tried to put her paws on him but I wouldn't let her
5 just because I knew it was an armed robbery suspect. So as
6 soon as we found him I brought her back out and loved her
7 up.

8 MS. LIVELY: Thank you. Answer any requests the
9 defense may have.

10 THE COURT: Mr. Frick?

11 MR. FRICK: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. FRICK:

14 Q Deputy Faile, so did you finish the first track? When
15 you started over at the church you pick up a track, how far
16 did you go?

17 A I stopped at the stop sign on Branch Street.

18 Q Where is that? Does that go through the park and then
19 you're on the other side of the park or where do you go?

20 A Yeah. When you leave the back of the church you go
21 down Akin Street and the park cuts off right before you get
22 to, I guess that's Bird Street or whatever. Then it cuts
23 down and then it cuts across to Bird Street, the park does,
24 and then cuts -- then we cut across some backyards to Branch
25 Street.

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1 Q So you stopped at that stop sign.

2 A At Branch Street.

3 Q On Branch Street, right. Not the one at the end past
4 the church, it was --

5 A No.

6 MR. FRICK: All right. That's all of the questions I
7 have, thank you, sir.

8 THE COURT: All right. Thank you, sir, you can step
9 down. All right. Argument?

10 MS. LIVELY: Yes, sir, Your Honor. The State would
11 state that we have met all of the requirements under State
12 v. White. Your Honor, the experts both testified as to how
13 the human odor bloodhound tracking actually takes place.
14 Very clearly she locked in on a scent. If there is anything
15 that goes to the prongs of possible contamination of that
16 scene or of the perimeter itself that would go to the
17 credibility and reliability, not necessarily the
18 admissibility of this information. It is definitely
19 something that assists the jury to understand how a dog can
20 track, how a dog can follow, and then how the dog actually
21 responds to human odor tracking. The thing is with this
22 particular case, Your Honor, that all took place within an
23 hour and 11 minutes was the total time that these officers
24 were out working to find the suspect in this case. Very
25 clearly the victim was still on scene within seconds to

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1 minutes saying where she was attacked by the defendant, the
2 dog got locked in on that scent. And even whenever the
3 defendant, whether he intended to or not, caused the scent
4 to be broken at that one particular time, the dog was
5 clearly able to pick back up on the scent, she never lost it
6 because she was locked in on it until she's actually
7 rewarded. That is what her mind is telling her to do as to
8 find that particular scent, Your Honor. So what we have is
9 very clear reliability by the dog, a very clear locking in
10 on a scent from the crime scene itself. So if other people
11 had walked in she probably would have followed them into the
12 church, that's not what we have here. He (sic) would have
13 followed the victim into the church, we don't have that.
14 She locked in on a scent where the victim said the defendant
15 ran and then locked back in on him again at a later time.
16 So that, Your Honor, shows the reliability, it meets the
17 requirements of State v. White, they're clearly experts in
18 this particular field, and I believe that that supports the
19 State being able to put in this evidence at this time.

20 THE COURT: All right. Thank you, Madam Solicitor.
21 Mr. Frick?

22 MR. FRICK: Your Honor, I leave to you to determine
23 whether the State has met the prongs one through three as I
24 have told you on page five of State versus White. Judge, I
25 do believe it is still within your purview to determine the

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1 credibility of all of this at this situation as a matter of
2 determination as to whether this can go to the jury or not
3 as evidence. What I'm specifically looking at, as I said,
4 is four and five, the dog is placed on a trail where the
5 defendant is known to have been within a reasonable period
6 of time. You've seen that we have a description of a black
7 male, that's what the testimony was, a 5-11, 200 pound black
8 male. That's all the information we have at the period of
9 time so we don't know who we're looking for, we don't have
10 any other description other than that so we don't know who
11 went through there. And the trail was not otherwise
12 contaminated. That's why I had you see those other two
13 videos on there, a person who was on the scene who was a
14 witness essentially to the incident says, "I saw another guy
15 walk through there," so it's contaminated with that in and
16 of itself. The testimony -- I didn't play the video but I
17 have it if you want to see, a truck drives right through the
18 middle and parks right there at the direction of law
19 enforcement because they were going to a house that's across
20 the street from there. There were people walking through
21 the park after the trail is completed. I understand we can
22 say that the scene had been broken down but that's
23 indicative of people being in this area, this is a populated
24 area, we don't know who's walking around. It is highly
25 likely that other people have been walking around that

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1 nobody was aware of, that makes the scene contaminated and
2 not reliable. I don't think it should be able to at
3 least -- at the very least the first track should not come
4 in as it is a contaminated scene under State versus White,
5 or in the alternative under 403 as it's more highly
6 prejudicial and much more prejudicial than probative. It is
7 going to be confusing to the jury to say, "Oh yeah, that's
8 Jerrell Brockman," when they can't say it.

9 THE COURT: All right. Thank you. Based upon the
10 testimony and the evidence presented as well as the
11 arguments of counsel I make the following findings following
12 the State versus White analysis: Number one, the evidence
13 shows that the dog handler satisfies the qualifications of
14 an expert under Rule 702 of the South Carolina Rules of
15 Evidence, I think that's clear here. Neither witness was
16 challenged on their qualifications so that's satisfied.
17 Number two, the evidence shows that the dog is of a breed
18 characterized by an acute power of scent. That's
19 established, that wasn't challenged. The dog has been
20 trained to follow a trail by scent. You went into some of
21 the -- a little bit of cross on that with Sheriff Underwood,
22 however I do find based upon the testimony and evidence
23 presented that this dog has been trained to follow a trail
24 by scent so that satisfies that prong. Number four, by
25 experience the dog was found to be reliable. I find that

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1 the dog is reliable. I find that based upon the weight of
2 the testimony and evidence given at this stage proffered as
3 the Court performs as the gatekeeper function that this
4 evidence is reliable. The dog was -- and so your argument
5 centers around prongs five and six. The dog was placed on
6 the trail where the suspect was known to have been within a
7 reasonable time. I mean, everything indicates that the dog
8 was there within minutes, I certainly think that's a
9 reasonable time. And your main argument is the
10 contamination of the scene. I'm satisfied from what I heard
11 that that goes more toward credibility than it does
12 admissibility of the evidence. I therefore am going to
13 allow this dog tracking evidence into the record for a jury
14 to find. I do find that it would assist the trier of fact,
15 and in addition I also find that it's more probative than
16 prejudicial. All right. That's the order of the Court.
17 We're going to take a brief recess and we will start in ten
18 minutes.

19 (A Break was taken.)

20 THE COURT: Anything else before we bring the jury in?

21 MS. LIVELY: No, sir, Your Honor.

22 MR. FRICK: No, sir.

23 THE COURT: All right, thank you. Let's bring the jury
24 in.

25 (The jury returned to the courtroom.)

1 THE COURT: All right. All members of the jury are
2 present. Ladies and gentlemen of the jury, thank you so
3 much for being here on time this morning. I apologize to
4 you for keeping y'all back in the jury room, hopefully you
5 got to meet each other and find out a little bit about each
6 other while you were back there in those confines. We had
7 some matters that I had to deal with outside of y'all's
8 presence and it just took a little bit longer, that's on me,
9 my apologies, I assure you it will not happen again, okay?
10 But I do notice that y'all were all here ten minutes early,
11 just like I said yesterday, so thank you. It won't happen
12 again. Madam Clerk, if you'll please swear in the trial
13 jury.

14 (The jury was sworn.)

15 THE COURT: Ladies and gentlemen, let me speak with you
16 just for a few moments before we actually start the trial.
17 Let me tell you that this trial is probably different from
18 what you might expect. Many people don't have the chance to
19 attend actual court sessions as you're doing now, much less
20 participating in them like you're doing and think that what
21 they see on TV or what they see in movies or from what they
22 read in books is the way that trials always are. Now, I can
23 assure you that's not the case. Now, while trials sometimes
24 are full of high drama and intense action and riveting
25 circumstances, usually they're not. This trial is not for

1 entertainment. It is a fundamental part of our democracy in
2 an effort to make sure that justice is done between the
3 parties before the Court. You know, making sure that
4 justice is done can sometimes be a slow, deliberate and
5 repetitive process, the opposite of what you may have
6 expected. Now, this courtroom, this beautiful courtroom is
7 a place of honor dedicated to the preservation of citizens'
8 rights through what many have called the greatest justice
9 system ever created. Now, the attorneys who are appearing
10 before you are advocates for the parties they represent.
11 The solicitors, or states attorneys or prosecuting attorneys
12 or district attorneys, they are attorneys for the State.
13 Mr. Frick and Ms. Boulware are attorneys for the defense,
14 they are advocates for the parties they represent, but first
15 and foremost they're officers of this court sworn to uphold
16 the integrity and fairness of our judicial system. You
17 should expect them to be professional, competent and ethical
18 in the representation of their client's interests. And
19 remember, you've just taken an oath to try this case and to
20 reach a verdict, so you are also expected to act the same
21 way. Thank you again for accepting this important
22 responsibility. Let me tell you a little bit about how a
23 trial proceeds. First the State is going to make an opening
24 statement to you, and an opening statement is not evidence,
25 it's simply an outline to help you understand what the State

1 expects the evidence will show. And the defense can make an
2 opening statement if they want to but they don't have to for
3 reasons I'll get in later on, and if they choose to do so
4 they'll basically tell you what they believe their outline
5 is. And following these openings statements by the lawyers
6 you will then hear testimony and evidence in this case.
7 This will consist of testimony from various witnesses which
8 will testify right here in front of me, as well as any
9 physical exhibits which may come into evidence during the
10 course of this trial. And following the completion of the
11 testimony and evidence phase of the trial, that's when the
12 attorneys once again will have an opportunity to make or
13 talk directly to you by what is called closing arguments or
14 closing statements. And again, these closing arguments or
15 statements are not evidence, they're simply the lawyers
16 talking to you to try to convince you as to what your
17 verdict should be based upon the evidence as they see it,
18 okay? Now, following all of that, that's when I will speak
19 directly to you again, and then I will instruct you on the
20 law as it pertains to the issues which have arisen in this
21 case. And when I've completed my instructions to you that's
22 when you get to start talking about this case and
23 deliberating among yourselves as to what your verdict should
24 be. Now, ladies and gentlemen, as you know this is a
25 criminal case that's been brought by the State of South

1 Carolina. The State has charged the defendant, Jerrell
2 Brockman, with armed robbery, kidnapping and assault and
3 battery in the first degree. Now, these charges against the
4 defendant are contained in these papers called indictments.
5 Now ladies and gentlemen, these indictments are not evidence
6 of anything, they're simply the written description of the
7 charges that have been made by the State against the
8 defendant. Now, the defendant has pled not guilty to these
9 charges and is presumed innocent unless and until proven
10 guilty beyond a reasonable doubt. A reasonable doubt is the
11 kind of doubt that would cause a reasonable person to
12 hesitate to act. A defendant has the right to not testify
13 and never has to prove innocence or present any evidence,
14 the burden of proof is always upon the State of South
15 Carolina. It will be your duty, ladies and gentlemen, to
16 decide from the evidence what the facts are. You and you
17 alone are the judges of the facts. You will hear the
18 evidence, decide what the facts are, and then apply those
19 facts as you find them to be to the law which I will give
20 you. That's how it works. I'm the judge of the law, you're
21 the judge of the facts, you put those two together when you
22 deliberate and that's how you reach your verdict. Please
23 don't take anything I may say or do during the trial as
24 indicating what you think my opinion is or what your verdict
25 should be because that's solely for you to decide. Now,

1 just like you have rules, or we have rules which govern
2 sports and other activities, there's certain rules of
3 evidence in court which control what can come into evidence,
4 and the reason we have these rules, ladies and gentlemen, is
5 to make sure that you, the fact finders, get the best
6 evidence there is, okay? That's why we have these evidence
7 rules. So when a lawyer asks a question or offers something
8 into evidence and the lawyer on the other side thinks that
9 it's not permitted by the rules of evidence, that lawyer may
10 object, y'all have seen it, objection. Well, that's when it
11 comes to me and I decide whether or not the thing can come
12 into evidence or whether or not the question can be
13 answered. So if I overrule an objection that means the
14 question can be answered or the thing can come into
15 evidence. Whenever I sustain an objection that means the
16 answer -- the question can't be answered or the thing can't
17 come into evidence. And you don't need to speculate, and
18 you can't speculate as to what the question would have been
19 or what the answer would have been to the question, or what
20 the exhibit would have shown, because then again, you won't
21 be going by the evidence that's in the record. That's why I
22 told you yesterday before you left, your decision, ladies
23 and gentlemen, must be based solely on the evidence
24 presented to you in this courtroom and this courtroom alone,
25 okay? Now, sometimes it may be necessary for me to request

1 that you leave the courtroom while I discuss any legal
2 issues with lawyers that may come up during the trial, or
3 I'll have them come up here and whisper to me, that kind of
4 thing, and I'll try to do that as often as possible but not
5 disrupt y'all from coming and going from the jury room. And
6 again, this is a procedure that the law requires to deal
7 with matters of law. We're not trying to keep anything from
8 you, and I don't want you speculating about what we're
9 talking about, we're just trying to make sure you get the
10 best evidence possible to make your verdict. Now, in
11 deciding the facts of this case, ladies and gentlemen, you
12 may have to decide which witnesses to believe and which
13 witnesses not to believe, that's called credibility or
14 believability of the witnesses. Now, you can believe
15 everything a witness says, some of what a witness says or
16 none of what a witness says, that's your power as the judge
17 of the facts. Now, you're not going to be allowed to take
18 notes during the trial of this case so you need to listen
19 very carefully and look very carefully as this trial
20 proceeds and goes on, okay? Please pay close attention to
21 what the witnesses testify to so that you can accurately
22 discuss this when you start your deliberations. And also
23 when you're in your jury room deliberating you're not going
24 to have a written transcript to review as to what went on so
25 please -- it's very costly and time consuming for my court

1 reporter, Mike here below me, to try to pull up pieces of
2 testimony for you, so please pay attention as things goes
3 on, okay -- as things go on, excuse me. Now, until I advise
4 you, as I told you yesterday, to start your deliberations
5 you must not and cannot discuss this case with anyone,
6 including yourselves, friends, family members and anyone
7 else involved in this case. Again, no social media review
8 of anybody involved in this case, no Googling, don't do any
9 independent research on the case. Don't read any news
10 articles on the case that may be gone on. Do not read,
11 listen to or watch any news reports while this trial is
12 going on, because if you do you're violating your oath that
13 you just took as a trial juror, okay? Remember, your
14 verdict must be from what happens in this courtroom. Now,
15 after the case is submitted to you you must discuss it only
16 in the jury room with your fellow jurors. And again, like I
17 told you yesterday, if anyone attempts to talk with you
18 about this case in violation of these instructions, please
19 advise me and I will take care of it. Now, it's important,
20 ladies and gentlemen, lastly before I let the lawyers talk
21 to you, that you keep an open mind and not decide any issue
22 in this case until all of the evidence has been presented,
23 the parties have made their closing arguments and I have
24 instructed you on the law in this case. It is your solum
25 responsibility to determine the guilt or innocence of the

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1 defendant, and your verdict must be based solely on the
2 evidence as is presented to you during this trial, and on
3 the law as I instruct you during and at the close of the
4 trial. Thank you again for serving as jurors in this case.
5 We will now begin with opening statements. Madam
6 Solicitor.

7 MS. LIVELY: Thank you, Your Honor. Good morning
8 again, ladies and gentlemen, and thank you for your
9 patience. This is a very, very important case for the
10 State. And what I'm going to tell you now just briefly is
11 enough information for you to kind of understand what
12 happened exactly a year ago today ironically enough here in
13 the City of Chester involving Ms. Katherine Waldrip who is a
14 resident of this same area just like the rest of us. Here
15 is what happened: A night of worship, a Wednesday night at
16 the First Baptist Church turned into literally a night of
17 terror for a woman who was there with her husband who is the
18 preacher of this church. So think about where we are right
19 now in regards to timing. This is November the 7th, the
20 incident actually occurred on November 8th but it was also a
21 Wednesday, so it would be like this late afternoon. She
22 goes to church, she leaves. It's dark outside, daylight
23 savings time has already changed. It's cool. She's by
24 herself when she walks out of the church and she's
25 approached by someone that she will testify in front of you

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1 and tell you she didn't know who had a gun and placed it to
2 her head. He told her he was going to shoot her. A
3 complete terrifying moment. That is what happened to
4 Ms. Katherine Waldrip a year ago today. Now, it's not just
5 what she's going to tell you happened to her. We have
6 evidence, ladies and gentlemen, that this defendant, Jerrell
7 Brockman, was the one there on that scene who took her tan
8 purse from her at gunpoint, threatened her life, caused harm
9 to her and then ran from the area. You're going to hear
10 testimony from law enforcement with both the City of Chester
11 as well as the County of Chester, and I will tell you,
12 that's somewhat unusual whenever you have two law
13 enforcement agencies that actually have the opportunity to
14 come in and respond to a crime. Because one of the things
15 that even I have to show as a prosecutor is jurisdiction,
16 where did it happen and who was it that was supposed to
17 actually investigate the case. But this particular night
18 you will learn that the sheriff's office had a task force
19 out, the city was close in the actual area where the First
20 Baptist Church is and people were on the scene within a
21 minute to seconds. They immediately then started the
22 investigation, and I will contend and prove to you that
23 within an hour and 11 minutes they had that defendant
24 detained for these crimes. That took teamwork, that took
25 focus and that took the bravery of a woman who had just been

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1 told, "Shut up, I'm going to shoot you, give me your purse."
2 We will provide you with all of the evidence that you need
3 to not only convict and find him guilty of this horrible
4 crime, but you will -- I have no concerns whatsoever once
5 you hear the evidence and use your reasonableness and just
6 common sense, ladies and gentlemen, that it was him that
7 committed this crime and he should be found guilty for it.
8 He is charged with three offenses, and I'm going to explain
9 them to you briefly and then we'll move into the case
10 because you need to hear the evidence in this case. You
11 need to hear from the victim in this case. Three charges;
12 armed robbery. Whether the gun was real or not, if someone
13 holds a person up at gunpoint and threatens to shoot them,
14 harm them in some kind of way in exchange for actually
15 receiving money or other kind of valuables, that is armed
16 robbery. So if I have my finger in my pocket and I go into
17 a bank and I say, "Give me all your money or I'm going to
18 shoot you," guess what? That's armed robbery, even if it's
19 just my hand that's in the pocket, okay? So we have to
20 prove that he had somewhat of a weapon or said he had a
21 weapon, and that he took something from the victim number
22 one. Number two, he's charged with assault and battery
23 first degree. Did he harm her in some kind of way, or did
24 he have the ability to harm her causing injury to this
25 victim? He put the gun to her head. You will hear the

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1 testimony of the victim as to her fear and what she believed
2 was going to happen. The third charge, kidnapping. This is
3 always something that I think is hard for lay people to
4 understand outside of a courtroom, because when we think of
5 kidnapping we think someone grabs someone, throws them into
6 a car, duct tapes them and takes them away. Well, that's
7 kidnapping too. But here is what kidnapping is, ladies and
8 gentlemen, if you go in and -- say you're walking down the
9 street and someone comes up behind you and says, "Hand me
10 your wallet," okay, and they hold up a weapon, and you throw
11 it at them and you run, that's a strict armed robbery. Now,
12 how do we get to kidnapping with this particular case? He
13 grabs her, he restrains her, he threatens to kill her.
14 She's says, and you will hear from her testimony, she
15 couldn't get the purse off of her shoulder even to give it
16 to him to try to get away. He held onto her, he kept her
17 from having her freedom. He terrified her for whether it
18 was seconds or minutes, holding someone against their will,
19 that is kidnapping. Whether you're tied up, whether you've
20 got duct tape over your mouth or not, the law clearly states
21 it does not have to be any specific duration of time, it has
22 to be whether or not the victim felt she could not get away.
23 That is kidnapping. It was not just throw your purse at me
24 and run off, we have all three offenses, ladies and
25 gentlemen. I will provide you with the evidence through all

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1 of the officers who worked this case. You will hear
2 bloodhound tracking that took place in this case. There
3 will be a presentation of DNA evidence at some point in this
4 case, you will have everything that we have and I am
5 confident that you will determine that he is truly guilty of
6 all three of these offenses. Thank you.

7 THE COURT: Thank you, Madam Solicitor. Mr. Frick?

8 MR. FRICK: Thank you, Your Honor, solicitor, ladies
9 and gentlemen of the jury. A horrible thing happened a year
10 ago today. You're not going to hear any testimony that
11 Katherine Waldrip was not robbed at gunpoint, and that is a
12 horrible thing, nobody wants that in their community, but
13 that's not what this trial is about. When you go back and
14 consider the evidence in this case and consider whether or
15 not the State has carried their burden of proof, you're not
16 voting to decide whether or not sticking a gun in somebody's
17 face is a good or a bad thing, I think we can all agree
18 that's a pretty bad thing, nobody wants that to happen.
19 What you're going to decide is whether the evidence shows
20 Jerrell Brockman is that person, that's what it's about.
21 It's not about the emotion of the situation, it's not about,
22 wow, putting your family or yourself in that situation, you
23 can't do that. See, when you came in here Monday whether
24 you knew it or not you were being interviewed for a job, a
25 job none of you wanted to have but you got hired for and

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1 you're here to do it, and that is to objectively listen to
2 the case, listen to the evidence that's presented, weigh the
3 evidence and determine whether or not the government has
4 shown that Jerrell Brockman is the person who actually did
5 this horrible thing. How do you do that? The Judge has
6 gone into it a little bit, but you will hear witnesses get
7 on the stand, there's going to be evidence that gets
8 introduced, there's going to be pictures, the State is
9 talking about some DNA. You don't have to take any of that
10 at face value simply because somebody puts their hand on a
11 Bible and swears to tell the truth, or because an expert
12 from Columbia says, "I ran a report and that's what this
13 says." You get to examine it and to determine whether you
14 believe the evidence. And it's not all or nothing. You can
15 believe that somebody is telling you part of the truth,
16 maybe they're mistaken or their memory is faulty or they've
17 got some other reason why they don't want to tell you
18 everything, or you can decide, "I don't believe a blame
19 thing they told me," or you can say, "I believe everything
20 they told me." But that's your job objectively without
21 emotion without placing yourself into the situation and
22 weighing the evidence to determine whether or not the State
23 has met its burden of proof. Because as we're all taught in
24 school and we hear over and over, and if you watch TV shows
25 they talk about it, when a person is charged they are

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1 presumed innocent until the government has provided enough
2 evidence if and until they provided enough evidence to
3 satisfy you that the person accused did what they say he
4 did. And in this case the State of South Carolina says
5 Jerrell Brockman is the one who pointed that gun that night,
6 and the State of South Carolina has to prove that he was.
7 It is not Jerrell Brockman's job to prove that he was not
8 there, the State has to prove that. He sits there an
9 innocent man, innocent, absolutely innocent if and until the
10 State is able to satisfy you that he is not. And how do
11 they do that beyond a reasonable doubt, the highest standard
12 of proof that we have? This is the way it works, this is
13 our God given right and our right as Americans to sit here
14 accused by the government and still be considered innocent
15 until the State can satisfy the fact finder, you, the folks
16 who are not tied up in all of the legal minutia and arguing
17 over what the definition of individual words are. You look
18 at the case and you say, "This is what it says." Now, the
19 State has to show you this evidence beyond a reasonable
20 doubt. Now, at the end of the case the Judge is going to
21 tell you his definition of it, I'll give you what my idea
22 is, it is there's no other reasonable explanation except
23 Jerrell Brockman did what they say he did. It's not, "I've
24 been looking at him, he looks like he could have done it,
25 maybe he did it, he could have been over there." That's not

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1 it, ladies and gentlemen, it's is there any other reasonable
2 explanation, and I submit to you, yes, there are other
3 reasonable explanations in this case it was, in fact, not
4 Jerrell Brockman. Again, we are not trying whether or not
5 an event occurred or whether or not such events are good or
6 bad for the community, the question is did Jerrell Brockman
7 do it and the answer is no. Thank you for your time,
8 attention and service.

9 THE COURT: Thank you, Mr. Frick. Is the State ready
10 to proceed?

11 MS. LIVELY: Yes, Your Honor.

12 THE COURT: You may call your first witness.

13 MS. LIVELY: The state would call Katherine Waldrip to
14 the stand.

15 THE COURT: Ma'am.

16 The witness, KATHERINE WALDRIP, was first duly sworn
17 And testified as follows:

18 DIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q Ms. Waldrip, please tell the jury your full name.

21 A Katherine Lynn Waldrip.

22 Q And are you a resident of Chester?

23 A Yes.

24 Q How long have you lived in this area?

25 A We've been here for 27 years.

KATHERINE WALDRIP - DIRECT

1 Q Are you married?

2 A Yes.

3 Q Who are you married to?

4 A Clay Waldrip.

5 Q And do you have any children?

6 A Yes, I have three.

7 Q What are their ages?

8 A Oh gosh, that's a tough question. My daughter was born
9 in '89, and I have a son that was born in '91, and then I
10 have another son that was born in '95.

11 Q If you don't mind pull your microphone towards you and
12 that way it will kind of help us to make sure that the jury
13 can hear you, okay? All right. Do you work?

14 A Yes.

15 Q Where do you work?

16 A I work for the Chester County School District, I'm a
17 school teacher.

18 Q And how long have you been in that position?

19 A This is my 24th year teaching.

20 Q And does your husband work?

21 A Yes. He's a pastor at First Baptist Church.

22 Q And how long have y'all been -- or are you actually
23 members of that church?

24 A Yes.

25 Q And how long have y'all been members of that church?

KATHERINE WALDRIP - DIRECT

1 A For 27 and a half years.

2 Q Okay. Now, Ms. Waldrip, were you at church on
3 Wednesday, November 8th of 2017?

4 A Yes.

5 Q Well, tell the jury what it was that was going on at
6 that time.

7 A Okay. On Wednesday evenings we have Bible -- we eat
8 first and then we have Bible study, then after Bible study I
9 have choir. We had finished the Bible study, and I actually
10 was in the social hall still talking with a young lady so I
11 was a little late getting over to choir, but I was on my way
12 to choir practice.

13 Q Okay. Now, you said you were on your way to choir
14 practice. Is that still on the same property as the church
15 or is it in a different location?

16 A It's in the same property but in a different building.

17 Q A different building. All right. So were you walking
18 over there at that point?

19 A Yes, I was.

20 Q And who was with you?

21 A No one, I was by myself.

22 Q Do you remember what the weather was like that night?

23 A It was cool, because I had on a white kind of overcoat
24 but it was not raining or anything, it was cool.

25 Q All right. And what did you have with you whenever you

KATHERINE WALDRIP - DIRECT

1 were walking to the choir practice?

2 A I had on my coat and I had my purse on my shoulder.

3 Q And what did your purse look like?

4 A It was a tan purse.

5 Q Okay. And what type of items did the purse have in it?

6 A My wallet was, you know, credit cards and driver's
7 license and all of that, and I had some money in there,
8 maybe around \$15 or so, and my phone, and then just other
9 items.

10 Q And while you were walking to this other part of the
11 church, was it dark?

12 A It was night, yes, and it was dark. There was a light
13 at the time but it was a very dim light.

14 Q All right. So as you were walking to the choir
15 practice, tell the jury what happened. Take your time.

16 A Okay. While I was walking from the building around the
17 back of the sanctuary there's a sidewalk there, which I do
18 all the time, I had always done that so that was nothing
19 new. And so I was walking around back, then I heard a noise
20 and I turned to look, but when I turned back around a man
21 was coming at me with a gun and --

22 Q So a man was coming at you with a gun. So did this
23 person say anything to you or did you recognize him?

24 A No. I didn't recognize him, no.

25 Q All right. So tell the jury what happens next.

KATHERINE WALDRIP - DIRECT

1 A Okay. So when I turned around he was basically right
2 there at me with a gun, and he grabbed me and he pushed my
3 head down and he was holding me, and he put the gun to my
4 head really hard and he was -- I started screaming as loud
5 as I could.

6 Q Ms. Waldrip, did he say anything to you while he was
7 doing that?

8 A Yes. He was telling me to shut up, "You bitch, I'm
9 going to shoot you, I'm going to kill you." And he kept
10 saying that over and over and he kept saying, "Give me your
11 purse." And I said, "I can't because you're holding me, I
12 can't give it to you." And then I was still trying to
13 scream and he grabbed my jaw and he was squeezing my jaw
14 really hard.

15 Q Were you able to look into his face?

16 A No. I just got the brief thing when I turned around
17 and he was pretty much right there at me. But I knew he had
18 on like a toboggan and he had a coat, a dark coat and dark
19 pants.

20 Q Did you -- could you tell what race he was?

21 A He was African-American.

22 Q How about, were you able to give anyone a general idea
23 of a possible height and weight?

24 A When they asked me I knew he was maybe about the same
25 height and weight of my husband at the time, and so that was

KATHERINE WALDRIP - DIRECT

1 kind of my description that I gave them.

2 Q Okay. All right. So you were talking about how he was
3 squeezing your face at that point in time.

4 A And holding a gun to my head.

5 Q Okay. When that happened, were you -- when if ever
6 were you able to give him your purse?

7 A Well, it was a few minutes. Because I know my head
8 when he was telling me he was going to shoot me and kill me
9 and, I mean, everything that was going through my mind was I
10 was thinking I'll never see my children again or my
11 grandchildren again. And I was also thinking about my older
12 mother, she had already lost one son and I was thinking here
13 she is going to be without her children, so it was a few
14 minutes he had me and held me. And I kept telling him, "I
15 can't give you my purse, you're holding me and I can't get
16 to it." And so I guess he finally realized that, I don't
17 know, and again, of course, I was scared he was going to
18 shoot me and kill me right there. But when he finally let
19 go enough I grabbed my purse and I -- something we had been
20 in in school told us to -- they had told us to throw it, so
21 I took it and threw it down the sidewalk.

22 Q Now, whenever you said he was holding you, were you
23 standing the whole time or do you recall?

24 A I was standing but he had pushed me down to where I
25 couldn't see his face.

KATHERINE WALDRIP - DIRECT

1 Q And during that time, did you feel like you were able
2 to leave?

3 A No, I couldn't. I was trying, I was squirming and
4 trying to get away from him. No, I couldn't. Because
5 again, he held the gun to my head, and at one point he had
6 my jaw and at one point he had the gun on my neck.

7 Q Now, you said you were able to remove your purse and
8 actually threw it.. What happened whenever you did that?

9 A When I threw my purse and he did go after the purse,
10 and I watched enough to know that he went down and across
11 the road and went toward the park, and then I ran into the
12 choir room where I knew everybody was.

13 Q Okay. And whenever you ran into the choir room, what
14 did you do?

15 A I just started screaming, "I've been held up by a man
16 with a gun." And then they sat me down, and I guess
17 somebody in there called 911 immediately, because within
18 seconds there was a police officer there, he showed up.

19 Q All right. Now, Ms. Waldrip, whenever the police
20 showed up, were you able to give that officer information
21 regarding what had happened to you?

22 A I remember telling him, you know, that he had on a hat
23 and a coat, and it was an African-America male, and I
24 remember telling him that wherever it kind of happened.

25 Q All right. Did you actually physically show him the

KATHERINE WALDRIP - DIRECT

1 location where the robbery had taken place?

2 A I remember kind of going out and giving him an idea of
3 the general area, yes, ma'am.

4 Q All right. Now, Ms. Waldrip, whenever that -- after
5 you were able to actually do that, did you provide a
6 statement to one of the officers that night?

7 A Yes. They had me write down what happened, but --

8 Q And I believe I've had you review this one time before
9 but I'm going to actually approach you and just to refresh
10 your recollection, if you'll just look at that and see if
11 that's the statement that you gave that night.

12 A Yes.

13 Q All right. Now Ms. Waldrip, I'm going to ask you a
14 little bit more of the details in regards to what you recall
15 about a year ago today. The approximate height and weight
16 that you gave to law enforcement, what was that?

17 A It was -- I told him it was about the height and weight
18 of my husband. My husband has lost a little bit of weight
19 since then, you know, but 5-11, six foot, somewhere in
20 there, around 200 pounds.

21 Q All right. And in your statement at the very end you
22 actually mentioned the gun that was used. Do you recall any
23 other details about the gun itself?

24 A I mean, I saw it in his hand and it was, you know,
25 maybe around that big and it was black, that's all. And,

KATHERINE WALDRIP - DIRECT

1 you know, of course he had it pressed up against my head, I
2 had a bruise.

3 Q Okay. All right. So you you actually had a bruise
4 from the --

5 A My head was very sore for several days.

6 Q Did you seek any type of medical attention?

7 A We did call the doctor that night and he came over to
8 the church.

9 Q Okay. But you never actually went to the hospital?

10 A No.

11 Q All right. Now, in regards to the description of the
12 gun, do you have any guns --

13 A No. I own no guns, no.

14 Q You own no guns? Okay. So how would you describe the
15 type of gun that it was? Do you have enough information
16 just from --

17 A The only kind of guns I know about are the handguns or
18 like the big long assault guns, and I would have said it was
19 more like a handgun. Not a small, small one, but --

20 Q All right. So not a long gun like a rifle or something
21 like that.

22 A No.

23 Q Okay. Now, you stated that the person who robbed you
24 went across the street into a park. Am I saying that --

25 A Yes, ma'am.

KATHERINE WALDRIP - DIRECT

1 Q I'm going to -- just so that you can show.

2 MS. LIVELY: Actually, Your Honor, if I may have this
3 marked as State's Exhibit Number 29. It's just a map, I
4 don't --

5 THE COURT: Is this for ID?

6 MS. LIVELY: For ID, Your Honor. I don't believe there
7 is an objection.

8 MR. FRICK: It's a map, it's just an overview. I don't
9 object to those come coming in.

10 MS. LIVELY: Thank you, Your Honor.

11 THE COURT: In without objection.

12 (The maps were received as State's 29 and 30.)

13 Q Now, Ms. Waldrip --

14 MS. LIVELY: If you don't mind, Your Honor, I would
15 like to ask for the witness to step down for just a moment.

16 THE COURT: Yes, ma'am, that's okay, if you can step
17 down please.

18 Q Now, Ms. Waldrip, we'll just need to make sure that you
19 speak up, okay?

20 A Okay.

21 Q Now, I'll show you this particular area. Do you
22 recognize -- I know you just kind of get your mind right as
23 to where we are right here as to what we're seeing on this
24 particular map.

25 A Yes. I can see that this is the church here.

KATHERINE WALDRIP - DIRECT

1 Q All right. So the church is here, and this is
2 conveniently enough Church Street, correct?

3 A Yes, ma'am.

4 Q All right. And what is the street that runs behind the
5 First Baptist Church?

6 A It says Akin Street.

7 Q All right. Well, are you familiar with the road that
8 runs behind the church?

9 A I'm familiar with it, yes, ma'am, very much so.

10 Q If you would please just -- and I know it is kind of an
11 overview, but if you would please show the jury which --
12 were you on the front side or the back side of the church
13 when this happened?

14 A I was on the back side. I was leaving this building
15 here and I was walking along that sidewalk right there, and
16 he jumped out at me about right here.

17 Q Okay. So this building here?

18 A That's where I was.

19 Q All right. This is also a part of the church?

20 A Yes.

21 Q So this white building here. So you said you walked
22 through here and this is on that sidewalk that he actually
23 came up and robbed you.

24 A Yes.

25 Q All right. Now, please tell the jury where the suspect

KATHERINE WALDRIP - DIRECT

1 or the person who robbed you, where did he go after you
2 threw your purse and he ran off?

3 A Well, he ran down this way down this street, and I knew
4 that he was headed this way, just I could tell, and as soon
5 as I could I -- but I saw him run that way, and then I took
6 off into the choir building right here.

7 Q Okay. So you said you could see him running this way.
8 What is in this area right here?

9 A There's a park there.

10 Q Okay. So is that the park that you were referring to a
11 minute ago?

12 A Yes.

13 Q All right. So are you sure you saw him running down
14 this area?

15 A Yes.

16 Q All right. Now, when law enforcement showed up you
17 said within --

18 A Seconds.

19 Q Seconds.

20 A It didn't seem like it was very long at all.

21 Q Okay. You were in this building, this top building
22 here?

23 A I was right here. This is a breezeway and there's a
24 door right under there that goes into the choir room and I
25 was in that room.

KATHERINE WALDRIP - DIRECT

1 Q Okay. And was this where you first had the opportunity
2 to talk to law enforcement?

3 A Yes.

4 Q When you described what had happened to you and where
5 he went, did you actually step out and show law enforcement?

6 A At some point I did, yes.

7 Q All right. And you showed law enforcement the street
8 that he ran down.

9 A Yes, I did.

10 Q Did you also advise that he -- you had thrown your
11 purse? Now, are you sure he took your -- is that a yes?

12 You need to answer yes.

13 A He grabbed my purse up and he took off.

14 Q Okay. Did you see whether or not he still had the gun
15 in his hand or not, do you recall?

16 A I don't recall. I mean, he didn't throw it down or
17 anything, no.

18 Q Okay. So as he was running off you saw that he did
19 have your purse in his hand.

20 A Yes.

21 MS. LIVELY: Thank you, you can have a seat.

22 Q Now, you mentioned that the purse that you had on you
23 that night was a tan purse, correct?

24 A Yes, ma'am.

25 Q I'm going to show you what has been marked as State's

KATHERINE WALDRIP - DIRECT

1 Exhibits -- it's actually 11 through 19, okay? Just flip
2 through them and tell me if you can identify the items that
3 are in those photos. And you don't have to tell me what
4 they are, but just confirm whether or not you recognize
5 them.

6 A Yes, I do.

7 Q Do you recognize the items in each one of those photos?

8 A Yes.

9 Q And are those items the purse and the contents from the
10 evening when you were robbed?

11 A Yes.

12 Q Have you had a chance to look at all of them?

13 A Yes.

14 Q Okay. Thank you. If I may retrieve those from you.

15 MR. FRICK: Your Honor, I think State is going to move
16 these into evidence. These are photographs that the defense
17 has previously objected to and the Court has already ruled
18 upon but I just renew my objection.

19 THE COURT: Objection noted for the record and
20 overruled.

21 (The photos were received as State's 11-19.)

22 MS. LIVELY: Thank you, Your Honor. So that would
23 have -- 11 through 19 is in evidence at this time.

24 Q Now, Ms. Waldrip, I'm going to show you -- I'm going to
25 show you what has been marked as State's 31 through 36.

KATHERINE WALDRIP - DIRECT

1 MR. FRICK: No objection, Your Honor.

2 THE COURT: Without objection introduced into evidence.

3 (The photos were received as State's 31-36.)

4 Q I'm going to show you these. And if you would please
5 just tell me if you recognize those photographs and what
6 they are.

7 A This one is the front of the church. That's the front
8 of the church. That's the front of the church. This is the
9 breezeway between the church building and the educational
10 building.

11 Q I'm going to stop you right there, okay, if you don't
12 mind, because you're seeing them and the jury is not and I
13 want to make sure we're clear, okay? So the one that you're
14 looking at right now, which is State's 34 that you said this
15 is a breezeway, is there anything significant in regards to
16 that breezeway?

17 A Well, I crossed that breezeway to go from the sidewalk
18 to the choir room.

19 Q Okay. I just wanted to be sure. And that's State's
20 34, okay? Then what about State's 35?

21 A That's the same area, but I would have been on this
22 side of that door and coming across this way.

23 Q Okay. And then State's 36 as well.

24 A The same. The choir room sits about right here, and
25 the sidewalk would have been right here.

KATHERINE WALDRIP - DIRECT

1 Q All right. Now, in regards to these particular photos,
2 31 through 36, does this reflect -- it accurately reflect
3 the layout of the church and where you would have been
4 actually walking to and from that night?

5 A Yes.

6 Q Do any of these photos actually show where the incident
7 took place?

8 A No.

9 Q But these first few just show kind of the layout?

10 A The front of the church.

11 Q The front of the church and then that breezeway.

12 A Yes.

13 Q All right.

14 MR. FRICK: I have no objection to these photographs,
15 Your Honor.

16 THE COURT: All right. Introduced into evidence.

17 MS. LIVELY: Yes, this is 37 through 39.

18 (The photos were received as State's 37-39.)

19 Q Now, Ms. Waldrip, I'm going to show you these three and
20 I'm going to ask you whether or not you recognize where that
21 is.

22 A Yes. This is the back of the church, this is where I
23 was that night.

24 Q And what number is that one? I'm sorry, if you don't
25 mind.

KATHERINE WALDRIP - DIRECT

1 A Thirty-seven.

2 Q All right. What about 38?

3 A Thirty-eight is -- see, here is the sidewalk and I was
4 further down that sidewalk, and this is where you exit the
5 breezeway.

6 Q And then 39?

7 A And 39 shows -- you can't -- but where I would have
8 gone into right there into the choir room.

9 Q Okay. So these three photos show the general area
10 where you were at the time when the defendant robbed you.

11 A Yes.

12 Q Okay. Now, was this the same information you provided
13 to law enforcement that night?

14 A Yes.

15 Q Now, later on that night, Ms. Waldrip, did you have the
16 opportunity to actually speak with law enforcement about the
17 possibility of someone being located that could have been
18 involved in this case?

19 A Yes.

20 Q All right. Tell the jury about that.

21 A Burley McDaniel told us that they thought that they had
22 somebody.

23 Q Okay.

24 A Or they had somebody that they thought could have been
25 the suspect, and so he drove my husband and I over there,

KATHERINE WALDRIP - DIRECT

1 which scared me to death, I didn't want to do that. But we
2 drove over there and --

3 MR. FRICK: Your Honor, can we approach for a second?

4 THE COURT: Yeah.

5 (A bench conference was held.)

6 THE COURT: Thank you. Go ahead and ask your next
7 question.

8 Q Thank you. So you actually went over there with Burley
9 McDaniel from the sheriff's office, correct? But at that
10 point in time were you able to identify or recognize anyone
11 that had harmed you that night?

12 A I didn't -- I had not seen his face well enough, but I
13 knew that he had on a toboggan hat and a coat, and the
14 gentleman that they had apprehended at the time, or had
15 there that I saw had on a coat and toboggan hat.

16 Q But you were not able to identify him.

17 A I could not identify facial features. I knew it was an
18 African-American male because I did not get a good enough
19 look at him for fear and because of the fact that he bent my
20 head down.

21 Q And so, Ms. Waldrip, whenever you -- after that
22 particular moment and you went over there, did you have
23 anything else that you did that night or in order to assist
24 law enforcement with this particular armed robbery?

25 A I don't recall anything.

KATHERINE WALDRIP - CROSS

1 Q No, that's fine. I just wanted to make sure that the
2 jury had all of the information. Was that the last thing
3 that you did along with law enforcement that night regarding
4 the investigation of this case?

5 A I think so.

6 Q All right. Was there anything else that you did that
7 night after --

8 A We just went home and, of course, I had to tell my
9 mother and we had to call our children and tell them, so it
10 was a pretty rough night.

11 MR. FRICK: Okay. Thank you, Ms. Waldrip. Please
12 answer any questions that the defense may have for you.

13 THE COURT: All right. Mr. Frick?

14 MR. FRICK: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. FRICK:

17 Q Ms. Waldrip, you gave a description to the city police
18 officer when he got on the scene, correct?

19 A Yes.

20 Q And I think you've already told us, you said it was
21 about the size and height of your husband as he was at the
22 time, correct? You're going to have a say yes or no, he's
23 got to take it down, I'm sorry.

24 A I'm sorry, yes.

25 Q It's okay. And you could tell it was a black guy but

KATHERINE WALDRIP - CROSS

1 you couldn't determine anything else, correct?

2 A That he had on a coat and a toboggan, yes, and dark
3 pants.

4 Q Right. And I believe you said it was cool that evening
5 because you were wearing something yourself.

6 A I had on a white coat.

7 Q All right. But other than saying that it was an
8 African-American male that eventually we say is 5-11, about
9 200 pounds, you couldn't make any other description,
10 correct?

11 A Other than the fact that he was probably in his late
12 twenties or early thirties.

13 Q All right. And that he was wearing this coat and some
14 kind of hat, right?

15 A Yes.

16 Q Do you recall that evening talking to Sheriff
17 Underwood?

18 A Yes.

19 Q Okay. Do you recall whether or not he showed you a
20 photograph of anybody?

21 A No, I do not recall.

22 Q You didn't make any identifications though, correct?
23 When you were talking to Sheriff Underwood, let me be
24 specific there.

25 A No.

KATHERINE WALDRIP - CROSS

1 Q All right. Do you recall talking to him about the
2 event?

3 A I do, yes.

4 Q Okay. Do you recall describing the weapon?

5 A Yes.

6 Q Okay. Do you recall how you described it?

7 A I believe I wrote that it was a small gun, but for me I
8 meant it was not a rifle.

9 Q Okay. But you told Sheriff Underwood it wasn't a big
10 gun.

11 A Right, meaning it was not a rifle.

12 Q Right. And you wrote in your statement it was a small
13 gun.

14 A Yes, meaning it was not a rifle.

15 Q Okay. Well, let me show you your statement. Is that
16 the statement that you gave -- the written statement that
17 you gave law enforcement.

18 A Yes.

19 Q And you've signed it.

20 A Yes.

21 Q And back here, are these your initials?

22 A Yes.

23 Q When you went through the statement -- is this in your
24 handwriting?

25 A Yes, but that was minutes after it happened.

KATHERINE WALDRIP - CROSS

1 Q I understand. But this is your handwritten statement
2 about the events.

3 A Yes.

4 Q Did you review it before you signed it?

5 A Yes.

6 Q You didn't make -- well, it looks like you made a
7 grammatical correction on here, but other than that did you
8 make any other corrections?

9 A No.

10 Q Okay. All right.

11 MR. FRICK: Your Honor, at this time I would ask to
12 move the statement into evidence.

13 THE COURT: Any objection?

14 MS. LIVELY: No objection.

15 THE COURT: Without objection moved in as Defendant's
16 Exhibit 1.

17 (The statement was received as Defendant's 1.)

18 Q The person who grabbed you you said grabbed you by your
19 face?

20 A He grabbed me first and pushed me down to bend over,
21 and then later when I was screaming he grabbed my face.

22 Q Okay. And, of course, you're held at gunpoint, I
23 understand that. Was anybody holding you by your arms?

24 A He was holding me. He had me like around my shoulders
25 so I could not move my arms.

KATHERINE WALDRIP - CROSS

1 Q Okay. And that's when you said, "I can't give me your
2 purse, you're holding me."

3 A Yeah.

4 Q Did he let go?

5 A Only after I fussed at him for a few minutes telling
6 him that I could not get away to give him my purse.

7 Q And then you threw it?

8 A Yes.

9 Q How long have you had that purse, do you have any idea?

10 A I probably had it at least a year or more.

11 Q Was it your day to day purse? I mean --

12 A Yes.

13 Q You didn't?

14 A No.

15 Q You didn't trade out purses.

16 A No.

17 Q This is the one that had all of your stuff.

18 A Yes.

19 Q Carried it around, essentially your life was in this
20 purse.

21 A Yes.

22 Q And that's what is reflected, I believe, in some of
23 those photographs, is it not? When you got taken over to --
24 did you know where Burley was taking you?

25 A He said we were going over to I think -- people were --

KATHERINE WALDRIP - CROSS

1 is it Roundtree?

2 Q Okay. Over in that general area.

3 A Over in that general area.

4 Q Okay. That's fine. So they're taking you over there.

5 Did you know they had someone in custody?

6 A He said they had someone in custody.

7 Q Okay. Did you take a look at that person?

8 A I did.

9 Q And your testimony is other than the jacket and a hat
10 you couldn't make any further identification.

11 A He had on the dark pants and the jacket and toboggan
12 hat that I recall seeing.

13 Q Okay. But as far as any other identifying features --

14 A Just other than his height and weight.

15 Q And his race.

16 A Yes.

17 Q I don't mean that in any way, it's a descriptor. It
18 was a black male, correct?

19 A Yes.

20 Q Okay.

21 MR. FRICK: Beg the Court's indulgence one second.

22 THE COURT: Okay.

23 (Break in proceedings.)

24 Q When Officer Harris got on the scene you went outside
25 with him for a brief period of time, correct?

KATHERINE WALDRIP - CROSS

1 A Yes.

2 Q And just kind of gave him a general idea of where the
3 person had gone, correct?

4 A Yes.

5 Q And you saw them go through the park, correct, or
6 towards it at least.

7 A I saw him go towards the park.

8 Q So you knew they were going that way.

9 MR. FRICK: Thank you, ma'am. That's all of the
10 questions I have.

11 THE COURT: All right. Any redirect?

12 MS. LIVELY: No, thank you, Your Honor.

13 THE COURT: Thank you, ma'am, you may step down. State
14 can call its next witness.

15 MS. EASLER: The State calls Officer Nick Harris.

16 The witness, NICHOLAS HARRIS, was first sworn and
17 Testified as follows:

18 DIRECT EXAMINATION

19 BY MS. EASLER:

20 Q Officer Harris, can you state your name for the record?

21 A Nicholas Harris.

22 Q What is your occupation?

23 A I'm a sergeant over patrol on the night shift.

24 Q How long have you been a sergeant?

25 A Been a sergeant for a long time.

NICHOLAS HARRIS - DIRECT

1 Q Been a long time?

2 A Yeah. I joined the police department in 2010 I think
3 it was.

4 Q How long have you been a police officer?

5 A Since 2010.

6 Q What were you doing the night of November 8th of 2017?

7 A I was -- at the time of this incident I was actually
8 right down the road at True Value sitting in the parking
9 lot.

10 Q Around what time did you receive the phone call, or the
11 call?

12 A I believe it was 19:51, around in that area.

13 Q How long did it take you to get to the church?

14 A I reviewed my body camera, it was around 40 seconds,
15 somewhere around that area.

16 Q Can you tell us what happened when you got to the
17 church?

18 A As soon as I arrived at the church there was multiple
19 people standing outside at the entryway off of Church
20 Street, it was all church members. They advised me where
21 the victim was and kind of a brief explanation of what
22 happened, said she was robbed. I went directly to I guess
23 what they call the choir room and made contact with her.

24 Q How did Ms. Waldrip seem when you got there?

25 A As soon as I seen her she was very distraught. She

NICHOLAS HARRIS - DIRECT

1 appeared traumatized, like something major had just occurred
2 in her life.

3 Q Was she able to identify?

4 A She was able to give a description of the person, she
5 wasn't able to identify any facial features but she did
6 describe him as around 5-11. She had her husband stand up
7 and she said he was about the same size as her husband, he
8 stood up, he said he was 5-11. She said that he was a black
9 male and that he was stockier than her husband and that he
10 was wearing a black jacket, thick black jacket, all dark
11 clothes with a hat or a toboggan on.

12 Q Did Ms. Waldrip say whether the person used a weapon or
13 not?

14 A She did describe him with a gun, and she made a motion
15 with her fingers at one point.

16 Q Did you set up a perimeter once you got there?

17 A As soon as I realized the severity of the crime I
18 immediately called for K-9 to give me a phone call and so I
19 could talk with the county officers about what happened. I
20 then contacted my lieutenant over investigations and advised
21 her what was going on, and directed my city units to take
22 over. After I found out a direction of travel I went ahead
23 and told them to go ahead and start heading toward the areas
24 in which to set up a perimeter.

25 Q Okay. Did you take Ms. Waldrip outside at one point?

NICHOLAS HARRIS - DIRECT

1 A I did. After she gave me a description in order to get
2 a good idea of where the subject was or where he ran so I
3 could direct county officers to where to pick up the scent
4 or where the subject was last scene, I did ask her to step
5 outside, she pointed to the -- towards the corner of the
6 building area.

7 MS. LIVELY: Your Honor, I would like your permission
8 to ask the witness to step down to show the jury --

9 THE COURT: Okay. Sir, you can step down.

10 Q Now, Officer Harris, can you indicate where the
11 incident occurred at on the map?

12 A This is where the incident --

13 THE COURT: Okay. I can see what's happening right
14 now. Y'all make sure you both speak up, my court reporter
15 is having a hard time taking down your testimony, and I can
16 barely hear you as well. We don't have a walking around
17 microphone. I know y'all can probably hear over there but I
18 can't hear over here.

19 MS. EASLER: I apologize, Your Honor.

20 Q And can you identify on the map in which direction
21 Ms. Waldrip indicated that the person ran?

22 A Ms. Waldrip stated that the person was around in this
23 area, and right here is a cut-through to the park, stated
24 that he ran down the road and cut in the general area of
25 where the cut-through was.

NICHOLAS HARRIS - DIRECT

1 Q Okay. Earlier in your testimony you indicated that you
2 set up a perimeter. Can you indicate where on the map you
3 set up a perimeter?

4 A So whenever I arrived on scene she told me that he had
5 ran this direction. I had a city officer go to Bird Street
6 as well as there is Hinton Street that runs straight across
7 right here. Shortly after narcotics Lieutenant Ricky
8 Sanders gave me a call and said he was in the area where he
9 needed to be, I was advised that him and Terry Roberts was
10 in the area, I asked them to go to these areas and they were
11 driving unmarked vehicles throughout the perimeter as well.

12 THE COURT: All right, sir. Come on back up here.

13 Q After you notified -- you set up the perimeter and
14 spoke with Ms. Waldrip, you notified the K-9 units, correct?

15 A Yes, ma'am.

16 Q How long did that take?

17 A They had a really quick response time. They were
18 actually doing some kind of task force somewhere else in the
19 county, as soon as I notified them they said they would be
20 there and they arrived I would say within ten minutes.

21 Q Okay. Whenever the units arrived on scene did you show
22 them where the robbery took place?

23 A The K-9 unit?

24 Q Yes.

25 A Yes, ma'am. As soon as they arrived on scene I was

NICHOLAS HARRIS - DIRECT

1 already speaking with Deputy Faile on the phone as well as
2 whenever he arrived, and I was speaking with Sheriff
3 Underwood, and we were all communicating and coordinating
4 back and forth to where the perimeter actually got expanded
5 at one point to different roads. She had pointed to where
6 it was, so I immediately told Deputy Faile whenever he
7 arrived on scene exactly where she pointed that it was and
8 advised the direction of travel in which the subject did
9 take.

10 MS. EASLER: Thank you, I have no further questions.
11 Please answer any questions that Mr. Frick has.

12 THE COURT: Mr. Frick?

13 MR. FRICK: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. FRICK:

16 Q Officer Harris, you were the first officer on the
17 scene, correct?

18 A Yes, sir.

19 Q And you were basically at the scene, correct? I mean
20 at True Value --

21 A Yes, sir.

22 Q Were you wearing a body cam at the time?

23 A Yes, sir.

24 Q And so your interactions with everybody in this
25 situation on scene captured on the body cam, correct?

NICHOLAS HARRIS - CROSS

1 A Yes, sir.

2 Q You were given a description by Ms. Waldrip of the
3 suspect, correct?

4 A Yes, sir.

5 Q What description did you get?

6 A I believe it was about a 5-11 black male wearing a
7 thick dark jacket with dark clothes and a toboggan. She
8 said he had a handgun and --

9 Q Did you get any kind of description about the handgun,
10 revolver, anything?

11 A Not that I can recall. I know she made a motion with
12 her hand like that.

13 Q Okay. But you just were aware there was a handgun
14 involved.

15 A Yes, sir.

16 Q When you got there, were there people outside?

17 A There was people -- if you bring up the map -- they
18 were standing towards the front of the area. They weren't
19 near the incident location of where it was whenever I made
20 contact with them initially.

21 Q Were they closer to the carport then, that little --

22 A If you're talking about the carport, the little
23 breezeway carport, yeah, they were up towards that way.

24 Q Okay. To your knowledge had anybody gone down towards
25 the end of the road?

NICHOLAS HARRIS - CROSS

1 A I didn't know of anybody until I was broached later and
2 somebody said that somebody had walked down the street, but
3 not that I knew.

4 Q Okay. But someone did tell you later on that someone
5 had walked from the church. I think it might have been a
6 member of the congregation, walked down there past the
7 church?

8 A I don't know who it was, but they had said that there
9 was a person on the road.

10 Q Okay. Do you recall anybody on the scene telling you
11 that they had seen somebody walk over towards the park?

12 A They said they had walked to the woods, yes, sir.

13 Q Okay. Well, what woods would that be?

14 A There's a patch of trees behind a couple of houses in
15 that area, but -- yeah.

16 Q Now, I would kind of call that park a patch of trees
17 until you told me it was a park. That's not the patch of
18 trees you're talking about?

19 A If they say woods I wouldn't recollect the park as
20 woods, because the park is pretty much clear and open, it's
21 got a few trees in the middle. He pointed towards the woods
22 and in the woods and a bunch of trees.

23 Q But again, this would be on your body cam, correct?

24 A Yes, sir.

25 MR. FRICK: Your Honor, I would like to show that clip.

NICHOLAS HARRIS - CROSS

1 THE COURT: Okay. Any objection from the State?

2 MS. LIVELY: No objection, Your Honor.

3 MR. FRICK: And I suppose I'm introducing it into
4 evidence if I'm going to show it.

5 THE COURT: Okay. Any objection to that?

6 MS. LIVELY: Your Honor, the only objection I would
7 have is just we need to be real clear about what sections
8 that we're actually putting in, because there's a lot of
9 hearsay and discussions going on throughout the entire
10 thing.

11 MR. FRICK: It's just that one clip.

12 MS. LIVELY: Just that one clip? Okay. No objection
13 to that one clip he showed earlier.

14 (The video clip was received as Defense 2.)

15 (The video was played for the jury.)

16 Q And that is -- when he said woods, you were thinking
17 what, the end of the road?

18 A Well, I can show you on that map if you wanted me to.
19 But there is a -- so you have the road and it has another
20 road that comes off to the side right here, probably about
21 50 yards -- or 50 feet up there's a trail that leads to the
22 actual park which is open, then the rest of that behind
23 everyone of the houses is a cluster of trees that runs
24 straight down behind all of the houses.

25 Q Okay. But it's at the end of the road that goes past

NICHOLAS HARRIS - CROSS

1 the church, correct?

2 A At the end of the road. And how he was motioning, he
3 said he had walked down the road and went into the tree line
4 and he was pointing pretty directly in line.

5 Q Isn't he standing under that breezeway you're talking
6 about?

7 A He is. I'm just going off the information that he gave
8 me.

9 Q All right. I will leave you alone. Did you collect
10 any evidence on the scene? Your job -- you got the
11 perimeter set up --

12 A I held the scene until other units came and my
13 investigators came to the scene.

14 Q Called the dog tracking team.

15 A Yes, sir.

16 Q Did you have some issues with the perimeter?

17 A It had not been set up completely yet due to manpower
18 until everybody arrived on scene.

19 Q Right. So when you're calling about dog tracking
20 evidence -- I mean, the dog tracking team there's still some
21 cars coming in and out, correct?

22 A Yeah. In the process of a couple of minutes that it
23 takes in order to set up a full perimeter, yes.

24 Q So the answer is yes.

25 A Yes.

NICHOLAS HARRIS - CROSS

1 Q Okay. Did your body camera capture a conversation
2 between Ms. Waldrip and Sheriff Underwood, do you recall?

3 A It probably did, yeah.

4 Q All right. Do you have any recollection of that
5 conversation?

6 A Honestly I was so busy doing other things I was in and
7 out of their conversation everything like that trying to
8 handle other matters, I don't remember what transpired. I
9 believe by that time Lieutenant Fourney maybe was on scene.

10 Q I think you could be right.

11 A Okay.

12 MR. FRICK: Your Honor, can we approach real quick for
13 a second?

14 THE COURT: Yeah.

15 (A bench conference was held.)

16 THE COURT: Ladies and gentlemen, we need to take just
17 a brief recess. Don't talk about anything while you're out,
18 I haven't given you the case yet again to talk so y'all just
19 take a brief recess. We have a matter of law that we need
20 to deal with with the lawyers, we'll get you right back out
21 here, okay? Don't talk about the case.

22 (The jury left the courtroom.)

23 THE COURT: So there's a portion of the video --

24 MR. FRICK: Your Honor, in all candor Officer Harris is
25 just video recording this. This is a conversation between

NICHOLAS HARRIS -- CROSS

1 Sheriff Underwood and Ms. Waldrip, I alluded to that on
2 cross examination with Ms. Waldrip, I'm simply trying to see
3 if the State doesn't object to it if we can expedite my part
4 so I don't have to call the sheriff as to a potential
5 witness --

6 THE COURT: Okay.

7 MR. FRICK: I'll be glad to show it, it's just a
8 snippet.

9 THE COURT: Play that part of the video. Have you seen
10 it, Ms. Easler?

11 MS. EASLER: Yes, Your Honor.

12 THE COURT: Okay. Let's see it and I can determine
13 whether or not there's any issue with it coming in.

14 (The video was played.)

15 MR. FRICK: That's the portion, Judge.

16 THE COURT: Okay. What's the State's position in
17 regards to that video, that portion of the video?

18 MS. EASLER: Your Honor, it's hearsay but under the
19 circumstances we will not object to it coming in at this
20 time.

21 THE COURT: Okay. Without objection then that portion
22 of the video will come into evidence. Do you intend to
23 offer it into evidence?

24 MR. FRICK: Yes, sir. And if they don't object I will
25 go ahead and offer it at this time or however we want to --

NICHOLAS HARRIS - CROSS

1 THE COURT: All right. It's in evidence, those clips
2 of the video. You can mark those specific clips in case the
3 jury wants to look at them again.

4 MR. FRICK: Yes, sir. And I anticipate this will
5 probably be my last question and I'll --

6 (The video clip was received as Defense 3.)

7 (The jury returned to the courtroom.)

8 THE COURT: All right. All members of the jury are
9 present. Thank you, ladies and gentlemen, for accommodating
10 us. We are going to be breaking for lunch here shortly
11 after this witness, I wanted to go ahead and get that in
12 before we broke for lunch. Mr. Frick?

13 CONTINUED CROSS EXAMINATION

14 BY MR. FRICK:

15 Q Officer Harris, just go back, your camera captured a
16 conversation between Ms. Waldrip and Sheriff Underwood,
17 correct?

18 A Yes, sir.

19 Q Is that what's depicted on the screen here?

20 A Yeah, that would be me.

21 MR. FRICK: Your Honor, at this time defense would like
22 to play Defense Number 3.

23 THE COURT: All right, go ahead.

24 (At this time portions of a video clip was played.)

25 MR. FRICK: No further questions.

NICHOLAS HARRIS - REDIRECT

1 THE COURT: All right. Any redirect?

2 MS. EASLER: Yes, Your Honor, briefly.

3 THE COURT: Okay.

4 REDIRECT EXAMINATION

5 BY MS. EASLER:

6 Q Officer Harris, Mr. Frick asked if someone walked down
7 the road during the area being blocked off, correct?

8 A Yes, ma'am.

9 Q Can you explain to me in which direction?

10 A He motioned that he was walking down from like the
11 College Street area.

12 Q All right.

13 MS. EASLER: Your Honor, I would ask permission that
14 Officer Harris --

15 THE COURT: All right. Step down to the map.

16 MR. FRICK: Your Honor, the only question I have is
17 this: what the guy actually said or is this what he
18 speculates it is?

19 THE COURT: I don't know yet but I told him to go down
20 there because she hadn't asked the question yet. Okay.
21 Just talk loud.

22 Q Can you indicate on the map in which direction he
23 indicated?

24 A So we were standing right here whenever you seen that
25 video of the guy talking to, me. He pointed this way, he

NICHOLAS HARRIS - RECROSS

1 said walking down the road. So he pointed this way and then
2 he said that he had disappeared into the tree line around
3 here. As you can see like the park, this is the park right
4 here, this is the only tree line that he was pointing to
5 whenever he came -- that would have been straight across was
6 this group of trees right here.

7 Q So those are the woods that you were referring to in
8 your earlier testimony.

9 A Yes, ma'am.

10 Q Okay.

11 THE COURT: All right. Come on back up here.

12 Q Now, Officer Harris, did anyone ever indicate that
13 someone actually walked through the actual spot where Ms.
14 Waldrip was actually robbed?

15 A Not to my recollection.

16 Q No.

17 MS. EASLER: Thank you, Your Honor, that's all I have.

18 THE COURT: Any cross based on that?

19 MR. FRICK: Just quickly.

20 RECROSS EXAMINATION

21 BY MR. FRICK:

22 Q The stuff in the park ain't trees?

23 A Like I told you before, there's sporadic trees in there
24 but it's mostly open field.

25 Q Okay. And your -- he didn't walk you down there and

NICHOLAS HARRIS - RECROSS

1 say this is where he went, did he?

2 A No, sir. He pointed straight across the street to the
3 group of trees that I pointed out on that map.

4 Q So when he pointed you're making a guesstimation as to
5 what he meant?

6 A I'm following his finger where he's pointing to..

7 Q While y'all are standing under the breezeway, correct?

8 A Yes, sir.

9 MR. FRICK: Okay. No further questions.

10 THE COURT: Thank you, sir, you can stand down. Ladies
11 and gentlemen, we will now take a brief -- well, I want you
12 back in your jury room at 1:45, that gives you time enough
13 if you need to go home to eat and enough time to get back up
14 here. Again while you're away from the courthouse do not
15 talk about this case, don't talk to anybody who may want to
16 talk about this case. Don't go seek out information about
17 this case, okay? We'll see you back at 1:45. Thank you.

18 (The jury left the courtroom.)

19 THE COURT: Anything else before we take a lunch
20 recess?

21 MS. LIVELY: Not from the State, Your Honor.

22 MR. FRICK: Nothing from defense.

23 (A lunch break was taken.)

24 THE COURT: Any other matters we need to put on the
25 record before we bring the jury back in?

TERRY ROBERTS - DIRECT

1 MS. LIVELY: None from the State, Your Honor.

2 MR. FRICK: None from the defense.

3 THE COURT: Y'all bring the jury in.

4 (The jury returned to the courtroom.)

5 THE COURT: Thank you, ladies and gentlemen. All
6 members of the jury are present, State can call its next
7 witness.

8 MS. LIVELY: Thank you, Your Honor. The State would
9 call Terry Roberts to the stand.

10 The witness, TERRY ROBERTS, was first duly sworn and
11 Testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LIVELY:

14 Q Please state your full name and your rank for the jury.

15 A Terry Michael Roberts, Jr. I'm a sergeant in the
16 narcotics and gang unit.

17 Q And you work for what agency?

18 A Chester City Police Department.

19 Q Did you have an opportunity on November the 8th, 2017
20 to respond to an incident that happened around the First
21 Baptist Church in the city limits?

22 A Yes, ma'am.

23 Q Tell the jury why you actually responded and what your
24 role was.

25 A My lieutenant called me out about an armed robbery had

TERRY ROBERTS - DIRECT

1 just occurred, he advised me to come out there to help
2 patrol and set up a perimeter so the K-9 could come out.
3 Once I arrived on the scene Lieutenant Sanders advised me to
4 set a perimeter up at Branch and West Lacy Street.

5 Q And how close is Branch and West Lacy street in
6 relation to the First Baptist Church?

7 A A quarter mile if that.

8 Q And whenever you set off a perimeter, there's been a
9 lot of talk about that here today in front of the jury, what
10 is it exactly that you do?

11 A Pretty much I keep anybody out of the area. Once the
12 K-9 is on the ground we keep vehicles, people off the
13 streets.

14 Q All right. What other concerns do you have in regards
15 to having people coming into a place where a crime has just
16 been committed?

17 A It pretty much contaminates the evidence, so --

18 Q And were you actually involved in any evidence
19 collection that particular evening?

20 A No, ma'am.

21 Q So was your sole role to just help to contain the
22 actual area?

23 A Yes, ma'am.

24 Q Now, whenever you were on scene, do you remember about
25 what time of night it was?

TERRY ROBERTS - DIRECT

1 A It was late, it was dark. It was probably about 7:00,
2 8:00, somewhere in that area.

3 Q All right. And did you respond pretty quickly to the
4 area after you heard the call go out?

5 A Yes, ma'am, I was probably there within five minutes.

6 Q All right. So was that whenever you began to set up
7 the perimeter?

8 A Yes, ma'am.

9 Q Now, after the perimeter was actually set up, did you
10 see anyone coming or going from the area that you were
11 actually stationed at?

12 A When I first got there, no, ma'am, everything was
13 locked down pretty good then.

14 Q Was there a lot of radio traffic that you were
15 listening to regarding other individuals who were assisting
16 you with the investigation?

17 A No. I just heard over the radio about everything just
18 set up and K-9 is on the ground.

19 Q Okay. So K-9 was on the ground. Did you ever actually
20 see the K-9 tracking or doing anything while you were in
21 your position?

22 A Actually towards the end when he got to Branch is when
23 I saw the K-9 unit come to my area.

24 Q All right. So before that time, Sergeant Roberts, did
25 anyone ever actually approach you or speak to you that was

TERRY ROBERTS - DIRECT

1 not law enforcement on that particular evening?

2 A Yes. I had a SUV approach me coming from Cotton
3 Street. I stopped the driver, I advised for the reason we
4 was out there, she stated that she was trying to bring some
5 food to her --

6 MR. FRICK: Objection, hearsay, Your Honor.

7 THE COURT: Sustained.

8 Q All right. So based on the information that you
9 received, was this person someone who lived in the area?

10 A She lived on Branch Street.

11 Q And at that time were you going to allow her to
12 actually enter the area of Branch Street?

13 A No, ma'am.

14 Q Why is that?

15 A Because she would have contaminated the area.

16 Q So after the time that you sat there and stopped her
17 from going into the area, was she able to provide you with
18 any other information that assisted you with the
19 investigation at that time?

20 A Yes, ma'am. She asked me was everything --

21 MR. FRICK: Objection, hearsay.

22 MS. LIVELY: Your Honor, this is in line with their
23 continuing investigation at that time. It's not being
24 offered for the truth of matter asserted, what we're doing
25 at this point in time is showing the purpose of their

TERRY ROBERTS - DIRECT

1 continuing investigation.

2 THE COURT: All right, overruled.

3 Q What information did you get at that point concerning
4 the investigation from this particular individual?

5 A She did advise me that she just gave a subject a ride
6 about ten or 15 minutes prior of her making contact with me
7 in the Roundtree area, so I asked her what the subject was
8 wearing and she did advise me he was wearing a blue hoodie.
9 At that time I did call back dispatch to give me another
10 description of the subject, while dispatch was giving me the
11 description she overheard it and she said, yeah, he matches
12 the description of the person she gave the ride to.

13 Q At that time, though, did you have any information that
14 would lead you to believe that this was the person that
15 necessarily committed the offense?

16 A No.

17 Q So did you use this information at that time just to
18 continue the investigation?

19 A Yes, ma'am.

20 Q Is that a normal procedure for y'all to do?

21 A Yes, ma'am.

22 Q So once you got that information from -- and what was
23 this person's name again?

24 A Lavetta Turner.

25 Q Once you got this information from Lavetta Turner, was

TERRY ROBERTS - DIRECT

1 that information then radioed across to other law
2 enforcement regarding someone possibly being taken from that
3 area?

4 A It was. I told dispatch to advise Chief Moore and
5 Sheriff Underwood about the information we just received,
6 and once they arrived on scene Lieutenant Sanders gave me a
7 phone call.

8 Q And did he follow-up with Ms. Turner at that time
9 regarding the subject that she had given a ride to?

10 A Yes, ma'am.

11 Q Okay. Now, Sergeant Roberts, did you have any other
12 dealings with Ms. Lavetta Turner or anyone else that evening
13 regarding this particular investigation?

14 A No, ma'am.

15 Q Okay. And did you have any other knowledge regarding
16 what occurred on Gardendale Circle other than what you heard
17 after law enforcement left your area? That's it?

18 A That's it.

19 Q Thank you. Answer -- wait, actually I forgot to ask
20 you this, I apologize. I'm going to show you a few photos
21 here in regards to the location of the church as well as the
22 path, I'm going to ask you about that. Now, did you know
23 where the armed robbery took place?

24 A Yes, ma'am.

25 Q You did? Okay. Who actually advised you of where it

TERRY ROBERTS - DIRECT

1 was?

2 A Actually it came over the radio.

3 Q All right. So I'm going to show you what has been
4 marked as State's Exhibit 40 through 45. First of all, were
5 you involved in taking any of the photos or assist with
6 taking any of the photos after the crime that night?

7 A Yes, ma'am. Once they were able to apprehended the
8 subject that night me and Lieutenant Sanders went back and
9 took the photos.

10 Q I'm going to show you 40 through 45. Do you recognize
11 those photos?

12 A Yes, sir.

13 Q And are those photos an accurate representation of the
14 area that you captured behind the actual First Baptist
15 Church?

16 A Yes, ma'am.

17 Q And at that point in time was that the area where you
18 were policing and making sure that the perimeter was set up?

19 A Yes. I was actually farther up on the other side of
20 Bird Street, so --

21 Q And whenever you went back and had those photos taken,
22 was that an area that you -- that was of particular interest
23 to you and your supervisor, Lieutenant Sanders?

24 A Yes, ma'am.

25 Q And why was that?

TERRY ROBERTS - CROSS

1 A Because supposedly the K-9 tracked that subject through
2 that area, so we went back and took the photos of his --
3 showing which way he went.

4 Q All right. And what is that that's shown in the photos
5 regarding a path that leads from the church?

6 A It shows a concrete path -- you've got the road which
7 leads to the path of the park right here.

8 Q Okay. Let me --

9 A -- to Bird Street.

10 Q Okay. Let me take those from you.

11 MS. LIVELY: Your Honor, the State moves to enter 40
12 through 45 at this time.

13 MR. FRICK: No objection, Your Honor.

14 THE COURT: Without objection received into evidence.

15 MS. LIVELY: May I publish them, Your Honor?

16 THE COURT: You may publish.

17 (The photos were received as State's 40-45.)

18 Q Now, you also -- well, let me ask you this, did you
19 ever walk that path?

20 A After the subject was apprehended we did walk the path.

21 Q Okay. So only after a subject was apprehended did you
22 walk that path.

23 A No, not prior. Once he was apprehended that's when we
24 went back, took photos and actually followed the path.

25 Q Thank you, that was my question. Did you actually

TERRY ROBERTS - CROSS

1 determine where Lavetta Turner lived on that street that she
2 was trying to get to?

3 A I did. She actually pointed out where she lived at.

4 Q Okay. And was that on Branch Street?

5 A Yes, ma'am.

6 Q All right.

7 MS. LIVELY: Thank you. Answer any questions that the
8 defense may have for you.

9 CROSS EXAMINATION

10 BY MR. FRICK:

11 Q Officer Roberts, whereabouts on Branch Street was
12 Lavetta Turner's house, any idea?

13 A It was the very first house on the left. If you come
14 off West Lacy and take the road on to Branch, she's the
15 house on the left right there.

16 Q Okay. Is there a stop sign near there?

17 A Right there at Branch and West Lacy, yes, sir.

18 Q All right. The photos that you -- I believe you said
19 you took some of them?

20 A Yes, sir.

21 Q You and Rickey Sanders took them?

22 A Yes, sir.

23 Q Y'all did that afterwards?

24 A After the subject was apprehended that's when we went
25 back.

LAVETTA TURNER - DIRECT

1 Q Were y'all with the dogs as they were running?

2 A Negative.

3 MR. FRICK: Thank you. That's all of the questions I
4 have.

5 THE COURT: Thank you, sir, you may step down. Call
6 your next witness.

7 MS. LIVELY: Thank you, Your Honor. The State would
8 call Lavetta Turner.

9 The witness, LAVETTA TURNER, was first duly sworn and
10 Testified as follows:

11 DIRECT EXAMINATION

12 BY MS. LIVELY:

13 Q Hi, Ms. Turner. Will you please just tell the jury
14 your full name?

15 A Lavetta Turner.

16 Q And Ms. Turner, are you a resident of the City of
17 Chester?

18 A Yes.

19 Q How long have you lived in Chester?

20 A Over half my life.

21 Q Over half of your life?

22 THE COURT: Ma'am, pull that microphone to you.

23 Q Now, do you work, Ms. Turner?

24 A Yes.

25 Q Where do you work?

LAVETTA TURNER - DIRECT

- 1 A Chester Waffle House.
- 2 Q Chester Waffle House? Do you have another job?
- 3 A Yes, ma'am.
- 4 Q What is that?
- 5 A Nursing.
- 6 Q Nursing? Okay. And did you work some today?
- 7 A Yes.
- 8 Q Were you subpoenaed to be here today?
- 9 A Yes.
- 10 Q Did you want to be here to testify today?
- 11 A No.
- 12 Q Do you know the defendant, Jerrell Brockman?
- 13 A I know of him.
- 14 Q And what other names do you know him to go by?
- 15 A Speedy.
- 16 Q Speedy? So you say you know of him. Do you see him on
- 17 occasion, or kind of tell the jury what you mean by that.
- 18 A I might see him.
- 19 Q But you recognize him by his face, is that fair to say?
- 20 A I mean, yeah, a little, yeah.
- 21 Q Okay. All right. Are you close?
- 22 A No.
- 23 Q Now, on November the 8th, 2017, that was exactly a year
- 24 ago today, do you recall where you were living at that time?
- 25 A Yeah, on 119 Branch Street.

LAVETTA TURNER - DIRECT

- 1 Q And are you living at 119 Brach Street?
- 2 A No.
- 3 Q Are you still living in Chester, though?
- 4 A Yes.
- 5 Q Who was living with you at 119 Branch Street this time
- 6 last year?
- 7 A Me and my kids.
- 8 Q How many kids do you have?
- 9 A Four.
- 10 Q Now, on that date, on November 8th of 2017, did you
- 11 have any plans for that night?
- 12 A Yes, I was on my way to work.
- 13 Q What were your planning?
- 14 A Getting ready to go to work.
- 15 Q So you were getting ready to go to work. What time
- 16 were you supposed to be at work that night, do you remember?
- 17 A At 9:00.
- 18 Q All right. So on that night -- well, by that time you
- 19 said you were supposed to go at 9:00, what were you going to
- 20 do before you had to go to work?
- 21 A I was going to get my kids something to eat.
- 22 Q Going to get your kids something --
- 23 A To eat.
- 24 Q I'm sorry, I didn't hear that part. So you were going
- 25 to get your kids something to eat. Where were you going to

LAVETTA TURNER - DIRECT

1 go?

2 A I really didn't have an idea, I was just trying to grab
3 something. I wound up going to Little Caesar's.

4 Q And were you taking the kids with you or did you leave
5 them at home?

6 A No, I left them at home.

7 Q So you're leaving them at home and you were going to go
8 and get them something to eat. When this -- when you were
9 making this plan to do this, what happened next?

10 A I got up and I walked out the door to go to get them
11 something to eat and I seen Speedy, he was partial way in
12 the road and in my yard.

13 Q All right. So you saw Speedy. And did you talk to
14 him?

15 A Yeah.

16 Q Well, tell the jury what y'all talked about.

17 A He asked me for a ride.

18 Q He asked you for a ride. Okay. And where did he want
19 you to give him a ride?

20 A He just said to Roundtree.

21 Q To Roundtree. About how far is Roundtree from where
22 you were living on Branch Street?

23 A About two or three miles.

24 Q Let me just back you up for a second. Whenever you
25 were talking about Branch Street and where you are living,

LAVETTA TURNER - DIRECT

1 is that close to the First Baptist Church in Chester?

2 A I really don't know where the church is.

3 Q Okay. Well, let me ask you this, is there a small park
4 and path close to your home?

5 A Yes, ma'am.

6 Q And where is this small park and path? How close is it
7 to your house?

8 A I don't know how close you would say it is, but the
9 path is right across the street from my house.

10 Q Okay. All right, fair enough. So the path and the
11 actual park, you said it's across the street from your
12 house, does it end across the street from your house?

13 A Is what?

14 Q Does it stop like across the street from your house?

15 A Yes.

16 Q All right. So if you wanted to walk into the park,
17 would you just walk out your front door and keep going
18 straight?

19 A No.

20 Q What would you have to do? That's what I'm trying to
21 find out.

22 A I would have to walk out my door, walk across the
23 street and then I would have to go through a long path and
24 then I would reach another street, go across that street and
25 then walk down into the park.

LAVETTA TURNER - DIRECT

1 Q And then walk down into the park. But is this all just
2 one path?

3 A No.

4 Q It's not. All right. So I'm going to show you a
5 couple of photos in just a second, but I wanted to show you
6 something before I do that. I'm going to show you what has
7 been marked as State's Exhibit Number 27.

8 MS. LIVELY: If I may approach?

9 THE COURT: Yes.

10 Q Do you recognize the house in this picture?

11 A Yes.

12 Q Whose house is that?

13 A That's my old house.

14 Q That's your old house?

15 A Uh huh.

16 MS. LIVELY: Your Honor, the State would move to
17 introduce 27 into evidence at this time.

18 THE COURT: Without objection introduced into evidence.

19 (The photo was received as State's 27.)

20 Q So this is the house that you were living in at the
21 time. Where did you see Speedy on the night of November 8,
22 2017? If you'll just point to me where you saw him.

23 A Like right here.

24 Q So right -- not at your door but kind of in the street,
25 correct? Okay. So when you see him standing there, was he

LAVETTA TURNER - DIRECT

1 with anyone?

2 A No, ma'am.

3 Q He was not. All right. And once again, you said he
4 asked you to give him a ride to the Roundtree Circle area.

5 A Yes, ma'am.

6 Q All right. Now, Ms. Turner, did you actually give
7 Jerrell Brockman a ride to Roundtree Circle area?

8 A Yes, ma'am.

9 Q Tell the jury exactly where you took him.

10 A I'm really not familiar with that, but I think it's
11 called Gardendale Circle.

12 Q Gardendale Circle. When you dropped him off, do you
13 remember exactly where you dropped him off?

14 A Right there at the sign. And I just turned back around
15 in the road, I made a U-turn right there by the ball park.

16 Q Right there by the ball park? Okay. So when you said
17 you dropped him off right at the sign, what sign?

18 A I guess that would be Gardendale sign, a stop sign.

19 Q Was anyone else in the vehicle with you and Speedy at
20 that time?

21 A No, ma'am.

22 Q All right. Did you give a ride to anyone else that
23 night?

24 A Yes, ma'am.

25 Q Who else did you give a ride to that night?

LAVETTA TURNER - DIRECT

1 A I really don't know his name, but they called him DeDe
2 (phonetically.)

3 Q DeDe. So somebody else that you know but not real
4 well.

5 A Right.

6 Q All right. And where did you drop him off at?

7 A On Second Street.

8 Q On Second Street. So the only person then that you're
9 testifying that you dropped off onto Gardendale Circle was
10 the defendant, Jerrell Brockman.

11 A Yes, ma'am.

12 Q Or Speedy.

13 A Yes, ma'am.

14 Q So is that who you dropped off at Gardendale Circle?

15 A Yes, ma'am.

16 Q Hold on just a second, Ms. Turner, give me just a
17 second.

18 (Break in proceedings.)

19 Q Just a couple of more questions, okay? Now, after you
20 dropped off -- now, you said you dropped off DeDe, where was
21 that again?

22 A On Second Street.

23 Q Was that before you dropped off Speedy or after, do you
24 remember?

25 A I'm thinking it was before, I really can't remember.

LAVETTA TURNER - DIRECT

1 Q Okay. That's fine, I know it has been a year, that's
2 fine. Now, so after you dropped off the defendant, Mr.
3 Brockman, what did you do next?

4 A I went and picked up the food. I went to Little
5 Caesar's and picked up the food and tried to go home.

6 Q All right. So you said you tried to go home. What
7 happened whenever you got back to your road?

8 A It was a bunch of police officers.

9 Q All right. And so whenever you saw the police officers
10 what did you do?

11 A I stopped, I asked them what was going on and they
12 told -- one of the officers said that -- he just -- at first
13 he was like we're just not letting anybody in or out and I
14 said why, and he said there's been a robbery. I said,
15 "Where was the robbery?" Because my kids are down in here.

16 Q So were you nervous for your kids?

17 A Yes.

18 Q Okay. So you're not being let back down on your street
19 and you were nervous about your kids. So what information
20 at that point in time did you provide to law enforcement?

21 A That I had just dropped someone off. Well, no, I said
22 I just dropped some people off.

23 Q And what other information did you give to law
24 enforcement about the people that you had dropped off? Did
25 you tell them any names?

LAVETTA TURNER - DIRECT

1 A No.

2 Q Were you asked whether or not you knew anybody's name
3 at that point in time?

4 A Yes.

5 Q All right. Well, who is it that you told them that you
6 gave a ride to?

7 A I didn't.

8 Q Okay. Not their legal name, what was the nickname that
9 you gave them of the person that you dropped off?

10 A After awhile I said that I had -- they asked me -- I
11 told the officer, I said I really don't know them that well
12 but I called them my homeboys because I have seen them
13 around, and he asked me and I said Speedy and DeDe.

14 Q Okay. So you told them Speedy and DeDe at that point
15 in time.

16 A Uh-huh.

17 Q But you did not know them by their legal or their full
18 names.

19 A No.

20 Q Now, once you gave the information to law enforcement
21 regarding that, what did you do next with the police
22 officers?

23 A I took them to where I dropped them both off at.

24 Q Okay. So you took law enforcement --

25 A Yes.

LAVETTA TURNER - DIRECT

1 Q -- to where you dropped them both off.

2 A Yes.

3 Q Did you show them where you dropped off DeDe?

4 A Yes.

5 Q Did you show them where you dropped off Speedy?

6 A Yes.

7 Q And after you did that, did you have anything else to
8 do with this particular case other than having to come to
9 court here today?

10 A No.

11 Q All right.

12 MS. LIVELY: Thank you. Answer any questions that the
13 defense has for you.

14 THE COURT: Mr. Frick.

15 CROSS EXAMINATION

16 BY MR. FRICK:

17 Q Ms. Turner, when people start showing up to your house
18 asking for a ride, are you going to work or coming from
19 work, what were you doing?

20 A This particular night?

21 Q Yes, ma'am.

22 A I was getting ready to go to work.

23 Q Okay. So your focus is to get out the door and get to
24 work so you can earn some pay, correct?

25 A Right.

LAVETTA TURNER - CROSS

1 Q Okay. And you said Speedy was kind of in your yard,
2 kind of in the road.

3 A Right.

4 Q And the person sitting over there at defense table, you
5 said that's Speedy, that's who you know as Speedy.

6 A Right.

7 Q You said he got in the car. Did he have anything in
8 his hands?

9 A No, sir.

10 Q Did you notice a purse?

11 A No.

12 Q If he would have had a purse would that have done
13 anything for you?

14 MS. LIVELY: Objection, that's speculative, Your Honor.

15 THE COURT: Sustained.

16 Q He didn't have a purse.

17 A No.

18 Q Did he have a gun?

19 A No.

20 Q Where did you pick up DeDe?

21 A At the end of my road.

22 Q Is there a sign or anything there?

23 A Yes, it says Branch Street.

24 Q Is there a stop sign there?

25 A Yes.

LAVETTA TURNER - CROSS

1 Q I'm going to show you what has been marked as State's
2 Number 11. Do you have any idea what that is?

3 A No.

4 Q And that certainly wasn't in Jerrell Brockman's hand,
5 was it?

6 A No, sir.

7 Q Now, the solicitor says that you took law enforcement
8 down over to Gardendale. Did you take them or did they take
9 you?

10 A They took me.

11 Q How did you get down there?

12 A With them.

13 Q Anybody's car in particular?

14 A I was in the truck with Mr. Burley.

15 Q Okay. Did you tell them about DeDe?

16 A Yes.

17 Q Did anybody ask you about DeDe?

18 A Yeah.

19 Q Did you give any description of what DeDe was wearing
20 or what he looked like?

21 A No.

22 Q Did anybody ask you any of that?

23 A No.

24 Q Second Street, just so I have a good idea of where it
25 is, are we talking about down Saluda back to the right?

LAVETTA TURNER - CROSS

- 1 A Yes, sir.
- 2 Q Across the railroad tracks?
- 3 A You're going the wrong way if you cross the railroad
- 4 tracks.
- 5 Q Is it kind of across the street or down the road from
- 6 the holy place over there?
- 7 A I don't know where the holy place is, sir.
- 8 Q How did you get to Gardendale?
- 9 A In my truck.
- 10 Q I know, but --
- 11 A Are you talking about before?
- 12 Q No, ma'am. What roads did you take to get to
- 13 Gardendale?
- 14 A I went through East Chester, I don't really know the
- 15 roads, I just take roads that I normally take.
- 16 Q I got you.
- 17 A I went -- I ended up on First, I went up to First and
- 18 came down Second.
- 19 Q Okay.
- 20 A And once I came down Second I stopped, dropped DeDe off
- 21 I think if I'm most mistaken, and then I think I went across
- 22 the street and dropped Speedy off.
- 23 Q Okay. They're not far apart though, are they?
- 24 A No.
- 25 Q And it's your recollection that you're not exactly sure

LAVETTA TURNER - CROSS

1 who you dropped off first?

2 A Not really.

3 Q Okay.

4 A Yeah, I am. I had to drop Speedy off last, because
5 once I left there I went straight to Little Caesar's.

6 Q When he got out of your car, did you see anything in
7 his hands?

8 A No.

9 Q Were you really looking?

10 A Not really.

11 Q Okay. What was your focus at that time?

12 A Getting my kids something to eat and going to work.

13 Q Do you remember where people were sitting in your car?

14 A Yeah, I do. Speedy was sitting in the back and DeDe
15 was sitting in the front.

16 Q All right. So did Speedy get in the back at first?

17 A Yes.

18 Q And then DeDe gets in and he's in the front seat.

19 A Yes.

20 Q Did you ever see anything in DeDe's hands?

21 A No.

22 Q Were you ever really paying attention?

23 A No.

24 Q When you got back to your road obviously you were a
25 little upset that you couldn't go see your kids, correct?

LAVETTA TURNER - CROSS

- 1 A Yes, sir.
- 2 Q And then law enforcement starts asking you questions?
- 3 A No, I started asking them questions.
- 4 Q Okay. All right. And all of the sudden they're very
- 5 interested in talking to you, correct?
- 6 A Right.
- 7 Q Did you ever give any statement to law enforcement, an
- 8 official written statement to law enforcement?
- 9 A No.
- 10 Q Did you ever -- other than getting in Burley's car and
- 11 going down to Gardendale, did you talk to any other law
- 12 enforcement about this case?
- 13 A No.
- 14 Q Did Lolita Fourney come over to your house at any point
- 15 asking you questions?
- 16 A Yes. It wasn't really like questions, she was just --
- 17 Q Y'all were chatting.
- 18 A Yeah, like chatting, wasn't no questions.
- 19 Q Was she trying to get you to write a statement?
- 20 A No, not really.
- 21 Q Did you ever tell her anything different -- to your
- 22 recollection did you tell her anything different than what
- 23 you've said?
- 24 A No, sir.
- 25 MR. FRICK: Beg the Court's indulgence one second.

LAVETTA TURNER - REDIRECT.

1 THE COURT: All right.

2 (Break in proceedings.)

3 MR. FRICK: Thank you, ma'am, that's all of the
4 questions I have.

5 THE COURT: Any redirect?

6 MS. LIVELY: One moment, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. LIVELY:

9 Q Now, Ms. Turner, whenever you got back to Branch Street
10 and you wanted to get to your kids, you mentioned to Mr.
11 Frick that you were the one asking law enforcement questions
12 at that point, correct?

13 A Yes.

14 Q All right. Now, were you listening to the information
15 that was coming over their radio and that they were talking
16 about to try and figure out what was going on?

17 A No.

18 Q Whenever you were asking them questions about what had
19 happened, did you get any other details from them about
20 who -- what the person looked like or who it could have
21 been?

22 A No.

23 Q So what made you bring up the name of Speedy?

24 A Because when I said to the officer -- the officer --
25 the officer said to me, he was like there's been a robbery

LAVETTA TURNER - REDIRECT

1 and something to the affect they were in the area, that's
2 what made me say I dropped two people off from -- that was
3 just in the area.

4 Q All right. And so that's whenever you brought up the
5 name of Speedy at that time.

6 A No, I didn't.

7 Q Well, I think that's where I'm a little bit confused, I
8 want to make sure the jury understands.

9 A No, not at that time. He asked me, he said who -- I --
10 wait a minute. He said, "Who did you drop off?" And I
11 think I said, "My homeboys," and that's when he called the
12 other officers. And then when the other officers came
13 that's when they were asking me, you know, and then that's
14 when I finally said his name, and then they tried to get me
15 to go and I told them, no, I didn't want to go.

16 Q You didn't want to go and actually show them where it
17 was.

18 A Right.

19 Q And how old is DeDe?

20 A Probably about 28 or 29.

21 Q Twenty-eight or 29. Do you know how old Speedy is?

22 A I don't know, probably about the same age.

23 Q About the same age? Okay. All right. Have you had
24 anymore contact with DeDe since that time?

25 A I seen him one time.

RICKEY SANDERS - DIRECT

1 Q Okay. Have you had any more contact with Speedy?

2 A No.

3 Q All right.

4 MS. LIVELY: Thank you.

5 MR. FRICK: Briefly.

6 RECROSS EXAMINATION

7 BY MR. FRICK:

8 Q What does DeDe look like? Black dude, white dude?

9 A Black dude, dark skinned, heavy set.

10 Q Got any idea about how tall?

11 A No, sir.

12 Q Is he about the same size as Jerrell?

13 A I don't know what size Jerrell, or Speedy is.

14 Q All right. But he's a black male with dark skin,
15 that's what you said.

16 A Yeah, that's what I said.

17 Q I just wanted to make sure I heard you.

18 MR. FRICK: Thank you, ma'am.

19 THE COURT: Thank you, ma'am, you can step down. Push
20 that microphone out first. You need her around?

21 MS. LIVELY: No, Your Honor. May she be excused from
22 her subpoena?

23 THE COURT: Yeah, you can head on to work. Call your
24 next witness.

25 MS. LIVELY: The State calls Rickey Sanders to the

RICKEY SANDERS - DIRECT

1 stand.

2 The witness, RICKEY SANDERS, was first duly sworn and
3 Testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LIVELY:

6 Q Lieutenant Sanders, please tell the jury where you
7 work.

8 A Chester Police Department.

9 Q What are your roles there, what is your job duties?

10 A Narcotics agent and gang investigator.

11 Q How long have you been working for the City of Chester?

12 A Right at seven years.

13 Q On the night of November 8, 2017, did you have an
14 opportunity to respond to an armed robbery that occurred in
15 the city limits of Chester?

16 A Yes, ma'am.

17 Q Please tell the jury why you responded to this
18 particular event.

19 A Actually I was on the way home and I heard the call
20 come out about a armed robbery, and I heard Sergeant Harris
21 on the radio saying he was setting a perimeter up and I
22 asked him where he needed me to go, and I notified the rest
23 of my guys in my unit and we started setting a perimeter up.

24 Q So the rest of your guys in your unit, does that
25 include Sergeant Terry Roberts that we just heard from?

RICKEY SANDERS - DIRECT

1 A Yes, ma'am.

2 Q Okay. And so how many of your unit actually responded
3 and assisted with the perimeter that night, do you recall?

4 A Yes, it was me and Terry.

5 Q It was you and Terry. Okay. And what area did you
6 actually block off?

7 A I was at the bottom of West Lacy, he was in between
8 Branch Street and West Lacy.

9 Q Now, were you aware of the actual location of the
10 robbery itself?

11 A Yes, ma'am.

12 Q And how did you become aware of the location of that
13 robbery?

14 A Through Sergeant Harris and dispatch, they said it was
15 at the church.

16 Q It was at the church. Is that the First Baptist
17 Church?

18 A Yes, ma'am.

19 Q And did you know where on the property of the First
20 Baptist Church the armed robbery had taken place?

21 A They said the back side of the church.

22 Q Now, are you familiar with that area, Lieutenant
23 Sanders?

24 A Yes, ma'am.

25 Q What I'm going to do, if you don't mind, I'm going to

RICKEY SANDERS - DIRECT

1 actually have you step down, if you would please, and show
2 the jury --

3 THE COURT: You can go on down. Y'all just make sure
4 you talk loud.

5 Q Okay. Now, Lieutenant Sanders, are you familiar with
6 the area that you're looking at here on State's Exhibit
7 Number 29?

8 A Yes, ma'am, I am.

9 Q All right. Just make you're speaking up, okay? Now,
10 will you please show the jury where you first responded on
11 the evening of November the 8th?

12 A I was down here.

13 Q You were down here. Please tell the jury kind of what
14 are the -- what's the streets that are crossing over here.

15 A That's West Lacy and Bird Street.

16 Q So West Lacy and Bird Street, they actually cross over;
17 is that right?

18 A Yes.

19 Q Now, what area were you told that the suspect actually
20 ran through?

21 A This is the back side of the church, and so he had ran
22 through this area right here.

23 Q Okay. So armed robbery, y'all learned that. How
24 quickly were you actually on the scene, Lieutenant Sanders?

25 A Less than five minutes.

RICKEY SANDERS - DIRECT

1 Q Okay. So whenever you arrived on the scene and you
2 went to this particular area, did you ever have -- did you
3 see anyone that matched the description of the suspect that
4 y'all were looking for at that time?

5 A No, ma'am, I didn't.

6 Q All right. And while you were there, did you run into
7 anyone coming or going from that area?

8 A No, ma'am.

9 Q Okay. You can go ahead and have a seat. Did you do
10 any type of work around the church except for taking some
11 photos which you've provided to the State and to the
12 defense?

13 A No, ma'am. I just took photos after everything was
14 over with.

15 Q So after everything was over with. What do you mean by
16 that?

17 A After they had the subject in custody Lieutenant
18 Fournery asked me can I please go back and take pictures
19 while she deals with the incident along with the sheriff's
20 office, and me and Sergeant Roberts went back and took
21 detailed photos.

22 Q Now, whenever you were actually on the scene where you
23 said West Lacy and Bird Street, or in that perimeter, did
24 you have an opportunity, or your partner, Sergeant Roberts,
25 did you have an opportunity to assist him in speaking with a

RICKEY SANDERS - DIRECT

1 Ms. Lavetta Turner?

2 A Yes.

3 Q All right. Tell the jury about that.

4 A I was at West Lacy, I had a perimeter blocked off and
5 he came across the radio and said, "Hey, I'm talking to a
6 young lady saying that she gave a person a ride about ten or
7 15 minutes ago to Roundtree Circle." He notified Chief
8 Moore and Sheriff Underwood, I gave him a phone call and
9 asked him who did she give a ride to.

10 Q When you're saying you called him, who did you call?

11 A I called Sergeant Roberts.

12 Q Okay. So you called Sergeant Roberts. And what did
13 you ask him?

14 A I asked him did the lady know the person's name or
15 nickname, or had she ever seen the guy before she gave a
16 ride to.

17 Q And were you able to actually get a name from Ms.
18 Turner?

19 A Yes.

20 Q What name were you provided?

21 A Speedy.

22 Q And do you happen to know an individual who actually
23 goes by the name of Speedy in the Chester area?

24 A Yes.

25 Q And who is that?

RICKEY SANDERS - DIRECT

1 A Mr. Brockman.

2 Q Mr. Jerrell Brockman?

3 A Yes.

4 Q And that's the defendant.

5 A Yes.

6 Q Now, whenever -- at that point in time had Mr. Brockman
7 been identified, located or apprehended?

8 A No, ma'am.

9 Q So was this the first time you're hearing anything in
10 regards to Mr. Brockman, aka Speedy, being involved in this
11 armed robbery?

12 A Yes.

13 Q Did you get any information from Ms. Turner about a
14 DeDe?

15 A No, ma'am.

16 Q All right. So when is the first time you're hearing
17 anything about a DeDe?

18 A Today.

19 Q All right. Now, on the evening of November 8th of 2017
20 after you received this information what did you do?

21 A I notified Chief Moore and Captain Burley that I know a
22 guy that go by the name of Speedy. And then -- Captain
23 Burley was already on scene at Branch, so he said wait until
24 the dog has finished tracking and then come and talk to me.
25 So I walked up there after the dog is finished tracking and

RICKEY SANDERS - DIRECT

1 had left the area and showed him a picture of who is Speedy.

2 Q Who is Speedy. Okay. Now, where was Ms. Turner at

3 this point?

4 A She still was on the location, still at Branch Street.

5 Q Did you talk to her anymore about this other than

6 determining that it was Jerrell Brockman that you know as

7 being Speedy?

8 A No, ma'am.

9 Q Did you get any kind of statements from Ms. Turner or
10 anything that evening?

11 A No, ma'am.

12 Q What if any additional contact did you have with Ms.

13 Turner other than that conversation?

14 A That's it.

15 Q That's it? And then, did you see whether or not she
16 was taken from that area to go to another location or
17 anything of that nature?

18 A Yes.

19 Q Who actually -- or did she take herself, or who took
20 her?

21 A Law enforcement took her over there.

22 Q Law enforcement took her over there. All right. Did
23 you have any type of response or dealings that the other
24 area that law enforcement went based on what Ms. Turner told
25 them?

RICKEY SANDERS - DIRECT

1 A We blocked off the front entrance of the parkway to go
2 out there but that was it, we didn't go to no house or
3 nothing like at that.

4 Q So you assisted once again with the perimeter issue?

5 A Yes.

6 Q But you'd never actually went into the perimeter?

7 A No, ma'am.

8 Q Now, you said later on, Lieutenant Sanders, that you
9 actually took some photos of the area after the actual
10 suspect had been apprehended; is that correct?

11 A Yes.

12 Q Okay. Now, I've got quite a few photos but there's a
13 few that haven't been introduced yet and I'm going to show
14 you just a couple. First of all, this one is already in
15 evidence, this is State's Exhibit Number 27, and I'm going
16 to ask you if you recognize that and why did you take that
17 photo?

18 A Yes. That's Ms. Turner's old house.

19 Q That's Ms. Turner's old house.

20 A Yes.

21 Q Perfect. Thank you. Now, I'm going to show you
22 State's I think it's 22 through 28, actually it's 21 through
23 28 minus the one I just showed you. I'm going to ask you if
24 you recognize these photographs as being ones that you and
25 Sergeant Roberts took on the night of November 8th of 2017?

RICKEY SANDERS - DIRECT

1 A Yes.

2 Q What are those particular photos reflecting?

3 A It's a wide view of Branch Street and the path and
4 everything that leads from Branch Street back to the park
5 area.

6 Q To the park area?

7 A Yes, ma'am.

8 Q And what is the significance of that park and path in
9 parkway?

10 A It runs parallel down to the church area.

11 MS. LIVELY: Your Honor, the State would move to enter
12 the rest of 21 through 28, the -- 27 is already in.

13 MR. FRICK: No objection, Your Honor.

14 THE COURT: Without objection introduced into evidence.

15 (The photos were received as State's 21-26 and 28.)

16 Q Now, were you provided sufficient information to be
17 able to document where the actual armed robbery took place
18 on the property of the church?

19 A Yes, ma'am.

20 Q I'm going to show you what's already in evidence as
21 State's 31 through 39 that were taken by you, Lieutenant
22 Sanders. Will you pull out the photo that actually shows
23 the location where the armed robbery took place involving
24 Ms. Waldrip? So tell me which numbers that you're pulling
25 out, Lieutenant.

RICKEY SANDERS - CROSS

- 1 A Thirty-four.
- 2 Q Okay.
- 3 A And this is the door she came out of.
- 4 Q Okay. All right. So in State's Number 35 you're
- 5 showing a pathway and double doors, correct?
- 6 A Correct.
- 7 Q And what are those -- who came out of those double
- 8 doors?
- 9 A The victim.
- 10 Q The victim, Ms. Waldrip?
- 11 A Yes.
- 12 Q Okay. So she came out of those double doors from the
- 13 information that you had. Okay. And behind that, is that
- 14 the back of the church or the front of the church that we're
- 15 seeing in that picture? Do we need to see it again?
- 16 A This is another one that's better, it was the back of
- 17 the church.
- 18 Q Another one that's better? So this is Exhibit Number
- 19 39.
- 20 A Yes.
- 21 Q All right. So this is the back of the church?
- 22 A Yes.
- 23 Q And is this the area where the armed robbery took place
- 24 from the information that you had in the investigation?
- 25 A Yes.

BURLEY MCDANIEL - DIRECT

1 Q So the back of the church. And once again, is there a
2 breezeway there?

3 A Yes, it is.

4 Q Now, on that -- behind the actual church, what's the
5 name of that road that runs back there?

6 A It's Akin and Bird.

7 Q Akin and Bird. Okay. And finally, Lieutenant Sanders,
8 when did you learn who was actually arrested for this crime?

9 A After we got to Gardendale and set up a perimeter
10 within minutes they said they had a subject in custody and
11 it was Mr. Brockman.

12 Q It was Mr. Brockman?

13 A Yes.

14 Q Who's also known as Speedy.

15 A Yes, ma'am.

16 MS. LIVELY: Thank you. Answer any questions that the
17 defense has.

18 THE COURT: Mr. Frick?

19 CROSS EXAMINATION

20 BY MR. FRICK:

21 Q Lieutenant Sanders, did you interview Ms. Waldrip?

22 A No, sir.

23 Q Oh, okay. So the information that you got about where
24 the robbery was was all hearsay.

25 A No --

BURLEY MCDANIEL - DIRECT

1 MR. FRICK: No further questions.

2 THE COURT: Thank you, sir, you can step down. Call
3 your next witness.

4 MS. LIVELY: Thank you, Your Honor. The State would
5 call Major Burley McDaniel.

6 The witness, BURLEY MCDANIEL, was first duly sworn and
7 Testified as follows:

8 DIRECT EXAMINATION

9 BY MS. LIVELY:

10 Q If you'll pull that microphone up close to you.

11 A I did, ma'am.

12 Q Oh, I'm sorry, I looked up after you did that. So
13 Major Burley McDaniel, where do you work?

14 A I work for the Chester County Sheriff's Office.

15 Q And how long have you worked for the sheriff's office?

16 A Twenty-four years.

17 Q And so are you basically a life long resident of this
18 area?

19 A I am.

20 Q And what are your duties at the sheriff's office at
21 this time?

22 A I'm a major over investigations.

23 Q So when a violent crime has been committed, are you
24 always notified?

25 A I am.

BURLEY MCDANIEL - DIRECT

1 Q And in this particular situation this was an incident
2 that occurred in the city, correct?

3 A Correct.

4 Q All right. So was it unusual for you to respond on
5 November 8th of 2017 to this particular case?

6 A It was not.

7 Q All right. Explain to the jury why that is.

8 A Well, Chester City is in Chester County, and if the
9 city needs assistance we're going to go and assist them.

10 Q Okay. Fair enough. So in this particular situation
11 did you receive information pretty quickly about what had
12 happened?

13 A I did.

14 Q And did you respond by yourself or with other people?

15 A I responded by myself.

16 Q All right. And whenever you responded where did you
17 go?

18 A I went downtown. I did not go to the actual scene, I
19 didn't think no need to go to the scene because he was
20 already gone from there so the city was there. I actually
21 did a perimeter check to determine if I needed anymore
22 people to stick any other places on the perimeter.

23 Q Okay. And where was the perimeter originally set up,
24 Major?

25 A Well, we had Branch Street covered, we went up as far

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1 as -- we had people as far as Harris Street on the
2 perimeter.

3 Q Okay. And what is the purpose of doing that in this
4 type of a case?

5 A Well, if the subject is running and we were trying to
6 determine how far he's going to run in that amount of time,
7 so there's no need to stop it just shortly if you go out and
8 stretch it out some.

9 Q Okay. And from the information that you received in
10 regards to dispatch and that kind of thing, about how much
11 time was it between the 911 call and when you were actually
12 at the perimeter?

13 A Four minutes.

14 Q Okay. So very briefly?

15 A Yes.

16 Q Now, Major McDaniel, as you were doing this part of
17 your job, what if any other information did you come across
18 in your investigation of this particular crime?

19 A I received a call from Sergeant -- Lieutenant Sanders
20 about subject being possibly picked up and carried off.

21 Well, he told me it was Ms. Turner, so we met at Ms.
22 Turner's house right there on the side of the road and she
23 eventually told us that it was Speedy.

24 Q And did you have any personal knowledge as to who
25 Speedy was?

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1 A Yes.

2 Q All right. And so do you know the defendant, Jerrell
3 Brockman?

4 A I do.

5 Q Now, Major McDaniel, whenever you were speaking with
6 Ms. Turner, did she give you any information as to what she
7 had done with Speedy that night?

8 A She did.

9 Q All right. Tell this jury exactly what Ms. Turner
10 told.

11 A Ms. Turner stated that she had gave him a ride from
12 Branch Street and given him a ride -- carried him over to
13 Gardendale.

14 Q Did she at that point in time want to cooperate or
15 assist law enforcement?

16 A No, she didn't.

17 Q So what did you do in order to further the
18 investigation at that point?

19 A Well, we actually spoke with Ms. Turner and we actually
20 told -- we actually explained to her, "What if this was your
21 mother or somebody else, would you not want somebody else to
22 come and testify or give us the information?" Well, she
23 actually said, "You're actually right," so she actually gave
24 us the name Speedy.

25 Q And at that point in time, what did you do next with

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1 Ms. Turner?

2 A I actually gave Ms. Turner -- carried Ms. Turner in my
3 truck the route that they actually took, and she -- as soon
4 as we turned onto Gardendale she said, "This is where I
5 dropped him off at."

6 Q Now I'm going to back you up for just a minute, Major
7 McDaniel. When you were at the perimeter and then actually
8 engaging in conversation with Ms. Turner, what was going on
9 with the bloodhound tracking unit at that time, do you know?

10 A I don't know.

11 Q You don't know. Okay. I just wanted -- did you have
12 any contact with them or anything at that point in time?

13 A Well, once we determined that Ms. Turner had given
14 Speedy a ride, I actually contacted the sheriff and we
15 actually got the dog team to move over to Gardendale Circle.

16 Q Okay. All right. So originally where was the
17 bloodhound team?

18 A On Branch Street.

19 Q On Branch Street. All right. So how did you get over
20 to where Gardendale -- the exact path on Gardendale that
21 Ms. Turner took?

22 A Well, I don't remember going through East Chester. She
23 took me up Lancaster Street and then we turned on Cemetery
24 Street, and we actually turned on Patrick Street and went
25 down First Street, and then we made a right on Saluda,

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1 crossed the railroad tracks, left onto Parkway, and then we
2 drove up to Gardendale and we made the right onto
3 Gardendale.

4 Q Did she take you to any particular homes or anything on
5 Gardendale, or where did she tell you she dropped off
6 Speedy?

7 A As I said, as soon as we turned onto Gardendale she
8 said. "Stop. This is where he said 'let me out,' and then
9 he got out."

10 Q Did she mention anything to you about another passenger
11 in the car that she gave a ride to that night?

12 A No.

13 Q So is this the first time you're hearing about someone
14 by the name of DeDe?

15 A Yes.

16 Q Were you there on -- at Gardendale, did you stay in
17 that location until the bloodhound team showed up?

18 A I did.

19 Q And whenever the bloodhound team got there, tell the
20 jury what happened.

21 A When the bloodhound team arrived on Gardendale at the
22 location that we were at, before they could get on the
23 ground we had other officers go around and set up a
24 perimeter on Gardendale, this is when some of the officers
25 said that he's running. So we had to actually get the dog

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1 team down to where he actually was running -- where he
2 started running, so the dog team was put out at that
3 particular location.

4 Q Okay. Eventually was a suspect actually detained from
5 that area?

6 A Yes.

7 Q Okay. Who was that person?

8 A The defendant.

9 Q The defendant, Speedy Jerrell Brockman?

10 A Yes.

11 Q At any point in time did you speak with a victim in
12 this case, Ms. Katherine Waldrip?

13 A I did.

14 Q Okay. Tell the jury about that.

15 A I actually went back to the church and picked Ms.
16 Waldrip and her husband up and I drove them to the
17 Gardendale location. We actually wanted to see if she could
18 identify him, or see any distinguishing clothing or anything
19 that would say that it was him.

20 Q And what was her -- how did she act at that point in
21 time when you were taking her over to where this person was?

22 A She was nervous and actually she didn't want to go, she
23 was reluctant to go but she did come on. And she couldn't
24 really pick him out, she said she didn't want to pick out
25 somebody that it wasn't, but the clothing could fit the

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1 description.

2 Q Okay. All right. And Major McDaniel, did you have any
3 other investigative roles in this particular case after you
4 completed that part for that evening?

5 A One.

6 Q What was that?

7 A I was -- a picture was sent to me --

8 Q Okay.

9 A -- from a location of a purse, and I actually showed it
10 to Ms. Waldrip while she was in the truck and she identified
11 the purse as being hers.

12 Q I'm going to show you -- I'm glad you reminded me of
13 that. I'm going to show you actually a State's Exhibit
14 Number 12. This is already in evidence. Do you recognize
15 that photo?

16 A This is the photo that I showed her.

17 Q Okay. Who did you receive that photo from, Major?

18 A Chief Deputy Robby Sprouse.

19 Q Okay. And in regards to this particular purse when you
20 talked to Ms. Waldrip, was she able to identify it?

21 A Yes.

22 Q Do you know where that purse was actually recovered
23 from?

24 A I really don't, no.

25 Q Okay. But this was sent to you from one of your --

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1 from your chief deputy, is that what you stated?

2 A That's correct.

3 Q Okay.

4 MS. LIVELY: Thank you, answer any questions that the
5 defense may have.

6 THE COURT: Mr. Frick?

7 CROSS EXAMINATION

8 BY MR. FRICK:

9 Q So you took Ms. Waldrip down to Gardendale?

10 A I did.

11 Q To the house where Mr. Brockman had been arrested or --

12 A I didn't say the house. We took her on Gardendale and
13 we actually -- they had Mr. Brockman sitting on the truck
14 and we actually drove by where he was sitting on the truck
15 where he was apprehended.

16 Q Okay. So she had a view of him.

17 A Correct.

18 Q And she didn't identify him.

19 A No.

20 Q Okay. To your knowledge was she ever shown any other
21 picture or lineup of Jerrell Brockman?

22 A To my knowledge?

23 Q Yes, sir.

24 A I don't know.

25 Q And it's your testimony that Ms. Turner didn't say

MICHAEL ROBERTS - DIRECT..

1 anything about DeDe.

2 A No.

3 Q Even though she said from that stand that she did.

4 A Well, I'm saying from this stand that she didn't.

5 Q Okay. And it's your testimony that she never said
6 anything to anybody about DeDe.

7 A I heard about DeDe today.

8 Q Okay. And this is a case that you and the City of
9 Chester, y'all were cooperating in this, correct?

10 A That's correct.

11 Q I mean, y'all were trying to solve this mystery
12 together, correct?

13 A Absolutely.

14 Q So if the city had information they shared it with
15 y'all, and if y'all had any information y'all shared it with
16 the city, correct?

17 A Correct.

18 Q Other than taking Ms. Waldrip over to the scene and
19 trying to figure out where stuff happened from Ms. Turner,
20 did you collect any evidence or do anything else in the
21 case? I know you're working perimeter.

22 A I did not.

23 MR. FRICK: Thank you, sir, that's all of the questions
24 I have.

25 THE COURT: Thank you sir, you may step down, you're

MICHAEL ROBERTS - DIRECT

1 free to leave. You may call your next witness.

2 MS. LIVELY: Thank you, Your Honor. The State would
3 call Michael Roberts to the stand.

4 The witness, MICHAEL ROBERTS, was first duly sworn and
5 Testified as follows:

6 DIRECT EXAMINATION

7 BY MS. LIVELY:

8 Q Hi, Mr. Roberts, how are you?

9 A All right.

10 Q Tell this jury your full name.

11 A Michael Wayne Roberts.

12 Q And where do you live, Mr. Roberts?

13 A 555 Gardendale Circle.

14 Q How long have you lived at that address?

15 A Twenty-four years, I believe.

16 Q Twenty-four years? Okay. And do you know many of the
17 people in that particular -- on that particular road?

18 A Yes, ma'am.

19 Q You do? All right. And is everybody pretty neighborly
20 on that street?

21 A Yes, ma'am.

22 Q Have you ever met the defendant, Mr. Jerrell Brockman?

23 A Yes, ma'am.

24 Q Do you know him by any other names other than Jerrell?

25 A No, ma'am.

MICHAEL ROBERTS - DIRECT

1 Q You haven't heard him called Speedy?

2 A No, ma'am, that's the first time.

3 Q All right. And have you ever talked to Mr. Brockman?

4 A Yes, ma'am.

5 Q Did you have an opportunity to speak with him on the
6 evening of November the 8th, 2017?

7 A Yes, ma'am.

8 Q All right. Tell the jury -- first of all, were you
9 home that night?

10 A Yes, ma'am, I was in the yard.

11 Q You were in the yard. Okay. About what time of night
12 was it, do you recall?

13 A Between 9:00 and 10:00 at night.

14 Q Okay. All right. And at that point in time, tell the
15 jury your about interaction or your discussion with Jerrell.

16 A I was just in the yard and he come in the yard and he
17 had a little sweat on him like, and he asked me to use my
18 phone.

19 MR. FRICK: Objection, hearsay.

20 A I'm sorry.

21 MR. FRICK: Hearsay.

22 THE COURT: No, overruled. Go ahead.

23 Q He asked if he could use your phone.

24 A Yes, ma'am.

25 Q Okay. Now, did you let him use your phone?

MICHAEL ROBERTS - DIRECT

1 A Yes, ma'am.

2 Q What did you say to him, if anything, in response?

3 A I was just on the phone at the time and I hung up with
4 the person I was on the phone with and I said, "Here you go,
5 you can hold it for a minute," and I gave it to him and he
6 started dialing --

7 Q All right. Well, let's do this, just tell me -- you
8 can tell me what he told you, okay? All right. So tell me
9 what it is that the defendant told you -- or that Mr.
10 Brockman told you whenever he walked up and talked to you.
11 Just start over and tell me.

12 A He just come up to me and said, "What's up?" And I
13 said, "Nothing." And he said, "Can I use your phone?" I
14 said, "Sure, I'll get off of it," and I hung up on the
15 person I was talking to and I handed him the phone.

16 Q Okay. All right. And what did he do with it? Don't
17 tell me if he actually had a conversation -- don't tell me
18 what he said if he talked to somebody, but did he actually
19 talk to anybody?

20 A No, ma'am.

21 Q And so how long did you let him hold your phone?

22 A He didn't get to finish the call.

23 Q Why didn't he get to finish the call?

24 A There was cop cars coming around the block and he just
25 took off, and I said, "My phone," because I didn't know what

MICHAEL ROBERTS - DIRECT

1 was going on, and he dropped it and he took off.

2 Q So did you get your phone back?

3 A Yes, ma'am, he dropped it and took off.

4 Q And took off? Okay. You said that whenever you saw
5 him that he was kind of sweating a little bit.

6 A Yes, ma'am.

7 Q All right. Was it -- it was November the 8th of 2017,
8 do you recall if it was cool that night? Warm?

9 A Yes, ma'am. I think it was like in the '40's, I
10 believe. It was kind of cool.

11 Q Was he by himself or with anybody?

12 A He was by his self.

13 Q And do you know whether or not he has any relatives
14 that live in that area?

15 A Yes, ma'am.

16 Q What relatives live in that area?

17 A His aunt lived to my right, he had to cross the street
18 to go over there. You can see her house from the right-hand
19 side of my house.

20 Q Okay. So Jerrell Brockman's aunt lives across on the
21 other side of the street from your house.

22 A Yes, ma'am.

23 Q And have you ever actually been into that home?

24 A Yes, ma'am.

25 Q And do you know what that address is by chance?

MICHAEL ROBERTS - DIRECT

- 1 A No, ma'am.
- 2 Q That's okay, that's not a problem. I'm going to show
3 you a couple of pictures and just ask you if you recognize
4 this particular house. Does that look familiar?
- 5 A Yes, ma'am.
- 6 Q Okay. State's 1 is a wider shot of the house. Whose
7 house is that?
- 8 A That's his aunt and them's house.
- 9 Q His aunts?
- 10 A I can't place her name right now, but --
- 11 Q It's okay. But is that the defendant's aunt's house?
- 12 A Yes, ma'am.
- 13 Q All right. And is that on Gardendale?
- 14 A Yes, ma'am.
- 15 Q And if you walk across the street would you run into
16 her house?
- 17 A Yes, ma'am.
- 18 Q And is this the actual address?
- 19 A Yes, ma'am.
- 20 Q So State's 1 and 2. All right. Now, Mr. Roberts,
21 before that night, when was the last time you had actually
22 seen Mr. Brockman, do you recall?
- 23 A I guess it's been a week or two.
- 24 Q A week or two. Okay. And so on that particular night
25 whenever you saw him, was it unusual for him to just come by

MICHAEL ROBERTS - DIRECT

1 your house?

2 A Yes, ma'am.

3 Q So when that happened at that point in time were you
4 expecting him or anybody else?

5 A No, ma'am.

6 Q And whenever the police showed up, what did you do?

7 A I sat down, because --

8 Q I understand. I mean, did you actually talk to anybody
9 that -- any of the police officers that showed up?

10 A Yes, ma'am.

11 Q Okay. That's what I'm asking you. And whenever you
12 talked to law enforcement, did you provide them with
13 information about the defendant, Mr. Brockman?

14 A Yes, ma'am.

15 Q Okay. All right. And what if anything did you tell
16 them about his connection to that area and relatives?

17 A I just told him that his aunt and them lives to my
18 right.

19 Q And do you remember who it was that you gave that
20 information to?

21 A The fellow right there on -- behind you, to the left of
22 me.

23 Q Chief Sprouse?

24 A Yes, ma'am.

25 Q And so you provided that information to him?

MICHAEL ROBERTS - DIRECT

1 A Yes, ma'am.

2 Q And after you did that, did you have any -- did you
3 assist law enforcement or give them any other information
4 after that time?

5 A I just handed them my phone and said they needed
6 anything out of it -- because I told them he used my phone
7 and he dropped it when he left.

8 Q He dropped it and then he left. Okay.

9 MS. LIVELY: Thank you so much. Mr. Roberts, please
10 answer any -- hold on just a second.

11 (Break in proceedings.)

12 Q I'm sorry, Mr. Roberts, I do have one more thing I want
13 to ask you just so the jury can better understand if you
14 don't mind. And I'll ask you -- this will be the last
15 little question for you if you don't mind stepping down.
16 I'm going to show -- all right, sir. I'm going to show you
17 this, it's been -- it's in evidence as State's Exhibit
18 Number 30, okay? And if you don't mind just kind of back up
19 just so the jury can see, you're fine. Now, do you see the
20 road that's actually listed as Gardendale Circle?

21 A Yes, ma'am.

22 Q You need to just make sure you speak up loudly, okay?

23 A Yes, ma'am.

24 Q Now, in regards to [REDACTED] Gardendale Circle, where is your
25 house?

1 A Right here, ma'am.

2 Q Right across the street.

3 A Yes, ma'am.

4 Q All right. And once again, who lives at 546? You
5 don't have to give me her name but just tell me again.

6 A That's his aunt's house.

7 Q That's the defendant's aunt's house.

8 A Yes, ma'am.

9 Q Thank you so much. You can have a seat.

10 MR. FRICK: Your Honor, I don't have any questions for
11 this witness.

12 THE COURT: Thank you, sir, you can step down.

13 MS. LIVELY: You're excused from your -- may he be
14 excused, Your Honor?

15 THE COURT: Yeah. You're free to leave, sir.. All
16 right, ladies and gentlemen, we're going to take our
17 midafternoon recess, before we do that let me appoint a
18 foreperson for the trial jury. Ms. Sinclair, I'm going to
19 ask that you be the foreperson for the trial jury, thank you
20 for volunteering by the way. But anyway, I always appoint,
21 it's just been my habit over the years I've been a judge to
22 appoint rather than to allow juries to elect, different
23 judges do it different ways, I've always appointed. But
24 anyway, I will ask, as the foreperson of the jury you will
25 actually be -- you'll preside over deliberations in the jury

1 room once you get to start deliberating the case. You'll
2 also be the jury spokesperson here in the court, okay? And
3 it will be your duty and your duty alone to write whatever
4 verdict it is, and I will explain that to you in great
5 detail whenever we get to that point in the trial where I'll
6 go over the actual verdict form with you. But you can't
7 sign the verdict form until it is a unanimous decision, and
8 I'll go over all of that in detail, okay? So thank you for
9 agreeing to serve in that capacity. So at this point in
10 time we're going to take an afternoon recess, y'all do not
11 talk about the case, okay?

12 (The jury left the courtroom and a recess was taken.)

13 THE COURT: All right. Anything before we take a
14 recess?

15 MS. LIVELY: Not from the State, Your Honor.

16 THE COURT: All right. Mr. Frick and Ms. Boulware,
17 anything?

18 MR. FRICK: No, sir.

19 (A break was taken.)

20 THE COURT: All right. Anything else before we bring
21 the jury back?

22 MS. LIVELY: Well, Your Honor, just to give the defense
23 a heads-up in case he wants to go ahead and put his
24 objection -- I know he wants to object in front of the jury,
25 but I'm getting ready to call Johnny Neal with the sheriff's

1 office. If you recall when we did our suppression hearing
2 the issue was whether or not they had consent to actually go
3 into the building that was on the side of the house, and
4 that he had spoken with Lakeisha Jones and gotten consent to
5 search the property so he's going to be testifying about
6 that. And so I understand, of course, that there's going to
7 be an objection in that regard, but I wanted to go ahead and
8 let the Court know that was my next witness.

9 THE COURT: All right, that's fine.

10 MR. FRICK: And, Your Honor, if you'll recall from that
11 hearing, Ms. Jones testified that she gave consent to the
12 yard, not the house.

13 THE COURT: Right.

14 MR. FRICK: I'm sure I'll cross examine him about that,
15 but --

16 THE COURT: Sure, that's fine. And I made my ruling on
17 that, you're protected in the record, Mr. Frick. Certainly
18 you can make your objection contemporaneously with that
19 evidence coming in and I will note that for the record and
20 deny it once again for the record.

21 MR. FRICK: And, Your Honor, while we're on that
22 subject there was some photos that I had made an objection
23 to, it was the only ones that I had objected to, they're
24 photos from the scene of that search, it's the purse and
25 stuff like that that were found at the house and maybe even

JOHNNY NEAL - DIRECT

1 of that house, I can't remember the State's number on here
2 right now, but there was a stack of them and I made my -- I
3 renewed my objection at that time. I just want to clarify
4 for the record, the objection was that the search hearing,
5 the suppression hearing we had --

6 THE COURT: Right. That those are the fruit of the
7 poisonous tree, correct, that they should be suppressed and
8 I denied that.

9 MS. LIVELY: It's 11 through 19.

10 MR. FRICK: 11 through 19, State's 11 through 19.

11 THE COURT: State's 11 through 19 are admitted over
12 objection.

13 (The photos were received as State's 11-19.)

14 THE COURT: Okay. Let's bring in the jury.

15 (The jury returned to the courtroom.)

16 THE COURT: All right. All members of the jury are
17 present. Madam Solicitor, you may call your next witness.

18 MS. LIVELY: The State would call Johnny Neal to the
19 stand.

20 The witness, JOHNNY NEAL, was first duly sworn and
21 Testified as follows:

22 DIRECT EXAMINATION

23 BY MS. LIVELY:

24 Q Mr. Neal, please state your name and your rank for the
25 jury.

JOHNNY NEAL - DIRECT

1 A Lieutenant Johnny Neal with the Chester County
2 Sheriff's Office.

3 Q How long have you been with the Chester County
4 Sheriff's Office?

5 A Ten years.

6 Q And what were your duties at the sheriff's office?

7 A I'm the lieutenant over narcotics.

8 Q And did you have an opportunity to assist in an
9 investigation involving an armed robbery that occurred in
10 the City of Chester, November 8th of 2017?

11 A Yes, ma'am.

12 Q And this was a joint effort between the county and the
13 city, is that a fair statement?

14 A Yes, ma'am.

15 Q So whenever you received information about this
16 particular investigation, what information did you have
17 regarding your needs to assist?

18 A I was asked by Chief Deputy Robert Sprouse to go make
19 contact with the homeowner and get consent to search.

20 Q All right. So let me back you up for just a minute.
21 Where did you first respond location wise whenever you got
22 involved with this case?

23 A Gardendale Circle.

24 Q All right. And when you responded to Gardendale
25 Circle, did you know where you were going to be going and

JOHNNY NEAL - DIRECT

1 who you were going to be talking to?

2 A No, ma'am.

3 Q All right. How did you learn that information about
4 where to go at that point?

5 A Chief Deputy Robert Sprouse advised me to go make
6 contact with the homeowner.

7 Q All right. Do you know Michael Roberts, the gentleman
8 who testified just a few minutes ago that lives on
9 Gardendale?

10 A Yes, ma'am.

11 Q Okay. And did you -- were you familiar with where he
12 lives?

13 A Yes, ma'am.

14 Q So when you were -- when you learned where you were
15 supposed to go, was that once again through the chief
16 deputy?

17 A Yes, ma'am.

18 Q So what was the actual address that you went to then?

19 A I couldn't tell you right off.

20 Q I'm going to show you a picture and ask you if you
21 recognize -- I'm sorry these are not actually in evidence
22 yet. Lieutenant Neal, I'm going to show you a photo that's
23 been marked as State's Exhibit Number 1, and ask you if you
24 recognize that photo?

25 A Yes, ma'am.

JOHNNY NEAL - DIRECT

1 Q Okay. And would you please tell the jury what that is
2 a photo of?

3 A That's a photo of the house, which it says on the door
4 is 546, and that's the house that I made contact with the
5 homeowner and got consent to search the premises.

6 Q All right. Now -- and once again, this particular
7 picture, does that just further identify the home?

8 A Yes, ma'am.

9 Q All right. And whenever you went to the home and made
10 contact with this person, was this a residence that -- do
11 you know or did you know where the defendant, Jerrell
12 Brockman, lived at that time?

13 A No, I did not.

14 Q Okay. Did you have any information that he was living
15 at that particular residence?

16 A No, I did not.

17 Q So when you went to that house and you made contact
18 with the person inside, was that the homeowner?

19 A The first person I made contact with was a juvenile,
20 and then -- I believe she was to be a juvenile, but she said
21 she didn't own the house, so she got the owner of the home.

22 Q And did you make contact with the owner of the home?

23 A Yes, I did.

24 Q Do you recall what her name was?

25 A No, ma'am.

JOHNNY NEAL - CROSS

1 Q All right. And after you made contact with the
2 homeowner, did you explain to her that it was actually an
3 investigation?

4 A Yes, ma'am.

5 Q And at that time did you receive consent to search, and
6 what type of consent did you receive?

7 A Yes. She gave me verbal consent at the time and she
8 said we could check her property because nobody was supposed
9 to be there.

10 Q Now, did you go into this person's home?

11 A No, I did not. I talked to her at the doorway.

12 Q All right. Did you conduct any of the search yourself?

13 A No, ma'am.

14 Q All right. After you actually got the consent to
15 search from the homeowner, did you have any other dealings
16 with this particular investigation?

17 A No, ma'am. I was standing on the porch.

18 MS. LIVELY: All right. Okay. Thank you, answer any
19 questions that the defense may have.

20 CROSS EXAMINATION

21 BY MR. FRICK:

22 Q Other than talking to this homeowner you had nothing
23 else to do with the case.

24 A No, sir.

25 Q Okay. And your testimony is that she gave you consent

ROBERT SPROUSE - DIRECT

1 to search the property?

2 A Yes, sir.

3 Q Okay. Was there any paperwork on that? Did she sign
4 anything?

5 A At that time she didn't sign anything.

6 Q And, of course, y'all got consent so no one gets a
7 search warrant, correct?

8 A At that time we didn't need a search warrant, she gave
9 us consent to search.

10 Q That's what I'm saying, y'all didn't get one, right?

11 A I didn't get one.

12 Q Did anybody get one?

13 A I'm not sure.

14 Q Well, I mean, then y'all conducted the search, right?

15 A I didn't conduct the search, I stayed on the porch.

16 Q Was a search conducted?

17 A There was a search of the premises conducted.

18 Q After she said whatever she said.

19 A Yes, sir.

20 MR. FRICK: Okay. Thank you, sir, that's all of the
21 questions I have.

22 THE COURT: Thank you, sir, you can step down, you're
23 free to leave. Call your next witness.

24 MS. LIVELY: Thank you, Your Honor. The State would
25 call Chief Deputy Robert Sprouse.

ROBERT SPROUSE - DIRECT

1 The witness, ROBERT SPROUSE, was first duly sworn and
2 Testified as follows:

3 DIRECT EXAMINATION

4 BY MS. LIVELY:

5 Q Chief Deputy Sprouse, where are you currently employed?

6 A Chester County Sheriff's Office.

7 Q And how long have you been employed by the sheriff's
8 office?

9 A Since 1996.

10 Q And what are your duties as a chief deputy.

11 A Supervising the entire department under Sheriff
12 Underwood.

13 Q And do you at times actually go to scenes of crimes in
14 the particular county or City of Chester?

15 A Yes, ma'am.

16 Q All right. And did you have the opportunity on
17 November the 8th of 2017 to assist in an investigation that
18 was going on by the City of Chester regarding an armed
19 robbery?

20 A I did.

21 Q All right. Please tell the jury how you became
22 involved in that investigation.

23 A I was notified that the city did have an armed robbery
24 at the church, I responded to the church that evening. Once
25 I got to the church I started to assist with the perimeter.

ROBERT SPROUSE - DIRECT

1 Q All right. And did you actually ever have an
2 opportunity to speak with the victim in this case, Ms.
3 Katherine Waldrip?

4 A I did not.

5 Q You did not. All right. So when you arrived in the
6 perimeter of the First Baptist Church in the city limits,
7 what was your goal at that point in time?

8 A To make sure that we did have a secured perimeter in
9 the area.

10 Q All right. Were you there whenever a bloodhound was
11 requested by the city?

12 A Yes. Actually the bloodhound was already on scene
13 tracking prior to my arrival.

14 Q All right. Do you know how quickly they actually
15 arrived on scene after the 911 call went out?

16 A It was my understanding it was very quickly after the
17 call.

18 Q And were you able to assist in securing the area for
19 people going in and out of both Branch Street as well as I
20 think it's West Lacy?

21 A Yes, I was.

22 Q All right. Did you have any interaction with the city
23 officers in their followup investigation?

24 A I did not.

25 Q At what point in time -- or did you ever actually leave

ROBERT SPROUSE - DIRECT

1 that particular area and relocate?

2 A Yes, ma'am, I did. We received information that the
3 suspect may have been picked up and relocated at a location
4 near Gardendale and the determination was made to move the
5 perimeter to that area.

6 Q All right. Now, are you aware as to whether or not
7 when the bloodhound was at the original scene before you
8 moved, whether or not they were able to actually locate the
9 area where the robbery had taken place?

10 A Yes, I was.

11 Q All right. But did you have any dealings with the
12 bloodhound and the handler at all?

13 A No, ma'am.

14 Q All right. Now, whenever -- you said you received
15 information that the suspect may have been picked up and
16 taken to another area, was everybody notified of this
17 information so that a new perimeter could be set up?

18 A Yes, ma'am.

19 Q All right. So do you know how many law enforcement
20 officers actually relocated to this new area?

21 A I do not know the exact number. We had a lot of law
22 enforcement involved including the county, the city and
23 officers from the sheriff's office task force to include
24 Union, Fairfield, and I think some more counties.

25 Q Okay. And at that point in time what information did

ROBERT SPROUSE - DIRECT

1 you have in regards to the possibility that the person was
2 still armed?

3 A We all had reason to believe he was still armed because
4 I hadn't located any firearm up to that point.

5 Q Okay. At any point in time did you receive -- did you
6 have any knowledge as to who the suspect was?

7 A No, ma'am, I did not.

8 Q Well, tell the jury what happened when you got to
9 Gardendale and the new perimeter was being set up.

10 A Well, the decision was made to move perimeter to
11 Gardendale. We started directing units to that area to get
12 set up. During that time radio traffic came over that they
13 had a suspect running on Gardendale. At that time I knew we
14 were still setting up perimeter because we knew there was a
15 suspect running, K-9 was able to get on the ground and then
16 apprehend this individual. Once that subject was
17 apprehended that's when I arrived on scene on Gardendale
18 Drive.

19 Q When you arrived on the scene there, did you encounter
20 any witnesses or people who had information regarding this
21 case?

22 A Yes, ma'am, I did.

23 Q And who was that that you spoke to?

24 A Michael Roberts.

25 Q All right. Does he go by any other names?

ROBERT SPROUSE - DIRECT

1 A Peewee.

2 Q Peewee. All right. And where does Mr. Roberts live?

3 A At 555 Gardendale Circle.

4 Q And after you -- or did you speak with Mr. Roberts?

5 A I did.

6 Q And what information was he able to provide you
7 regarding possibly the defendant or the suspect?

8 A Well, once I arrived on scene at Gardendale I was told
9 by other officers where he originally -- the suspect
10 originally ran from, I knew that to be Michael Roberts'
11 residence. I went down there and saw Michael Roberts
12 standing outside, I had a conversation with him. He then
13 advised me that he knew the individual that ran is Mr.
14 Brockman, he then advised me of the direction that he came
15 to his house and asked him to use the phone. He said it was
16 odd that he had --

17 MR. FRICK: Objection, hearsay.

18 MS. LIVELY: Your Honor, this witness has just
19 testified.

20 MR. FRICK: That doesn't make it not hearsay.

21 THE COURT: Overruled.

22 Q And so after the -- so you're speaking with Mr. Roberts
23 at that time. So what information came from Mr. Roberts
24 that assisted you with the next step in your investigation?

25 A Well, again he advised the direction that this

ROBERT SPROUSE - DIRECT

1 individual came from, pointed out the residence, which ended
2 up being I believe [REDACTED] Gardendale. I then directed
3 Lieutenant Johnny Neal to make contact with the homeowner to
4 give consent. Michael Roberts did state that anything -- if
5 he did anything wrong that's where it would be.

6 Q Now, whenever you asked Lieutenant Neal to gain
7 consent, were you advised by Lieutenant Neal that consent
8 had actually been given at that point in time?

9 A I was.

10 Q So what was the next step in regards to what you and
11 the rest of your law enforcement officers did?

12 A Once Lieutenant Neal got that consent to search they
13 sent other units to search around the house in the
14 perimeter. Once I got done with my conversation with
15 Mr. Roberts I then went over to the residence to help with
16 that search.

17 Q All right. And once again, was this -- it was
18 obviously still nighttime, correct?

19 A Yes, ma'am.

20 Q And were y'all using -- was there a lot of lights
21 around there or did you have to use flashlights in your
22 search?

23 A The only lights that were around were the street lights
24 at night, but yes, officers did have to use their
25 flashlights.

ROBERT SPROUSE - DIRECT

1 Q So who was actually conducting the search on the
2 property?

3 A We had several officers there.

4 Q And were you one of those?

5 A Yes, ma'am.

6 Q Tell the jury specifically what you did.

7 A Once I arrived at [REDACTED] Gardendale to assist the other
8 officers with the search I went to the left side of the
9 house and made my way around to the back side. Once I went
10 to the back side I opened -- I noticed an open door on the
11 back side of the house, which this is an attachment to the
12 house like a storage shed or a storage room, but the door
13 was open far enough to where I could look in, so I went to
14 check that area. Once I did that's when I noticed a firearm
15 in that room.

16 Q When you noticed that, what did you do?

17 A Well, I immediately notified the others and to get an
18 investigator in route.

19 Q Who was the investigator that actually responded to the
20 scene?

21 A It was Brian Sanders.

22 Q And who would have been the one to collect any evidence
23 that was located at this location?

24 A It would have been Brian Sanders.

25 Q At the time whenever you said that you saw what you

ROBERT SPROUSE - DIRECT

1 believed to be a firearm, did you look at anything else that
2 was in that storage building?

3 A I did.

4 Q You did? Did you see anything else in that storage
5 building?

6 A A pocketbook and several items scattered across the
7 counter.

8 Q All right. At any point in time did you take a photo
9 of any of those items that you actually got a glimpse of in
10 that storage building?

11 A I did. I was asked by Major McDaniel to take a photo
12 of the purse and send it to him.

13 Q Did you do so?

14 A I did.

15 Q I'm going to show you what's already in as State's
16 Number 12. Do you recognize that?

17 A I do.

18 Q All right. And tell the jury, is this the photo
19 that -- of this item that you sent to Mr. McDaniel?

20 A It is.

21 Q Now, after you actually -- those items were identified
22 and you called in your investigator, Brian Sanders, to the
23 scene, did you do any other work or investigating on the
24 case?

25 A I did not.

ROBERT SPROUSE - DIRECT

1 Q So after you finished that particular event, did you
2 have any other conversations with the victim, Ms. Katherine
3 Waldrip, in this case?

4 A No, ma'am.

5 Q The one thing did want to show you --

6 MS. LIVELY: I'm going to mark this as State's 46.

7 THE COURT: Any objection?

8 MR. FRICK: No, sir, I don't object to that.

9 THE COURT: Admitted into evidence.

10 (The map was received as State's 46.)

11 Q If you would, please, Chief Deputy Sprouse, if you
12 would step down for just a minute. Well, first of all I'm
13 just going to show you so that we can show -- so you can
14 show the jury, where was the first place again that you
15 actually showed up in regards to setting up a perimeter when
16 you got the call?

17 A It was at the church if I can see --

18 THE COURT: Make sure you speak up.

19 A Yes. It would have been showed up right behind the
20 church here on Akin Street.

21 Q All right. And after you showed up there at Akin
22 Street, at some point in time did you move anywhere else in
23 the perimeter or was that the general area you stayed?

24 A At that time once I arrived on here and basically got
25 all of the details of everything that's going on, what I

ROBERT SPROUSE - DIRECT

1 normally do then is start checking this entire area as far
2 as our perimeter, because our main goal is to make sure that
3 that perimeter is tight so if that suspect is still in there
4 he stays in there so the K-9 can do their job. So most of
5 my job is making sure that I have people placed in the right
6 location.

7 Q Do you remember about how long y'all stayed in that
8 area before you relocated the perimeter?

9 A I do not.

10 Q And that's fine. But at some point in time you've
11 already testified that you did have to relocate based on new
12 information you received.

13 A Yes.

14 Q So I'm going to show you -- again, this is State's
15 Exhibit Number 30. Show the jury where you arrived on scene
16 and where you went.

17 A Prior to the suspect jumping and running on Gardendale,
18 we just started setting up perimeter on the Saluda Street
19 bypass basically making a complete square around this area
20 so that we can keep the subject locked down inside that
21 perimeter. Once the K-9 got there and they tracked him to
22 his residence and said that they had a subject in custody,
23 that's when I come down to Gardendale approximately here
24 where I was notified of where the subject actually ran from,
25 which was this location, which would be 555 Gardendale.

ROBERT SPROUSE - DIRECT

1 This is where I made contact with Michael Roberts.

2 Q Okay. All right. And then once you made contact with
3 Michael Roberts you've already testified to this, where did
4 you seek consent to search?

5 A I sent Lieutenant Johnny Neal to ■ Gardendale Circle.

6 Q And where were you able to -- where did you actually
7 locate the items such as the purse and a weapon on that
8 property?

9 A I'm not sure if you can see it, but at the very back of
10 the house is an attachment to the house, it's probably no
11 more than five foot by six foot area, which is attached to
12 the back of the house. It does not lead into the house,
13 it's just an outside door that you -- but as I come around
14 the back of the house I noticed this door open, so that's
15 why -- the first thing I check is -- an open door is a
16 danger to us and to all of my officers so that's the first
17 thing I'm going to check. So as soon as I walk up to the
18 door and I look in, the first thing I see is a weapon to my
19 left of the door.

20 Q And I'm going to show you what's now in evidence as
21 well, which is a bigger overview just to kind of show. If
22 you would just show the jury what you and the city had to
23 deal with on that night in regards to a perimeter. Can you
24 kind of get acclimated as to what we're looking at here?

25 A Yes. So again, if this is your incident location here,

ROBERT SPROUSE - DIRECT

1 First Baptist Church looking at having to cover all of this
2 area here, again we're looking at a time frame of when it
3 might happen, how long the subject has from the time it
4 happened until we start getting the perimeter set up. If
5 you only had one or two officers, you're still going to have
6 open spots, but as officers are showing up we are focusing
7 on getting them in areas to get that covered, okay? Once
8 this is covered and we realized that the subject may have
9 gone to Gardendale, we have to move all of these officers
10 over to this area.

11 Q All right. And once again, was this a joint effort
12 between yourself, the county as well as the city officers?

13 A Yes.

14 Q All right. Thank you. Chief Deputy Sprouse, I'm going
15 to show you the CAD report to help refresh your
16 recollection. And what I want you to tell this jury is from
17 the time the 911 call came in until the time that it was
18 cleared -- not the time it was cleared, I'm sorry, until a
19 time that the suspect was in custody, and just take your
20 time, tell me about how long that was from the time that
21 they arrived until it says that the call came that a subject
22 was in custody.

23 A Well, first the incoming call was at 7:49:06 p.m.

24 Q Okay. So 7:49:06 p.m. was the incoming call.

25 A And I'm showing that 22:11 we were 1067, had a subject

ROBERT SPROUSE - DIRECT

1 in custody.

2 Q If you will hand that to me. I'm going to refer you
3 to -- all right. So would you tell me looking on page two
4 if you could recall, at what time was there information
5 received by law enforcement that there was a new area that
6 you needed to set up a perimeter?

7 A At 8:33.

8 Q At 8:33. And at that point in time is when you've
9 already shown this jury that y'all had to move everything
10 over to the Gardendale Circle, correct?

11 A Yes, ma'am.

12 Q And if you would, please, at what point in time did you
13 learn that law enforcement actually had the subject detained
14 and in custody?

15 A Detained at 21:00, 9:00.

16 Q So from 7:49 p.m. when the call comes through and then
17 at 9:00 the defendant is detained and in custody.

18 A Correct, yes, ma'am.

19 Q I'm just going to show you State's 4, 5 -- 3, 4, 5, 7
20 and 8 -- 3, 4, 5, 7 and 8. Do you recognize those photos?

21 A Yes, ma'am, I do.

22 Q Okay. And do those photos accurately reflect what you
23 saw whenever you actually peeked into that storage room on
24 the side of the house at [REDACTED] Gardendale?

25 A Yes, ma'am, I do.

ROBERT SPROUSE - CROSS

1 Q And once again I had already asked Lieutenant Neal
2 about State's Exhibit 1 and 2. Is this the home that had
3 the attached storage building?

4 A Yes, ma'am.

5 Q And then finally the photo that I showed that is
6 already in evidence, 12. Was this the purse that you saw
7 when you -- or was this the purse that you took a picture of
8 and sent to Major Burley?

9 A Yes, it is.

10 Q Or Major McDaniel, I'm sorry.

11 MS. LIVELY: Your Honor, the State would move to enter,
12 1 and 2, and then 3, 4, 5, 7 and 8.

13 MR. FRICK: Your Honor, defense renews its objection as
14 previously ruled upon.

15 THE COURT: All right. Objection overruled and noted
16 for the record.

17 (The photos were received as State's 1-5, and 7-8.)

18 MS. LIVELY: Your Honor, at this time the State would
19 ask to publish these pictures to the jury.

20 THE COURT: Permission to publish granted.

21 MS. LIVELY: Thank you, Chief Deputy Sprouse, please
22 answer any questions that the defense may have for you.

23 MR. FRICK: Judge, I wanted to ask him some questions
24 about those pictures. Can -- wait for them or --

25 THE COURT: Yeah. Let's do that and then you can

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1 publish them.

2 MS. LIVELY: That's fine.

3 CROSS EXAMINATION

4 BY MR. FRICK:

5 Q So you got over to Gardendale and you had already known
6 Michael Roberts for some time?

7 A Yes, sir.

8 Q And spoke to him about just general information trying
9 to figure out what was going on?

10 A Yes, sir.

11 Q Okay. I'm going to show you State's Number 3. Is this
12 the attachment that we're talking about?

13 A Yes, sir.

14 Q And that is attached to the house, correct?

15 A Yes, sir.

16 Q It's not an outside shed, it's literally attached to
17 the house.

18 A Yes, sir.

19 Q The door is wide open in this picture.

20 A Yes, sir.

21 Q Is that what it looked like when you saw it?

22 A No, sir.

23 Q How far open was it when you saw it?

24 A Further than shoulder width apart.

25 Q Shoulder width apart? Okay. To your knowledge, was

ROBERT SPROUSE - CROSS

1 there any photograph of its appearance when you first got
2 there?

3 A No, sir, not to my knowledge.

4 Q Okay. And so you're standing outside the door looking
5 in.

6 A Yes, sir.

7 Q Okay. And that's when you said you see the weapon.

8 A That's after I leaned in and looked to the left.

9 Q Right, leaned into the door.

10 A Yes, sir.

11 Q Okay. All right. Leaned into the door and then you
12 see a weapon. About where was it located?

13 A Right immediately to my left.

14 Q Okay. And I think that says State's Number 8, is that
15 the weapon we're talking about?

16 A Yes, sir.

17 Q And then the purse. Can you tell me -- I don't think I
18 have the photograph -- yeah, I do. Number 12, is that the
19 purse?

20 A Yes, sir.

21 Q About where is it?

22 A On a counter to the left.

23 Q How did you see it?

24 A Again, as I looked in I seen the weapon, I shined my
25 light across, it was laid across the table.

ROBERT SPROUSE - CROSS

1 Q Okay. All right. But you actually had to go inside
2 the door to do that; is that correct?

3 A I just -- again, as I leaned into the door I see the
4 weapon, shine my light across and that's when I see
5 everything else.

6 Q Okay. Were there items of clothing in there as well?

7 A I don't recollect.

8 Q Well, hold on, that's State's Number 7. That looks
9 like a T-shirt to me.

10 A Yes, sir.

11 Q That would be an item of clothing, right?

12 A Yes, sir.

13 Q Do you recall whether there were other items of
14 clothing in there?

15 A My focus was on the weapon and then again on the purse
16 and the other items across the counter.

17 Q Okay. Isn't the gun laying on that shirt?

18 A Yes, sir.

19 Q That doesn't make it an item of interest?

20 A My focus was on the weapon.

21 Q Which was on that shirt.

22 A Yes, sir.

23 Q Okay. This is it looks like State's Number 6. Is this
24 still in the shed?

25 A Yes, sir.

ROBERT SPROUSE - CROSS

1 Q I know it's kind of a fuzzy picture but let me ask you
2 a question. That's the gun we're talking about, right?

3 A Yes, sir.

4 Q These are some of the other items, correct?

5 A Yes, sir.

6 Q There's a drink bottle there.

7 A Yes, sir.

8 Q Anybody collect it?

9 A I do not know.

10 Q Okay. I think I've got a little better picture of it,
11 hold on. Let me show you States Number 11. Is that about
12 the same thing except a closer view of what I was just
13 showing you?

14 A Yes, sir.

15 Q Is that that same drink bottle?

16 A Yes, sir.

17 Q Okay. Was it Brian Sanders that collected the
18 evidence?

19 A I believe so, yes, sir.

20 Q It wasn't you, that's what I'm getting at.

21 A No, sir.

22 Q You just basically secured the area and then someone
23 else came in and collected the evidence.

24 A Correct.

25 MR. FRICK: That's all of the questions I have. I'll

MATT FAILE - DIRECT

1 pass these back over if you still --

2 MS. LIVELY: No further questions, Your Honor.

3 THE COURT: All right. Any redirect?

4 MS. LIVELY: One moment, Your Honor.

5 (Break in proceedings.)

6 MS. LIVELY: No further questions.

7 THE COURT: Thank you, sir, you can step down.

8 MS. LIVELY: The state would call Matt Faile to the
9 stand.

10 The witness, MATT FAILE, was first duly sworn and

11 Testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LIVELY:

14 Q Deputy Faile, please give your full name to the jury
15 and what your job duties are.

16 A Sergeant Matt Faile. I am over the interdiction team
17 and bloodhound handler.

18 Q Bloodhound handler. And do you have a bloodhound that
19 you currently work with or that you have worked with in the
20 past?

21 A Yes, ma'am.

22 Q And is it a male or female?

23 A Female.

24 Q What's her name?

25 A Sadie Mae.

MATT FAILE - DIRECT

1 Q Sadie Mae. And how old is Sadie Mae?

2 A She's almost three years old.

3 Q When did you actually get Sadie Mae?

4 A May of 2016.

5 Q And where did she come from?

6 A From SLED.

7 Q And what is her bloodline? Not -- don't tell me about
8 her like sire and all of that stuff, but just what kind of
9 dog is she?

10 A She's Bloodhound and Redbone mixed.

11 Q And why do you -- in regards to tracking, is there a
12 preference of a type of a dog to get to do those types of
13 tracks?

14 A Yes, ma'am. Bloodhounds are the only dog that can
15 track human odor, and we mix the Bloodhound with the Redbone
16 to get -- because the Bloodhound is too heavy for the heat,
17 so we mixed the Bloodhound with the Redbone. As a matter of
18 fact, my sheriff -- sheriff and them did that when he was
19 working at SLED so they can withstand the heat.

20 Q So the Redbone and the Bloodhound is her mix?

21 A Yes, ma'am.

22 Q And once again, this is actually a dog that SLED will
23 do -- do you get them donated to you, or how do you actually
24 get to dog?

25 A Well, they just have a bunch of liters and you can get

MATT FAILE - DIRECT

1 on a list to get one and they donate it to you.

2 Q All right. So you didn't buy her.

3 A No, ma'am.

4 Q All right. Now, Sergeant Faile, did you go through any
5 kind of training in order to learn how to work with Sadie
6 Mae and her human odor tracking?

7 A Yes, ma'am.

8 Q All right. Tell the jury what kind of trainings you
9 did and about how many you did.

10 A Well, I've trained with her over 60 times. But I
11 also -- we had a week long tracking bloodhound training with
12 over 30 miles worth of tracks.

13 Q And you mentioned the sheriff, Sheriff Alex Underwood,
14 has he -- does he do some of the training or all of the
15 trainings for your agency?

16 A Yes, ma'am, he does all of the training.

17 Q And do you know whether or not he's ever been qualified
18 as an expert in the field?

19 A Yes, ma'am, he has.

20 Q Do you know how long he actually worked doing tracking?

21 A I think it was like 1987, so since the late 80's he's
22 has been messing with bloodhounds.

23 Q And whenever you became involved with Sadie Mae, did
24 you -- you said that you had 60 trainings with her.

25 A Yeah, over 60 trainings with her.

MATT FAILE - DIRECT

1 Q And during that time, was she a reliable human odor
2 tracker?

3 A Yes, ma'am, very reliable.

4 Q Did you have successful tracking with Sadie Mae?

5 A Yes, ma'am.

6 Q And at the time whenever you were called in on
7 November 8th of 2017 to deploy her for this particular case,
8 had she continued to be reliable in human odor tracking?

9 A Yes, ma'am.

10 Q All right.

11 MS. LIVELY: Your Honor, at this time the State would
12 offer Sergeant Matt Faile as an expert in handling of a
13 bloodhound human odor tracker.

14 THE COURT: Any voir dire of this witness?

15 MR. FRICK: No further voir dire. I just renew my
16 previous objection to dog tracking evidence.

17 THE COURT: Thank you, he's so qualified. Ladies and
18 gentlemen of the jury, listen to me, typically when a
19 witness testifies a witness can only testify about what they
20 saw, heard, smelled or something of the like, okay? There
21 is an exception for witnesses which are called expert
22 witnesses, because of their expertise in a particular field
23 of training or science or education they can testify in the
24 form of an opinion, okay? Now, just because an expert
25 witness can testify in the form of an opinion doesn't mean

MATT FAILE - DIRECT

1 you have to accept the opinion, you just simply will give it
2 the weight and credibility you believe it deserves when you
3 hear all of the evidence, okay?

4 MS. LIVELY: Thank you, Your Honor.

5 Q Now, Sergeant Faile, I briefly brought up the date of
6 November the 8th of 2017. Please tell the jury exactly why
7 you were called in to assist on that particular evening.

8 A Well, I was actually the only bloodhound handler at the
9 time. We was all out working and we received a call from
10 the city that they had an armed robbery at the First Baptist
11 Church and within minutes we was in route to them.

12 Q And did you have Sadie Mae with you at the time?

13 A Actually I had another officer get her from the kennels
14 at the office and meet me at the church.

15 Q All right. When you got to the church, what did you do
16 with Sadie Mae in order to begin the process of human odor
17 tracking?

18 A Well, before I got her out of the vehicle I got all of
19 the information from Officer Harris with the city about
20 location where the robbery happened and a direction of
21 travel, which way the suspect ran when he left.

22 Q Okay. And once you received that information what did
23 you do next?

24 A That's when I got Sadie out, and the terminology we use
25 while we're tracking is we cut in circles until she hits on

MATT FAILE - DIRECT

1 the freshest scent in the direction that the suspect left.

2 Q And would you explain to the jury what that means by
3 the freshest scent in regards to what you're trying to put
4 the dog on?

5 A The freshest scent is the last scent that's left that
6 nobody has been through that area and it's in the direction
7 that the suspect left, it's the last scent that was laid on
8 the ground of human odor.

9 Q Of human odor. And whenever you do that -- so was it
10 critical then to be able to get accurate information from
11 the victim as well as the first responding officer?

12 A Yes, ma'am.

13 Q And were you able to actually have Sadie Mae pick up on
14 some type of human odor that she responded to?

15 A Yes, ma'am.

16 Q Now, let me just ask you this, if she had started to
17 take you back into the church where the victim was what
18 would you have done?

19 A She would have been going the wrong way.

20 Q Fair enough. And the reason why I ask that is because
21 I want to make sure that you explain to the jury, when
22 you're talking about trying to get all of the information
23 that you need and her being able to pick up on a human odor,
24 she would have picked up on either the victim possibly or
25 the suspect, correct?

MATT FAILE - DIRECT

1 A Yes, ma'am. That's why we cut her outside of where the
2 scene was.

3 Q That's what I wanted you to explain to the jury. So
4 when you cut from the outside you're continuing to push
5 out --

6 A Yes, ma'am.

7 Q -- is that what you're saying?

8 A Yes, ma'am.

9 Q Okay. So when you learned where the suspect had
10 actually left the scene, was that where the dog was able to
11 pick up a human odor track?

12 A Yes, ma'am.

13 Q All right. Now, tell the jury where you went -- first
14 of all, do you have the dog on a leash or is she free
15 running?

16 A She's on a leash.

17 Q She's on a leash. Okay. And what did you do at that
18 point when she starts to track?

19 A After she got on the scent that's when I tell her to
20 hunt and then she's locked in four-wheel drive on that
21 scent.

22 Q And where did she take you?

23 A She took me down Akin Street away from Lancaster --
24 I guess -- yeah, that's Lancaster Street, down Akin Street
25 on the side of the road. And then there's a park right down

MATT FAILE - DIRECT

1 from the church on the left, we cut through the park on the
2 sidewalk across to Bird Street, and then across -- behind
3 some houses that lead to Branch Street, and we came out on
4 Branch Street and took a left toward the stop sign on Branch
5 Street.

6 Q All right. And at that point in time had a perimeter
7 already been set up and blocking off traffic as best they
8 could while --

9 A Yes, ma'am.

10 Q Was there any traffic that came through while you were
11 actually with Sadie Mae and she was tracking this human
12 odor?

13 A When I actually pulled up there was a truck pulling up,
14 that's the last any other people that I seen while I was
15 tracking.

16 Q Okay. And when you're saying when you pulled up, was
17 that before you started the tracking?

18 A That was before I started tracking.

19 Q All right. Okay. And where the truck pulled up, was
20 that in the road?

21 A It was in the middle of the road.

22 Q Was it -- that truck, did you see it drive through the
23 area where -- and when I mean the area, I mean literally on
24 top of where the armed robbery had taken place.

25 A No, ma'am, it just drove up Akin Street.

MATT FAILE - DIRECT

1 Q Okay. If you would, Sergeant Faile, I want you to step
2 down and show the jury exactly where Sadie Mae took you on
3 the evening of November 8th, 2017. If you -- and hold on
4 just a second, let me just tell you something. First of all
5 when you get that far in these individuals can't see, so if
6 you would please speak up whenever you tell us. Do you see
7 where you are?

8 A I started -- I put Sadie down right here on Akin Street
9 because the location of the armed robbery was right here, so
10 I cut her in this area here until she picked up on the
11 scent. She took me down the side of the road down Akin
12 Street all of the way to this concrete path through this
13 park, down the sidewalk through this park. And then we
14 crossed over Bird Street and there was a path somewhere
15 right in here where a fence is, we cut through this path
16 over to Branch Street, then took a left on Branch Street to
17 this area here, and this is where she began cutting circles
18 because she knew his feet wasn't on the ground anymore.

19 Q Okay. All right. Thank you, you can have a seat. Do
20 you remember where it was that you started out behind the
21 church with Sadie Mae?

22 A It was a little bit farther down from the little
23 breezeway driveway right there, because I never start right
24 there because that's where the officer's scent is and that's
25 where the victim's scent is going to be.

MATT FAILE - DIRECT

1 Q Okay. I'm not going to show you these other ones. I'm
2 going to show you 37 and 39 to see if that kind of helps you
3 get a visual.

4 A Yeah, right in this -- this is the area. Because when
5 they -- the victim said that the -- Officer Harris said that
6 the subject ran down through here and ran this way, so I
7 started cutting this area both sides of the road.

8 Q So just to be clear, you're cutting the area around the
9 road and the back of the -- of where you said that pathway,
10 that walkway was.

11 A Yes, ma'am.

12 Q All right. So at that point in time was whenever Sadie
13 Mae actually picked up on a human odor.

14 A Yes, ma'am.

15 Q All right. And that was in State's Exhibit Number 37.
16 Now, you mentioned that you went through a path; is that
17 correct?

18 A Yes, ma'am.

19 Q I'm going to show you State's 40 and 45. Okay. I'm
20 going to show you 40, 42, 43 and 44 and then end on 45. If
21 you'll look at this. And in regards to 40, is that more of
22 what we were just looking at?

23 A Yes, ma'am, that's just farther down.

24 Q Farther down the road?

25 A Yes, ma'am.

MATT FAILE - DIRECT

1 Q Okay. Let me hold that. So this is just further down
2 the road where you were going. What's the next picture
3 showing us?

4 A The picture of the Park, the sidewalk in the park.

5 Q Now, the park, you were just showing us where you
6 actually went or where Sadie Mae took you as she was
7 following the track. If you'll let me hold that one. So
8 this is -- now what is this pathway, where is it going?

9 A It's going -- that's going towards Bird Street.

10 Q That is going towards Bird Street. And when you refer
11 to the park where she took you, is that what you're
12 referring to?

13 A Yes, ma'am.

14 Q All right. And where does this path lead us to?

15 A It leads us to Bird Street, actually -- the sidewalk
16 actually dead-ends into Bird Street.

17 Q All right. So the sidewalk or the pathway dead-ends
18 into Bird Street and that's where Sadie Mae was taking you;
19 is that right?

20 A Yes, ma'am.

21 Q All right. Now, when you got to Bird Street you stated
22 that -- where did she take you? Did she take you over --

23 A She took me on across Bird Street onto a -- into a
24 backyard where there's a path that the people walked through
25 that leads to Branch Street.

MATT FAILE - DIRECT

- 1 Q Okay. And is that path paved?
- 2 A No, ma'am, it's just dirt and grass.
- 3 Q All right. I'm going to show you State's 21. And if I
- 4 take those back to from you, sir. Do you recognize that?
- 5 A Yes, ma'am. That's where it comes -- that's the path
- 6 they take through to Branch Street.
- 7 Q Hold on just a second.
- 8 A Because that's Bird Street where that car is parked,
- 9 and the path from the park is over to the right of it.
- 10 Q Okay. So once again, this is the continuation of that
- 11 path but this is not paved, right?
- 12 A No, ma'am.
- 13 Q All right. So is this another place where she
- 14 continued to take you while she tracked the human odor?
- 15 A Yes, ma'am.
- 16 Q All right. Now, again, tell the jury where you ended
- 17 up at first. I'm sorry, where did you end up once you got
- 18 on Branch Street?
- 19 A Once we come out of that path we took a left on Branch
- 20 Street, and right before we got to the stop sign that's when
- 21 she started circling. I could tell by her behavior that she
- 22 was searching to see which way he went, and as she kept
- 23 searching by her actions I could tell his feet weren't on
- 24 the ground anymore.
- 25 Q All right. So when you read that action by Sadie Mae,

MATT FAILE - DIRECT

1 did you receive any additional information at that time
2 about --

3 A As I was circling I could hear across the radio that
4 they think the subject got a ride from Branch Street.

5 Q All right. And so when you learned that the subject --
6 that the possible suspect or subject had gotten a ride from
7 that area, what did you do?

8 A I still continued cutting just to make sure.

9 Q All right. And at what point in time did you make a
10 decision to go to another location?

11 A I think it was the sheriff that called and told us to
12 load the dog up and we was going to Gardendale.

13 Q All right. And when that happens, I mean in regards to
14 tracking, does that cause a problem for you in regards to
15 what the dog -- the scent that the dog has locked in to?

16 A No, ma'am. Because she's locked in on that scent and
17 until she gets her payment she knows she's still working.

18 Q Had you given her payment or any type of indication
19 that she was successful or that she had done what she was
20 supposed to do?

21 A No, ma'am.

22 Q All right. And what is it that you do for Sadie Mae
23 once she's actually successfully finished a tracking?

24 A She tries to put her paws on the suspect if it's --
25 unless it's like an armed robbery or something dangerous,

MATT FAILE - DIRECT

1 but she gets love and affection as after she finishes the
2 track.

3 Q And so this a normal procedure that you use with Sadie
4 Mae?

5 A Yes, ma'am.

6 Q Now, whenever you heard from the sheriff that you were
7 supposed to relocate with Sadie Mae, where did you go?

8 A We loaded her up and went to Gardendale.

9 Q And went to Gardendale. And did you know exactly where
10 you were going on Gardendale Circle at the time whenever you
11 left?

12 A No, ma'am. All I knew is meeting at the stop sign of
13 Gardendale and Parkway.

14 Q All right. And whenever you got there, tell the jury
15 what you learned or what happened.

16 A As soon as I got Sadie out of the car one of the
17 perimeter units spotted him and he took off running, that's
18 when he held the location of the last place of the scene.

19 Q And so let me be clear, you said that the suspect was
20 spotted jumping up and running. Did you just let go of the
21 dog and let her chase him?

22 A No, ma'am.

23 Q And so what did you do with Sadie Mae?

24 A I actually loaded her up in the back of Major
25 McDaniel's truck and we rode to 555 Gardendale and got out

MATT FAILE - DIRECT

1 at the location where he began running.

2 Q All right. And why did you take her to the location
3 where you learned the suspect had begun running?

4 A Because that's going to be the freshest scent.

5 Q And as an expert in the bloodhound human odor tracking,
6 are you supposed to focus on the freshest most recent scent
7 for the dog to track?

8 A Yes, ma'am, in that case the scent that she was locked
9 in already.

10 Q All right. So you said she was already locked in on
11 that scent. Did she then obtain the scent, or did she
12 reconnect with the scent and was she able to track you --
13 track for you?

14 A Yeah. Because after they told me where he ran from I
15 still cut her out until she got back on the scent that she
16 was on --

17 Q Okay.

18 A -- that she was already locked in to. And then when
19 she picked up that scent she took off and it wouldn't about
20 two minutes later he was in custody.

21 Q He was in custody?

22 A Yes, ma'am.

23 Q All right. Who was in custody?

24 A Jerrell Brockman.

25 Q Did she put her paws on him?

MATT FAILE - CROSS

1 A I wouldn't let her, because last I heard he had a
2 weapon on him.

3 Q And so in your expert opinion and your experiences with
4 Sadie Mae and her reliability as a bloodhound human odor
5 tracker, was her tracking of this suspect a successful
6 tracking?

7 A Yes, ma'am.

8 Q Do you have any concerns about the reliability of what
9 Sadie Mae did on that night from the location to where she
10 took you on Branch Street until she was able to reconnect on
11 Gardendale?

12 A No, ma'am.

13 Q Did you have any other dealings in regards to this
14 particular case other than handling the bloodhound, Sadie
15 Mae?

16 A No, ma'am.

17 MS. LIVELY: Okay. Thank you. Answer any questions
18 that the defense may have.

19 CROSS EXAMINATION

20 BY MR. FRICK:

21 Q Sergeant Faile, when you were running Sadie Mae, how do
22 you handle her? I know she's on a leash, but I've got a dog
23 on a leash but it's about that far.. Is it a big leash?

24 A Yeah, it's about a 15 foot leash.

25 Q Okay. And when you're running a trail you're not

MATT FAILE - CROSS

1 leading her, are you?

2 A No, sir.

3 Q She leads the trail.

4 A Yes, sir.

5 Q So you cut her until she hits on something and then you
6 just go with her.

7 A Yes, sir.

8 Q Okay. And wherever that goes you go on with her.

9 A Yes, sir.

10 Q Okay. Akin Street, is that the street that runs right
11 behind the church there?

12 A Yes, sir.

13 Q Okay. Which side of the road do you start the track
14 on? Are you on the side with the church or on the side
15 where the park is?

16 A Well, as I'm cutting to start with she starts out on
17 the right side of the edge of the road and as we're moving
18 she goes over to the left side of the road.

19 Q Okay. All right. So y'all are kind of in the middle
20 of the road and then she goes to the left of the road.

21 A No, sir. She's on the right side as we're starting and
22 then she moves over to the left side of the road.

23 Q So she picks up the trail on the right side of the
24 road, y'all kind of cross over the road and then head down
25 towards the park.

MATT FAILE - CROSS

1 A Yes, sir.

2 Q So y'all do cross over Akin Street.

3 A Yes, sir.

4 Q Had you been given any information that any other
5 people had gone through the scene prior to your arrival?

6 A Only information I had was that truck that come up the
7 road.

8 Q Okay. So did anybody tell you about anybody walking --
9 you had no other information other than seeing that truck
10 come up.

11 A Yes, sir.

12 Q Okay. And you physically saw that one come down the
13 road, correct?

14 A Yes, sir.

15 Q Solicitor asked you about if Sadie Mae had gone towards
16 the church and you said if she would have done that she
17 would be going the wrong way. If you don't lead her, how do
18 you know that's the wrong way?

19 A Because that's the reason I cut her outside of where
20 the robbery happened that way, because that's the direction
21 of which way they said the suspect went.

22 Q Okay. But what if she had turned? I mean, what if
23 you're cutting her and all of the sudden she heads back
24 towards the breezeway?

25 A Then I would have kept going with her to verify what

MATT FAILE - CROSS

1 she was on.

2 Q But your testimony was that would have been the wrong
3 way.

4 A In that case, yes, it would have been the wrong way.

5 Q Because that didn't jive up with the information that
6 you had.

7 A That I received.

8 Q You tracked through the trail, through -- back over
9 to -- what street do we end up on?

10 A Branch Street.

11 Q Whereabouts on Branch Street do you end up?

12 A I'm going to say approximately 10 feet from the stop
13 sign.

14 Q The stop sign at the end of Branch Street there?

15 A Yes.

16 Q Did you have any idea about Lavetta -- at that time did
17 you have any idea of Lavetta Turner, where she lived, any of
18 that stuff?

19 A No, I did not.

20 Q You're just tracking following Sadie Mae through and
21 then y'all stop right there at that -- near that stop sign.

22 A Yes, sir.

23 Q Okay. And then, of course, you've got information that
24 no need to continue there, correct?

25 A Yeah. After I cut her and Sadie showed me that his

MATT FAILE - CROSS

1 feet wasn't on the ground anymore, that's when I loaded
2 up -- well, after the sheriff told us to load up we moved to
3 Gardendale.

4 Q How did you get loaded back up? Was the truck there or
5 did you walk back?

6 A No, somebody brought me the car.

7 Q You didn't walk back up the scene?

8 A No.

9 Q You didn't walk back up Akin Street?

10 A No, sir.

11 Q Are you sure about that?

12 A Not that I can recall. I think Deputy Brannum brought
13 me the bloodhound car.

14 Q Okay. All right. When you get over to Gardendale,
15 where do you start?

16 A I actually got out at the stop sign at Gardendale and
17 Parkway.

18 Q Okay. And start cutting her again?

19 A No. I had -- by this -- as soon as I got her out and
20 got the leash on her, that's when he began running from 555
21 Gardendale.

22 Q All right. So you start the track from 555
23 Gardendale --

24 A The last place they seen him.

25 Q -- back to wherever he is found?

MATT FAILE - CROSS

1 A Yes, sir.

2 Q Did it run in a straight line -- did Sadie Mae run in a
3 straight line or did she track anywhere else?

4 A No, sir. She went behind the house -- went behind the
5 house and then cut in front of that house, and then the
6 third house down is where he was laying behind the bushes.

7 Q Okay. But she never crossed the street back over to
8 546 or anything like that.

9 A No, sir.

10 Q Okay.

11 MR. FRICK: Just give me one second, okay?

12 (Break in proceedings.)

13 MR. FRICK: Judge, can we approach for one second?

14 THE COURT: Yeah.

15 (A bench conference was held.)

16 THE COURT: Ladies and gentlemen of the jury, let's
17 take a brief recess. We're talking about scheduling
18 matters. We're not going to be too much longer today, I do
19 recognize we've been here all day, so -- but there are some
20 matters we need to work out real quick outside of your
21 presence so we can make y'all not to have to stay so long
22 today, so y'all head on back to your jury room, do not talk
23 about the case.

24 (The jury left the courtroom and a break was taken.)

25 THE COURT: Let's bring the jury.

MATT FAILE - REDIRECT

1 (The jury returned to the courtroom.)

2 THE COURT: All right. Mr. Frick?

3 MR. FRICK: Thank you, Your Honor.

4 BY MR. FRICK:

5 Q Sergeant Faile, I was asking you about being back on
6 Akin Street.

7 A Yes, sir.

8 Q Obviously some of this was captured on body cam, I want
9 to show you a small snippet.

10 (The video was played.)

11 Q The dog in that picture, is that Sadie Mae?

12 A Yes, sir.

13 Q Is that you with Sadie Mae?

14 A Yes, sir.

15 Q Can you tell where you are? It looks like you're on
16 Akin Street.

17 A It looks like at the back of Akin Street.

18 Q Okay. So y'all did go over to Akin Street.

19 A Yes. I couldn't remember if Deputy Brannum brought me
20 the car on Gardendale or Branch. I knew he brought me the
21 car on one of those tracks and I couldn't recall which one
22 it was.

23 Q I understand, that's fine. How did y'all get back over
24 to Akin Street? Did y'all walk back that way?

25 A We -- I think we came down the street, I don't recall

MATT FAILE - REDIRECT

1 which way we went.

2 MR. FRICK: Thank you, sir. That's all of the
3 questions I have.

4 THE COURT: Any redirect?

5 MS. LIVELY: Yes, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. LIVELY:

8 Q What is back-tracking?

9 A Back-tracking? Tracking the opposite way in which the
10 person ran.

11 Q All right. So I heard Mr. Frick ask you about whenever
12 you arrived on Gardendale that you got off and started a
13 track again at 555 Gardendale; is that right?

14 A Yes, ma'am, that's where they jumped him at.

15 Q Where they jumped him at. Okay. Would that have been
16 the freshest track for Sadie Mae to track at that point in
17 time?

18 A Yes, ma'am.

19 Q All right. If she had -- from the information that you
20 had that's where they had just scene a suspect jump; is that
21 right?

22 A Yes, ma'am.

23 Q If she had decided to go to 546 across the street, what
24 would that have been?

25 A She would have been back-tracking.

MATT FAILE - REDIRECT

1 Q And does she back-track?

2 A No, ma'am, not to my knowledge, we haven't back-tracked
3 yet.

4 Q That's what I'm asking you, in your expert opinion
5 you're the one who works with Sadie Mae, has she been
6 reliable?

7 A Yes, ma'am.

8 Q Has she back-tracked in situations like that?

9 A No, ma'am.

10 Q No. So the freshest scent that she had when you put
11 her on where the suspect jumped up took you to whom?

12 A To the defendant, Jerrell Brockman.

13 Q All right. Now, what do you tell her when you want her
14 to engage in a track? What do you actually say to her? Is
15 there a command?

16 A Hunt them up.

17 Q Hunt them up. Hunt them up.

18 A Uh-huh.

19 Q When you're not hunting them up, how do you get her to
20 disengage? I don't know if I'm asking that the right way.
21 Whenever -- like for instance you said you were cutting in
22 around the end of Branch Street and at that point in time
23 you thought maybe he didn't have feet on the ground, the
24 suspect anymore.

25 A Yeah. I just tell her check, keep telling her to check

MATT FAILE - RE CROSS

1 it, check it, check it.

2 Q Okay. And then whenever you stop and move to the next
3 location, how do you get her to start back with the actual
4 tracking?

5 A As I'm cutting her I'm telling her to check it, check
6 this area, and then when she gets on the trail that's when I
7 tell her to hunt them up.

8 Q Hunt them up. Is that when she knows to actually put
9 the nose to the ground?

10 A Yeah. I can tell by her actions that she is on the
11 scent and that's when I tell her to hunt them up and she's
12 gone then.

13 Q And at that point in time when you said -- did you say
14 hunt them up whenever you got to 555 Gardendale Drive?

15 A Yeah. After I cut her until she got on the scent
16 that's what I told her to hunt them up.

17 Q And she went on the freshest sent.

18 A Yes.

19 MS. LIVELY: Thank you, no further questions.

20 MR. FRICK: Very briefly.

21 RE CROSS EXAMINATION

22 BY MR. FRICK:

23 Q Just following up on something she asked and didn't
24 follow up on. So how do you stop her? Y'all are at the
25 stop sign and she's just kind of -- it's clear the track is

BRIAN SANDERS - DIRECT

1 dead right there, how do you stop her?

2 A I don't, she still wants to work.

3 Q So how did y'all go back down through Akin?

4 A She's still trying to work as we're going back.

5 MR. FRICK: Okay. All right. Thank you, sir.

6 THE COURT: Thank you, sir, you can step down, you're
7 free to leave. The State can call its next witness.

8 MS. LIVELY: The State would call Brian Sanders to the
9 stand.

10 The witness, BRIAN SANDERS, was first duly sworn and
11 Testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LIVELY:

14 Q Detective Sanders, please tell the jury what your job
15 duties are and where you work.

16 A I'm an investigator for the Chester County Sheriff's
17 Office. My job duties consist of processing crime scenes,
18 collecting evidence, DNA, interviewing suspects, victims as
19 well.

20 Q All right. And how long have you been in that position
21 at the sheriff's office?

22 A Right at five years.

23 Q And how long have you been with the sheriff's office
24 total?

25 A Eight.

BRIAN SANDERS - DIRECT

1 Q And how long have you been in law enforcement?

2 A Right at 12.

3 Q And what did you do before then?

4 A I was in the United States Marine Corps.

5 Q Now, Detective Sanders, did you have an opportunity to

6 become involved with the case that we're dealing with here

7 today on November 8th of 2017?

8 A Yes.

9 Q All right. Please tell the jury how you became

10 involved in the case and what your role was.

11 A Initially when it came out of the armed robbery on

12 Church Street I was assisting on the perimeter. I was set

13 up over at Hinton Street and Cotton Street right at the

14 railroad tracks.

15 Q Okay. All right. And what information did you have

16 regarding what had transpired earlier that night?

17 A All I was advised of that there was an armed robbery

18 and they were bringing the dogs in.

19 Q And were you there whenever they brought the dog in on

20 Gardendale?

21 A I was at the -- when they switched perimeters I was set

22 up on Dawson Drive near B and D Trailer Park.

23 Q Okay. And after you were set up there, did you learn

24 through radio traffic what was going on over at Gardendale?

25 A Yes. I heard that they had somebody running, a short

BRIAN SANDERS - DIRECT

1 time later they said they had somebody in custody.

2 Q Okay. Once you learned that they had someone in
3 custody, what did you do?

4 A I got back in my patrol vehicle and went over to
5 Gardendale Circle.

6 Q And who did you first meet up whenever you went over
7 there?

8 A Chief Deputy Sprouse.

9 Q And what did you learn from Chief Deputy Sprouse once
10 you arrived on scene?

11 A He advised that there was a small building room on the
12 back of the house that they had located several items.

13 Q And what items did they locate that gave them concern?

14 A A black pistol as well as a purse.

15 Q Were you aware at the time what, if anything, had been
16 taken from the victim, Ms. Katherine Waldrip, in this
17 particular case?

18 A No. I did not know anything had -- what had actually
19 been taken from her.

20 Q Okay. Did you subsequently learn what had been taken
21 from her?

22 A Yes.

23 Q All right. And once you learned what those items were,
24 was it your job to then go in and actually document anything
25 that was of evidentiary value?

BRIAN SANDERS - DIRECT

1 A Yes.

2 Q And did you do so?

3 A Yes.

4 Q All right. Now, were you the one that actually took
5 the photos that I am flipping through that involve the
6 location at Gardendale Circle?

7 A Yes, I was.

8 Q All right. I was trying to put them in order for you.
9 I think this is right. I'm going to show you these photos
10 and I'm going to break them down so it's a little bit easier
11 for you to discuss. I was going to show you State's Exhibit
12 Number 9 first, okay? Now, do you recognize what's in those
13 photos?

14 A Yes, I do.

15 Q Who once again took those photos?

16 A Myself.

17 Q And once again where is the location?

18 A It's [REDACTED] Gardendale Circle.

19 Q All right. And whenever you took those photos, was
20 there anybody else in there assisting you with that?

21 A At the time there was people outside but I was the only
22 one doing it.

23 Q You were the only one doing it. And once again the
24 information that you had was just stuff that would have been
25 told to you, was it by Chief Deputy Sprouse, or who was it?

BRIAN SANDERS - DIRECT

1 A He said the purse was the victim's.

2 Q And were you there when Chief Deputy Sprouse actually
3 took a photo of the storage building?

4 A Yes, I was.

5 Q All right. And by that time had you actually entered
6 the storage building and started to collect any potential
7 evidence at that time?

8 A I was still taking pictures at the time. I was taking
9 individual pictures of certain things.

10 Q All right. So how were you able to determine from your
11 investigation what items were of evidentiary value?

12 A At the purse there was an ID of Ms. Waldrip and a
13 picture and her name on it.

14 Q Let me get these from you if you don't mind, Detective
15 Sanders, and I'm going to specifically refer you to State's
16 Exhibit 3. Was this what the storage building and the door
17 looked like whenever you -- before you went into it?

18 A Yes.

19 Q All right. So the door was open like that at that
20 time?

21 A Yes.

22 Q And were you aware of who had gone into the storage
23 building?

24 A Yes, I was.

25 Q And who was that?

BRIAN SANDERS - DIRECT

1 A Chief Deputy Sprouse.

2 Q Did you have any indication whether or not it had been
3 broken into, damaged or anything like that?

4 A I don't believe so. I did take a picture of the door
5 itself, which I didn't see any type of real damage to it.

6 Q Okay. All right. So no one from your office or from
7 the sheriff's office busted the door open from what you can
8 tell in regards to that?

9 A Not from what I can tell, no.

10 Q Now, this one is a little bit blurry but I'm going to
11 ask you to look at it. This is State's Exhibit Number 6.
12 Will you please just describe for the jury where that
13 particular shelf is inside of the storage building so when
14 you're looking at it we know where those items were laying?

15 A When you walk in the door there is a shelf right to
16 your left that runs the entire length of the wall, that is
17 all the way at the end up against the -- if you're looking
18 through the door that wall is all of the way up against the
19 corner.

20 Q So up against the left. Okay. And on this particular
21 photo, which I know is blurry, are you able to actually
22 identify a tan purse?

23 A Yes.

24 Q And I'm going to ask you, and I know it's small, will
25 you please tell the jury what we're seeing in that bottom

BRIAN SANDERS - DIRECT

1 corner in that picture?

2 A That would be the pistol.

3 Q The pistol?

4 A Yes.

5 Q And it looks like -- what's it on top of?

6 A A shirt.

7 Q So that's State's Exhibit Number 6. Once again you
8 said that's to the left when you walk in the door?

9 A Yes.

10 Q And once again what was the address that you were at,
11 do you recall?

12 A [REDACTED] Gardendale.

13 Q And is this across the street from 555 Gardendale?

14 A Yes.

15 Q Now, you stated in the corner we can see the barrel,
16 and what's it on top of?

17 A A shirt.

18 Q A shirt. I'm going to show you a clearer picture,
19 Number 7. Is that a picture of the weapon that you
20 collected?

21 A Yes, it is.

22 Q Okay. And I'm going to also show you State's Exhibit 8
23 and ask you if that's a close-up of the same weapon.

24 A Yes, it is.

25 Q So once again the items that we're seeing in 7 and 8,

BRIAN SANDERS - DIRECT

1 were these items that you located inside the storage
2 building along with the tan purse?

3 A Yes.

4 Q What do you do when you collect these items to make
5 sure that if there's going to be possibly any evidence taken
6 off those items that you can securely take them in for
7 processing?

8 A Once I photograph them we have an evidence log at which
9 time I document it. The time that I take it into evidence,
10 my name, exactly what it is that has serial numbers, you
11 describe the color of it, what it is, where you located it
12 at, at which time then we put it in an evidence bag and it's
13 sealed with the date and time also when I collected it at
14 the same time, as well as when I put it into the evidence
15 locker as well.

16 Q Did you have any conversation with the homeowner at
17 this particular residence?

18 A No, ma'am.

19 Q Was there a search warrant for you to go into the
20 property, or did you have other information regarding the
21 ability to search?

22 A No, ma'am, there was not a search warrant. I was
23 advised by Chief Deputy Sprouse that we had consent.

24 Q Now, I'm going to show you State's Exhibit Number 11
25 and State's Exhibit Number 14. And State's Exhibit Number

BRIAN SANDERS - DIRECT

1 11, what are we seeing in that photo?

2 A The tan purse.

3 Q All right. And then in State's Exhibit Number 14, what
4 are we seeing?

5 A It's miscellaneous credit cards, little store cards as
6 well as an ID of Ms. Waldrip's with her name. It appears to
7 be her Chester Park Elementary ID with her name and her
8 picture saying faculty.

9 Q Does Ms. Waldrip have -- that's not the address where
10 Ms. Waldrip lives, correct?

11 A Not that I know of, no, ma'am, it isn't.

12 Q Okay. So did you have any information as to why that
13 purse and her items would be in that particular location?

14 A No, ma'am.

15 Q And when you found and seized the purse and those
16 items, did you document the seizing of those items?

17 A Yes.

18 Q And were you careful to take those items into evidence
19 and to secure them so that they could possibly be processed
20 later on?

21 A Yes, ma'am.

22 Q And once again, was it the same process you would have
23 used with the weapon?

24 A Yes, ma'am.

25 Q Now, all of these different items that are shown in

BRIAN SANDERS - DIRECT

1 this picture, which was 14, is that how the items were
2 strawn about on that particular bench?

3 A Yes, ma'am.

4 Q All right. So that's exactly how you found it.

5 A Yes, ma'am.

6 Q All right. And once again you found her faculty card;
7 is that right?

8 A Yes, ma'am.

9 Q Now, Detective Sanders, once you collected all of these
10 items that you located in that particular storage building,
11 what did you do next?

12 A After I collected everything and did the evidence log I
13 signed everything over with Detective Fournery.

14 Q With the city?

15 A Yes, ma'am.

16 Q And did you have any dealings at all with the
17 defendant, Mr. Jerrell Brockman, that night?

18 A No, ma'am.

19 Q Did you ever recover any money that evening?

20 A Yes, ma'am. I was advised once he got into the
21 detention center that he did have money on him at which time
22 I went over, photographed the money and collected it into
23 evidence as well.

24 Q All right. I'm going to show you what has been marked
25 as State's Exhibit 20. If you would, is that the picture of

BRIAN SANDERS - CROSS

1 money?

2 A Yes, ma'am.

3 Q And how much money is shown there?

4 A \$19. A ten, five and four ones..

5 Q Were you aware of how much money was missing from Ms.

6 Waldrip's purse?

7 A I didn't know an exact amount, no.

8 Q But is that the normal process for you to actually

9 collect the money and document it whenever someone is taken

10 in as a suspect?

11 A Yes, ma'am.

12 Q All right. After you did all of this actually handling

13 of evidence, did you do anything else in regards to the

14 investigation of this case?

15 A No, ma'am.

16 Q Did you ever talk to the victim or the defendant in

17 regards to what happened that night?

18 A No, ma'am.

19 Q So your sole involvement was the collection of this

20 evidence and documentation of the crime scene.

21 A Yes, ma'am.

22 Q All right.

23 MS. LIVELY: Thank you. Please answer any questions

24 that the defense may have.

25 CROSS EXAMINATION

BRIAN SANDERS - CROSS

1 BY MR. FRICK:

2 Q Investigator Sanders, your role was to collect this
3 evidence; is that correct?

4 A Yes, sir, and take pictures.

5 Q And take pictures of it. And you make a documentation
6 of that?

7 A Yes.

8 Q And in this case the evidence is signed over from the
9 county to the city, correct?

10 A Yes, sir.

11 Q I'm going to show you a sheet here. Does that look
12 familiar to you?

13 A Yes, sir, this was our evidence log.

14 Q Okay. And that documented exactly what was taken,
15 correct?

16 A Yes.

17 Q Okay. And I think that's your signature down there, is
18 it? Is that yours?

19 A This one was -- yes, sir, that's mine.

20 Q Okay. Yours is about as good as mine. All right. And
21 you hand it over to --

22 A Investigator Fourney.

23 Q Good deal. She's with the city.

24 A I had items one, two and six.

25 Q One, two and six. Okay. All right. So three, four,

LOLITA FOURNEY - DIRECT

1 five --

2 A Are in our evidence locker.

3 Q Y'all have them. Okay. Good deal. And I'm sorry, I
4 was asking a question of somebody, where was the money
5 seized from?

6 A From inside the detention center.

7 Q From inside the detention center?

8 A Yes.

9 Q And, in fact, what kind of gun was this?

10 A This is a Desert Eagle pellet pistol.

11 Q Okay. All right.

12 MR. FRICK: Your Honor, I would like to move this
13 evidence list in to whatever the --

14 THE COURT: Any objection?

15 MS. LIVELY: Can I just see what you're talking about?

16 Oh. No objection, Your Honor.

17 THE COURT: Introduced defense next in order.

18 (The evidence sheet was received as Defense 5.)

19 MR. FRICK: That's all of the questions I have, thank
20 you.

21 THE COURT: Any redirect?

22 MS. LIVELY: No further questions.

23 THE COURT: Thank you, sir, you can step down.

24 MS. LIVELY: The State would call Lolita Fourney to the
25 stand.

LOLITA FOURNEY - DIRECT

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, where do you currently work?

6 A The Chester Police Department.

7 Q And how long have you been there?

8 A Six years.

9 Q And how long have you been in law enforcement?

10 A A total of 19 years.

11 Q And what are your duties in regards to being a
12 lieutenant over at the Chester City Police Department?

13 A I investigate certain criminal activities.

14 Q Did you have an opportunity to respond to the armed
15 robbery and also kidnapping and assault and battery first
16 degree charges against this defendant, Mr. Jerrell Brockman?

17 A Yes, ma'am.

18 Q That occurred November 15th of 2017, correct?

19 A Yes, ma'am.

20 Q Tell the jury how you got involved with this particular
21 investigation.

22 A I received a call from Sergeant Harris.

23 Q All right. And was he on scene at the time that you
24 received that call?

25 A Yes, ma'am.

LOLITA FOURNEY - DIRECT

1 Q How quickly did you arrive?

2 A Probably about 30 minutes, yeah, somewhere around in
3 there.

4 Q So whenever you arrived where did you go?

5 A I went to the back of First Baptist Church. Sergeant
6 Harris had advised me that that's where the incident had
7 occurred so that's where I went to.

8 Q By that time had the county and other officers already
9 come in and set up perimeters and started doing that work?

10 A Yes, ma'am.

11 Q Because you said you got there about 30 minute after
12 7:00.

13 A Probably about 30 minutes, about that time.

14 Q So you were on the tail end of it at that point.

15 A Yes, ma'am.

16 Q All right. So who did you actually speak with whenever
17 you got on scene other than Sergeant Harris?

18 A After speaking with him I went -- I talked to
19 Ms. Waldrip.

20 Q All right. And at what point in time while you were
21 talking to Ms. Waldrip did you learn that a suspect was
22 actually in custody?

23 A It wasn't too long after that.

24 Q All right. Were you ever out in the perimeter areas
25 and actually assisting with trying to locate a possible

LOLITA FOURNEY - DIRECT

1 suspect?

2 A No, ma'am.

3 Q All right. So your investigative role was to speak
4 with the victim, Ms. Waldrip, at that point.

5 A Yes, ma'am.

6 Q Did you speak with any other witnesses there that
7 night?

8 A Just Ms. Waldrip. I talked to her husband, you know,
9 briefly but mostly just Ms. Waldrip.

10 Q All right. And at some point you did receive -- or did
11 you receive information that Jerrell Brockman had been
12 apprehended and detained?

13 A Yes, ma'am.

14 Q Whenever you did that, did you realize -- or what was
15 the next step that you had to actually do in regards to
16 possible evidence being seized in this case?

17 A I got in the vehicle and I went to Gardendale Circle
18 but I did not enter the perimeter that the county had did
19 until I was advised that I could enter the perimeter.

20 Q Okay. And at that point in time did they actually
21 have -- and I already asked you this but I wanted to be
22 sure, did they already have Mr. Brockman detained?

23 A Yes, ma'am.

24 Q So what evidence did you actually obtain in this case
25 on that evening from the county?

LOLITA FOURNEY - DIRECT

1 A The tan purse, the items that was inside the purse and
2 the gun and some money.

3 Q Okay. And in regards to the items that were actually
4 taken or collected from that night, did you also get to get
5 the pictures from the county?

6 A Yes, ma'am.

7 Q All right. And you -- several items were actually
8 provided to you and it's actually in Defendant's Exhibit
9 Number 5 but I'll refer to your actual documents as well.
10 I'm going to show you their exhibit. And do you recall
11 those being the items that you actually obtained and
12 collected?

13 A Items one, two and six, yes, ma'am.

14 Q And were those items once you actually received them,
15 were they properly sealed and packaged in order to preserve
16 any possible evidentiary items that could be found on them?

17 A Yes, ma'am.

18 Q Did you open them, touch them, handle them at any point
19 in time?

20 A No, ma'am.

21 Q During the investigation and once a suspect is actually
22 arrested, is it a standard practice for you to then ask for
23 a DNA swab from a suspect?

24 A Yes, we do. We do. That night Ms. Waldrip we did.

25 Q So Ms. Waldrip being the victim in this case, you would

LOLITA FOURNEY - DIRECT

1 get a swab from her. Is that standard procedure?

2 A Yes, ma'am. The swabs that I got from her was off of
3 her face at the time, that night, that particular night.

4 Q And why did you get them off of her face?

5 A Because Ms. Waldrip had advised me that the suspect had
6 grabbed her face.

7 Q Okay. So had you gotten any type of what we call
8 buccal or buccal swabs from inside of the mouth of the
9 victim or the defendant at that time?

10 A No, ma'am.

11 Q Were those items later collected by you for possible
12 submission for DNA to our South Carolina Law Enforcement
13 Agency?

14 A Yes, ma'am.

15 Q Okay. And when those items were actually collected, I
16 show you -- I'm going to show you this document here and ask
17 you if you recognize that.

18 A Yes, ma'am.

19 Q All right. And does that evidence log reflect when a
20 buccal swab was actually taken from both the defendant as
21 well as the victim in this particular case?

22 A Yes, ma'am.

23 MS. LIVELY: All right. Your Honor, the State would
24 offer this as State's Exhibit Number 47.

25 (The evidence log was received as State's 47.)

LOLITA FOURNEY - DIRECT

1 Q And the reason why I'm showing this to you, Ms.
2 Fourney, is because what is the date that you actually got
3 these items?

4 A Ms. Waldrip's, I obtained those swabs on 8/6/18.

5 Q Okay. All right.

6 A And Mr. Brockman I obtained on 8/7/18.

7 Q If the defendant doesn't just consent to give them to
8 you before arrest, do you have to go through a process to
9 get those?

10 A Yes, ma'am.

11 Q And did you do that through the State?

12 A Yes, ma'am.

13 Q So once you receive those items and you get the buccal
14 swab, what do you do with them?

15 A I submit it into the evidence clerk and they were
16 delivered to SLED.

17 Q To SLED? And at that time whenever you deliver them to
18 SLED, do you make a specific request as to what it is you're
19 asking them to test for?

20 A Yes, ma'am.

21 Q What did you -- what was your request?

22 A Touch DNA.

23 Q Touch DNA. And I know you're not an expert in regards
24 to touch DNA, but what items were you asking SLED to do a
25 DNA test on for touch DNA?

LOLITA FOURNEY - DIRECT

1 A The gun that was used and the purse.

2 Q And the purse?

3 A Yes, ma'am.

4 Q The tan purse?

5 A Yes, ma'am.

6 Q All right. Now, were any clothing items actually
7 entered into evidence or brought into evidence from this
8 particular case?

9 A The only clothing items that I got was Mr. Brockman's
10 clothes from the jail.

11 Q Now, I'm going to show you this document and ask you if
12 you recognize this one.

13 A Yes, ma'am.

14 Q Is that the evidence record as to the items that were
15 taken from the defendant at the time he was arrested?

16 A This was done in February.

17 Q So the items that he would have been wearing, what does
18 the jail normally do with items of clothing or anything that
19 could belong to the defendant, what do they do with those
20 items?

21 A They usually collect those items, store them and put
22 like tags on them so that you know whose clothing or items
23 they are.

24 Q Okay. At any time did you retrieve those items and
25 then place them into evidence at the city?

LOLITA FOURNEY - DIRECT

1 A Yes, ma'am. On February -- in February.

2 Q Is that what that evidence log is reflecting?

3 A Yes, ma'am.

4 MS. LIVELY: Your Honor, the State would move
5 State's -- well, mark it as State's Exhibit 48 and ask to
6 enter it into evidence at this time.

7 MR. FRICK: No objection.

8 THE COURT: All right. Without objection introduced
9 into evidence.

10 (The evidence log was received as State's 48.)

11 Q Will you please tell the jury the items of clothing
12 that was removed from the defendant, Jerrell Brockman, on
13 the night he was arrested for this crime?

14 A The clothing that the sheriff's department collected
15 and then I obtained in February of this year was a blue in
16 color jacket with orange in color label on the back of it,
17 on the back of the collar, and a green in color knit
18 toboggan.

19 Q Thank you. So a blue jacket and a toboggan.

20 A Yes, ma'am.

21 Q What color was the toboggan?

22 A I think it was green in color.

23 Q Green in color. When you collected those items, did
24 you then take them over to your evidence room at the city so
25 they could be entered and preserved?

LOLITA FOURNEY - DIRECT

1 A Yes, ma'am.

2 Q Was there any other testing of those items that you
3 requested through SLED?

4 A No.

5 Q But those items are in the possession of the city.

6 A Yes, ma'am.

7 Q Now, Lieutenant Fourney, after you actually gathered
8 all of that evidence and you put it in the city evidence
9 room, who was it that actually took the buccal swabs to
10 the -- to SLED, do you recall?

11 A Our evidence clerk, yes, ma'am.

12 Q Your evidence clerk. Is that standard procedure for
13 that to happen?

14 A Yes, ma'am.

15 Q And so your evidence clerk would have taken them to
16 Columbia. Would they have been sealed?

17 A Yes, ma'am.

18 Q All right. Now, Lieutenant Fourney, did you have any
19 other dealings with any witnesses in this particular case
20 prior to the time that we had to come to court here today?

21 A I spoke with Mr. Lavetta Turner, and I spoke with
22 Mr. Brockman's aunt, Ms. Lakeisha Jones.

23 Q So who is the person, who is the homeowner of the home
24 at ■ Gardendale?

25 A Ms. Lakeisha Jones.

LOLITA FOURNEY - DIRECT

1 Q Now, whenever you spoke with both of them, were they
2 recorded statements?

3 A Yes, ma'am.

4 Q And did you provide those to myself as well as to the
5 defense?

6 A Yes, ma'am. I gave them to you and you provided them
7 to the defense.

8 Q And in regards to the information that has been
9 presented here today, did you have any other dealings with
10 this particular case other than evidence collection, the
11 follow-up collection of the buccal swabs from the victim and
12 the defendant, and then the follow-up interviews with those
13 two witnesses?

14 A That was it.

15 Q Okay. And do you know whether or not this defendant
16 has a nickname that he is known by?

17 A Speedy.

18 Q Speedy? Okay. And did you actually get to see Mr.
19 Brockman on the evening or maybe the day after he was
20 arrested for these crimes?

21 A Yes, ma'am.

22 Q And does he look any different today than he did at
23 that time?

24 A He's bigger. He was probably, just an estimate,
25 probably about 210 or 220 at the time.

1 Q And are you -- and at the time whenever he was arrested
2 you weren't there whenever the -- when the clothes were
3 collected or anything like that, were you?

4 A No, ma'am.

5 Q So you didn't get those until February.

6 A Yes, ma'am.

7 Q One moment.

8 (Break in proceedings.)

9 MS. LIVELY: Thank you. Please answer any questions
10 that the defense may have.

11 THE COURT: Mr. Frick?

12 MR. FRICK: Solicitor, can we approach real quick?

13 (A bench conference was held.)

14 THE COURT: Ladies and gentlemen of the jury, it's 20
15 after 5:00, I'm aware of that, I'm staring right at the
16 clock, I've been assured by both lawyers that this is the
17 last witness of the day and that we'll be through with this
18 witness within the next 15 minute tops, okay? Having said
19 that, I do need to take up a matter of law with the lawyers
20 real quick, head back to your jury room, don't talk about
21 the case.

22 (The jury left the courtroom.)

23 THE COURT: All right, the jury is out. I will hear
24 argument. Of course, I'm going to let you proffer whatever
25 you want to proffer for the record so I can make a decision,

1 but let me hear what you intend to ask and what you intend
2 to offer.

3 MR. FRICK: Your Honor, what I've got is Ms. Fourney
4 talked to Lavetta Turner on her front porch, I think it was
5 sometime afterward, it may have been a week afterwards, she
6 goes over there to talk to her about possibly giving a
7 statement in this case. She clearly is wearing a body cam.
8 I'll be honest, I don't know whether Ms. Turner was aware
9 that she was being recorded during this interview, but upon
10 direct examination Ms. Turner said -- what I propose to
11 introduce this for is she gave a ride to two people, my
12 client and somebody named DeDe. Since that time the
13 solicitor has had at least two detectives say they never
14 heard about DeDe so I need to show at this time -- it would
15 have been a prior consistent statement at the time if I
16 tried to show it with Ms. Turner so I couldn't have played
17 it, at this time however I think it's proper. And then
18 rather than have to recall a witness since I've got the
19 detective who took the statement I think it's proper to show
20 it so she can say, yeah, this is the statement she gave me
21 at that time. And it's just two minutes.

22 THE COURT: Okay. What's the State's position?

23 MS. LIVELY: Well, Your Honor, there's nothing that law
24 enforcement has said that is not consistent with the fact
25 that she did not tell them that night. The night of the

1 actual incident, which was 11/8 of 2017 she never told them
2 anything about DeDe. When DeDe comes up it comes up a week
3 later, this is dated November the 15th, 2017. He can ask
4 Lolita, "Did she tell you about DeDe?" He's asked everybody
5 else about DeDe. She didn't tell anybody on the night of.
6 He can ask her, she can answer. I don't see why we have to
7 bring in extrinsic evidence on something involving this lay
8 witness whenever what he's trying to argue is not what truly
9 these officers are saying. They didn't hear her say DeDe
10 that night. Everything I've seen in their supplemental
11 report, everything is Speedy, Speedy, Speedy. Yeah, she did
12 say it to Lolita on this night because I've had a chance now
13 to listen to -- on this day. She says is very quickly that
14 she was supposed to pick up DeDe and take him to Second
15 Street.

16 THE COURT: All right. Proffer and then I will make a
17 decision.

18 MS. LIVELY: Okay.

19 MR. FRICK: And, Your Honor, just to follow-up on that,
20 Ms. Turner did say that she told Burley McDaniel and then he
21 said he never heard her, but this is the deal.

22 (The video was played.)

23 THE COURT: All right. Are you going to ask her about
24 that?

25

1 BY MR. FRICK:

2 Q Did you go see Ms. Turner some time later?

3 A Yes, sir.

4 Q Do you know when?

5 A It was about a week or so later.

6 Q Okay. And is this the video -- a clip of the video?

7 Y'all talked for about 30 minutes, I think, or 20 minutes or
8 so.

9 A I don't know how long it was.

10 Q But this is on her front porch?

11 A Yes, sir.

12 Q You talked to her about the situation.

13 A Yes, sir.

14 Q And is this an accurate depiction of what she told you?

15 A Yes, sir.

16 Q Okay.

17 THE COURT: All right. Do you have any questions for
18 this witness on what we just saw on heard?

19 MS. LIVELY: No, Your Honor. And if she's going to
20 testify to it I think that you don't have to let in the
21 video. And if so then we need to -- I'm going to want to
22 get in more of it so that there could be a context of
23 everything that was discussed that day. Because she talks
24 about how she doesn't want to be a snitch and how she
25 doesn't know how she's gotten into this situation to show

1 her hesitation in wanting to be a part of this whole thing
2 and I think that's relevant as well. But, you know, if
3 we're going to get into it I would just ask that the whole
4 thing be played.

5 THE COURT: I'm going to sustain the State's objection,
6 I'm not going to allow that snippet of video into evidence.
7 You can certainly cross examine this witness as you see fit
8 but I'm not going to allow you to show that video to the
9 jury.

10 MR. FRICK: Judge, I understand you've ruled, I just
11 need to clarify my objection. When Deputy Sprouse was on
12 the stand I objected to him saying what the previous witness
13 had just said, the exact same thing I'm asking the Court to
14 allow this time, the Court allowed it then and I'm being
15 ruled against on this one so I just want to note my issue
16 for the record.

17 THE COURT: All right. And what's the State's
18 objection on the previous objection being overruled?

19 MS. LIVELY: Be specific about what statement he made.

20 MR. FRICK: When Sprouse was on the stand I objected to
21 him saying what Michael Roberts told him, I objected to that
22 under hearsay, your response to that was he just testified.

23 MS. LIVELY: Correct.

24 MR. FRICK: And the Court said "Okay" and allowed it to
25 come in. That is exactly what I'm asking for here, we've

1 got previous testimony.

2 MS. LIVELY: Ask her. I'm fine with you asking her
3 about what she said when she talked to her a week later. My
4 position is if you're going to start piecemealing it we need
5 to play the whole thing, because very clearly this was a
6 week later, and what they testified to on the record was
7 that on the night of them talking to Ms. Lavetta she did not
8 say anything about DeDe. But you can ask Lolita absolutely
9 when she went a week later and talked to Lavetta if she
10 mentioned DeDe and she can definitely testify.

11 MR. FRICK: Judge, it sounds like the objection is she
12 wants the whole thing in under rule of completeness and I
13 can't argue that.

14 THE COURT: Here is what we're going to do, we are
15 going to recess the case for the day, okay? I'm going to
16 think about it again overnight and we'll decide to do it in
17 the morning. I want the State to look through this entire
18 video, I would like to see the entire video as well, is that
19 what you're talking about, Madam Solicitor?

20 MS. LIVELY: Correct.

21 THE COURT: And I'll determine on whether or not I'll
22 let everything in, okay? And then we'll revisit it in the
23 morning. I've got a jury who is tired and I've got to get
24 them out of here. I know that may mess up the State's order
25 of witnesses but that's what we're going to have to do.

1 Bring the jury back in.

2 (The jury returned to the courtroom.)

3 THE COURT: All right. Thank you, ladies and
4 gentlemen. I want to thank you again today for your
5 patience as well as for y'all paying attention. You're very
6 engaged in this case and hopefully you'll continue to be
7 able to stay that way. Having said that it is late in the
8 day, rather than finish up with this witness we're going to
9 do that in the morning, okay? So I want you back in your
10 jury room tomorrow morning at 9:30, please be on time, which
11 is 9:20, okay? I want to start at 9:30, okay? Y'all have a
12 great evening, and remember what I instructed you every time
13 you leave this courthouse, do not talk to anybody about this
14 case, don't seek any information on this case, don't listen
15 to any news reports about this case or read anything about
16 this case because you have to judge this case from what you
17 hear in here and nowhere else, okay? Y'all have a great
18 evening, see you tomorrow morning.

19 (The jury left the courtroom.)

20 THE COURT: Anything else from y'all?

21 MS. LIVELY: No, Your Honor.

22 MR. FRICK: Just ask you to advise the witness not to
23 talk to anybody about this case.

24 THE COURT: Yeah. You can't talk to anybody about this
25 case, can't talk about testimony your between now and

1 tomorrow, can't do any of that, okay? All right. Having
2 said that, I want the lawyers, I want y'all in my chambers
3 at 8:45 in the morning and I plan on going on the record on
4 this at 9:00, we're starting at 9:30 tomorrow morning with
5 this jury. I'm not going to have this jury out any further,
6 do y'all understand?

7 MS. LIVELY: Yes, sir.

8 THE COURT: All right, here is the deal. Y'all told me
9 several times it's going to take 15 minutes, 20 minutes,
10 I've written down, I need to take what y'all tell me and
11 multiply it by two and then add 15 minutes, okay? We've got
12 to move on with this thing, okay? That's it for the day,
13 see y'all in the morning.

14 (Court recessed for the evening and resumed at 9:00
15 A.m. on Thursday, November 8, 2018.)

16 THE COURT: The jury is not present. I'm just going to
17 hear arguments on what the defense needs to do to get in a
18 video and audio statement with a witness who previously
19 testified. Mr. Frick?

20 MS. LIVELY: Thank you, Your Honor. As you saw the
21 snippet that I had yesterday when Ms. Turner testified
22 yesterday I believe she testified consistently with what
23 that video stated, that she picked up two people, Mr.
24 Brockman and a person referred to as DeDe, and then dropped
25 them off at various locations. I did not feel that it would

1 have been proper to play it while she was on the stand as
2 she testified as to what that was and that made it a prior
3 consistent statement, and I believe Rule 613 governs that
4 and says it has to be a prior inconsistent statement before
5 I'm able to offer it into evidence. The reason why I
6 offered it at that time yesterday is after the testimony of
7 two of the State's witnesses, I know Burley McDaniel was one
8 of them and I can't remember the other one.

9 THE COURT: Mr. Sanders.

10 MR. FRICK: Okay. All said that they -- that she did
11 not tell him about DeDe, and I was trying to play that to
12 refute that statement. Because the -- while I understand
13 we're splitting hairs over semantics of words, but I believe
14 that the inference is he's a made-up person and she just
15 made this up at some later period of time. So to try to
16 recover that statement I thought it was most appropriate to
17 introduce it through Lolita Fourney who actually recorded
18 that statement, that's why I sought to introduce it, that's
19 why I continued to seek to introduce it and that's when I
20 sought to introduce it when I did.

21 THE COURT: Got you. All right, Madam Solicitor,
22 what's your response to that?

23 MS. LIVELY: Yes, sir, just briefly. In regards to it
24 being a prior consistent statement that does not come in in
25 court unless the State has somehow tried to raise an issue

1 of recent fabrication by this particular witness, which that
2 has not happened, and that is what is actually mentioned in
3 the State v. Jeffcoat case that I sent to Your Honor and
4 your clerk and Mr. Frick earlier today.

5 THE COURT: Well, I'm assuming that -- I don't want to
6 get ahead of you, but I'm assuming on the contrary Mr. Frick
7 is going to argue that's what the State is trying to get an
8 inference of are they're to argue that she just came up with
9 this DeDe thing to protect her homeboys. What do you say
10 about that?

11 MS. LIVELY: Well, what I say about that is she was on
12 the stand, she testified consistently with her statement
13 that she gave to Lolita Fourney a week later. So the
14 credibility and what the actual witnesses testified to in
15 court, that is what the jury is supposed to weigh as to
16 whether or not the particular witnesses are being truthful
17 or if they have a bias or if there may be a reason why
18 someone would testify one way now and say something
19 different earlier, but her statement has been consistent. I
20 don't have a problem with him asking Lolita to confirm that
21 at some point prior to today she did actually give a
22 statement to a law enforcement officer regarding DeDe, but
23 Lolita has never been on the stand and asked that question
24 and that's where I'm sure Mr. Frick was going. She has an
25 opportunity to answer whether or not she ever got

1 information regarding a DeDe. Her statement with Ms.
2 Lavetta Turner was because Ms. Turner would not write a
3 written statement that night, otherwise I would have a
4 statement like Ms. Waldrip, which was also consistent that I
5 didn't have to agree to let in but I did because I don't see
6 how it hurts, helps or whatever in my personal opinion so it
7 comes in. If we had a written statement that Ms. Lavetta
8 Turner it would be handled exactly the same way. We would
9 not be able to say, "Okay. Now we're going to come" -- do I
10 have to bring back Burley and say, "Okay. She's saying now
11 that in this statement a week later the same thing that she
12 said on the stand yesterday but I need to bring you back in
13 here to confirm you didn't hear that from her that night."
14 We're not here to pit witnesses. The whole issue is to make
15 sure -- I mean -- she got on the stand as my witness and
16 testified as to what she told them.

17 THE COURT: So you believe that it would be improperly
18 bolstering the witness' testimony to allow a video to be
19 played of her previous consistent statement.

20 MS. LIVELY: Exactly. That's what's State v. Jeffcoat
21 and State v. Perry says, it's clearly -- a prior consistent
22 statement does not come in because it is improper
23 bolstering. The only times that I know that that kind of
24 stuff has come in is either through State v. Jeffcoat where
25 it was a recent fabrication, which there is no indication of

1 that, and then also where there is a built-in statutory
2 exception which is like with a forensic interviewing on
3 child sex cases, and we don't have that here.

4 THE COURT: But the State doesn't have an objection to
5 Mr. Frick during cross-examination of Ms. Fourney going into
6 what Lavetta Turner told her in a subsequent statement.

7 MS. LIVELY: Specifically to this DeDe person,
8 absolutely, Your Honor, I have no problem with that.

9 THE COURT: Just like the State does with bringing up
10 Mr. Roberts' testimony through another witness even though
11 Mr. Roberts had testified previously.

12 MS. LIVELY: Exactly, Your Honor. I was very
13 intentional in how I called these witnesses because I know a
14 lot of this was mouth to mouth information as the
15 investigation proceeded. So, yes, sir, I do not have a
16 problem with that and I will not object to him being able to
17 question Lolita Fourney regarding that statement by Lavetta
18 Turner.

19 THE COURT: All right. Coming back to you, Mr. Frick.

20 MR. FRICK: Well, Your Honor, your first statement that
21 you very articulately made for me was correct. I do believe
22 that their statement afterwards was trying to have the
23 witnesses say that Ms. Turner fabricated that information
24 and that is part and parcel to why I was trying to introduce
25 the video. I do find it interesting that the State says

1 that if we have a written statement we would be okay with
2 that, but since it's a video we're not okay with it. I'm
3 slightly baffled by that because I would think the best
4 evidence in the case would be the actual video that has all
5 of her words, so based on that I think it would be a
6 admissible and I would ask you to do so.

7 THE COURT: All right. Based upon the arguments of law
8 I'm going sustain the State's objection to the video and
9 audio statement of Lavetta Turner coming into evidence. I
10 will, however, allow the defense on cross examination of
11 Ms. Fourney to talk about that or bring up that statement
12 and what Ms. Turner told Ms. Fourney, because I do think
13 that's something that the jury can weigh when they hear
14 everything. So your position is protected in the record.
15 All right. Any other legal issue I need to talk about while
16 we're waiting on the jury to get here?

17 MS. LIVELY: Your Honor, just for purposes of the
18 defendant's testimony, I did have my investigator look up
19 the ABWIK. It looks like what happened was at some point in
20 time there was a revocation of his -- it was a parole
21 revocation for the charge. So at this time it looks like
22 the charge was either dismissed -- it looks like it was
23 either dismissed or there was -- so based on us not being
24 able to get a real clear idea of what that is then I will
25 not be seeking to put it in because I know it's going to be

1 questionable anyway. But all other charges, Your Honor, I
2 will list them and so that Your Honor can --

3 THE COURT: Do you want to go ahead and do it? We've
4 got plenty of time, we're 20 minutes away from the jury
5 getting here. Of course, I'll talk to him about his right
6 to testify and stuff after the State closes its case, but we
7 can go ahead and deal with any possible impeachment evidence
8 so he can be thinking about that and he and his lawyer can
9 go over it prior to him taking the stand if he wants to.

10 MS. LIVELY: Yes, sir, Your Honor. He has -- what I'm
11 going to do is I'm going to read out the ones that I've got
12 highlighted and then we can break it down. He's got a
13 resisting arrest from 2013 conviction. He's got one -- an
14 issue of a forgery less than 5,000 where he was convicted
15 and he got a year of probation, I would contend that's a
16 moral turpitude. He's got a criminal domestic violence
17 second offense, that conviction was in 2014. He's got
18 another moral turpitude from 2016, breach of trust,
19 obtaining/signing property by using false pretenses and
20 receiving stolen goods enhancement, that conviction was
21 2016. And I think that was it, Your Honor, because that
22 brings us to 2017, which is --

23 THE COURT: So resisting arrest, forgery, domestic
24 violence second.

25 MS. LIVELY: CDV second.

1 THE COURT: And breach of trust.

2 MS. LIVELY: And he does have drug charges but they're
3 over 10 years old. He's got a public disorderly conduct in
4 2005 and the drug charges from 2005.

5 THE COURT: So the State believes those five just
6 stated are impeachable.

7 MS. LIVELY: Yes, sir.

8 MR. FRICK: Your Honor, regarding the resisting arrest,
9 I don't know how that's probative for truthfulness so I
10 think that should be excluded under that standard and I
11 don't think it satisfies the moral turpitude. Regarding the
12 other charges I think they're within the statute, Your
13 Honor. I do believe, however, you still need to conduct a
14 403 analysis, whether it's more prejudicial than probative.
15 I do believe that it is more prejudicial than probative and
16 ask you to exclude those convictions.

17 THE COURT: All right. Coming back to you the State on
18 the resisting arrest being impeachable, let me hear you on
19 that.

20 MS. LIVELY: Yes, sir, Your Honor. That particular
21 event that I had on that one -- let me see what the date on
22 that one was again.

23 MR. FRICK: 2013.

24 MS. LIVELY: Yes, it was January of 2013. Yes, sir,
25 Your Honor. The thing is, if the defendant gets on the

1 stand, and this is a case involving, you know, assault and
2 battery, we've got an armed robbery and a kidnapping.
3 This -- he is putting himself in the position of being
4 impeached on anything where he is showing that he has, of
5 course, the falsities and the moral turpitude are one thing,
6 but also in regards to having this involvement with law
7 enforcement and his response to actually dealing with law
8 enforcement. I think the resisting arrest is something that
9 he should be able to be impeached on because in regards to
10 what's happened in this case I think that it's clearly
11 something that should be admissible. I would have to
12 actually look at the case because I was having her highlight
13 it, I wasn't expecting to argue this to you at this moment,
14 I was just offering to tell you I wasn't going to ask for
15 the ABWIK to be put in, Your Honor.

16 THE COURT: All right. Any further argument on that?

17 MR. FRICK: Judge, just under 609 I think it is A where
18 it governs the one year, obviously I'm assuming this is
19 resisting A so it's the one year statute so it could fall in
20 under that, but it still has to be weighted as to whether it
21 is probative for truthfulness. I don't understand how it
22 could be probative for truthfulness, and I think that was --
23 I can't remember, it's that armed robbery case out of
24 Richland County where they determined that armed robbery
25 wasn't necessarily probative for truthfulness.

1 THE COURT: Yeah.

2 MR. FRICK: I think it would be akin to that. I don't
3 know how that would be -- I understand what the solicitor is
4 saying, it is relatable to his interactions with law
5 enforcement but that's not what 609 talks about, it's not --
6 it's not saying he lied to the police, it says he ran from
7 the police.

8 THE COURT: All right. I do believe forgery, DV second
9 and breach of trust are impeachable, I do think that the
10 probative value out weighs the prejudicial effect. I will
11 allow the State to impeach the defendant if he chooses to
12 testify to try to impeach his credibility based upon those
13 convictions considering the Colf balancing factors for the
14 record for my friends at the court of appeals so they can be
15 impressed that I know that that is a balancing factor test.
16 I look at the impeachment value of the prior crime, the time
17 difference of the prior crime and the current crime, the
18 similarity between the prior crime and the current crime,
19 the importance of the defendant's testimony and the
20 centrality of the credibility issue, and having gone through
21 all of those factors the first three will come in. Based
22 upon that as well I do not believe the resisting arrest
23 should come in, I'm not going to allow the State to try to
24 impeach the defendant's credibility based upon a resisting
25 arrest conviction in 2013. Reading 609A, if the crime was

1 punishable by imprisonment in excess of one year, resisting
2 arrest subsection A carries up to one year. And plus with
3 the balancing factors I just think -- I think it's more
4 prejudicial than probative based upon the evidence submitted
5 in this case of him trying to run from law enforcement it's
6 too similar, okay? So I'm not going to let that in. So
7 three come in but the resisting arrest doesn't come in.

8 MS. LIVELY: Thank you, Your Honor.

9 THE COURT: Anything else?

10 MS. LIVELY: No, sir. We're going to give Mr. Frick a
11 copy of the alibi witness' actual prior record and then we
12 can address that before he testifies.

13 THE COURT: Okay. We'll address that then. All right
14 anything else?

15 MS. LIVELY: Not from the State, Your Honor.

16 (A recess was taken.)

17 MS. LIVELY: Let me just be certain exactly going into
18 this information, the breach of trust/obtaining goods by
19 false pretenses, that was in 2,000 or less, so that was 90
20 days back in 2016, and underneath that was a receiving
21 stolen goods 2,000 or less enhancement which would be up to
22 ten. So what I wanted to ask is what do you want me to
23 actually bring out? Because it looks like the conviction
24 for the breach of obtaining goods by false pretenses was
25 under the 2,000 or less, and then the receiving stolen goods

1 was actually enhanced.

2 THE COURT: The receiving stolen goods, that's what I
3 meant.

4 MS. LIVELY: Yes, sir, that's fine.

5 MR. FRICK: So we're saying the forgery --

6 THE COURT: Forgery, DV second, RSG. All jurors are
7 present. Are y'all ready to proceed? Yes, sir, the State
8 is ready.

9 MR. FRICK: Defense is ready.

10 (The jury returned to the courtroom.)

11 THE COURT: All right. Good morning, ladies and
12 gentlemen, thank y'all for being on time and I am on time
13 today as well so we are duly noted. All right. We left off
14 yesterday, I believe we are about to start with
15 cross-examination, is that correct, lawyers?

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

17 THE COURT: All right. Mr. Frick, your witness.

18 MR. FRICK: Thank you.

19 CROSS EXAMINATION

20 BY MR. FRICK:

21 Q Officer Fourney, just to refresh our collective
22 recollection from yesterday, you were one of the
23 investigators for the city in this matter?

24 A Yes, sir.

25 Q Okay. And you collected evidence in this case?

LOLITA FOURNEY - CROSS

1 A Brian Sanders of the Chester County Sheriff's
2 Department collected the evidence and then he turned it over
3 to me.

4 Q Okay. All right. I'm going to show you what I believe
5 to be an evidence sheet. What does it look like to you?

6 MS. LIVELY: Without objection, Your Honor.

7 THE COURT: All right.

8 A It's an evidence sheet, yes, sir.

9 MR. FRICK: That would be Defendant's 6.

10 (The evidence sheet was received as Defense 6.)

11 Q All right. And what does this evidence sheet tell you?
12 I know you had a couple of them we talked about yesterday,
13 but what is that one?

14 A Say it again?

15 Q What's the evidence that's collected on that sheet?

16 A Some money, a black Desert Eagle pistol, a tan in color
17 purse with miscellaneous items and two buccal swabs.

18 Q The air pistol, the purse and the money, is that what
19 you got from Brian Sanders?

20 A Yes, sir.

21 Q The two buccal swabs, did you collect those?

22 A Yes, sir.

23 Q And when were those collected, does it have a date on
24 there?

25 A That's the night of.

LOLITA FOURNEY - CROSS

1 Q What is that, what's the date?

2 A 11/8 of 2017.

3 Q Okay. So those two swabs were collected that night,
4 correct?

5 A Yes, sir.

6 Q Do you recall from whom you collected them?

7 A I collected those from Ms. Waldrip due to the fact she
8 had stated that the suspect had grabbed her face.

9 Q Okay. All right. At some point did you go talk to
10 Lavetta Turner?

11 A Yes, sir.

12 Q Was it that night?

13 A No, sir.

14 Q When did you go talk to her?

15 A Approximately a week later.

16 Q Where did you go talk to her?

17 A At her residence.

18 Q Okay. And why did you go talk to her?

19 A Due to the fact that I had been advised that she had
20 spoken to Officer Roberts the night of the incident.

21 Q Okay. And had she provided information?

22 A Yes, sir.

23 Q What kind of information had she provided?

24 A From what I was told she did advise Sergeant Roberts
25 that she had given a ride to Mr. Brockman.

LOLITA FOURNEY - CROSS

1 Q When you talked to her, did she advise that she had
2 given a ride to anybody else?

3 A She said that she had to go pick up a gentleman by the
4 name of DeDe and take him to Second Street.

5 Q Okay. And she relayed that information to you?

6 A Yes, sir.

7 Q That she had picked up two people.

8 A No, she didn't say she had picked up two people. She
9 said that Brockman was at her residence and that's why --
10 and he had asked her to give him a ride to Roundtree Circle.
11 She advised that she to go pick up a gentleman by the name
12 of DeDe and take him to Second Street.

13 Q Okay. All right.

14 MR. FRICK: Beg the Court's indulgence one second.

15 THE COURT: All right.

16 (Break in proceedings.)

17 Q Did you collect any other evidence in this case?

18 A Yes, sir. I think around February I did obtain buccal
19 swabs from Ms. Waldrip and from Mr. Brockman.

20 Q So in February you got another swab from Ms. Waldrip
21 and then a swab from Mr. Brockman.

22 A Yes, sir.

23 Q Did you get a swab from anybody else in this case?

24 Just those two folks?

25 A Just those two.

LOLITA FOURNEY - REDIRECT

1 Q Okay. All right. When you heard the name DeDe, did
2 anybody follow-up on that?

3 A No, sir.

4 Q Okay.

5 MR. FRICK: Thank you, ma'am. That's all of the
6 questions I have.

7 THE COURT: Any redirect?

8 MS. LIVELY: Just briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. LIVELY:

11 Q Now, Ms. Fourney, just to clarify the record, if I
12 showed you the evidence records regarding timelines of when
13 certain items were actually obtained by you and then sent to
14 SLED, would that assist you in giving us a chronological
15 order for the jury?

16 A Yes, ma'am.

17 Q All right. Just so that we can be clear on
18 chronological order, okay? I'm going to hand you up
19 Defendant's Exhibits which are 5 and 6. And please tell me
20 the dates on particular exhibits where those items were
21 actually obtained by you for evidence in this case, just the
22 date.

23 A 11/8 of 2017.

24 Q 11/8 of 2017. So on both of those evidence sheets.

25 And what were those items that were obtained and taken into

LOLITA FOURNEY - REDIRECT

1 evidence by you?

2 A By me? You're talking about received from Officer
3 Sanders also?

4 Q Correct. That came into your possession at that time,
5 what were those items?

6 A Okay. I had item six, which was money that was given
7 to me; item two, which was a Black Forest Eagle pistol, a
8 tan in color purse with miscellaneous items, and I had two
9 buccal swabs also.

10 Q Okay. And once again those two buccal swabs on 11/8 of
11 2017 you mentioned were on the outside of the victim's
12 cheeks?

13 A Yes, ma'am.

14 Q All right. Now, let me take those back from you. Now,
15 State's Exhibit 48, tell the jury what the date is on that
16 particular evidence log.

17 A February 11th of 2018.

18 Q February the 11th of 2018. Because you just testified
19 a minute ago that you took buccal swabs, which would be
20 inside the cheek, correct?

21 A That was on February the 11th.

22 Q Tell me on February 11th where it says that.

23 A The date here.

24 Q Tell me where it says buccal swabs. I'm not trying to
25 trip you up, I'm just trying to clarify for the jury.

LOLITA FOURNEY - REDIRECT

1 A Oh, this is not the buccal swabs, oh, I'm sorry.

2 February the 11th of 2018 was when I obtained the blue in
3 color jacket with an orange in color label on the inside of
4 collar, and the green in color knit toboggan, I'm sorry.

5 Q It's okay. That's why I'm having you clear it up for
6 the jury. Now, I'm going to show you State's Exhibit Number
7 47. So this was February. What is the date on that
8 particular exhibit?

9 A August 6th of 2018.

10 Q So August 6th of 2018, so just a couple or three months
11 ago. What did you collect at that time?

12 A I collected buccal swabs from the inside of the cheek
13 area of Ms. Waldrip, and buccal swabs from the inside of the
14 cheek from Mr. Brockman.

15 Q Were those buccal swabs sealed and sent to SLED for a
16 DNA profile to be established?

17 A Yes, ma'am.

18 Q Okay. And was a report issued to you -- I'm not going
19 to ask you for the results, but was a report and finding
20 issued to you by SLED regarding the DNA?

21 A Yes, ma'am.

22 MS. LIVELY: Okay. Thank you, that's all of the
23 questions I have.

24 THE COURT: All right.

25 MR. FRICK: Nothing further.

ANNA JAGGER - DIRECT

1 THE COURT: Thank you, ma'am, you may step down. You
2 may call your next witness.

3 MS. LIVELY: Thank you, Your Honor. The State calls
4 Anna Jagger to the stand.

5 The witness, ANNA JAGGER, was first duly sworn and
6 Testified as follows:

7 DIRECT EXAMINATION

8 BY MS. LIVELY:

9 Q Good morning, Ms. Jagger. Tell the jury where you are
10 currently employed.

11 A Good morning. My name is Anna Jagger and I work for
12 the Chester Police Department, I'm a lieutenant there.

13 Q And what is your current position? Not lieutenant, but
14 what is your duties that you have at the city right now?

15 A I'm the training officer, I'm over the training and I
16 am also over evidence.

17 Q All right. Back in November of 2017, were you the
18 person that actually obtained evidence and made sure that it
19 was logged in at the city?

20 A Yes.

21 Q All right. And did you have an opportunity at that
22 time in November of 2017 to receive evidence that had been
23 collected in the case, which is actually identified as your
24 law enforcement 20171410?

25 A Yes, ma'am.

ANNA JAGGER - DIRECT

1 Q And that particular case is associated with an armed
2 robbery, kidnapping and assault and battery first degree; is
3 that correct?

4 A That's correct.

5 Q All right. Now, Ms. Jagger, whenever items were
6 actually brought to you that are to be entered into the
7 evidence room, what do you do with those items?

8 A We either receive the items from the actual officer or
9 the secured evidence lockers. We take those items out and
10 then we log them into our system so that we can keep track
11 of it, it's a database. We print labels and then we secure
12 it in our evidence room, or if it needs to be sent to SLED
13 or another forensic laboratory we will do that as well. We
14 enter that into I-lab if it's going to SLED, and then we
15 will transport it to SLED and drop it off there for testing.

16 Q Okay. Now, when those items were submitted to you,
17 Lieutenant Jagger, do you in any way touch those items,
18 tamper with them, alter or have your actual physical hands
19 on those items at any time?

20 A No. We just remove them from the locker, we make sure
21 that they are sealed completely, they should be sealed by
22 the officer, if not we usually will call the officer in
23 there to seal it and to make sure that they initial that
24 they've sealed it.

25 Q And that seal by the officer should be actually evident

ANNA JAGGER - DIRECT

1 on the particular items that you label; is that right?

2 A That's correct.

3 Q Okay. Now, in this particular case I see -- we've
4 already heard testimony regarding items that were submitted
5 both through the county providing evidence to Lieutenant
6 Fourney and then items actually being brought to you. I'm
7 going to allow you to refer to Defense Exhibit 5 and 6, and
8 then State's Exhibit 47 and 48 as we go through these items,
9 okay? I will let you hold those. All right. Now, did you
10 actually bring over a box that has the evidence for this
11 particular case for us to put into evidence here today?

12 A Yes, ma'am.

13 Q All right. Please tell the jury the items that you
14 actually have in the box that we can see on that bench right
15 there.

16 A The items that will be in our box are -- well, our
17 number, we put a serial number on it with a little label
18 that we put on there, it has a UPC where we can scan it.
19 Our number for each item, the first one is going to be 4854,
20 that is going to be a small envelope with cash number,
21 number 4851, which will be a black Desert Eagle pistol, and
22 number 4850 is going to be a tan in color purse with
23 miscellaneous items inside.

24 Q Okay.

25 A And then the other item is 5027, and it's going to be a

ANNA JAGGER - DIRECT

1 bag of clothing, a blue in color jacket with orange in color
2 label on the back collar, and a green in color knit
3 toboggan.

4 Q All right. Now, Lieutenant Jagger, what I'm going to
5 have you do, and you can bring those sheets with you, if you
6 will step down, I'm going to have you actually go through
7 those for the jury so we can identify them at this time.

8 THE COURT: Make sure you talk loud.

9 Q All right. Now, Lieutenant Jagger, if you will please
10 open the box and tell us the first item that you're seeing
11 what was submitted in this case.

12 A This is item 5027. This is going to be the blue jacket
13 with the orange label on the back collar, and the green knit
14 toboggan.

15 Q Let me hold that, please. So this particular bag of
16 evidence, has it been opened at any point in time?

17 A That has been opened to see what was in it recently for
18 the court case.

19 Q And who was there whenever you opened it.

20 A The solicitor and the -- yes, I'm sorry.

21 Q The defense attorney?

22 A Yes.

23 Q All right. Well, if you would please at this time,
24 Ms. Jagger, if you would open this up for us so we can
25 actually see -- all right. And once again this item was the

ANNA JAGGER - DIRECT

1 one submitted by Lolita Fournery, and that is documented on
2 the front of this, correct?

3 A Yes.

4 Q And where did she receive this item?

5 A They write down the case number, the date, collected
6 by -- it's a description, and then it says location where
7 collected, and then it says Chester County Detention Center
8 in Chester.

9 Q All right. Thank you. What is the next item that you
10 have in the box?

11 A This is going to be item number 4851. This is the
12 black Desert Eagle pistol. We were trying to see if we
13 could put a gun lock on it to make it safe, but it's a BB
14 gun so we weren't able to do that. This evidence is
15 secured, this is how it came back from SLED.

16 Q That's what I was going to ask you. This item
17 specifically, was it checked out at one particular time for
18 additional testing?

19 A Yes. The pistol and the purse were both taken by
20 myself to SLED for testing, DNA testing.

21 Q And whenever you took them to SLED, were they still
22 sealed in the package that they came in whenever they were
23 seized by Detective Sanders and then who handed them over to
24 Lieutenant Fournery?

25 A That's correct, these were all sealed.

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1 Q Okay. Once again this is safe. I'm going to trust you
2 with that.

3 A Yes, ma'am.

4 Q This is State's Exhibit 50. All right. Continue going
5 through if you don't mind.

6 A This is item 4854, this is going to be the cash. One
7 five dollar bill, one 10 dollar bill and four one dollar
8 bills.

9 Q Okay. All right. Once again, these items, if it's
10 open like this you would have documented or known when this
11 would have been opened, correct?

12 A Yes.

13 Q Okay. And when did you open this?

14 A The date would be on when y'all came in and took the
15 photographs.

16 Q When the State --

17 A The State and Mr. Frick came in.

18 Q Four ones here, a ten and a five. Okay. All right.

19 And then if you would please tell the jury, in regards to
20 State's Exhibit 51, where was that money seized from?

21 A This one actually was from Brian Sanders, and this says
22 for the left front pocket of suspect, and he didn't put
23 where it was but he just put that it was found in the left
24 front pocket of the suspect.

25 Q Okay. All right. So that's 51. All right. So what

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1 do we have next?

2 A This is going to be item 4850. This is going to be the
3 tan in color purse with the items inside.

4 Q Once again when was this particular package opened the
5 first time?

6 A SLED would have opened it. What we -- they do not like
7 paper bags because they can be torn and damaged, but our
8 officers a lot of times that's all we have to put them in,
9 so we make sure that they are sealed and when we get to SLED
10 we put them in this box and then we have to put the case
11 number on there and what it is that is inside. So it was
12 secured by me on 11/17 when I dropped it off at SLED and
13 they would be the ones that opened it and then they document
14 that they would have been the ones that put all of these
15 numbers on all of that on there.

16 Q And then after that, was this item opened again for the
17 State and defense to look at?

18 A That's correct.

19 Q All right. Now, were you the one who did the writing
20 on the purse that we're seeing here?

21 A Yes. This is from SLED, we don't touch anything. It
22 could be a different item in the bag, whatever the officer
23 said, we don't open anything or touch anything.

24 Q Okay. And then the contents that are inside of this
25 particular bag, is that everything that would have been

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1 provided to you whenever it was submitted as evidence at the
2 beginning of this case in November of 2017?

3 A Yes, that's correct.

4 Q Okay. So none of those items have been removed or
5 touched, altered in any way by you.

6 A No, ma'am.

7 Q I'm also going to mark as State's Exhibit Number 53,
8 since you mentioned how the box has to be sealed in a
9 certain way and this would have been how -- how the evidence
10 was transported, that was your testimony, correct?

11 A That's correct.

12 Q Now, whenever all of these items, when they come back
13 to you as the evidence custodian, what do you do with those?

14 A I just log it back in. These little labels that we
15 made, I put those on the outside of the box so that I can
16 scan them without opening it. So it was completely sealed
17 until we opened it for them to review it for court.

18 Q Okay. What about the buccal swabs that are actually
19 submitted into evidence, what is done with the buccal swabs?

20 A The buccal swabs are also transported to SLED, but most
21 of the time we don't get those back, they just stay at SLED.
22 These items are what we got back from SLED, we haven't
23 gotten the other items in the case back.

24 Q All right. And with the buccal swabs, once they're
25 actually submitted to SLED and SLED opens them, would they

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1 be of any value to you when they came back?

2 A No. Anything that does come back, it'll be sealed in
3 one of the SLED sealed boxes, and we just put -- if it goes
4 with the case we'll scan it. And a lot of times they'll
5 send back an additional item, like we turned in five but it
6 might have a DNA slide or something and so we'll go ahead
7 and add that to evidence that day, "Hey, I got this from
8 SLED, now this is another new piece of evidence for this
9 case."

10 Q Okay. All right. So after looking at all of the items
11 that was in the box, we have State's Exhibits Number 49 I
12 believe through 53 that you actually had in your care and
13 custody until a time of today's trial; is that correct?

14 A That's correct.

15 Q Along with the buccal swabs which were sent to SLED for
16 analysis.

17 A Yes, ma'am.

18 MS. LIVELY: Your Honor, the State would move to
19 offer -- would move 49 to 53 into evidence at this time?

20 THE COURT: Any objection?

21 MR. FRICK: Your Honor, defense renews its objection to
22 50, 51 and 52 as previously ruled upon.

23 THE COURT: Objection noted for the record, objection
24 overruled.

25 (The items were received as State's 49-53.)

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1 MS. LIVELY: Thank you, have a seat.

2 Q Now, Lieutenant Jagger, did you have any other -- I've
3 somewhat asked you this, but you said the only other thing
4 that you sent or took to SLED was the buccal swabs. When
5 was that that you actually took -- not the first buccal
6 swabs of Ms. Waldrip that was done on the night of the
7 robbery, but the swabs that were done recently, August of
8 2018?

9 A Yeah. I received them on 8/6 of 2018 and 8/7 at
10 3:28 p.m., I took those to SLED.

11 Q All right. And did you ever get those items -- and you
12 already said that you didn't get those items back, but do
13 you know whether or not a report was issued by SLED
14 regarding the DNA?

15 A What we do is we send in an I-lab request, it's like a
16 secured computer program where we request what we need, DNA
17 touch or whatever, and then everything is done in that
18 system, so any of the other officers can forward those
19 reports. But SLED would do those and to my knowledge they
20 have completed that.

21 Q They have done that. Okay. All right.

22 MS. LIVELY: Thank you. Answer any questions that the
23 defense may have for you.

24 CROSS EXAMINATION

25 BY MR. FRICK:

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1 Q First and foremost, you don't go to the scene and
2 collect evidence, correct?

3 A That's true, no.

4 Q Or at least in this case you did not, correct?

5 A Correct.

6 Q Your role is to just secure it and make sure it goes
7 where it's supposed to go and when it comes back log it back
8 in from where it came in.

9 A That's correct.

10 Q Okay. You don't generally conduct any testing or
11 didn't conduct any testing in this case, correct?

12 A I did not in this case, no, sir.

13 Q Briefly, the solicitor was asking you about some buccal
14 swabs. I'm going to ask you about the ones that were
15 collected back in November of last year. Do you have those?

16 A Yes, sir. Every time they turn in evidence they're
17 required to have that sheet that y'all had seen with them.

18 Q Okay. What did you do with the ones that were
19 collected in November of last year, just the swabs?

20 A On 11/8 buccal swabs 1A and 1B was taken to SLED on
21 11/16 at 16:10.

22 Q All right. So they were taken about eight days after
23 they were collected?

24 A That's correct.

25 Q Okay. And then the next swabs were taken -- well, were

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1 received by you August of this year?

2 A That's correct.

3 Q Okay. And then you short order got them to SLED,
4 correct?

5 A Yes, sir.

6 MR. FRICK: Thank you, ma'am, that's all of the
7 questions I have.

8 THE COURT: Any redirect?

9 MS. LIVELY: No, Your Honor.

10 THE COURT: Thank you, ma'am, you may step down, you're
11 free to leave. The State can call its next witness.

12 MS. LIVELY: Courtney Thompson.

13 The witness, COURTNEY THOMPSON, was first duly sworn

14 And testified as follows:

15 DIRECT EXAMINATION

16 BY MS. LIVELY:

17 Q Good morning, Courtney. Please state your full name
18 and your occupation for the record.

19 A My name is Courtney Thompson, and I'm a forensic
20 serologist at the DNA Case Work Department at the South
21 Carolina Law Enforcement Divisions, also referred to as
22 SLED.

23 Q And how long have you worked at SLED?

24 A I've worked there for six years.

25 Q And are you considered an agent?

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1 A I'm considered a technician, I'm a forensic serologist.

2 Q Forensic serologist. So explain to the jury what
3 forensic serology is.

4 A Forensic serology is the examination of different items
5 of evidence usually for different types of body fluid such
6 as blood, semen and saliva. The reason why those body
7 fluids are important is because they're all very good
8 potential sources of DNA. In my section I also process
9 items of evidence for just different types of DNA that might
10 be left behind by a particular individual.

11 Q All right. And how much education and training have
12 you had in the field of serology?

13 A I have a Bachelor's of Science Degree in Forensic
14 Science from Southern Wesleyan University. And then I was
15 trained for about a year in SLED in-house under a DNA
16 analyst and they taught me evidence handling, testing
17 procedures, how to maintain a chain of custody. And then I
18 went through a series of tests before I was deemed eligible
19 to be able to handle any type of evidence on my own.

20 Q And when were you actually deemed qualified to handle
21 evidence on your own?

22 A I passed all of my certifications in December of 2013
23 and I've been working independently since then.

24 Q Have you ever been qualified as an expert in serology?

25 A I have, yes.

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1 Q About how many times?

2 A About 20 times.

3 MS. LIVELY: All right. Your Honor, at this time the
4 State would offer Courtney Thompson as an expert in forensic
5 serology.

6 MR. FRICK: Your Honor, may we approach?

7 THE COURT: Yes.

8 (A bench conference was held.)

9 THE COURT: Any objection as to deeming this expert
10 qualified in the field of serology?

11 MR. FRICK: Yes, sir. I believe there's a subsequent
12 expert who can handle this area and the defense objects as
13 bolstering.

14 THE COURT: All right. What's the State's position on
15 that?

16 MS. LIVELY: Well, Your Honor, I think this is
17 something that would not be in the normal knowledge of the
18 jury in regards to how they work together for serology and
19 DNA to be able to have an accurate finding in a case, so I
20 think in order for them to hear what she has to say and what
21 she did in this particular case, that it would be helpful.

22 THE COURT: All right, objection overruled. She's
23 qualified as an expert in the field of serology. Ladies and
24 gentlemen of the jury, you will remember my instruction to
25 you yesterday about expert witnesses. Expert witnesses can

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1 testify in the form of opinions whereas typically what we
2 call lay witnesses can only testify to what they saw, heard
3 or smelled or something like that. Just because an expert
4 states an opinion to something doesn't mean you have to
5 accept the opinion, you just need to consider that when you
6 consider all the weight of the evidence and give it the
7 credibility you believe it deserves, okay?

8 MS. LIVELY: Thank you, Your Honor.

9 Q Now, did you receive items from the City of Chester in
10 regards to your lab anymore 17-17442?

11 A Yes, I did receive some items of evidence.

12 Q All right. Tell the jury all of the items that were
13 actually submitted to you from the city.

14 A The items that I took custody of that were submitted in
15 this case was item one, which was a purse with some
16 miscellaneous items inside it, and then item two, which was
17 an air pistol.

18 Q All right. And whenever you received those items --
19 whenever you received those items, Ms. Thompson, what are
20 you looking for in regards to making sure that the evidence
21 has been submitted properly and the possibility that there
22 may have been contamination?

23 A Before any type of work is begun on the item I will
24 check to make sure that the item is obviously properly
25 labeled and it corresponds to the case that I should be

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1 working on. And then I also check to make sure that the
2 item is properly sealed, and that if it had not been sealed
3 I would not have been able to do any work on that just per
4 our protocols to make sure that the integrity of the item is
5 intact whenever it's received into my custody.

6 Q So as an expert in serology, is it important for you to
7 actually have the evidence come to you as pristine and like
8 in the way it was actually seized at the time of the
9 potential crime?

10 A Yes. It is important that it is maintained so that we
11 can see what we're working with and just also it wasn't
12 altered in any way so that I would not miss potentially
13 something that could be of importance or had value to it.

14 Q Okay. And can you say based upon everything that we
15 have just now discussed whether or not these items were
16 presented to you properly and properly packaged by the city?

17 A It appears that they had been, yes, properly packed.

18 Q Did you have any concerns about them being tampered
19 with or altered in any way?

20 A No. And if I had I would not have performed any type
21 of processing on them.

22 Q And that was going to be my question. If something
23 comes to you and they're improperly sealed or packaged or
24 don't label it correctly then you will not test it, will
25 you?

COURTNEY THOMPSON - DIRECT

1 A No. Any type of testing that I would have performed
2 would have been ceased immediately.

3 Q Okay. And just for the jury to understand, you do not
4 actually test for DNA, correct?

5 A That's correct. I evaluate large items of evidence
6 such as the purse or the pistol and I collect potential DNA
7 from them, and then I forward those swabs that I collected
8 on further into the DNA section where a DNA analyst will
9 actually attempt to develop a DNA profile.

10 Q Okay. Thank you, Ms. Thompson. If you would please
11 step down for a moment, I'm going to actually ask you to
12 address the items that specifically came to you in this
13 particular case. If you'll please speak loud enough,
14 there's a microphone there, but the judge will need to hear
15 you as well as the court reporter. Now, you mentioned, and
16 I've got the report here, that you had items one and two
17 come to you for analysis. When it comes to you for
18 analysis, do the law enforcement officers tell you what kind
19 of analysis they're asking for?

20 A Yes. When the item is submitted a request for what
21 type of processing or testing that they want done it is
22 placed on each item specifically so that myself or the DNA
23 analyst knows how to proceed with testing.

24 Q Okay. And what was the specific request that these
25 items had been sent to you and then follow-up to DNA for?

COURTNEY THOMPSON - DIRECT

1 A They were -- I believe were submitted for DNA touch is
2 what it's called.

3 Q DNA touch.

4 A Uh-huh.

5 Q So let's talk about item one. Is this -- does this
6 look exactly like the purse whenever you got it?

7 A Yes. As far as my recollection of the purse is it
8 looks like the one that I processed. And I mark my evidence
9 whenever I alter it or process it in any way, so I always
10 put the SLED lab number, which is unique to each case, and
11 then item number and then my initials since I worked on this
12 item.

13 Q Okay. Please explain to the jury what the other
14 markings are that we are seeing on this particular item.

15 A Basically the markings are just to indicate that I
16 processed the entire exterior of the purse, and I did that
17 just by using a wet swab and then a dry swab and ran it over
18 the exterior of the entire item. Then I dried all of those
19 swabs and packaged them up, sealed them up and forwarded
20 them on for further testing.

21 Q All right. So this is to identify where you actually
22 did the swabbing of the purse.

23 A Yes. It's like a general indicator, you know. We draw
24 the arrow so that it can kind of indicate the entire item as
25 a whole.

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1 Q All right.. And once those items are sealed up, what's
2 the next procedure for DNA? And don't tell me about
3 testing, I'm not asking about that, but I'm just saying what
4 happens next?

5 A Typically, like I said, I will seal them up, and I put
6 them into a separate -- basically it's a plastic pouch and I
7 seal it and put my initials on it and date it so that it
8 remains in a sealed state until the DNA analyst is ready to
9 work on it, and then they will take that into their custody
10 so they can begin their testing.

11 Q So that will be in regards to State's Exhibit Number
12 52. Now, I'm going to show you State's Exhibit Number 50.
13 Now, will you please explain to the jury what you did in
14 regards to this particular item, and it's safe to hold, and
15 then any markings that are on there from your actual
16 involvement.

17 A Okay. Again, I can identify the item just based off of
18 the identifiers that I wrote on it, which indicates that I
19 handled it. The item is marked in this area and in this
20 area, and basically what it indicates is that I just swabbed
21 the entire exterior of this item. And the same is what I
22 did with the purse, I did a wet swab followed by a dry swab,
23 they were both dried and then packaged up and sealed until
24 they were ready to be picked up and analyzed.

25 Q All right. So after you've done that and you've

COURTNEY THOMPSON - DIRECT

1 actually swabbed them, what do you do with the actual items
2 themselves after you've done the swabbing?

3 A In this case the items would have been basically
4 wrapped in the paper that I processed them on, and that's
5 just to keep all of the materials that I use whenever I'm
6 working with an item together. It would then have been put
7 back in its original packaging, sealed up and then returned
8 to evidence control, which is where all of our evidence is
9 housed by a more long term point of time until the agency
10 who submitted it is ready to come and pick it back up again.

11 Q Now, once your swabs are submitted to the DNA evidence
12 for there to be a comparison, do you have anything else to
13 do in regards to the particular case?

14 A No. That would be the extent of my involvement in this
15 case.

16 Q Okay. Except to come here and testify about your part
17 in the followup testing.

18 A That's correct.

19 Q All right. You can have a seat, thank you. Now, Ms.
20 Thompson, whenever -- the form that you actually enter into
21 I-lab regarding your involvement only talks about what items
22 you actually processed; is that correct?

23 A That's correct..

24 Q All right. So you -- would you have something like a
25 final like analysis report or anything of that nature

COURTNEY THOMPSON - DIRECT

1 regarding any other kind of findings?

2 A No. What has been published to I-lab is the extent of
3 my findings.

4 Q And based upon your experience as an expert in serology
5 and the information -- and the actual evidence items that
6 were sent to you, was everything sent to you in the proper
7 manner so that you could do a clean swabbing of both the
8 purse as well as the gun for them to later be tested for
9 DNA?

10 A Yes, they were.

11 Q All right. Did you ever receive actual buccal swabs,
12 which would be inside swabs of the mouth, from the city for
13 any reason at all in your department of serology?

14 A No, I did not receive any swabs.

15 Q Okay. I just wanted to be clear about that. That
16 would be DNA?

17 A That's correct.

18 Q All right. Thank you.

19 MS. LIVELY: Answer any questions the defense may have
20 for you.

21 THE COURT: Mr. Frick?

22 MR. FRICK: Thank you, Your Honor.

23 CROSS EXAMINATION

24 BY MR. FRICK:

25 Q So Ms. Thompson, just to be clear in this case you were

COURTNEY THOMPSON - CROSS

1 processing the items that were sent to you, correct?

2 A That is correct, yes.

3 Q You didn't do any final testing or render any reports.

4 A No. I do not do any type of DNA analysis on the items,
5 I merely collect potential evidence off of the items.

6 Q And just to be clear, the arrows you said are
7 general -- just to show the general area?

8 A Yes. It's basically -- I can't mark over the entire
9 item due to its size, and so it's an indicator of the fact
10 that I did swab the entire exterior of that particular item.

11 Q Now, you're using a simple word but I'm a lawyer so
12 when you say entire, what does entire mean?

13 A It means that I swabbed the whole face that you would
14 see; the sides, the bottom, the straps, basically all of the
15 parts that are on the outside of the purse. I did not swab
16 inside of the purse at all.

17 Q Okay. And it looks like you've got markings on both
18 sides. Does that mean that you have swabbed both sides of
19 the purse?

20 A Yes, that's correct.

21 Q So when you say entire you mean entire.

22 A Yes, that's correct.

23 Q Everything.

24 A Uh-huh.

25 Q Handle, all of the stuff.

COURTNEY THOMPSON - CROSS

1 A That is correct.

2 Q Okay. On the air pistol, did you do two different
3 swabbings on this one?

4 A No, it's still only one sets of swabs. It's two swabs
5 but they're collected at the same exact time.

6 Q Okay. But wasn't there an additional swabbing on the
7 front of the gun?

8 A Oh, yes, sir. I didn't have my evidence work sheet
9 whenever I was looking at the gun, so I missed that. But
10 yes, I did take swabs from the barrel end of the pistol.

11 Q Okay. So why would you do the two different swabs?

12 A The reason why I did the separate set of swabs was
13 because I was not sure at the time if the gun was used as
14 any type of weapon, not necessarily to shoot but maybe to
15 physically harm someone else, I wasn't quite sure with the
16 information I had present at the time. So in order to
17 maintain the integrity of possibly having multiple --
18 possibly having multiple people present on the item I
19 swabbed them separately just to make sure, but I didn't
20 accidentally swab both of those together.

21 Q Okay. So just to be clear, again you're using simple
22 language which it's my job to make words -- you swabbed the
23 outside of the gun and then separately not included in that
24 swab, correct me if I'm wrong, just stop me, the barrel
25 right here, correct?

JENNIFER BARTMAN -- DIRECT

1 A Uh-huh, that's correct.

2 Q So separately looking for anything that might be on the
3 tip of the gun, correct?

4 A That is correct.

5 Q Okay. And were those basically the items that you were
6 submitted to -- or that you had to process?

7 A Yes. Those are the only two items that I processed.

8 MR. FRICK: Thank you, ma'am, no further questions.

9 THE COURT: Anything further for this witness?

10 MS. LIVELY: No, Your Honor.

11 THE COURT: Thank you, ma'am, you can step down. Let's
12 take a brief recess, ladies and gentlemen, it will be a
13 short one, probably about ten minutes. Don't talk about the
14 case, head on back to your jury room.

15 (The jury left the courtroom.)

16 THE COURT: Are y'all ready for the jury?

17 MS. LIVELY: Yes, sir, the State is ready.

18 THE COURT: All right. Bring the jury.

19 (The jury returned to the courtroom.)

20 THE COURT: All right. All members of the jury are
21 present. Ladies and gentlemen, I am -- in the interest of
22 time so we can move forward and get everything hopefully
23 done today I am calling in lunch for y'all today, okay? I
24 just want to go ahead and let you know that. I know it's
25 10:30 but that's what we're going to do later on this

JENNIFER BARTMAN - DIRECT

1 morning or early this afternoon, okay? All right. The
2 State can call its next witness.

3 MS. LIVELY: Thank you, Your Honor. The State would
4 call Jennifer Bartman to the stand.

5 The witness, JENNIFER BARTMAN, was first duly sworn

6 And testified as follows:

7 DIRECT EXAMINATION

8 BY MS. LIVELY:

9 Q Ms. Bartman, please tell the jury where you're
10 currently employed.

11 A I'm currently employed with the South Carolina Law
12 Enforcement Division commonly known as SLED.

13 Q And what are your duties at SLED?

14 A I'm assigned to the DNA Case Work Department where I
15 perform DNA analysis on evidence that is submitted from
16 crimes that occur across South Carolina.

17 Q All right. And how long have you been working in that
18 particular field?

19 A I've been employed at SLED for six years.

20 Q Has that been in the DNA analysis department?

21 A That's correct.

22 Q And what kind of training did you receive and what is
23 your educational background?

24 A I have a Bachelor's Degree in biology, and I also have
25 a Master's Degree in Forensic Science with a concentration

JENNIFER BARTMAN - DIRECT

1 in Forensic Biology. And then I received approximately a
2 year of on the job training at SLED learning the proper
3 technique and procedures of the SLED laboratory with a court
4 qualified analyst.

5 Q And have you ever been qualified as an expert in DNA
6 analysis?

7 A Yes, I have.

8 Q Approximately how many times?

9 A Twenty-three.

10 Q Now, Ms. Bartman, in regards to DNA analysis, did you
11 have the opportunity to actually perform your duties as a
12 scientist in this particular case?

13 A Yes, I did.

14 MS. LIVELY: Your Honor, at this time the State would
15 offer Jennifer Bartman as an expert in DNA analysis.

16 MR. FRICK: No objection.

17 THE COURT: Without objection so qualified.

18 MS. LIVELY: Thank you. You're not going to -- I guess
19 you already talked --

20 THE COURT: Just remember, ladies and gentlemen, what I
21 told you about expert witnesses, okay? Go ahead.

22 MS. LIVELY: Okay. I just didn't want to start talking
23 before you, Your Honor. Thank you.

24 Q Okay. Now, Ms. Bartman, will you please explain to the
25 jury -- and I know we've all seen -- well, maybe a not, but

JENNIFER BARTMAN - DIRECT

1 a lot of people have seen CSI and all of these other crime
2 shows, but explain to them what it is that you're doing when
3 you're doing a DNA analysis?

4 A Okay. I'll start with what DNA is. DNA is a chemical
5 that's found in our body and it makes us who we are. You
6 get half of your DNA from your mother and half of your DNA
7 from your mother. What I do is I extract DNA from specific
8 substrates; it can be from swabs, from cutting from
9 clothing, et cetera, and I figure out how much DNA I have
10 and I look at specific sections of that DNA, which are known
11 to differ between individuals and I make comparisons
12 regarding profiles that I developed from evidence and
13 profiles that I developed from known standards.

14 Q Okay. Some of the language that we'll be using today I
15 may get you to please explain to the jury so they'll
16 understand it. What do you mean by a standard?

17 A A standard is what we refer to as a DNA sample that is
18 coming from a known person or a known individual.

19 Q So for instance, if I swab inside my mouth with a Q-tip
20 and I send it to you, would that be a known standard?

21 A Yes, it would. Typically we do receive our known
22 standards as swabs, which are basically just bigger versions
23 of a Q-tip that you can use at your house.

24 Q Okay. And for instance, if I were to get a swab and I
25 would just run it across here, across the top of the bar

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1 here and send it to you without touching it with my own
2 hands, I would have on gloves and I sent it to you, what
3 would that be?

4 A That would be an evidence item, and most likely you
5 would be looking for touch DNA.

6 Q Thank you. That's just kind of a real easy way to kind
7 of explain then the difference between knowing what you're
8 getting from someone and not knowing what you may be getting
9 from something like that.

10 A That's correct.

11 Q Okay. And I'm just trying to simplify it. All right.
12 Now, whenever you get a known standard from law enforcement,
13 what do you do with that?

14 A When we get a known standard we develop it separately
15 from our evidence and we generate profiles from that for
16 comparison to our evidence.

17 Q Okay. And a DNA profile is what?

18 A A DNA profile will consist of the different locations
19 that I talked to you about before. We look at several
20 different locations of the DNA that are known to differ, and
21 those are different locations. And at each location there
22 is typically going to be one or two different numbers, one
23 of them would be from your mom and one of them would be from
24 your dad, and if you just had one number that means that
25 you've got the same type from both your mom and your dad.

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1 Q Okay. So if I say I swabbed the inside of my cheek and
2 I send it to you and asked you to come up with my DNA
3 profile, would that mean that you will have an ability to
4 show all of the different locations of the loci I think is
5 what it's called.

6 A Yes. Each location is called a locus or pleuralis
7 loci.

8 Q Okay. Loci of what my complete profile is based on my
9 mother and my father, is that what you're saying?

10 A Your DNA is based on your mother and father, but yes, I
11 would be able to develop a DNA profile from you.

12 Q Okay. All right. So you've got my DNA profile at that
13 point in time from a known standard. What do you do with it
14 next?

15 A With the known standard those are typically the last
16 things that we compare. We compare and generate DNA
17 profiles from our evidence first, and that's just to ensure
18 that no contamination takes place from the known standards
19 and the evidence. Typically known standards will have a lot
20 of DNA, we're not typically worried about generating a DNA
21 profile from a known standard. However evidence, for
22 example like the counter surface potentially could have much
23 less DNA there.

24 Q If you don't get enough on a swab for there to -- for
25 you to run a complete profile, how do you actually put that

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1 in your report? What do you typically say?

2 A We have certain standards and procedures that have all
3 been validated that I am bound by. So if I do not get
4 enough DNA in or to make a comparison my report will
5 indicate that the DNA profile that's developed was
6 insufficient for interpretation or comparison.

7 Q So in other words you wouldn't be able to -- you
8 wouldn't be able to have enough to get a profile.

9 A A profile would be developed, just not a full profile.

10 Q Not a full profile. Okay. And whenever you get a swab
11 for touch DNA, is there a possibility there can be more than
12 one profile -- or let me just say, more than one DNA profile
13 on that particular swab? I hope I'm asking you that right.
14 Do you understand what I'm asking?

15 A I do, yes. When we collect touch DNA it is possible
16 and even likely that we would get more than one person's DNA
17 in the profile and it would be a mixture..

18 Q Okay. And you actually would state that on your
19 report?

20 A Yes, I do.

21 Q Now, let me get specifically to this case.

22 November 8th of 2017 is the incident date for a case
23 involving an armed robbery, kidnapping and assault and
24 battery first degree. Did you receive information or swabs
25 from your serology department regarding the request for you

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1 to actually develop a profile in this case?

2 A Yes. I received swabs from our SLED number L17-17442
3 for a purse and from a Desert Eagle.

4 Q A Desert Eagle, which is a gun.

5 A A gun, yes.

6 Q All right. Now, there's already been testimony on the
7 record in regards to submissions of buccal swabs and other
8 items which you just mentioned which is the purse and the
9 gun by the City of Chester, correct?

10 A Those were the items that were submitted.

11 Q Okay. Now, I'm going to actually ask you about what is
12 the terminology of buccal swab. What does that mean to you
13 as the DNA analyst?

14 A To me buccal swab is another way to say a known
15 standard.

16 Q All right. So that would be the swab that is actually
17 inside the mouth and cheek of the person that you're wanting
18 the standard from.

19 A That's correct.

20 Q Okay. So I'm going to show you what's been already put
21 into evidence as Defense Exhibit Number 6, and then there is
22 State's Exhibit Number 47 just to kind of keep some stuff.
23 Just hold on to that for a minute, I'm going to ask you
24 about some of your testing. I'll just give you a chance to
25 look at that.

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1 A Okay.

2 Q Okay. Now, Ms. Bartman, in your report -- and once
3 again, do you actually issue a report through SLED as to
4 what your findings are after you complete your analysis in a
5 case?

6 A Yes, I do.

7 Q And did you actually provide a report regarding this
8 particular case on all items that have been submitted?

9 A Yes, I did.

10 Q Now, whenever you received item number three and four,
11 which are listed as buccal swabs from Katherine Waldrip,
12 what was the result of comparison standards three and four?

13 A For item three the partial DNA profile developed is
14 insufficient for comparison. And for SLED item four, the
15 DNA profile developed was a mixture of at least three
16 individuals and is not suitable for comparison.

17 Q And is that -- does that give you concern or did you
18 think that that was odd?

19 A Yes. Typically buccal swabs will be single source,
20 they should be single source as they're from a known
21 individual. So when I developed those two results for
22 known -- what was submitted as known standards I did reach
23 out to see if I could get another standard submitted.

24 Q And once you reach out in regards to get additional
25 buccal swabs, did you have an opportunity to learn that the

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1 original swabs were not actually buccal, as in inside the
2 mouth?

3 A Yes, later on I did realize that.

4 Q So I'm going to show you then what you got as three and
5 four you thought was inside the cheek of a particular person
6 for a known standard; is that right?

7 A That is what I thought, yes.

8 Q Okay. And if I could just grab these evidence sheets.
9 And that would have been from the Defense Exhibit Number 6,
10 the date of 11/8/2017, would those have been the first swabs
11 that you would have received for analysis in this particular
12 case?

13 A Yes, they would have been.

14 Q All right. And after you realized there was something
15 not right with the way it was listed, did you request new
16 buccal swabs?

17 A I did.

18 Q Okay. I'm going to show you State's Exhibit Number 47,
19 and it's already in evidence. Will you tell me at the top
20 of the page the date of that particular submission of buccal
21 swabs?

22 A The date at the top of the page is 8/6 of 2018.

23 Q All right. And in looking at that evidence collection,
24 at that time does it state specifically who those items were
25 taken from and what they were?

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1 A Yes. It says that two of the buccal swabs were taken
2 from Kathy Waldrip and two of the buccal swabs were taken
3 from Jerrell Brockman.

4 Q And so those buccal swabs from what you received from
5 the Chester City Police Department at that time, were those
6 done in such a fashion to where you were able to actually
7 get a standard, a DNA standard, which is what you're
8 supposed to do whenever you do a buccal swab?

9 A Yes. Both of those buccal swabs, the DNA profile
10 developed was suitable for comparison and it was suitable
11 for use as a known standard.

12 Q As an expert, if I told you that an officer swabbed the
13 outside of someone's cheek and submitted that as a buccal
14 swab, could that be the reason why you didn't get enough
15 information for you to actually come up with a standard?

16 A Yes, that's a possible reason.

17 Q All right. Let me just take those from you so we can
18 talk about your analysis. So now you have the newer buccal
19 swabs from the victim, Kathy Waldrip and the defendant,
20 Jerrell Brockman. Did you actually get a DNA profile on
21 both of these individuals?

22 A Yes, I did.

23 Q Once you got the DNA profile developed on these
24 individuals, what is the next step for you to do?

25 A The next step would be to make comparisons to the

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1 comparable profiles I developed from the evidence.

2 Q All right. So please tell the jury exactly which items
3 that you tested next regarding your analysis.

4 A So the first items I tested were the items of evidence,
5 which were SLED items 1.1, which were swabs from the entire
6 exterior of the purse, the tan purse with miscellaneous
7 items inside.

8 Q And I'm just going to show you what's in as State's
9 Exhibit Number 52. Once again, what are the markings on the
10 outside of this that's labeled as what?

11 A Item 1.1.

12 Q Item 1.1. So item 1.1 that was brought to you or you
13 retrieved that from the serology department, correct?

14 A They were generated by the serology department, yes. I
15 may have gotten it from the evidence control department.

16 Q All right. Tell the jury what your findings were in
17 regards to evidence item 1.1 and the profiles that you
18 already had for the defendant and Kathy Waldrip.

19 A The DNA profile that was developed was a mixture of at
20 least three individuals. The partial DNA profile of the
21 major component to the mixture was consistent with being
22 from two individuals. Jerrell Brockman is included as a
23 possible contributor to the major component of the mixture.
24 The probability of randomly selecting an unrelated
25 individual who could have contributed to the major component

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1 is approximately one in 650,000. Kathy Waldrip is excluded
2 as a contributor to the major component of the mixture. And
3 due to the inability to calculate a statistic no further
4 interpretation will be offered regarding the minor
5 contributor.

6 Q So that was a lot of information. Let me see if I can
7 ask, as an expert are you saying that the defendant's DNA
8 was on the purse?

9 A His DNA profile was included as a contributor to the
10 major component. So when we have mixtures we can have
11 indistinguishable mixtures, which means we can't tell who
12 gave more DNA or who gave less DNA. We also have mixtures
13 where we can determine a major and a minor contributor or a
14 major component, which would be two contributors and minor.
15 So in this case I could tell that there was two contributors
16 that were contributing more DNA than the other contributors
17 to the mixture, and Jerrell Brockman's DNA profile was
18 included in the major component of the mixture.

19 Q Okay. Well, can you explain why, I mean, just in your
20 expert opinion Katherine Waldrip would be excluded as a
21 contributor to that major component? Could you give us just
22 maybe some examples as to why that may be since it is her
23 purse?

24 A It could be because that she didn't hang on to it
25 specifically where the purse was swabbed. It could be

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1 because the people who touched it either before or after
2 left more DNA behind than she did when she was using and
3 carrying the purse.

4 Q Okay. And I know you can't give us a specific, but if
5 someone was actually holding the purse and it was November
6 and had the purse on her shoulder like this, then where
7 would DNA from that person actually possibly be? Maybe
8 here?

9 A It would be possible that would be on the straps where
10 they would be grabbed and put on to the shoulder.

11 Q Okay. All right. But the major contributor to what
12 you found on the swabbing of the sides of the purse, which
13 is what we've seen came -- he was the contributor to the
14 major component of that mixture, correct?

15 A Yes, he was one of the contributors.

16 Q He was one of the contributors. All right. Was there
17 enough DNA there for you to determine any other contributor
18 to that component on that mixture?

19 A There was enough DNA for comparison but not for any
20 identification with any other standards that was submitted.

21 Q Okay. Now, moving on to the next item that you
22 actually had swabs from, which is 2.1. Please tell the jury
23 what you did with that.

24 A SLED item 2.1 were swabs from the entire exterior of
25 the pistol excluding the barrel end. The DNA profile that

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1 was developed from that item was a mixture of at least two
2 individuals. The partial DNA profile of the major
3 contributor matched the DNA profile of Jerrell Brockman.
4 The probability of randomly selecting an unrelated
5 individual having a DNA profile matching the profile that
6 was developed from the major contributor is approximately
7 one in 54 septillion. The partial DNA profile of the minor
8 contributor is from an unidentified individual.

9 Q So the profile that you were able to actually pull off
10 of the weapon you said is a mixture of at least two
11 individuals.

12 A That's correct.

13 Q All right. So the major contributor in your expert
14 opinion based upon your analysis matches the DNA profile of
15 Jerrell Brockman, I just want to be clear.

16 A That's correct.

17 Q So the other individual that may have either had
18 contact with or -- and this was the exterior of the pistol
19 excluding the barrel end, correct?

20 A That's correct.

21 Q I want to just be really sure. Actually let me show
22 you this so the jury can see what we're talking about. I'm
23 going to show you State's Exhibit 50 that's in evidence. So
24 the item that were talking about 2.1, where would the swabs
25 have come from on that?

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1 A Based on the markings I did not receive those items, it
2 looks like it was taken from the exterior.

3 Q Thank you. So the exterior here. All right. And then
4 here, what's this labeling here?

5 A That labeling is also item 2.1.

6 Q So 2.1 is what you're giving us your expert opinion on
7 in regards to your analysis of the swabs taken from that
8 area as well as this area.

9 A Yes, that's correct.

10 Q Okay. Now, on the last bullet under your findings you
11 said the partial DNA profile of the minor contributor is
12 from an unidentified individual. Explain to the jury what
13 that means.

14 A That means that there was enough of the profile of that
15 minor contributor for comparison, however neither of the
16 standards that I received matched to that profile.

17 Q Okay. And so that means the two standards that you
18 had, which was Jerrell Brockman, you've already testified
19 that he was a major contributor, the only other standard
20 that you had was the standard of Katherine Waldrip; is that
21 correct?

22 A That's correct.

23 Q And her profile from those areas of the gun could not
24 be matched.

25 A Yeah.

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1 Q I know you don't like the word matched. But they were
2 not consistent with what you had.

3 A With the minor contributor, correct. Her DNA profile
4 is not consistent with the DNA profile developed from the
5 minor contributor.

6 Q Okay. Thank you for explaining what I was trying to
7 ask. Now, the second item that you have is item 2.2.
8 Please tell the jury what 2.2 was.

9 A SLED item 2.2 were swabs from the barrel end of the
10 pistol.

11 Q Okay. I'm going to approach you again, please. When
12 the barrel end of the pistol, if you would please point to
13 what that is and whether or not it's identified on this
14 weapon.

15 A Yes. Item 2.2 is identified as this portion of the
16 weapon.

17 Q All right. So this is the actual front of the barrel
18 of the gun, 2.2. All right. Now, please tell the jury what
19 your findings were in regards to swabs from 2.2.

20 A The DNA profile that was developed was a mixture of at
21 least two individuals. The partial DNA profile developed
22 from the major contributor matched the DNA profile of
23 Jerrell Brockman. The probability of randomly selecting an
24 unrelated individual having a DNA profile matching the major
25 contributor is approximately one in 120 septillion. The

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1 partial DNA profile of the minor contributor is insufficient
2 for interpretation.

3 Q Okay. All right. So you do find that there is a
4 mixture of least two individuals at the butt of the gun, the
5 front of the gun.

6 A From the barrel end, yes.

7 Q From the barrel. All right. So you've got Jerrell
8 Brockman as a major contributor, and you've confirmed that,
9 however you're saying that the other contributor is
10 insufficient for interpretation. How is that different from
11 saying the partial DNA profile in 2.1 of a minor contributor
12 from an unidentified individual? I just want to make sure
13 we're clear about that is different.

14 A For item 2.1 where the minor contributor is from an
15 unidentified individual, there's enough of a DNA profile
16 there that I could make comparisons if I had other standards
17 to compare it to. For item 2.2, the partial DNA profile is
18 insufficient for interpretation. That means that there
19 wasn't enough DNA there in order for me to make a comparison
20 to any standard.

21 Q Okay. All right. So all you can say in your expert
22 opinion is that there is a partial DNA profile at the end of
23 that weapon, but you cannot just say whether or not the
24 standard -- whether either one of the standards that you
25 have contributed to what you're seeing.

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1 A That's correct. There is a minor second contributor to
2 the mixture, however no comparisons will be made to any
3 standards.

4 Q Now, Ms. Bartman, whenever we talk about touch DNA,
5 tell the jury what kind of things can affect whether or not
6 touch DNA is going to be found on different types of items.
7 Like for instance this particular purse, how do we -- how do
8 those kind of things come off? How does your DNA possibly
9 get lost on those items?

10 A There are several different factors which affect how
11 much DNA is left behind from skin cells. It can be how long
12 you hold on to an item. So for example, the longer you're
13 holding on to an item the more likely you are to leave DNA
14 behind, whereas if you briefly touch it you're less likely
15 to leave DNA behind. It can depend on the surface of the
16 item. Some surfaces DNA adheres to or stays on better than
17 others. It can also depend on the individual. Some people
18 just naturally will leave more DNA behind than other
19 individuals.

20 Q Okay. And whenever you have things that maybe are in
21 between what you're testing or what has been swabbed and was
22 actually touched, the gun, like for instance if my -- if I
23 had my hair in between this and the gun being placed to my
24 head, could the hair interfere with touch DNA being left on
25 the barrel of this gun?

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1 A Yes, it's possible.

2 Q It's possible. Okay. What if the person is -- this
3 might sound like a dumb question but I have to ask, what if
4 someone is wearing gloves, are they going to leave anything
5 behind or is there still a possibility that there could be
6 touch DNA for that?

7 A Typically when someone touches a surface with gloves on
8 they do not leave a lot of DNA behind.

9 Q So the person who is actually leaving DNA behind would
10 have to be actually touching or having had touched this
11 particular item in order for their touch DNA to be there.

12 A There are other ways for DNA to transfer. For example,
13 this is unlikely, but it is possible for DNA to transfer
14 from one item to another without actually touching it. And
15 that's also to say that if a person's DNA profile is on an
16 item it doesn't necessarily mean that they held it the last
17 one or that they held it the longest, it just means that
18 they had the most DNA that was left behind.

19 Q And that could dependent on the person as much as it
20 could be how much they actually handled it. You cannot give
21 us an expert opinion on those specific facts as to how long
22 something had held it in order for that DNA to be there.

23 A No. There are a variety of factors that take into
24 account whether a DNA profile can be developed from an item.

25 Q Okay. Whenever you get these items and when you get

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1 the swabs from the serology department as well as the buccal
2 swabs, are you careful to make sure that there's no -- that
3 the seal has not been opened and there's not been any
4 tampering or alternating of the actual swabs as you're
5 opening them?

6 A Yes, that is correct. I make sure that the items have
7 been properly sealed.

8 Q And in your expert opinion based on the swabs that you
9 received from the city, especially the most recent ones that
10 were received in August of 2018, were those swabs intact and
11 had they been preserved in a way that gave you the ability
12 to actually do your standard for these particular two
13 individuals?

14 A Yes. All of the evidence that I received, including
15 the standards, were packaged properly.

16 Q Okay. If they had not been, would you have tested
17 them?

18 A No, I would not have.

19 Q And based upon the standards that you received in
20 August of 2018, your results in regards to the defendant,
21 Jerrell Brockman, in your expert opinion his DNA, or some
22 level of his DNA was on both the purse as well as the weapon
23 that was sent to you.

24 A That's correct.

25 Q If his DNA had not actually been on the purse, would

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1 you have to actually put that in your report that he's
2 excluded as a contributor?

3 A Yes. It would have appeared next to Kathy Waldrip's
4 name and would say that they are excluded as the major
5 component to the mixture.

6 Q Thank you. Hold on just a second.

7 (Break in proceedings.)

8 MS. LIVELY: All right. Thank you so much,
9 Ms. Bartman, please answer any questions that the defense
10 may have for you.

11 THE COURT: Mr. Frick, your witness.

12 MR. FRICK: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MR. FRICK:

15 Q Ms. Bartman, when did you first receive items in this
16 case?

17 A I would refer to our chain of custody. I first
18 received items in this case on July 13th of 2018.

19 Q Okay. According to the chain of custody were items
20 submitted to SLED prior to that though?

21 A Yes, they were.

22 Q In fact, weren't some items submitted in November of
23 '17?

24 A Yes. It looks like the initial items were submitted on
25 November the 16th of 2017.

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1 Q And what were those items?

2 A Those items were the one sealed box containing
3 miscellaneous described as tan purse. And SLED item two,
4 which is one sealed box containing miscellaneous described
5 as a black Desert Eagle pistol with air pistol in
6 parenthesis. SLED item three, which is one sealed envelope
7 containing buccal swab described as victim Katherine Waldrip
8 buccal swab. And SLED item four, which is one sealed
9 envelope containing buccal swab described as victim
10 Katherine Waldrip buccal swab.

11 Q So the buccal swabs in I guess what y'all are calling
12 item three and four, and then the purse and the air pistol
13 are received November of 2017.

14 A That's correct.

15 Q Not that you tested them but they were received by SLED
16 then.

17 A That is when they were received by the SLED laboratory,
18 yes.

19 Q When did you test items three and four?

20 A I received them into my custody on July 13th of 2018.

21 Q Okay. And when you received them into custody, does
22 that mean -- is that when you conduct the test?

23 A Typically the analysis began shortly after, I can look
24 up the exact dates if you would like me to.

25 Q That's fine. But shortly thereafter, correct?

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1 A Correct.

2 Q And then, of course, I think you said that the result
3 was odd?

4 A For buccal swabs, yes.

5 Q That's what I was getting at, not what you would expect
6 to see for a buccal swab.

7 A That's correct.

8 Q In your world as an expert in DNA, a buccal swab, is
9 that a specific term?

10 A It's a term that we use for a known standard that's
11 collected on a swab, yes.

12 Q And it is collected from a specific location?

13 A From the inside of the cheek, yes.

14 Q So if someone listed as a buccal swab that's where you
15 would expect it to be.

16 A That's correct.

17 Q Okay. So when that result comes back you said perhaps
18 y'all need to submit a new standard, is that --

19 A Yes. I informed them that the DNA profile that I
20 developed from the known buccal from the victim was not
21 suitable for comparison and I requested that another buccal
22 swab be submitted to the laboratory.

23 Q And when did you get those additional standards?

24 A The additional standard was submitted on August 7th of
25 2018.

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1 Q Were you able to conduct any analysis on the purse or
2 the air pistol before you had these other standards?

3 A Yes, I did.

4 Q Okay. And did you develop anything at that time?

5 A Yes. I developed profiles from the evidence first and
6 then prior to making the comparisons to the known standard.

7 Q Okay. And then once you got these additional standards
8 you were able to make comparisons, correct?

9 A That's correct.

10 Q All right. Do you tell local law enforcement what to
11 send you or do you accept what they send you?

12 A No. We do have submission policies, but as far as
13 which items they send we typically test what they send us.

14 Q But as far as any buccal swabs or anything that you're
15 looking for a known standard on, you don't say, "Hey, go get
16 a swab from Jerrell Brockman," or, "Go get a swab from
17 Katherine Waldrip."

18 A We can. For example, if no standards are submitted to
19 the laboratory upon submission of the case, if we only have
20 a DNA profile from evidence and we developed a comparable
21 profile, it's not unlikely to see that request on our DNA
22 reports to make comparisons.

23 Q So what would that comparison be? How would you y'all
24 do that?

25 A The statement on the report would essentially say DNA.

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1 comparisons can be made upon submission of known standards
2 from a victim and any listed individuals in the case.

3 Q How would you determine who those people would be then?

4 A They are submitted on our packing slip. There can be
5 victim's names, suspect's names, witness' names, et cetera.

6 Q Okay. All right. But you have to gather that
7 information from what's provided to you or --

8 A That is provided to us, yes.

9 Q Is there any testing that y'all can do to determine
10 possible standards that should be sought?

11 A There is a database that we can enter qualifiable
12 profiles into which could potentially provide investigative
13 leads.

14 Q Did that happen in this case?

15 A No, it did not.

16 Q Let's go to the items you tested then. I'm looking at
17 basically numbers that you come up with. On 1.1, when you
18 say that the DNA on the purse matches the profile of Jerrell
19 Brockman, and this one always you confuses me, but the
20 probability of randomly selecting an unrelated individual
21 who could have contributed, one in 650,000. First of all
22 tell me, what do you mean when you say randomly selecting an
23 unrelated individual?

24 A So the reason we say unrelated individual is that
25 people who are related will have similar DNA to each other

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1 than to people they are not related to, and in order to make
2 any sort of comparison to say any sort of inclusion or to
3 say any sort of match we have to be able to put a weight to
4 it or some meaning to it, which is the number. So randomly
5 selected wouldn't mean that if you pick any random person,
6 they would have a one in 650,000 chance to have a DNA
7 profile that would also be included in that mixture.

8 Q Okay. I'm going to get back to that part in a second,
9 I'm specifically stuck on this unrelated individual part
10 right now. So if the person were related, would that skew
11 the results possibly one way or another?

12 A That could make it more likely that their DNA might be
13 included into the mixture. The type of statistic testing
14 that we do basis it on the fact that this number is based on
15 an unrelated individual.

16 Q So if you're in a small community and there's a lot of
17 inner-relationship, would that skew this number?

18 A It is possible that related people would be more likely
19 to be included in the mixture.

20 Q Okay. So let's say if there's a brother or a cousin of
21 a suspect that you have in this, does that factor into this
22 particular analysis?

23 A That does not factor into the statistic that's
24 provided.

25 Q Okay. Well, let's go to the statistic then. What

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1 does -- how do you come up with one in 650,000?

2 A We have a program that we enter the DNA profile in,
3 which looks at the probability of each different profile
4 that you have, and it gives you a probability, or calculates
5 a probability of how likely that is.

6 Q So just for my purposes, probability is just kind of
7 like odds, the odds of it being that person?

8 A It's similar.

9 Q Okay. So you've got some different numbers here, and
10 1.1 you say it's one in 650,000, and 2.1 it is one in 54
11 septillion, which is obviously a much more larger number
12 than 650,000. And then finally, one in 120 septillion.

13 A Yes.

14 Q So in 2.1 the odds of it actually being that person are
15 much higher than in 1.1, is that a fair assessment?

16 A Yes. For example, with single source profiles or if
17 you can deem a major contributor from a sample, the
18 statistic that is generated is typically much higher because
19 there's less people that can be included in that one
20 person's profile. Whereas if you have a mixture there is
21 more DNA present, so there's a greater likelihood that more
22 DNA -- more peoples' DNA profile can be include into that
23 mixture. So typically with mixtures we do see lower
24 statistics than with single source profiles.

25 Q Well, if I'm not mistaken in all three of these you

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1 have a mixture, correct?

2 A Yes, there are mixtures for all three. However for
3 item 1.1, which is the swabs from the purse, I was able to
4 deem a major component of two individuals, so in that case
5 it was still a mixture. Whereas items 2.1 and 2.2, which
6 were the swabs from the pistol, I was able to pull out a
7 major contributor, which is a single source profile.

8 Q Okay. All right. So in 1.1 you've got the major
9 contributors and you're able to determine it's two people.

10 A That's correct.

11 Q And one of those persons with the odds in one of
12 650,000 would be Jerrell Brockman.

13 A His profile was included in the mixture.

14 Q Assuming there's not a related individual running
15 around out there who could have contributed.

16 A Either way his profile would still be included in the
17 mixture.

18 Q Got you. Okay. And Ms. Waldrip's is excluded.

19 A That's correct.

20 Q From that mixture?

21 A From the major component of that mixture, yes.

22 Q And then, of course, in 2.1 and 2.2 you again have a
23 mixture, correct?

24 A That's correct.

25 Q In 2.1 you were able to establish a profile. If you

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1 had further information could you have analyzed that
2 profile?

3 A The minor contributor I could have compared it, yes, if
4 I had additional standards that were submitted to the
5 laboratory.

6 Q Okay. Again that goes back to my question, do y'all
7 request that at that point or is that something that
8 somebody would have to submit to you?

9 A We would request any listed names that were provided to
10 us, but further than that an unidentified individual means
11 that we don't have the proper standards for comparison.

12 Q So you weren't provided any additional names in this
13 case.

14 A That's correct.

15 Q And then, of course, in 2.2 the minor contributor is so
16 small you can't really make any comparison --

17 A That's correct.

18 Q -- correct? So it could be the person in 2.1 or it
19 could be anybody else in the world, correct?

20 A Correct. I cannot make any comparisons regarding the
21 minor contributor to item 2.2.

22 Q And in 1.1 you are unable to make any comparison as to
23 who the other contributor to that is?

24 A I am unable to make any comparisons to the minor
25 contributors. I would be able to make comparison to the

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1 other contributor of a major component provided.

2 Q Just so I'm clear, in 1.1 where you've got two
3 contributors to the major component, because you've got a
4 standard you can label one of them.

5 A That's correct.

6 Q Are you saying if you had another standard you possibly
7 could have labeled the other one?

8 A That's correct.

9 Q But none other was provided, correct?

10 A That's correct.

11 Q Does hair have DNA?

12 A It does. The hair root is the typical type of testing
13 that SLED does on DNA.

14 MR. FRICK: Okay. Thank you, ma'am, that's all of the
15 questions I have.

16 THE COURT: Any redirect?

17 MS. LIVELY: Yes, Your Honor, thank you.

18 REDIRECT EXAMINATION

19 BY MS. LIVELY:

20 Q If Jerrell Brockman and his brother both touched that
21 purse and left touch DNA on it, would you have two different
22 profiles? If we have standards from his brother and from
23 him and they both touched that purse and we were able to get
24 touch DNA from both them off there, would you be able to
25 establish their profiles as contributing?

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1 A Yes. I would be able to provided that their profiles
2 contributed to the mixture.

3 Q And as an expert, I think what I really want to ask you
4 is everybody's DNA is unique to that person, correct?

5 A That is correct, with the exception of identical twins.

6 Q Identical twins, exactly. So if Jerrell Brockman had
7 an identical twin, his identical twin could have touched
8 that purse, correct?

9 A Right. We would not be able distinguish between the
10 two, we would just be able to tell that that DNA profile was
11 on the item.

12 Q Okay. Now, based upon your analysis and your expert
13 opinion, did Jerrell Brockman touch that purse?

14 A His DNA is included as a major component to the swabs
15 from the purse, yes.

16 Q Now, in regards to the gun, based upon your analysis
17 and in your expert opinion, is his DNA profile, was it
18 swabbed off of that gun?

19 A For SLED items 2.1 and 2.2, yes.

20 MS. LIVELY: That's all I have. Thank you, Ms.

21 Bartman.

22 THE COURT: Anything else?

23 MR. FRICK: No, sir.

24 THE COURT: Thank you, ma'am, you may step down. The
25 State may call its next witness.

1 MS. LIVELY: One moment, Your Honor.

2 THE COURT: Okay.

3 (Break in proceedings.)

4 MS. LIVELY: Your Honor, at this time the State rests
5 its case.

6 THE COURT: The State rests. All right, ladies and
7 gentlemen of the jury, I need to take up some matters with
8 the lawyers regarding schedules, et cetera, and that needs
9 to be done outside of your presence, so we will take a break
10 at this point in time. Please head back to your jury room,
11 do not talk about the case. Thank you.

12 (The jury left the courtroom.)

13 THE COURT: Mr. Frick?

14 MR. FRICK: Thank you, Your Honor. At this time the
15 first motion that the defense would ask for is a directed
16 verdict. Taking the evidence in the light most favorable to
17 the State I believe there is not enough evidence to submit
18 this case to the jury, it can be decided as a matter of law
19 by Your Honor. There is no direct evidence that Jerrell
20 Brockman was, in fact, the person who committed this
21 robbery, there is merely circumstantial evidence that it
22 occurred and it is not substantial circumstantial evidence.
23 There is no identification. There's two attempted
24 identifications, identification is not able to be obtained.
25 Again, the only thing that potentially matches is there is

1 DNA in this case that has questionable weight, I understand
2 that, and there is a supposed matching of some clothing,
3 however, taken all in I believe that is merely
4 circumstantial and not substantial circumstance evidence and
5 directed verdict should be granted an all charges.

6 THE COURT: Thank you. Madam Solicitor?

7 MS. LIVELY: Your Honor, at a minimum there's
8 substantial circumstantial evidence and also direct evidence
9 of this defendant's involvement in all three of the charges
10 that he's been charged with, so we would ask the Court to
11 allow this matter to go to the jury.

12 THE COURT: Defendant's motion for a directed verdict
13 on each one of these indictments is respectfully denied.
14 All right.

15 MR. FRICK: Your Honor, defense has one additional
16 motion. As the State has proceeded on this case with
17 charges against Mr. Brockman for armed robbery and
18 kidnapping and assault and battery, all evidence of the one
19 event is used to prove all the events. Judge, my concern
20 with that is that is disfavored among a majority of states.
21 I'll pass forward a case in a second where the -- State
22 versus East where the State of South Carolina admits that it
23 is in the minority on that, yet continues to use the
24 Blockburger test, which has been disfavored by many states
25 including the State of Tennessee which is in the case that I

1 pass forward to you. If the charges are proved all out of
2 the same evidence and chain of events then it should only
3 come from one charge. It's not appropriate, it's akin to
4 double jeopardy, I'm not saying it is double jeopardy
5 because that's not what it is called under the Blockburger
6 test, it's not appropriate for that. But under the standard
7 that has been applied in the Tennessee case that I passed
8 forward to you where they state that it simply is -- it's
9 just not fair essentially to say, okay, you did this one
10 event and in the chain of this event these other things
11 occurred and the state stacks up additional charges on the
12 defendant. The allegations are that my client points a gun
13 at someone, holds them at gunpoint and then takes something
14 from them, the natural consequence would be that they would
15 be held there at gunpoint. What the majority of states,
16 including the Tennessee case that I passed forward, say that
17 since it's in the natural chain of events of an armed
18 robbery for someone to be held there, it's not appropriate
19 for the State to go forward with a kidnapping charge. I
20 would submit it's also the same evidence that supports an
21 assault charge, thereby the State should be required to
22 elect which case they should go forward on.

23 THE COURT: All right, thank you. Madam Solicitor,
24 what's the State's response?

25 MS. LIVELY: Well, Your Honor, you follow the precedent

1 here in South Carolina. I mean, clearly what we've done in
2 this particular case as well as deciding how to charge, it
3 did start out as an armed robbery, however it was just not
4 him having or alleging to have a weapon that he could
5 actually do harm to our victim here. He then lays hands on
6 her, actually stops her from screaming, threatens her and
7 puts the gun so hard to her head that she's actually bruised
8 as a result of it. So what we have is multiple crimes that
9 are being committed. Just like our court has allowed us to
10 use possession of a weapon during the commission a violent
11 crime, what we have is the specific instances of armed
12 robbery, which I explained to the jury.

13 THE COURT: Yeah, I get that. I get the armed robbery,
14 I get the A and B first charge, I get that. His argument
15 seems to lead to whether or not you can have an armed
16 robbery and a kidnapping under the facts of this particular
17 case, is that correct, Mr. Frick? Is that what you're going
18 toward?

19 MR. FRICK: Yes, sir.

20 THE COURT: All right. Well, what's your response to
21 that?

22 MS. LIVELY: In regards to that I've got -- I did pull
23 some cases in regards to kidnapping that was charged in
24 cases involving first degree burglary, attempted murders,
25 assault and battery, possession of a weapon during the

1 commission a violent crime. And in regards to the elements
2 that the Court has upheld is that the actual elements of
3 kidnapping can be based on attempts to restrain. Whether or
4 not those attempts to restrain and hold the person there was
5 not for a prescribed duration, which being a long duration
6 or confine them for purposes of what we would know or what
7 we would typically think of in to a kidnapping case. What I
8 have here is the case of State versus Preston Shands, which
9 is South Carolina Appellate Court from 2018, so it's a
10 pretty recent case. In that one there were several
11 different charges that the person actually had, including
12 the assault and battery where they also found that
13 kidnapping was an appropriate charge in this particular case
14 because the State was able to show specifically the
15 confinement against the will of someone who was being -- who
16 had an unlawful act being committed on them.

17 THE COURT: So you believe that there's enough
18 difference between the kidnapping charge and the armed
19 robbery charge as to elements required to be proven to
20 satisfy the Blockburger test.

21 MS. LIVELY: Absolutely. And I have the case here,
22 Your Honor. I was actually using this case for my language
23 that I was going use in regards to explaining to the jury
24 why we did charge the kidnapping and it just fits in with
25 what Mr. Frick is bringing up.

1 THE COURT: What's the case cite again?

2 MS. LIVELY: I'm sorry, I don't know if I gave you the
3 cite. I think it's because it's so new it doesn't have a
4 case cite. Your Honor, I'll pass it up to you --

5 THE COURT: Is it a slit opinion --

6 MS. LIVELY: No, sir.. It was just when I pulled it it
7 was pretty recent off a fast case and sometimes it doesn't
8 have the case number on there.

9 THE COURT: Have you seen the case?

10 MR. FRICK: I'm not familiar with it. And Judge, I'm
11 not saying that the State of South Carolina has overruled
12 the Blockburger test in this situation, what I'm saying is
13 the case that I'm speaking of, State versus East, which is
14 the most one recent one I was able to find from the court of
15 appeals in 2003 says that South Carolina does still follow
16 it but it is in the minority and then cites the Tennessee
17 case, Tennessee versus Anthony, which I passed forward,
18 where the Tennessee court looks at it and says, yeah, we've
19 always followed Blockburger, that doesn't mean it's the
20 right thing to do, and they do an analysis from many other
21 states, I think New Jersey and the some other states where
22 they have similar circumstances. What we're arguing here
23 today, the armed robbery and the kidnapping and they say
24 it's just not appropriate and they've overruled the using of
25 the Blockburger test. So while I recognize that our court

1 has not done that yet, I think it is an issue that needs to
2 be dealt with, and, of course, you have the ability to deal
3 with that and that's what I'm asking you to do. I also note
4 that in that East case it's page two of that paper case that
5 I passed up, the middle paragraph when they talk about South
6 Carolina being in the minority they do talk about an
7 additional jury charge that was given. Reading that it just
8 appears to me that the Court had some pause and thought it
9 was appropriate at least for a jury charge regarding the
10 requisite intent to do both offenses was appropriate to be
11 charged, and that's why I think the Court appears to me to
12 be leaning towards disfiguring the Blockburger test and
13 moving towards what Tennessee did.

14 THE COURT: Reply? Any?

15 MS. LIVELY: I'm sorry. No, Your Honor. I just stand
16 on what the precedent shows as recent as 2018.

17 THE COURT: And what page are you relying on in your
18 language for this state from this case?

19 MS. LIVELY: Oh, gosh --

20 THE COURT: Page 13 or 14.

21 MS. LIVELY: Yes, sir. I think I highlighted in
22 regards to the kidnapping charges being separate and
23 distinct, you don't have to show any particular duration of
24 time but it's just someone not being able to actually be
25 free from the unlawful act that they're actually --

1 THE COURT: So how is that different from armed
2 robbery?

3 MS. LIVELY: That's different from armed robbery
4 because when you hold someone -- it's just like what I told
5 with the jury, you can walk into a bank, hold somebody up
6 and say "Give me your money," that person can haul butt, but
7 when you have someone come up behind you and is restraining
8 you and holding you there then that's different.

9 THE COURT: All right. Thank you, I just wanted you to
10 say that for the record. I agree with the State's position
11 and respectfully deny the defense's motion to elect. All
12 right. And you're protected in the record.

13 MR. FRICK: Judge, would the Court consider, and I know
14 I would have to draft it, but would the Court consider the
15 charge that was given in that East case?

16 THE COURT: I am charging intent, and while -- we'll
17 have a charge conference later on, but I am charging intent.
18 What's the -- you want me to simply add that the --

19 MR. FRICK: I'll be perfectly honest, I don't know what
20 the language is because I didn't research that case.

21 THE COURT: Well, I see what the judge in Tennessee did
22 on the East -- not the East case -- "The jury was clearly
23 instructed that in order to convict East of both armed
24 robbery and kidnapping it would have to find that he
25 possessed the requisite intent to commit the second offense,

1 in this case the kidnapping." So I mean, what's the State's
2 position? I'm charging intent, criminal intent anyway,
3 that's -- you always charge that in any type of criminal
4 case, but does the State oppose to charge armed robbery the
5 way it is right out of the charge book, charging kidnapping,
6 what's the State's position on that?

7 MS. LIVELY: I believe that you're intent charge is
8 sufficient in regards to criminal intent. And also I would
9 have to sit here and read what their kidnapping statute from
10 Tennessee says in comparison to ours, because, you know, I
11 want to make sure that the reason why they separated it out
12 for that particular case was for, you know, the same reasons
13 that Mr. Frick is asking for. Otherwise your criminal
14 intent says that the State has to prove beyond a reasonable
15 doubt that the defendant had intent to commit each one of
16 the crimes that he's been charged with and the elements of
17 those crimes, which means I would have to go through -- tick
18 off every single one in kidnapping, armed robbery and
19 assault and battery first degree, so I think that's more
20 than sufficient.

21 THE COURT: Well, listen to this, under my general
22 intent charge while we're on this subject, of course I go
23 through the long thing, the medical science and stuff y'all
24 have heard thousands of times, but the last paragraph,
25 "Criminal intent is a mental state, a conscious wrongdoing.

1 It is up to you, ladies and gentlemen, to determine what the
2 defendant intended to do based on the circumstances shown to
3 have existed as to each crime charged."

4 MS. LIVELY: Yes.

5 THE COURT: Period. Are you okay with me adding as to
6 each crime charged?

7 MS. LIVELY: Oh, that's fine.

8 THE COURT: I think that satisfies it, Mr. Frick, what
9 do you think?

10 MR. FRICK: I think that will cover it, Your Honor.

11 THE COURT: Okay. There you go. Because the State
12 does have to prove intent as to any crime charged, so by
13 just adding the language as to each crime charged I think
14 that would satisfy at least the instruction part of it.
15 Your objection is preserved in the record as to the law part
16 of it as far as my role in instructing the jury to the law,
17 I'm just simply stating that the State does bear the burden
18 of proving intent through circumstances shown to have
19 existed as to each particular crime charged.

20 MR. FRICK: And just for me on the record to clarify
21 with my agreement to the addition of that language to your
22 intent charge, I am not conceding my position on the State
23 should be required to elect.

24 THE COURT: Correct.

25 MR. FRICK: I just want the record to reflect that.

1 THE COURT: Objection is noticed and noted on the
2 record, you are protected in the regard as to your client's
3 position. Okay. Any other motions, anything else to deal
4 with now other than me talking to your client.

5 MR. FRICK: I think that's where we are.

6 (The defendant was sworn.)

7 THE COURT: You're talking loud so keep talking loud so
8 my court reporter can pick up your testimony. Mr. Brockman,
9 I'm going to explain to you certain rights which you have,
10 if you don't understand anything I'm telling you please let
11 me know and if you need me to explain anything in more
12 detail pleads let me know, do you understand?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: We've now reached the stage of the trial
15 where you get to present your defense. Now, in doing that
16 you have the right to claim the protections given to you by
17 the 5th Amendment to the United States Constitution which
18 states in pertinent part that no person shall be compelled
19 in any criminal case to be a witness against himself, this
20 means nobody can make you testify in this case. Now, you
21 have the right to testify on your own if you want to but
22 nobody can make you testify. This is a personal right and
23 nobody can give up this right except for you, do you
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now, if you do decide to testify you will
2 be subject to the same rules which have governed other
3 witnesses, and you may be examined and cross examined on any
4 relevant issue in this case, just like your lawyer has tried
5 to do when confronting witnesses against you by cross
6 examining them and try to make them look bad or not
7 believable in front of a jury, you know. If you testify the
8 solicitor will try to do that through cross examination
9 techniques, do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: In addition we've previously this morning
12 held a hearing at which time the State indicated to me that
13 your prior criminal record consisted of three offenses which
14 I have already ruled that I would allow the State to ask you
15 about which would possibly impeach your credibility or
16 believability in front of the jury, and that was a
17 conviction for a forgery, a domestic violence second degree
18 and a receiving stolen goods. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. So if you don't testify the
21 jury doesn't hear about that, do you understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. Now, if you do decide to testify the
24 decision on your part must be freely, voluntarily, knowingly
25 and intelligently made with you understanding your 5th

1 Amendment rights against self incrimination. And further,
2 and then I'll ask you just a few more questions, if you
3 decide that you don't want to testify after thinking about
4 it and praying about it, talking to your lawyer about it,
5 whatever you're going to do I will specifically instruct the
6 jury that they can't even bring it up in the jury room when
7 they deliberate. I will specifically instruct them that the
8 fact that you did not testify cannot be given any
9 consideration whatsoever and there should be and will be
10 absolutely no prejudice to you because you did not testify.
11 Do you understand everything I've explained to you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you have any questions about it?

14 THE DEFENDANT: No, sir.

15 THE COURT: Have you discussed with your lawyers
16 whether or not you should or should not testify?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you want to talk to them a little bit
19 more about it?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right. Do you wish to testify?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right, thank you. And, Mr. Frick,
24 anything regarding my questioning of your client you wish to
25 add?

1 MR. FRICK: No, sir.

2 THE COURT: All right, thank you. All right. Are you
3 ready to proceed? Let's take a brief comfort recess, y'all
4 go do what you've got to do and we'll start back up. I've
5 got lunch coming.

6 (A break was taken.)

7 THE COURT: Anything else before we bring the jury in?

8 MS. LIVELY: Yes, sir, Your Honor. Since the defendant
9 has chosen to testify he did give a prior statement to law
10 enforcement, it was not something that the State intended to
11 put in because it was more of a self-serving statement, he
12 did not make any admissions. He was Mirandized at the time
13 and it was Lieutenant Fournery who had done it. However, if
14 the defendant does testify to anything that's different from
15 the statement I just want to go ahead and put on the record
16 that I will be asking to be able to impeach him with a prior
17 inconsistent statement.

18 THE COURT: All right. Have you gone over that with
19 your client, Mr. Frick?

20 MR. FRICK: Not specifically, Your Honor, but we are
21 aware of that.

22 THE COURT: Do you want to go over that with him right
23 now?

24 MR. FRICK: Yeah.

25 (Break in proceedings.)

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1 MR. FRICK: Your Honor, we have had that discussion and
2 we are good to go.

3 THE COURT: Does your client still wish to testify?

4 MR. FRICK: Yes, sir.

5 THE COURT: Is that correct, Mr. Brockman?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Bring the jury in.

8 (The jury returned to the courtroom.)

9 THE COURT: All right. All members of the jury are
10 present. Ladies and gentlemen, the State has rested. Mr.
11 Frick, you may call your first witness.

12 MR. FRICK: Thank you, Your Honor. The defense calls
13 Jerrell Brockman.

14 The witness, JERRELL BROCKMAN, was first duly sworn

15 And testified as follows:

16 DIRECT EXAMINATION

17 BY MR. FRICK:

18 Q Give us your name for the record.

19 A My name is Jerrell Brockman.

20 Q Take a breath, it'll be all right. All right. Spell
21 Jerrell for us.

22 A J-e-r-r-e-l-l.

23 Q Okay. Mr. Brockman, are you from Chester?

24 A Yes, sir.

25 Q Okay. Born and raised in Chester?

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- 1 A Yes, sir.
- 2 Q Did you go to school here?
- 3 A Yes, sir.
- 4 Q Where did you go to school?
- 5 A At Chester Park and Chester Middle School and Chester
6 Senior High School.
- 7 Q Did you graduate?
- 8 A No, sir.
- 9 Q What grade were you in?
- 10 A Last grade I completed was 11th.
- 11 Q Why ain't you complete it?
- 12 A In 2005 when I was 17 I went down the road at 17,
13 that's why I ain't complete it.
- 14 Q Okay.
- 15 A But I got my GED.
- 16 Q Okay. Well, since brought that up, you've had some
17 trouble, haven't you?
- 18 A Yes, sir.
- 19 Q Have you been convicted of a domestic violence second
20 degree?
- 21 A Yes, sir.
- 22 Q A receiving stolen goods?
- 23 A Yes, sir.
- 24 Q And a forgery?
- 25 A Yes, sir.

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1 Q Okay. All right. Is it fair to say that you have a
2 healthy fear of law enforcement?

3 A Yes, sir.

4 Q Do you get nervous when you see them?

5 A Yes, sir.

6 Q You've been here the last couple of days, you've heard
7 the testimony. Where were you on November 8th of last year?

8 A I was on Roundtree Circle.

9 Q Okay. Tell me what time you were over on Roundtree
10 Circle.

11 A I got to Roundtree Circle around about 8:00.

12 Q Uh-huh. Where did you go on Roundtree?

13 A I was at my homeboy sister's house.

14 Q All right. Now, Roundtree Circle kind of goes around
15 in that circle route and there that's little inside part,
16 whereabouts were you?

17 A I was on the circle part.

18 Q Okay. Had you been there all day?

19 A Yes, sir. Well, prior to 8:00 -- we got there at 8:00
20 but I came from Carlisle, you know what I'm saying. We left
21 Carlisle, then came to Roundtree Circle.

22 Q You said we, when you say we what you mean?

23 A Me and my homeboy.

24 Q Who is your homeboy?

25 A Jermaine Leggett.

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1 Q And so y'all was out in Carlisle and then came to
2 Roundtree.

3 A Yes, sir.

4 Q Okay. How long were y'all out in Carlisle?

5 A I was out in Carlisle the day before, all that day
6 before. We got to Chester at Roundtree Circle around like
7 8:00 p.m.

8 Q All right. Do you know where First Baptist is in
9 Chester?

10 A No, sir.

11 Q Okay. Did you come downtown that day at all?

12 A No, sir.

13 Q Anytime during that day?

14 A No, sir.

15 Q That night?

16 A No, sir.

17 Q Okay. You've heard testimony that you were discovered
18 over on Gardendale.

19 A That's what they say.

20 Q How did you get over there?

21 A Lavetta dropped me off from Roundtree Circle and she
22 dropped me off at a stop sign at Gardendale Circle.

23 Q Well, wait a minute now, asked Lavetta to drop -- she
24 picked you up over at Roundtree?

25 A She picked me up from Roundtree Circle and she dropped

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1 me off down the street on by the stop sign.

2 Q Okay. So you weren't in her front yard?

3 A No, sir. I don't even know where she stayed.

4 Q Okay. Do you know Lavetta?

5 A Yeah. I've been knowing Lavetta for about like 15
6 years.

7 Q Okay. All right. Why did you get a ride with her that
8 day?

9 A Because back in September of last year I let her borrow
10 some money and she was supposed to have been paying me, so
11 when I seen her come through I flagged her down and I was
12 like, "Have you got that for me?" And she was like, "Well
13 let me drop my riders off and I'll come back." So I was
14 like, "Well, you drop me off down the street and you just
15 come back."

16 Q When you said riders, tell me what you mean there.

17 A She stated "Let me drop my riders off," she had a
18 person in the passenger side.

19 Q In her car?

20 A Yes, sir.

21 Q All right. So did you get in the car with them?

22 A Yes, sir, right then and there I had got in the car.
23 So when I was starting to get in the back side of the
24 driver's side she told me to get on the other side, so
25 that's when I walked around to the passenger back side and

JERRELL BROCKMAN - DIRECT

1 got in the back seat.

2 Q Okay. All right. Then what happened?

3 A She dropped me off down Gardendale.

4 Q Okay. All right. Have you ever seen this purse
5 before?

6 A Yes, sir.

7 Q Where did you see it?

8 A It was inside Lavetta's vehicle in the back seat.

9 Q Okay. So you didn't take it into Lavetta's car.

10 A No, sir.

11 Q It was already there.

12 A Yes, sir.

13 Q What did you do when you saw it?

14 A When I seen it I grabbed it.

15 Q You grabbed it?

16 A Yeah, through the back seat.

17 Q Why did you grab it?

18 A Because she already owed me money and I feel, you know
19 what I'm saying, and she's been dodging me for paying me, so
20 I feel like if I took the pocketbook I can get, you know
21 what I'm saying, what she owned -- what she owed me, so
22 that's why I had took the pocketbook off her back seat.

23 Q Okay. And she dropped you off at the stop sign at
24 Gardendale you said?

25 A At the stop sign, she dropped me off at the stop sign.

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1 Q That's the one that's right there at Parkway or Ball
2 Park?

3 A Parkway Drive, she stopped right in front of the stop
4 sign. When you turn at Gardendale there's a stop sign right
5 there, she dropped me off in front of the stop sign. I got
6 out, I grabbed the pocketbook, I got out of the back seat
7 and she went on straight down.

8 Q Okay. Well, what did you do?

9 A I walked to my aunt's house.

10 Q Okay. All right. And your aunt stays where on
11 Gardendale?

12 A On [REDACTED] Gardendale Circle.

13 Q Okay. Do you stay at your aunt's?

14 A No, sir, but I be over there all the time.

15 Q Okay. Well, tell me about that. What do you mean by
16 you be over there all of the time?

17 A Okay. You know what I'm saying, I don't live with her.
18 I go through, she eat, feed me, you know what I'm saying, I
19 might take a shower, change my clothes and that's it. I
20 might charge my phone up.

21 Q So where do you stay at?

22 A I stay on 538 Fourth Street.

23 Q Fourth Street?

24 A Yes, sir.

25 Q Is that on the other side of Saluda there or where?

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1 A That's on the train tracks, over at the train tracks.

2 Q Okay. Was there another person in the car when you got
3 in the car?

4 A Yes, sir, on the passenger's side.

5 Q Okay. Did you know that person?

6 A I never knowed who the person was..

7 Q Okay. All right. Did you recognize them at all?

8 A No. Because, you know what I'm saying, I was standing
9 at the driver's side before I got in the car. I looked over
10 at the passenger's side, it was a heavy set person with a
11 black coat on, you know what I'm saying, had their hand on
12 like this right here talking on the phone and they were
13 sitting like this right here. I never did get a glance at
14 the face.

15 Q Okay. Black guy, white guy?

16 A It was a black guy.

17 Q Okay. Did you have anymore conversations with or
18 dealing with Lavetta that night?

19 A No, sir.

20 Q Do you have any idea where she went after she dropped
21 you off?

22 A No, sir. She just said she was dropping her riders
23 off.

24 Q Okay. All right. And you went over to your aunt's
25 house.

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1 A Yes, sir.

2 Q Now, you've heard testimony today that they find this
3 pocketbook in some attachment to that house. Where did you
4 go?

5 A When I grabbed the pocketbook out of the car I walked
6 down the street and went to my aunt's house. Yes, I went
7 inside the storage building.

8 Q What did you do inside there?

9 A When I went in the storage building I put the
10 pocketbook on like a shelf and I started going through it.
11 When I started putting stuff on the shelf I noticed, I was
12 like, "Dang, that ain't Lavetta's pocketbook." So I'm
13 thinking one of her riders must have left the pocketbook in
14 the car and that was real at first. At first I was going at
15 my aunt's house to ask her to use her phone, because at the
16 time my phone was off, I was going to ask her could I use
17 her phone but I thought about it and I didn't want my aunt
18 to know what's going. So that's when I seen Mr. Roberts,
19 Peewee standing in the yard, so I went over inside Peewee's
20 yard and asked to use his phone.

21 Q Okay. How long have you known Peewee?

22 A I've been knowing Peewee since 2011 when my aunt
23 purchased the house on Gardendale Circle.

24 Q Okay. All right. And did you get a chance to use the
25 phone?

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1 A No. Because I started dialing the number, and when I
2 seen the police officers pull up flashing the lights, and
3 you know what I'm saying, that's when I took off running.

4 Q Did you have something on you you shouldn't have had?

5 A Yes, sir.

6 Q What did you have?

7 A Some drugs on me.

8 Q Okay. For you or to sell?

9 A To sell.

10 Q Have you seen this before?

11 A Yes, sir.

12 Q What is that?

13 A It's a pellet gun.

14 Q Okay. When is the last time you saw it before today?

15 A Before today the last time I seen it was July of 2017.

16 Q Where?

17 A Inside the storage house.

18 Q Okay. How long had it been inside that storage house?

19 A It had been inside the storage house since July of last
20 year, 2017.

21 Q Whose gun is that?

22 A Mine.

23 Q Okay. I mean, what did you have it for?

24 A I'm saying I had that for a long time. It's a BB gun,
25 I shoot squirrels with that gun.

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- 1 Q Okay. So your DNA would definitely be on that gun.
- 2 A Yes, sir.
- 3 Q And your DNA would be on that purse.
- 4 A Yes, sir.
- 5 Q Because you grabbed it.
- 6 A Yes, sir.
- 7 Q But not from First Baptist Church.
- 8 A No, sir.
- 9 Q You didn't go down there that night.
- 10 A No, sir.
- 11 Q When they stopped you, okay, when law enforcement got
- 12 you, did you have -- other than the drugs you admitted you
- 13 had, did you have anything else on you?
- 14 A No, sir.
- 15 Q Okay. Was there any money?
- 16 A Yes, sir.
- 17 Q Okay. Well, how much money did you have?
- 18 A I had like \$45 in my pocket.
- 19 Q What happened to it?
- 20 A When I was in the back of the -- when they locked me up
- 21 and got me and they put me inside the jeep, you know what
- 22 I'm saying, where the dog was at Faile said he noticed me on
- 23 my phone so he came in the car and started searching me, so
- 24 he got my phone out of my front right pocket, in my left
- 25 pocket he got the money out of my front pocket.

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1 Q So they took the money off you at the scene.

2 A At the scene, yes, sir.

3 Q Not at the jail.

4 A Not at the jail.

5 Q All right. Never went downtown.

6 A Never went downtown.

7 Q Anytime on the 8th.

8 A No, sir.

9 MR. FRICK: Beg the Court's indulgence one second.

10 THE COURT: All right.

11 (Break in proceedings.)

12 Q Jerrell, let's go back and clarify something. You said
13 Faile said he saw you on your phone.

14 A Faile stated that he seen me on my phone, that's what
15 he stated. When he opened the car door, he said, "I see you
16 on your phone," and I said, "How am I on my phone with my
17 hands behind my back?" That's when he got my phone out of
18 my front pocket and got the money out of my left front
19 pocket.

20 Q But the phone you were using, was that yours?

21 A Like when? Peewee's phone?

22 Q Yeah.

23 A No. I grabbed Peewee's phone to use Peewee's phone
24 because my phone was turned off at the time.

25 MR. FRICK: Thank you, sir. That's all of the

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1 questions I have, answer any that the solicitor has got.

2 THE COURT: Solicitor?

3 CROSS EXAMINATION

4 BY MS. LIVELY:

5 Q Hey Mr. Brockman. I've just got a few questions I want
6 to go through with you, okay?

7 A Yes, ma'am.

8 Q Okay. Now, I just want to make sure I understood you
9 correctly, you said that you were with your homeboy I think
10 you said, was it Mr. Leggett?

11 A Yes, ma'am.

12 Q All right. Okay. So this incident, the armed robbery,
13 kidnapping and assault and battery happened on the night of
14 November the 8th, 2017 around ten til 8:00 -- ten til 8:00,
15 okay?

16 A Yes, ma'am.

17 Q All right. And you've been in here for all of the
18 testimony so you know basically that the incident happened
19 at the First Baptist Church, that was the timeline, and then
20 you were actually caught over at Gardendale Circle about an
21 hour and 11 minutes later, isn't that what you've heard?

22 A Yes, ma'am.

23 Q All right. Now, I was just now listing to you testify
24 and you brought up your friend, Mr. Leggett, and you said
25 you and Mr. Leggett were in Carlisle the day before.

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1 A Yes, ma'am.

2 Q Okay. So that would be November 7th, 2017, right?

3 A Yes, ma'am.

4 Q Okay. Did y'all spend the night there?

5 A Yes, ma'am. That's his mother's house, I stay down

6 there, you know what I'm saying. I be down there all of the

7 time. We stayed the night down there.

8 Q Okay. So you spent the night -- and what's his mom's
9 name?

10 A Ms. Harriette, Ms. Harriette Grant.

11 Q And how far a drive is it from Carlisle to get back
12 here to Chester City?

13 A Depending on how fast you're driving, but the regular
14 speed limit from where his mama stayed from Roundtree
15 Circle, it's going to take right at 30 minutes.

16 Q Okay. All right. And was he driving or were you
17 driving or somebody else?

18 A He was driving.

19 Q He was driving. All right. So when did you actually
20 leave Carlisle that next day, which is the 8th? You said he
21 went there on the 7th, you spent the night at his house --
22 or his mama's house and you stayed at Carlisle. When did
23 y'all leave Carlisle?

24 A Around 7:30 p.m. on November the 8th, 2017.

25 Q So y'all left Carlisle at 7:30 p.m. on the 8th, which

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1 is when the crime you're hearing about happened.

2 A Yes, ma'am.

3 Q All right. So based on your statement to me just a
4 second ago that means that you would have gotten back to
5 Roundtree Circle around 8:00.

6 A Yes, ma'am.

7 Q All right. I'll come back to that in just a minute.
8 But what I wanted to ask you also was you said that you
9 never went anywhere else in the City of Chester other than
10 Roundtree Circle after you got there at 8:00 that night; is
11 that right?

12 A Yes, ma'am.

13 Q Okay. So I'm going to ask you -- now you said you went
14 to your auntie's house, which is at [REDACTED] Gardendale. Will
15 you show me where on this circle that Lavetta Turner --
16 well, first of all I'm curious, because she testified
17 different than you are, and I'm not going to compare but I
18 just want to hear from your perspective, you said you were
19 in Roundtree Circle then by 8:00 and that she gave you a
20 ride to Gardendale. Where were you in Roundtree?

21 A I was at my homeboy's sister's yard.

22 Q Hold on. Talk into the microphone if you don't mind.

23 A We was at my homeboy's sister's yard, we were parked in
24 the yard facing the road.

25 Q Okay. Do you happen to know the name of the street?

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1 A Roundtree Circle.

2 Q So it's actually Roundtree Circle road that you were
3 on.

4 A Yes, ma'am.

5 Q Okay. So --

6 A That's coming back over the train track.

7 Q Okay. Talk into the microphone if you don't mind.

8 A This Parkway Drive, they coming back over the train
9 track right now. You can't see Roundtree Circle because you
10 ain't got a whole map right here. But when you come over
11 that train track and pass, you'll pass a trailer on the
12 left, and then my old friend guy, I know him real good, his
13 name Noon, he stay inside the trailer right here, then you
14 got another house and then you got two more brick houses and
15 you've got Roundtree Circle, then you'll make the first left
16 and going around the curve.

17 Q Okay. So where are you at Roundtree Circle that you
18 are actually picked up by Lavetta Turner?

19 A I was right in front of my homeboy sister's yard.

20 Q Your homeboy sister's yard. Okay. And his name is
21 Noon?

22 A No. That's -- my homeboy's name is Jermaine Leggett.

23 Q So Jermaine Leggett is the same person you were in
24 Carlisle with all day on the day whenever the armed robbery
25 occurred.

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1 A Yes, ma'am.

2 Q All right. Now, you also stated that when Lavetta
3 picked you up that you had actually loaned her some money at
4 that particular time a year before and that she's just never
5 paid you back for that; is that right?

6 A No. If I gave her some money she always paid me back.
7 And it was kind of odd because she, you know what I'm
8 saying, I gave her the money in September, here it is
9 November, you know what I'm saying, and every time I ran
10 across her, "I got you, I got you." I know you work because
11 I gave you the money at your job.

12 Q How much money did you give her?

13 A \$100.

14 Q \$100. And so you gave her this \$100 and you felt at
15 that point in time when she picked you up that night that
16 when you saw a purse in her vehicle that you were going to
17 pay yourself back.

18 A Yes, ma'am.

19 Q Okay. So you very clearly stole what you believed to
20 be her purse out of her vehicle after she was nice enough to
21 give you a ride.

22 A Yes, ma'am.

23 Q So when you stole that purse out of the vehicle you
24 went to your sister's house and you started to look through
25 it, right?

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1 A No, my aunt's house.

2 Q I'm sorry, your aunt's house, I apologize. So you go
3 there, you start looking through it and you're like, "Uh oh,
4 there is stuff in here and that person does not look
5 anything like Ms. Lavetta Turner," correct?

6 A Right.

7 Q I mean, as a matter of fact it specifically states a
8 Ms. Kathy Waldrip who is a teacher at Chester Elementary
9 School, correct?

10 A Yes, ma'am.

11 Q All right. So this happens and you start to panic.

12 A No, ma'am, I didn't panic. When I noticed that the
13 belongings ain't belonged to Lavetta Turner, that's when I
14 said "I'm about to call her and tell her to come get this
15 pocketbook," do you know what I'm saying, "Yeah, I took it
16 out of your car." That's what my plan was when I went
17 inside Mr. Roberts' yard, inside Peewee's yard to use his
18 phone.

19 Q Okay. So you were going to call Lavetta at that point
20 to tell her that, "Hey, I stole what I thought to be your
21 purse but now I realize it's not your purse." What were you
22 going to tell her?

23 A I was going to tell her that I took this pocketbook out
24 your back seat, which I thought it was your pocketbook but
25 now I see this ain't. I was telling her, you know what I'm

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1 saying, to come back and get this pocketbook.

2 Q Come back and get this pocketbook that doesn't belong
3 to you that I just stole out of your car is what you were
4 going to tell her.

5 A Yes, ma'am.

6 Q Now, the thing that I'm a little confused about is you
7 said that Lavetta picked you up at Roundtree and then takes
8 you to Gardendale. How does she know to pick you up?

9 A She didn't know to pick me up. Because when I stepped
10 outside of the car I used the bathroom so I noticed her
11 truck. She drive a burgundy SUV, which is a Chevy Tahoe
12 with tinted windows and I know her truck. So when I seen
13 her truck I got in the middle of the road and I flagged her
14 down and she stopped me.

15 Q And where were you?

16 A Right in front of Roundtree Circle, right in front of
17 my homeboy sister's yard.

18 Q So you were outside using the bathroom?

19 A I got outside of the car, I stepped out of the car and
20 I used the bathroom --

21 Q Okay.

22 A -- on the side of the road, that's when I noticed a
23 truck coming. So when I looked it was a burgundy SUV which
24 was a Chevy Tahoe, I said, "That's Lavetta's truck." So I
25 got in the road so the vehicle can see me, I flagged her

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1 down and the vehicle stopped. So I went to the driver's
2 side and, "Lavetta, what's up, you let me get that?" And
3 she was like, "Yeah, let me drop my riders off." And I was
4 like, "Well, you can just drop me off down the street." So
5 when I was about to get in the back side of the driver's
6 side she told me to get around on the other side, so that's
7 when I walked around the truck and got in the back seat.

8 Q Well, let me back you up for a second, because I
9 understand where you ended up sitting and everything. So
10 when she's coming up you said you got out of the car to use
11 the bathroom and that's when you saw her Chevy Tahoe or SUV,
12 am I understanding you right?

13 A I got outside the car.

14 Q What car were you in?

15 A I was inside my homeboy, Jermaine Leggett's car.

16 Q You were not in his sister's house then.

17 A No. We wasn't inside the house, we was in the yard
18 outside.

19 Q So you're outside in the yard, and are you sitting in
20 the car?

21 A I was sitting in the car facing the road.

22 Q Facing the road. Okay.

23 A That's before I got out of the car.

24 Q Okay. And why didn't you have -- since you were
25 already in the car, that's only about maybe a half a mile

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1 down the road, why didn't you just have Jeremy (sic) take
2 you?

3 A Because at that time what I seen Lavetta. He was going
4 take me when before I seen Lavetta, that's when I seen
5 Lavetta and I was like, "Okay. She owe me the money, maybe
6 I can get my money," you know what I'm saying. When she
7 said that she told me, "Let my drop my riders off," and I
8 was like okay, let me get this ride, I'm going to get this
9 ride with her.

10 Q Were you planning on robbing her?

11 A No, ma'am.

12 Q Okay. Because, I mean, you said that now maybe I can
13 get my money, and you did steal a purse out of her car
14 according to your testimony.

15 A Yes, ma'am. Yeah, I took the pocketbook -- I took the
16 pocketbook from her car.

17 Q Okay. According to you you took that pocketbook from
18 her car. So when you got in that car your intent was you
19 were going to get money from Lavetta, and instead of
20 actually getting it from her you robbed her.

21 A No, that was my intention. My intention was before I
22 got in her car I asked her, "Is you going to let me get
23 that?" She said, "Let me drop my riders off." So when I
24 got in the car that's when I noticed the pocketbook in the
25 car. My intention was not when I first got in the car oh,

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1 I'm gone do this or I'm gone do that to her, that's was
2 never my intention.

3 Q Okay. All right. Well, I just want to be sure about
4 another thing I heard you say. The reason why you were
5 nervous or you kind of got jumped whenever the police showed
6 up at Gardendale Circle was because you had drugs on
7 yourself that you were planning to sell.

8 A Yes, ma'am.

9 Q All right. So that's the reason why you ran from the
10 police and hid at that time.

11 A That's the reason why I ran, yes, ma'am.

12 Q All right. Okay. I just wanted to be sure I
13 understood that. All right. So to go back to, you know,
14 your position as to where you were on the night of the crime
15 that we've been talking about for the past couple of days,
16 you were in Carlisle, which is 30 minutes away the night
17 before up until 7:30 p.m. on the night of the armed robbery;
18 is that right?

19 A Yes, ma'am.

20 Q Do you recall actually speaking with Lieutenant Fourney
21 after you -- you ended up being arrested for this crime on
22 that night whenever they found you in Gardendale, correct?

23 A Yes, ma'am.

24 Q Okay. And whenever you were arrested did Lieutenant
25 Fourney -- do you recall talking to Lieutenant Fourney while

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1 you had actually been detained.

2 A Yeah, I was at the jailhouse. She asked me can she
3 speak to me and I said yes, ma'am, because I want to know
4 what I'm being charged with. Because when I got locked up
5 on Gardendale Circle I am asking everybody what I'm being
6 charged with, they never told me what I'm being charged
7 with. So when she asked me to speak to me at the jailhouse,
8 yeah, she did speak with me.

9 Q Okay. Yes, that was my question if you spoke to her,
10 that's fine. And so whenever you spoke to her y'all
11 actually spoke for probably, I don't know, maybe about 15 or
12 20 minutes and she discussed where you had been that day.

13 A She asked me. She asked me where I had been.

14 Q Well, okay, she asked you where you had been that day.

15 A And I told her I was on Roundtree Circle.

16 Q Okay. And you told her that you were on Roundtree
17 Circle.

18 A Yes, ma'am.

19 Q You told her you were on Roundtree Circle all day.

20 A Ma'am?

21 Q You told her you were on or at Roundtree Circle all
22 day.

23 A I told her I was on Roundtree Circle.

24 Q Okay. All day. Do you deny that you said you were at
25 Roundtree Circle all day?

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1 A I don't recall saying all day, but I recall me saying I
2 was on Roundtree Circle.

3 Q Do you recall telling her that you had been in Carlisle
4 the night before up until 7:30 on the day of the crime.

5 A I didn't tell her I was in Carlisle.

6 Q You didn't tell her you were in Carlisle.

7 A No, ma'am.

8 Q But would that have been the truth if you told her you
9 were in Carlisle?

10 A Yes, ma'am. If I would have told her I was in Carlisle
11 that would have been the truth, you know what I'm saying.
12 But when she would ask me where I was at I explained to her
13 I was on Roundtree Circle.

14 Q All day.

15 A I don't recall saying all day.

16 Q If I play that part of your statement for you where you
17 actually say to Lieutenant Fourney that you were at
18 Roundtree Circle all day, would that help you with your
19 memory?

20 A Okay, yes, ma'am.

21 MR. FRICK: Your Honor, I would object under 613.

22 MS. LIVELY: He says he doesn't recall, Your Honor,
23 which is the same thing as saying he either didn't say it or
24 doesn't know.

25 THE COURT: All right. You can play the statement,

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1 objection overruled.

2 Q All right. Mr. Brockman -- I might just have to test
3 the sound real quick, but it's kind of hard to hear, all
4 right?

5 (The portion of the interview was played.)

6 Q Mr. Brockman, isn't that you?

7 A Yes, ma'am.

8 Q And didn't you tell Lolita Fournery that you had been at
9 Roundtree Circle all day?

10 A Okay. Yes. I understand where you're coming from now.
11 Yes. I stated I was at Roundtree Circle all that day
12 because I wasn't getting all the way inside the details, you
13 know what I'm saying.

14 Q Well, we've got the details here now, and the details
15 that you're telling this jury under oath is that you were at
16 Carlisle all day and did not leave until 7:30 p.m. on the
17 night of the armed robbery and that is when you got to
18 Roundtree Circle. So it was not all day that you were in
19 Roundtree Circle.

20 A Yes, correct.

21 Q Okay. So you were lying at that time or are you lying
22 now?

23 A I was lying at that time, but now I'm telling the
24 truth.

25 Q Okay. So now you're telling the truth. So the truth

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1 that this jury is supposed to believe is that you were with
2 somebody else on the day of the crime, that Lavetta Turner
3 picked you up, you stole her purse, that you believed to be
4 her purse, you had drugs on you to sell, you got nervous
5 when the police got there, that's why you ran, and then you
6 lied to Lolita Fourney whenever she asked you where you had
7 been all day. That's the story that we're supposed to
8 believe.

9 A Yes, ma'am.

10 Q All right. Wouldn't you agree that it seems a bit
11 illogical that law enforcement would have a dog -- and I
12 know you're not an expert in dog tracking and that's not
13 what I'm asking you, but don't you think that it's just kind
14 of illogical or doesn't really --

15 MR. FRICK: Your Honor, calls for speculation.

16 THE COURT: Let her finish the question, go ahead.

17 Q That it doesn't make sense to believe this version of
18 your story when we have other people saying that you were
19 over there close to the First Baptist Church as well as
20 Branch Street that night?

21 MR. FRICK: I amend my objection, pitting the
22 witnesses.

23 THE COURT: All right. I'll sustain the objection
24 under the first objection you brought up.

25 Q Okay. So let me ask you this, do you know Lavetta

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1 Turner's telephone number?

2 A Not by heart.

3 Q Not by heart? Okay. So that night whenever you
4 actually got a ride from her you said, "I then realized that
5 this was not her purse so I tried to call her;" is that
6 right?

7 A Yes, ma'am.

8 Q Okay. Well, you also just told the jury that you
9 didn't have anymore minutes on your phone so you went over
10 to Peewee's house to get his phone; is that right?

11 A Yes, ma'am.

12 Q Okay. So you never actually had the opportunity to
13 speak with Lavetta Turner and tell her that you stole a
14 purse you believed to be hers but it ended up being someone
15 else's.

16 A No, ma'am.

17 Q Now, whenever you were speaking with Lolita Fournery at
18 that time, why didn't you explain to her what had happened
19 to you that night in regards to this purse that you found?

20 A Because when I was being locked up she never told me
21 what I was being charged with, so how -- you know what I'm
22 saying, so how am I supposed to tell her that I took a
23 pocketbook from somebody's vehicle when I didn't know what I
24 was being charged with. She never let me know what I was
25 been accused of or charged with.

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1 Q Okay. So you never shared with her that you had
2 actually found some woman's purse and it was located at your
3 sister's storage building?

4 A My aunt's.

5 Q I mean your aunt's. I'm sorry, I keep saying your
6 sister.

7 A No, ma'am. I never talked to her about a purse.

8 Q Just to back up just a little bit, Mr. Brockman. I see
9 that around the time whenever you were arrested for this
10 crime that your weight was closer to about 220. How much
11 weight have you gained while you've been out there hanging
12 out?

13 A I would say I gained over 50 pounds.

14 Q Fifty pounds? Okay. And what is your height?

15 A I really ain't sure.

16 Q If I told you that it's documented as you being about
17 6-1, does that sound about right?

18 A I'm not good with my height, I don't know.

19 Q Okay. That's fine, no problems. And also you've
20 already told the jury that you've had some problems with the
21 law in the past, correct?

22 A Yes, ma'am.

23 Q And so you have had receiving stolen goods, forgery and
24 criminal domestic violence second degree, correct?

25 A Yes, ma'am.

JERRELL BROCKMAN - REDIRECT

1 Q Okay. All right. You've held this weapon because it
2 is yours, right?

3 A Yes, ma'am.

4 Q And you've also touched that purse because you thought
5 it was Ms. Turner's --

6 A Yes, ma'am.

7 Q -- according to your testimony, correct?

8 A Yes, ma'am.

9 Q But according to your testimony you did not put this
10 gun to Ms. Waldrip's head on the night of November 8, 2017.

11 A No, ma'am.

12 Q So even though you lied to Ms. Fourney on that day, the
13 day right after when you were interviewed you're telling us
14 to believe you now.

15 A Yes, ma'am.

16 MS. LIVELY: One moment.

17 (Break in proceedings.)

18 MS. LIVELY: That's all of the questions I have.

19 THE COURT: All right.

20 MR. FRICK: Briefly.

21 REDIRECT EXAMINATION

22 BY MR. FRICK:

23 Q Jerrell, why did you lie to Lolita?

24 A For one she a police officer and I was scared -- I

25 ain't know, you know what I'm saying, I didn't know what she

1 was trying to get at.

2 Q Did you really know what they were asking you about?

3 A No, sir.

4 Q Were you scared that they were talking to you about
5 stealing a purse?

6 A She never did mention nothing about a purse.

7 MR. FRICK: Thank you, sir. That's all of the
8 questions I have.

9 RECROSS EXAMINATION

10 BY MS. LIVELY:

11 Q Were you scared that she was asking you about the drugs
12 you were selling?

13 A She never did ask about no drugs.

14 Q Never did. What kind of drugs were they?

15 A Crack cocaine.

16 Q Crack cocaine? Okay. How much money were you going to
17 hopefully get for it?

18 A \$700.

19 MS. LIVELY: Okay, thank you. Nothing further.

20 THE COURT: Thank you, sir, you can step down. All
21 right. Defense can call its next witness.

22 MR. FRICK: Defense rests, Your Honor.

23 THE COURT: The defense rests. Anything in reply?

24 MS. LIVELY: No, Your Honor.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, we have completed the testimony and evidence phase of
2 the trial, the next thing that will happen is that we'll
3 have closing arguments from both the State and the defense
4 made to you, after which I will instruct you on the law as
5 it pertains to the issues which have arisen in this case and
6 then this afternoon after lunch you'll be able to start
7 deliberating your verdict, okay? But I am happy to report
8 that we do have lunch for you here now, perfect timing on
9 behalf of the clerk's staff, thank you very much. And so at
10 this time we're going to take our lunch recess. Now, it's
11 very important, I know y'all are going to be in the jury
12 room eating and everything, but ladies and gentlemen, you
13 cannot deliberate this case yet, you can't talk about it,
14 okay? You haven't heard the closing arguments and I haven't
15 given you the law that you must consider when you do start
16 deliberating, okay? So again, don't talk about the case,
17 but certainly you can make small talk and have a good lunch,
18 okay? And I anticipate we'll be down for right around an
19 hour or so while we're eating lunch before we start closing
20 statements and jury instructions, okay? So at this time
21 let's take a lunch recess.

22 (The jury left the courtroom.)

23 THE COURT: All right. Anything?

24 MR. FRICK: Defense renews its motion for a directed
25 verdict and election of charges.

1 THE COURT: All right. Those motions are respectfully
2 denied. We'll be in lunch recess until right around 1:30.

3 (A lunch break was taken.)

4 THE COURT: All right, we're going to have our charge
5 conference on the case. On the charge of armed robbery --
6 and again, I don't think there's been any testimony or
7 evidence in the record which would support a charge of any
8 lesser includeds, agreed, Madam Solicitor?

9 MS. LIVELY: I agree, Your Honor.

10 THE COURT: Mr. Frick?

11 MR. FRICK: Yes, sir.

12 THE COURT: All right. So on the charge of armed
13 robbery, here is what I intend to charge. "The defendant is
14 charged with armed robbery. In order to prove this offense
15 the State must first prove beyond a reasonable doubt that
16 the defendant took personal property from the person or
17 presence of another person. Property is in the presence of
18 a person if it is within the person's reach, inspection,
19 observation or control so that the person could, if not
20 overcome with violence or prevented by fear, keep possession
21 of the property. The State must also prove beyond a
22 reasonable doubt that the defendant carried the property
23 away intending to permanently deprive the owner of the
24 property and to keep the property for the defendant's own
25 use. The slightest removal of the property or the complete

1 possession of the property, even if for an instant by the
2 defendant, is sufficient to show a taking and carrying away
3 of the property. The taking and carrying away of the
4 property must have been done with violence or by putting the
5 owner of the property in fear of violence. Finally the
6 State must prove beyond a reasonable doubt that the
7 defendant was armed with a deadly weapon during the robbery.
8 A deadly weapon is any article, instrument or substance
9 which is likely to cause death or great bodily harm.
10 Whether an instrument has been used as a deadly weapon
11 depends on the facts and circumstances of each case. A
12 pistol is a deadly weapon. A gun may be a deadly weapon
13 even if it's not operating. Whether a toy gun, which as the
14 appearance of and/or is believed to be a real gun is a
15 deadly weapon is a factual question for you to determine.
16 Whether a BB gun is a deadly weapon is a factual question
17 for you to determine." Any problems, any exception to that
18 proposed charge from the defense?

19 MR. FRICK: None from the defense.

20 THE COURT: Madam Solicitor?

21 MS. LIVELY: I do have an exception, Your Honor. My
22 exception would be I would ask as a part of the definition
23 in armed robbery that specifically says while alleging
24 either by actions or words that he was armed while using a
25 representation of a deadly weapon or any object which a

1 person present during the commission of the robbery
2 reasonable believed to be a deadly weapon. That is in the
3 definition of armed robbery.

4 THE COURT: And that's under -- there was some case law
5 on that, State vs. Muldrow, which I have up here. What
6 language do you wish me to add?

7 MS. LIVELY: My concern is this, is that it
8 specifically goes into the -- when you're talking about the
9 toy weapon that is perfectly fine. The concern that I have
10 is that we don't have anything in there that the victim
11 had -- that there was a representation that this was an
12 actual armed -- this was an actual deadly weapon. And that
13 part of the definition to me is critical, because I'm not
14 saying that it was actually a deadly weapon, because we know
15 it was a BB gun, but the statute actually calls for if the
16 person believed -- just like with me putting my hand in the
17 pocket saying that I'm pointing my fingers, if the person
18 who is being robbed reasonably believed it to be a deadly
19 weapon then that's the same thing, and I just believe that
20 with the facts of this case we have to have that in there.
21 And I believe the evidence shows that.

22 THE COURT: All right. Mr. Frick?

23 MR. FRICK: Your Honor, I don't have any objection to
24 that.

25 THE COURT: Well, I'm trying to figure out where to

1 reword it. I just wrote in something, see what you think
2 about this. Because you're correct, I'm reading the statute
3 as defined by Muldrow, "Finally the State must find beyond
4 a reasonable doubt that the defendant was armed with a
5 deadly weapon or used what was represented as a deadly
6 weapon during the robbery." Are you good with that
7 language? If you want me to charge something different tell
8 me what you want me to charge.

9 MS. LIVELY: A representation of a deadly weapon which
10 a person present during the commission of the robbery
11 reasonably believed to be a deadly weapon. I'll hand this
12 up, it's like --

13 MR. FRICK: I think that's the same language that's in
14 the Anderson charge book if that's what she wants.

15 THE COURT: I'm trying to find a way to fit it in here
16 and I need y'all's assistance in doing that. I can, you
17 know -- "A person who commits a robbery while armed with a
18 pistol or other deadly weapon or while alleging by actions
19 or words that he was armed while using a representation of
20 the deadly weapon or any object which a person present
21 during the commission of a robbery reasonably believed is a
22 deadly weapon is -- what do you think? How do you want me
23 to say it? Y'all just want me to read that?

24 MS. LIVELY: And I'm fine with you reading that. I
25 just felt like that part of what I was going to be arguing

1 was completely left out with just what we had. So if you
2 can add that in even at the end, because at the end you're
3 talking about a toy gun and then you can say and a person
4 who --

5 THE COURT: If a person present during the commission
6 of a robbery reasonably believed that --

7 MS. LIVELY: The object represented as a deadly weapon
8 was a deadly -- I don't know, you're looking at it.

9 THE COURT: Do you see what I'm saying?

10 MS. LIVELY: I know what you're saying, I know. Do you
11 see what I'm saying too? That's part --

12 THE COURT: I see and I hear what you're saying and I
13 understand exactly what Mr. Frick is saying as well. All
14 right. Assault and battery, here is what I -- first, here
15 is what I intend on charging for that. "A person commits
16 the offense of assault and battery in the first degree if
17 the person unlawfully offers or attempts to injure another
18 person with the present ability to do so, and the act is
19 accomplished by means likely to produce death or great
20 bodily injury." And then I define great bodily injury being
21 bodily injury which would cause substantial risk of death or
22 bla, bla bla. Any problem with that.

23 MS. LIVELY: Not from the State.

24 MR. FRICK: No, sir.

25 THE COURT: Kidnapping. I plan on reading the entire

1 kidnapping charge even though we don't have any -- I know
2 the State is focusing on confinement, confined and this
3 ain't -- but y'all agree with that?

4 MS. LIVELY: Yes, sir. I've read through it and I'm
5 fine with it.

6 THE COURT: So in addition to the law of the offenses
7 I'm charging intent, charging prior record of a witness, of
8 course reasonable doubt, y'all know which one I do on that
9 one, long one. I do presumption of innocence, the ones
10 y'all have heard hundreds of times, expert witnesses, the
11 Logan charge, Logan circumstantial evidence.

12 MR. FRICK: Yes, sir.

13 THE COURT: And the general stuff. Anything else from
14 the State? Do you want to hear my circumstantial charge?

15 MS. LIVELY: I've heard it before, Your Honor, I'm fine
16 with it, no, that's fine. I was making sure I was checking
17 them off in my head. Yes, I can --

18 THE COURT: There was only -- I could charge prior
19 inconsistent statement because there was evidence of a prior
20 statement he made but I didn't really want to -- that was
21 the only one that we used so I really wasn't going to charge
22 it because I didn't think that would be fundamentally fair.
23 Anything else that y'all can think of?

24 MR. FRICK: Just continuing on the record my agreement
25 to the charge --

1 THE COURT: Doesn't mean you agree with me charging it.

2 MR. FRICK: Thank you.

3 THE COURT: You are protected.

4 (Break in proceedings.)

5 THE COURT: All right. So -- "Finally the State must
6 prove beyond a reasonable doubt that the defendant was armed
7 with a deadly weapon or used what was represented as a
8 deadly weapon or what could reasonably be believed to be a
9 deadly weapon during a robbery." I think that's the law.
10 Agreed?

11 MS. LIVELY: Yes, sir.

12 MR. FRICK: Yes, sir.

13 THE COURT: By agreeing you don't concur with that I
14 should charge anything, I'm with you, you are protected in
15 the record.

16 MR. FRICK: Thank you, Your Honor.

17 THE COURT: Are we ready for the jury? Before we do
18 that, I always try to cover all jury trials on the State
19 versus Beatty analysis. Mr. Frick, you and I have been
20 through this before many times, you still want to do it the
21 way you're accustomed to doing it?

22 MR. FRICK: Yes, sir. I have introduced evidence, I
23 will open first and the State will conclude and I'm not
24 looking to rebut.

25 THE COURT: Thank you. Do you understand that, Madam

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1 Solicitor?

2 MS. LIVELY: Absolutely, Your Honor, and I'm in
3 agreement with doing it that way.

4 THE COURT: The State concurs, thank you, that's what
5 we'll do. Let's bring the jury in.

6 (The jury returned to the courtroom.)

7 THE COURT: All members of the jury are present.
8 Ladies and gentlemen, I hope you enjoyed your lunch, I know
9 I did. We will now start closing arguments. Remember, I
10 instructed you at the beginning of the process, the lawyers
11 will be able to talk to you at the end of all of the
12 testimony and evidence that comes in. Closing arguments are
13 not evidence but I want you to listen very carefully the way
14 you've listened to the presentation of evidence. Please
15 give both lawyers that courtesy and listen to them very
16 carefully, after they finish I will then instruct you on the
17 law. Thank you very much. Mr. Frick?

18 MR. FRICK: Thank you, Your Honor, Madam Solicitor,
19 ladies and gentlemen of the jury. As I told you at the
20 beginning of this a horrible thing happened on November 8th
21 of last year, and by sitting here and listening to the case
22 and rendering a verdict, you're not rendering a verdict on
23 whether armed robbery is a good or a bad thing, I think we
24 can all conclude it is a bad thing. But the question, the
25 job that you were hired to do as I referred to it and

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1 continue to refer to it as, is to determine whether the
2 person on trial for that offense is actually the person who
3 did it. As I told you the State has got to prove to you
4 what happened. The State, the government of South Carolina,
5 charges Jerrell Brockman with armed robbery, kidnapping, and
6 assault and battery in the first degree, and as I told you
7 he sits there and continues to sit there an innocent man.
8 It's the State who must prove to you beyond a reasonable
9 doubt that he committed these offenses. Mr. Brockman
10 doesn't have to prove to you a thing. This is a right that
11 we all have, it's a very important right. When the State
12 decides to bring allegations against you you're presumed
13 innocent if and until they're able to satisfy that burden of
14 proof and a jury agrees that they did. If they do not reach
15 that burden then the duty is to find that person not guilty.
16 Now, I told you I was going to tell you again and the judge
17 is going to tell you in a little while and the solicitor is
18 going to tell you their definition of reasonable doubt as
19 well, but this is again my summation of what it is. The
20 State has got to prove to you that he actually did what they
21 say he did, that he is actually that person, that he
22 intended to do it and he intended to do each one of the acts
23 charged, and they've got to do this with what we call
24 credible evidence, what can be referred to as believable
25 evidence. And remember, that's your job is to determine the

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1 believability of the evidence that you see and that you've
2 heard. Now, you weigh what you heard. You get to determine
3 whether anybody has got any bias in the case, whether
4 anybody has got anything to possibly gain or lose in the
5 case. You get to believe whatever part of it you want to
6 believe. And in a minute I'm going to talk about a witness
7 where -- and I think the State is probably going to be about
8 the same way on this witness, is you may not believe every
9 part of what this person said but you need to believe
10 another part of what they said, because these are
11 recollections. Sometimes people, they get a little confused
12 when you get up there on the stand, or maybe they didn't
13 want to be here in the first place, or maybe they weren't
14 paying that much attention to the facts that we're grilling
15 them about when they're up there on the stand. But you are
16 the jurors who get to weigh all of that, and that is your
17 sole province, it is your job. Again, the State has got to
18 prove this beyond a reasonable doubt. It's not, "I looked
19 over there, I've been watching Jerrell this whole time, he
20 kind of looks like he did it. I think maybe he did it.
21 It's possible he did it." Ladies and gentlemen, this does
22 not reach reasonable doubt. Reasonable doubt is there IS no
23 other reasonable explanation. I submit to you, yes, there
24 is and we'll get into that. Ladies and gentlemen, this is a
25 difficult case. Katherine Waldrip did not ask for nor did

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1 she deserve what happened to her on that night. It's a
2 horrible thing. But again, you're not here to judge whether
3 or not it's a horrible thing, we can agree to that. The
4 question again putting all of that emotion aside, which may
5 be a difficult thing to do, but putting all of that aside
6 has the State provided you evidence to satisfy their burden
7 of proof, that high burden of proof that this is actually
8 the man who did the thing. I submit to you, ladies and
9 gentlemen, the State doesn't have much evidence. What they
10 have is speculation, they've got hearsay and emotion. Let's
11 talk about some of the stuff they've got. One of the key
12 pieces of evidence they have in this case is the dog
13 tracking evidence. You have heard testimony that they put a
14 dog on a trail, that it was a secured trail, they cut the
15 dog around, the cut hit the freshest track I believe is the
16 term that they used, the dog goes down through the park,
17 goes over to Branch Street, stops about at the stop sign.
18 We'll go back to that stop sign in a second. But that's
19 where the dog tracks and they figured that -- they get word
20 over the radio that the person of interest is in another
21 place so they go over there. Ladies and gentlemen, you get
22 to decide whether or not this is reliable or not. Now, I'm
23 going to show you some things in a second that questions the
24 reliability of this track. First of all you heard testimony
25 from Officer Harris that at the very beginning when the

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1 track would have been the freshest the perimeter is not
2 secure, there's still cars going in and out. He, in fact --
3 I think it was Matt Faile, the dog runner himself, testifies
4 a truck drives right up Akin Street. Now, the solicitor
5 asked him, "Well, did that cause any issues? Did it go
6 through the middle of the track?" And he tells her no. But
7 when I cross examine him he does indicate that the track
8 starts on this side of the road and goes across Akin Street
9 where the truck has just driven over and then goes across to
10 where it is in the park. I submit to you that can't have an
11 affect on this case, there were other people out there.
12 There were other people who had walked to the scene, you
13 heard about that and I'm going to show you the video again
14 here in a second. And then we have got two different
15 locations. Now, I understand what the testimony is. The
16 testimony is once that dog is on that track, its got that
17 scent in her nose then she can go to the other side of town
18 and it's going to be the same track. You put her down she's
19 still looking for that same track. Ladies and gentlemen, I
20 suggest to you that that might not have necessarily been the
21 case here for two reasons. I think you can question the
22 reliability of the statements made by Matt Faile by
23 something I'll show you here in a second. But another part
24 of it is, remember, I asked him where did you stop and they
25 stopped over at the stop sign over on Branch Street and the

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1 dog is kind of circling around and circling around, and I
2 think both of us asked, the State and myself asked, "How do
3 you stop the dog? How do you say we're stopping here, we're
4 going to go to another location?" His response was the dog
5 doesn't stop. Well, they moved, and in fact -- well, we'll
6 get back to that part in one second.

7 (A video was played.)

8 MR. FRICK: So there was a person who was on the scene
9 standing outside, potentially one of witnesses in this case
10 who comes up and says, "Oh yeah, by the way, some guy walked
11 through over there through the woods," and remember, there
12 was some parsing between me and Officer Hayes about whether
13 there were actually woods in this park or was it this wood
14 line that's over here, that's for y'all to decide whether
15 that's important or not. But the deal is, you've got
16 information right here, another person wearing all dark, I
17 believe he said it was a black male, walks towards that
18 area, the same track we're talking about, some guy with a
19 chain saw is what he says. We don't even worry about that
20 guy, he went to that wood line over there. Just because he
21 crossed over the road and went over there and it's the very
22 same track we've been running, that doesn't make any
23 difference. Now, let's go back to where I got ahead of
24 myself on Matt Faile. Remember, he said the dog doesn't
25 stop, the dog is constantly tracking, and he got a little

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1 confused. First he said "Oh, they picked me up on Branch
2 Street and then we went over to Gardendale," and then when
3 he was reminded you see the dog standing back on Akin
4 Street. "Well, how did you get back over there, Matt? Oh,
5 we walked back over there." If he's not leading the dog,
6 which is what his testimony is, "I follow where the dog
7 takes me," and he doesn't stop the dog, the dog is
8 constantly working, how do we get back over to Akin Street?
9 Watch the dog. The dog is just standing out there wagging
10 her tail.

11 (A video was played.)

12 MR. FRICK: The testimony is that the dog never stopped
13 working. That dog is just standing there beside Matt Faile.
14 I don't know how we got over to Akin Street and then we get
15 back over to Gardendale and the State is going to allege to
16 you this is the same person. I submit to you you make that
17 determination. And just because the State says, "Oh, this
18 dog can say that's the same person," you don't have to
19 accept that, and I submit to you that based on the testimony
20 you have seen it's not reliable. You can't say from
21 certainty that this, in fact, was the same person. Now,
22 let's talk about the identification. First of all there is
23 no identification. No one ever said, "Oh yeah, that guy
24 right there, that's the guy who did it." He was never
25 identified. Now, admittedly it's a stressful situation,

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1 that's understandable, but Ms. Waldrip was given a couple of
2 opportunities to look at photos, Burley McDaniel took her
3 over to where they had Jerrell Brockman over on Gardendale,
4 and she couldn't say that was him. No one can say that that
5 was the guy who did this. No. All you get is a general
6 description, black male, 5-11, about 200 pounds. That's a
7 very general description, ladies and gentlemen. I submit
8 that there's a lot of folks probably in the City of Chester
9 that can fit that description. Next, is he wearing a hoodie
10 or a jacket? There's testimony, we've got statements, we're
11 talking about hoodies, jackets, which is it? We've got a
12 jacket in the box, then there's a question about whether
13 there's a hat or a toboggan. Back in November of 2017 he's
14 wearing a hat. In November of 2018 when we're in trial he's
15 wearing a toboggan. Ladies and gentlemen, is it a hat or
16 toboggan? There's a little bit of a difference there. This
17 is a toboggan. A hat I would imagine would have a bill or
18 some sort of thing on it. A toboggan is this sock hat, I
19 think they call them beanies now, at least that's what my
20 kids called them, I still call them sock hat, toboggan.
21 Then I'm going to show you a little bit of a video. She
22 tells Sheriff Underwood, "I think he was wearing a jacket,
23 I'm pretty sure he was wearing a jacket." Pretty sure is
24 not going to cut it, ladies and gentlemen. And then she
25 says the gun is not big, it's in that statement and it's in

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1 this interview.

2 (A video was played.)

3 MR. FRICK: Ladies and gentlemen, I submit to you if
4 this was, in fact, the gun that was used there's nobody in
5 the world that would call that a small gun. Could you
6 imagine seeing that and calling that a small gun? That is
7 not a small gun. This is not the gun that was used, ladies
8 and gentlemen. I don't know where the gun was but it's not
9 that one. Now, let's talk about the person where we get a
10 name from, Lavetta Turner. Lavetta Turner did not want to
11 be here. She did not want to testify for the State, she did
12 not want to testify for the defense, she wanted nothing to
13 do with this case, but she was a witness because she gave
14 folks a ride that night. And she tells you that she picks
15 up Jerrell from her yard and drives him over to the
16 Gardendale/Parkway/Roundtree Circle area and drops him off,
17 and she also tells you there's another person in the car.
18 Jerrell Brockman told you there was another person in the
19 car when he got in the car. She said there was some other
20 guy known by DeDe, that's it, that's all I know. Don't know
21 his real name, don't know anything else about him. She
22 tells you she tells Mr. Burley McDaniel who gets on the
23 stand and says, "No, she didn't tell me that, first time I
24 ever heard of it." Other officers get on the stand and say,
25 "First time I ever heard of it." She told you she said it.

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1 Lolita Fournery got on the stand and told you, "When I went
2 to go interview her she told me about DeDe." Now we want to
3 make this a big deal about a cooperative effort between the
4 city and the county in closing this case, and I asked very
5 specifically I believe of Burley McDaniel, "So the
6 information y'all had y'all shared with the city, and what
7 the city had you shared with the county. Yes. We were all
8 cooperating and sharing and working together in this case."
9 But no one happened to do anything about DeDe. We didn't
10 try to figure out who he was. You've got information that
11 there was another person dropped off, you've got a
12 description from Lavetta Turner who says it's a dark skinned
13 black male. "I don't know his name. I know him, I know his
14 nickname, I just know him from the streets, I don't know his
15 name." She didn't know Jerrell Brockman's name, she knows
16 him by Speedy. I submit to you it's not necessarily an
17 uncommon things, you see folks in the neighborhood you don't
18 necessarily know their name, you get to know them by their
19 nickname and you might not even recall what their real name
20 is. What about DeDe, ladies and gentlemen? What happened
21 to DeDe? Where did Lavetta Turner tell you she picked DeDe
22 up from? The stop sign on Branch Street, the same place
23 that the dog tracked to. But we've got this information
24 about another person, we do absolutely nothing, all we're
25 interested in is Jerrell Brockman. So let's go to the DNA.

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1 What does this DNA really tell you? First of all, how many
2 buccal swabs do we have for Mr. Waldrip? We collect two
3 back last year, November of last year we get two buccal
4 swabs. And you can see it right here and this is why I
5 asked this specific question to the DNA expert, "What does
6 buccal swab mean?" It means something from inside the
7 cheek. This is how it's labeled and sent to SLED. Now all
8 of the sudden you're told, oh, it was taken on the outside.
9 Ladies and gentlemen, these are law enforcement people who
10 are trained to take these things and now they're telling you
11 the buccal swab ain't a buccal swab. But they took two of
12 them back in November of last year and send them on to SLED,
13 they didn't come out right so they had to go get some more,
14 they took those August of this year. The DNA report also
15 tells you on this purse, it says Jerrell Brockman's DNA is
16 on this purse. It says Jerrell Brockman's DNA is on this
17 purse. Well, I submit to you he got on the stand and he
18 told you a very candid story about how his DNA got on that
19 purse, and I submit that's a very truthful statement.
20 There's no other reason for him to get on the stand and say
21 the things he did if it wasn't the truth. But there's
22 another person's DNA on this purse, folks, and it's not
23 Katherine Waldrip's. Now, I'll be honest, I don't know
24 what's going on with the DNA, but it brings to mind an old
25 phrase something in the milk ain't clean. I've got

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1 basically four buccal swabs from Ms. Waldrip, you've got a
2 couple of buccal swabs from Jerrell, they find someone
3 else's DNA that the SLED agent said if we would have had a
4 standard we could have matched it to somebody. Nobody sent
5 a standard. Nobody bothered to send a standard. We've got
6 this other person's DNA, it is not Ms. Waldrip's. I submit
7 to you that's strange. I'm not saying this isn't her purse,
8 every bit of testimony says it's her purse, but why don't
9 they find her DNA? You heard the other serology expert who
10 got up here and said, "Oh, I swabbed this side and this and
11 this and the handles," and her DNA is nowhere to be found.
12 I asked Ms. Waldrip was this your day to day purse, she said
13 yes. She's not one of those persons who switches purses all
14 around, it's got all of her stuff in it. Her life is in
15 this purse. This is her purse that she carries day to day
16 and somehow her DNA is not on that. I also submit to you
17 that the percentage of DNA that was found from Jerrell
18 Brockman suggests it's not the most reliable match either,
19 which he tells you he touched it, it stands to reason it
20 should be as high as the rest of the DNA where he says,
21 yeah, I handled this gun, my DNA is all over this gun.
22 Something in the milk ain't clean with the DNA, folks, I
23 don't know what it is but something ain't right. Now, let's
24 talk about the gun real quick. And another issue with
25 recollection. First our expert says I did one swab, I did

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1 the outside of the gun, both sides of it. But there is --
2 and I'm not trying to point this at y'all, but there is on
3 the front of the gun because there was an allegation that
4 the gun was stuck to the head of the victim, they test this
5 separately. They test this and this and this, don't do the
6 front, they test this part separately to see if there's
7 anything on it. Her DNA is not on there either. Now, the
8 State would suggest that it was up against her hair, that
9 would hinder the DNA, the SLED agent told you that hair has
10 got DNA too. So if it's pressed up against her head so hard
11 that it leaves a bruise, why is there no DNA? Because
12 that's not the gun, ladies and gentlemen. And then I just
13 found this interesting, folks, we keep making a big deal
14 about 19 bucks we found in Jerrell Brockman's pocket and the
15 insinuation is that this 19 bucks was in this purse. Here
16 it is, we find it in his pocket. I'll be honest with you,
17 whether it's at the jail or whether they take it from the
18 scene, that's not the most important part here. He's got
19 this money that the State wants to suggest was Katherine
20 Waldrip's money because it was in that purse and these are
21 the ill-gotten gains and they never sent it to SLED. They
22 never attempted to get anything off of this money. I submit
23 to you that the DNA is not reliable because there are issues
24 with the swabs. Why did they have to take so many different
25 swabs? If we say it's one thing, why isn't it that? And

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1 then we have to come back months later. November we have
2 the first swabs, November of '17 we have the first swabs,
3 then we have to come back in August of this year, something
4 is not right. Now, let's talk about Jerrell Brockman.
5 Jerrell Brockman got on the stand and was honest with you,
6 probably more honest than any lawyer would really like his
7 client to be and he told you exactly what he was doing. He
8 said first of all, "I've been in trouble, I've been down the
9 road, I've got these convictions." As a result partially
10 why he has an issue with law enforcement, not a big fan when
11 he sees blue lights, understandable in that situation, but
12 in this case there's s even more. He told you he had crack
13 in his pocket and his intent was to sell that crack. Why on
14 earth would he tell you that if it's not truthful? He also
15 tells you how he ended up with this purse. He sees Lavetta.
16 And I suggest to you, part of what she said is not
17 necessarily reliable but part of it is, and I suggest to you
18 that the reason that is is one, she doesn't want to be here.
19 She doesn't want to be on the stand talking about people she
20 sees in the neighborhood. And two, her memory is slightly
21 faulty. Remember, she couldn't remember at first who she
22 dropped off first, "Did I drop off DeDe first, did I drop
23 off Speedy. No, it was DeDe first and then it was Speedy.
24 Well, I'm not sure." Remember also her focus is, "I've got
25 to get my kids fed and I've got to get to work. I'm working

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1 over at the Waffle House, they're paying me hourly, every
2 minute that I'm not there I'm not earning money. So okay.
3 I'm going to drop these folks off and then I'm getting on to
4 work." So I submit to you her statement may have some
5 issues, but overall her statement is correct and reliable,
6 Jerrell Brockman was in her car. DeDe was in her car. She
7 did not see Jerrell Brockman with this purse. This is a
8 rather large purse. She did not see him with this gun.
9 These are two both rather large objects that would be
10 difficult to conceal even if you're wearing this jacket. So
11 Jerrell tells you that she owes him some money, September of
12 last year he lent her some money, 100 bucks and she had been
13 kind of dodging him, and he gets in the car and she said,
14 "Oh yeah, I'll pay you." And then he's stupid, okay? There
15 ain't another word for it folks, he's stupid. He sees a
16 purse and he grabs it, worst mistake he ever made in his
17 life, grabbed a purse. He's stealing from her. Yep, that's
18 wrong, but it's what he did. He told you what he did, he
19 sat up there and told you, that explains why his DNA is on
20 the purse. He goes to his aunt's house, goes to the little
21 shed she let's him hang out on and he looks inside and sees
22 all of this stuff and goes, "Uh oh, that wasn't what I
23 wanted to do." That's not Lavetta's purse. Now, what's he
24 supposed to do at that point? Is he supposed to call the
25 cops and say, "Hey, I meant to steal somebody else's purse

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1 but I stole the wrong one." No. He told you maybe it was
2 one of Lavetta's coworkers, he don't want his friend,
3 Lavetta, to get in trouble, he would rather get in trouble
4 himself than Lavetta get in trouble for him taking one of
5 their purses, so he tries to call her. His phone ain't
6 working. He goes across the street, goes to Peewee's house,
7 tries to dial the phone but then he's seeing blue lights,
8 and because of the past and because of what he's got on him
9 doesn't necessarily want to talk to law enforcement at that
10 period of time so he runs. And folks, I submit to you this
11 is the easiest track in the world Sadie Mae has probably
12 ever run. You see him leave one spot and you see him go to
13 another, not difficult to track that one. I submit to you
14 just because she could track from there to there does not
15 mean that was the same person on Branch Street. You know
16 who was on Branch Street at that stop sign, Lavetta Turner
17 told you and it wasn't Jerrell Brockman. Ladies and
18 gentlemen of the jury, there's a lot of issues in this case,
19 so many issues with the DNA. Why didn't we test things that
20 we would think Ms. Waldrip would have handled? Why do we
21 have so many buccal swabs? Why does it take so long to get
22 stuff tested? How is this a small gun? And why do we not
23 investigate a guy who by statements of the State's witnesses
24 are picked up at the stop sign where the dog stopped
25 tracking on Branch Street? Ignoring all of these things,

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1 folks, puts plenty of that doubt in this case in and of
2 itself. With that alone I would say the State has not met
3 their burden of proof. But you have Jerrell Brockman's
4 story and he told you what happened, and he admitted he
5 intended to steal that but he thought he was stealing it
6 from Lavetta Turner. Folks, DeDe is another explanation,
7 Jerrell taking this purse out of the back of the car is
8 another explanation, and the issues with the dog tracking
9 and the DNA give you enough pause to see that the State has
10 not met their burden of reasonable doubt. With all of that
11 I ask you to go back, consider all of the evidence, please,
12 please, I implore you, put any emotion aside. Again, this
13 is not about whether sticking a gun to somebody's head is a
14 good or a bad thing, you're not voting on that. You're
15 voting whether or not Jerrell Brockman is, in fact, that
16 person, and I submit to you he is not and Jerrell Brockman
17 is not guilty of the charges the State has brought. Thank
18 you for your time, your attention and your service.

19 THE COURT: Thank you, Mr. Frick. Madam Solicitor.

20 MS. LIVELY: Thank you, Your Honor. All right. Ladies
21 and gentlemen, thank you for being attentive as y'all have
22 during this whole case. Because this is one of those things
23 probably, one of the cases where I've called more witnesses
24 just because I wanted to make sure we've laid out the
25 complete timeline of what happened on the night whenever

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1 Ms. Katherine Waldrip was actually held at gunpoint and
2 robbed of her purse, and robbed of the ability now to have
3 that safety and comfort feeling of being able to walk alone
4 somewhere, even somewhere like a church here in the City of
5 Chester. Yeah, it's a terrible crime, it's a horrible
6 crime. And when you think about the emotion and everything
7 that was going on that particular night, some of the reason
8 why she's not able to necessarily give y'all the information
9 that I wish that she could give makes perfect sense. But if
10 you are to believe the defense's side as being the
11 reasonable explanation about what happened that one hour and
12 11 minutes from the time that she was robbed in that parking
13 lot until the time the defendant was actually arrested, if
14 you are to believe that explanation you have left all of
15 your common sense at the door. That is what the defense is
16 expecting you to do, leave your common sense out that door
17 and ignore every reasonable explanation as to what actually
18 happened that night. My job is not to put innocent people
19 in jail, my job is to take the information that I get from
20 law enforcement, from expert witnesses and present that
21 evidence to you. And remember when I started this case I
22 told you I welcome the burden I have, beyond a reasonable
23 doubt, because it only takes you using your common sense and
24 what is reasonable about what happened that night to come to
25 the conclusion that Jerrell Brockman is guilty. So I'm just

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1 going to talk a little bit about a couple of things that
2 Mr. Frick said and then I'm going to get into my own power
3 point. And my power point, typically what I like to do is I
4 use that to kind of guide me along, because if I don't I
5 will be up here talking forever and then when y'all start to
6 fall asleep I realize I've gone too far, so truly that's
7 going to keep me going. But just let me tell you why I'm
8 being so -- I don't mean to be in indignant, but sometimes
9 when I hear some things I just can't stop from bringing it
10 up. Mr. Frick just said he admitted to you that he was
11 there, ran from the police because he had crack cocaine in
12 his pocket. Okay. First of all no crack cocaine was found,
13 he wasn't arrested for crack cocaine, so it would be easy
14 for him to say, "Hey, I was going to sell crack cocaine that
15 night, that's what made me scared." Well, he's not charged
16 with that, he's charged with armed robbery, kidnapping and
17 assault and battery first degree. So he knows if he tells
18 you something like that then he can't be charged with it
19 because it's over and done with, no drugs were found, so
20 where are the \$700 worth of drugs he supposedly had? And
21 the other thing that's really interesting is he says, "You
22 know, when I stole that purse from Lavetta because I
23 deserved to be paid back for whenever I gave her that \$100 a
24 month or so earlier and I looked in the bag and I realized
25 that it wasn't her purse," I wrote this down specifically,

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1 Mr. Frick told you, "He went to call Lavetta because she is
2 his friend and realizes that it's not her purse that he
3 stole." So which one is it? She's a friend that he steals
4 from or is a friend that he wants to call and say, "Hey, I
5 might have stolen the wrong purse I thought was yours but I
6 realize now belongs to someone else." Those are the kinds
7 of things he's wanting you to believe and to shut out your
8 common sense about why his DNA is on that purse. His DNA is
9 on Katherine Waldrip's purse because he stole it off of
10 Katherine Waldrip. He is the one who took it from her and
11 he has to give you a reason as to why his DNA is on that
12 purse, and the reasonable explanation as to why it's on
13 there is because he is the one who took it. The other thing
14 that was interesting is the discussion about the perimeter,
15 and I will get into that in my actual power point, but here
16 is the thing about the perimeter I want you to think about.
17 He shows you a clip, a couple of things. First of all there
18 was the man that was standing outside the church when they
19 were first setting up the perimeter and he says "Hey, wait a
20 minute, some guy walked down the street with a chain saw
21 around the tree line in the woods and he walked down that
22 way." Okay. It's interesting to me and according to
23 Officer Harris that he wasn't concerned about somebody
24 walking down the road with a chain saw but that's beside the
25 point, the other thing is he never said, "And he walked up

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1 into the church parking lot where the breezeway was where
2 the actual crime occurred." Someone walking down the street
3 is not someone who crossed through that crime scene, okay?
4 The perimeter I agree, there were breaches within the
5 perimeter that night, sometimes that will happen, and they
6 told you that. They didn't have enough people at first to
7 set it up, they were getting people there but it was pretty
8 good response time. So they had a truck drive through there
9 as well once again down the street, not on the church
10 property which is where the crime took place. So that scene
11 specifically where Ms. Waldrip was robbed was never driven
12 over, and there's no testimony that anyone walked through it
13 whether it was with a chain saw or with anything else. So I
14 submit to you that has no relevance whatsoever in regards to
15 where law enforcement showed up with the bloodhounds to
16 actually pick up a scent, okay? And remember, law
17 enforcement as an expert, they told you how they are able to
18 determine and pick up the human odor at the time whenever
19 they're going to start the track. Another thing, they only
20 pick up on human odor, they're not going to pick up on tire
21 tracks. So remember, it was the human odor from adrenaline,
22 fear and things like that that the actual dog picked up on.
23 All right. Now, the other thing just briefly and then I'm
24 going to -- like I said, I want to get right into it.
25 Whenever Mr. Frick actually let you listen to Ms. Waldrip

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1 talk about the gun, right before he said that he said she's
2 not even sure whether or not he was wearing a coat. There's
3 been a coat, there's a hoodie, there's a jacket, there's
4 whatever. What's really ironic is that when he takes you to
5 the gun piece the very first thing that's being said by Ms.
6 Waldrip is, "Well, he had on a coat." And I thought thank
7 you. I don't want you to forget what has actually been put
8 into the record here, ladies and gentlemen. What I'm saying
9 is not evidence, what Mr. Frick is saying is not evidence,
10 evidence is what you heard from that stand. Evidence is
11 what's been introduced and is going to be back in the room
12 with y'all. Please remember and use your common sense as to
13 what actually came out on that stand and what actually
14 happened in this particular case, okay? And I'm glad he
15 admitted to the DNA. He had 365 days to come up with a nice
16 little interesting story to tell y'all on that stand. But
17 what do we know about him? He's a liar. His client
18 called him -- I mean, his attorney called him stupid, I
19 wasn't going to say that because I just don't think I need
20 to, and he steals. Oh, and he's a drug dealer. But I am
21 not asking you to convict him for those reasons. I am
22 asking you to find him guilty because he terrified and took
23 advantage of, held against her will Ms. Katherine Waldrip on
24 the night of November 8th. So armed robbery. The judge is
25 going to actually tell you what these charges are, what they

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1 mean. And if you remember when I talked to you at the very
2 beginning of the case I told you he is charged with three
3 crimes. The easy one and the thing you've heard throughout
4 the whole case is the armed robbery, I mean that is the
5 obvious one. Now, whether or not the gun was real or not is
6 not the issue. The issue is whether or not the gun that was
7 used that he actually presented it as being a deadly weapon,
8 which you heard Ms. Waldrip said he was going to shoot and
9 kill her as he threatened her, then that weapon she
10 perceived it to be real. And the Court will actually tell
11 you if the person believed it to be real and it was used in
12 the commission of a crime then he is guilty of armed
13 robbery, even though it was a BB gun, toy gun or whatever
14 that's what matters. Kidnapping. Here is another thing.
15 Remember when I told you at the beginning of this case if
16 someone runs into a bank and they have their finger in their
17 pocket and they said, "Give me all your money," they grab it
18 and they run, okay, that's still armed robbery. But it's
19 not kidnapping because that person didn't touch anyone, they
20 didn't seize anyone, they didn't make that person, they
21 didn't keep them restrained and take away their ability to
22 actually have personal freedom. But here we have more than
23 an armed robbery unfortunately. It may have been less
24 traumatic for her, but what happened was Jerrell Brockman,
25 5-11, over 200 pounds, comes up in her face so quickly,

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1 grabs her, holds her, squeezes her face when she starts to
2 try to scream, she cannot let go of her purse. She is
3 trying to let go of the purse, which is what he wants and
4 she can't. There doesn't have to be a duration of time in
5 order to find him guilty, you just have to believe she was
6 unable to get away from him, he seized her and it was
7 illegal. That is kidnapping, that is what he did, he held
8 her against her will. Assault and battery first degree. He
9 held the gun to her head, this gun, you'll have it back in
10 the jury room with you, it's heavy, thank goodness it's not
11 a real gun. But he held it to her head and she said that
12 she was sore, that she had a knot on the side of her head
13 afterwards, he was threatening to kill her, he was
14 threatening to shoot her. Now whether or not he had
15 anything in it and he could have shot her, he definitely had
16 the ability to beat her with it, he could have shot her with
17 it as well. We don't know at that point in time because he
18 definitely was not afraid to put his hands on her and
19 restrain her at the time while he took her purse. Assault
20 and battery first degree. Now, Brockman's version of what
21 happened that night. He said, "I was in Carlisle, South
22 Carolina on November 7th, the day before, until 7:30 p.m. on
23 November the 8th." That is extremely convenient, because at
24 what time did -- I asked every single person what time was
25 911 called? It was called around 7:49 or 7:50 p.m. that

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1 night. And he says it takes 30 minutes to get from Carlisle
2 back to Roundtree Circle which is where he was. So he
3 specifically tells you -- so, you know, basically he's
4 telling you it couldn't have been me, I wasn't here, all
5 right? Then he says, "I was in Roundtree Circle with
6 Emmerson (sic) that's when he sees Lavetta Turner. So you
7 have to completely now disregard what Lavetta Turner said
8 and believe that he was at Roundtree Circle with somebody
9 else, and then randomly just waves her down, "Come pick me
10 up. Hey, let me jump in the car with you, because you know
11 what, you're kind of owing me some money and maybe I'm going
12 to get lucky and there's going to be this random purse in
13 the back of the car that I can steal which is going to
14 happen to have my DNA on it which is going to happen to link
15 me back to some armed robbery that, oh my gosh, happened
16 just minutes before." That would require you to completely
17 disregard the evidence in this case and to not use your
18 common sense in this case. Then he thinks that by telling
19 you when I robbed her of this purse from the back seat I
20 went into my aunt's storage building at Gardendale instead
21 of going inside the house, which is also odd, and then
22 that's when he realizes it wasn't Lavetta's purse, and here
23 is the thing, "I'm going to call her because she's my
24 friend." Okay. So he goes to call her on his phone and
25 guess what, his phone is dead. So I'm going to go ask

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1 Peewee. Well, how the heck is he going to call her if he
2 doesn't know her number and his phone is dead? Here is the
3 thing, the more lies you tell the more you can't make it
4 make sense and that's what's going on, that is what's going
5 on. So he goes to Peewee's phone to call, doesn't know her
6 number even though he said he was going to call her, and
7 then he runs from the police, has \$700 worth of crack
8 cocaine on him. And here is the thing, the day -- the very
9 next day after whenever he's talking to Lieutenant Fourney,
10 okay, doesn't like police, completely understand that, he's
11 had a history with police, he's got a reason to not like
12 police, I get it, that's fine. But he clearly said, "I'm
13 not going to lie, I'm not going to lie, I was at Roundtree
14 Circle all day on November 8th, 2017." And he denied that
15 on the stand under oath. And then when I played it for him
16 on there for all of you to hear, "Oh yeah." Okay. So which
17 lie is it now, Speedy, let's figure this out. Is it the one
18 from a year ago when you were closest in time to when this
19 happened before you had a chance to make up your lies about
20 why you had -- your DNA is on this purse? Because at that
21 time he wouldn't know he needed to lie about that. He
22 wouldn't have known, "Man, they're going to get that purse
23 and it's going to have my DNA on it." But 365 days later he
24 knows he's got to come up with something and that's what he
25 did. So what can he agree on? Here we go, here is stuff we

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1 can agree on. He admits to touching the purse so we're not
2 arguing away the DNA results. So here is the thing,
3 Mr. Frick says he touched the purse, it is his DNA so he's
4 not going to argue with it, but then again he argued about
5 the DNA with you so here is what I contend. The original
6 swabs that were taken were listed wrong in the evidence
7 sheet, I had the expert witness testify about that. She
8 explained to you, when you say buccal swab I'm assuming that
9 that means you swabbed the inside of somebody's mouth, so
10 whenever I got it I couldn't get the standard, I couldn't
11 get the profile of the person. What does she do? "Hello,
12 can somebody come send me the actual swabs of the inside of
13 everybody's mouth?" Okay. That's what happened, easy fix,
14 that's it. There's no contamination, everything was sealed,
15 everything was sent like it was supposed to, someone wrote
16 it down wrong. It doesn't make the evidence any less
17 credible. That as a matter of fact shows that every step
18 that's supposed to be taken to make sure the evidence is
19 credible is being done correctly. We didn't try to make
20 those other swabs fit because they don't, it has either got
21 the DNA on it or it doesn't. That's the beauty of having
22 expert witnesses who do this job and have no bias. She
23 doesn't care whether it's Jerrell Brockman's DNA on those
24 swabs, she's just going to tell me if it's on there or if
25 it's not, so that's it. So that's the whole point with the

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1 DNA. Now, there's all this mention of -- let me get through
2 with what we can agree on. He admits to being in the
3 storage building at his aunt's house. He admits to seeing
4 Lavetta Turner that night and riding in her SUV. He admits
5 to running from police. He admits he's gained all of this
6 weight, and he also admits that he's a convicted felon, and
7 he also admits that he's a liar. So let's talk about what
8 we know from the State. She said he's 5-11 and around 200
9 pounds, black male between the age of 20 and 30 years of
10 age. She was pretty darn close. He was stocky and wearing
11 a dark coat and toboggan. Toboggan, hat, those are the
12 types of things that are used to throw you off of what is
13 really going on here. She told you over and over again what
14 it was that he was wearing. She never said a ball cap, she
15 just said a hat, you know, toboggan, used them
16 interchangeably. It doesn't mean that one is different from
17 the other, and there's no evidence that there was one
18 different from the other. You saw the hat, it's in there.
19 Placed the gun to her head, bruising and tender. He
20 threatened to shoot her. She told you she thought she was
21 going to die, she actually thought about her mother and
22 never seeing her grandkids again. This is a woman who was
23 terrified. And I have to get into that because does the
24 emotion matter? Yes, it does. Because it is a part of what
25 I have to show beyond a reasonable doubt. She thought her

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1 life was in danger, which is a requirement under the armed
2 robbery. She thought that that gun was real and she was
3 going to die. Also she was trapped, she couldn't give her
4 (sic) the purse because he restrained her, that's the
5 kidnapping. And this is the thing that I think speaks
6 volumes for Ms. Waldrip, and instead of using it as --
7 Mr. Frick said this is an identification case and I agree
8 with that, I agree with that. But here is the thing, she
9 could have very well said yes, that's him. But you heard
10 her say, "I don't want to get it wrong. I didn't see his
11 face, he pushed my head down." She said I didn't see his
12 face at least twice. One of those -- well, she told you
13 that on the stand, but she also was saying that to the
14 sheriff in that small clip that Mr. Frick let you listen to.
15 This is a woman who is going to be honest to a fault because
16 she wants to be sure that what all of you now have in front
17 of you you're going to take it back with you and make the
18 right decision. That's who she is. She did confirm he was
19 wearing the same clothes as the person he robbed her that
20 night when she saw him detained at that time, okay? And
21 remember, this was only a hour and 11 minutes after the
22 robbery occurred. All right. Lavetta Turner. You know, I
23 have to tell you, Lavetta is -- she did not want to be here
24 and I know y'all have heard that. She was subpoenaed. She
25 told you she worked that morning, she also works at Waffle

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1 House, she's got four kids, she's a busy lady. So think
2 about this. The first time that Jerrell Brockman's
3 nickname, Speedy, comes up is whenever she's trying to get
4 back to take some food to her kids, okay? So she comes up,
5 can't get in there, she's got the food in the car, she's got
6 to go to work, so as a mom she's sitting here thinking oh
7 good grief, what's going on now. She gets there, she can
8 hear the radio traffic and everything, she's worried about
9 her children when she finds out that a crime has been
10 committed, okay? She told you that on the stand. Now, the
11 first time his name comes up as Speedy is because she said,
12 "Well, you know, I just gave somebody a ride from here that,
13 you know, sounds like the same description of what y'all
14 were talking about." And so all of the sudden law
15 enforcement is like oh gosh, now he may have gone to another
16 area. So is this like them saying, oh, this is the only
17 person that we're going after? No. We have new
18 information. If they had not followed up with that
19 information they would not be doing their job. So what they
20 have now is they've got a dog who's tracking, who I would
21 submit to you is unbiased. Do you think Sadie Mae cares who
22 she puts paws on? No. She gets an odor, she goes for it,
23 like he says, hunts them down. That's it. She doesn't
24 care. So what we have is Sadie Mae has gotten to her
25 point -- she's going in her circles they're like what's

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1 going on, and it's almost like the defendant is having the
2 worst luck of his life that night, because the person who
3 was nice enough to give him a ride gets back and runs into
4 the police and tells them where she took him. What are the
5 chances of that? And I submit to you that that was one
6 lucky piece of law enforcement work right there, because if
7 she had not shown back up and that dog could not find feet
8 on the ground again with her smell that's exactly where she
9 would have stayed. But for Lavetta Turner coming back and
10 giving that information that is how law enforcement got to
11 where they were. Michael Roberts. He says that Speedy
12 comes running up, he's sweating, asked to use his phone,
13 doesn't say who he's going to call. So he takes off and the
14 police show up and says, "You know what, yeah, I know
15 Speedy. His aunt" -- he says he knows him by Jerrell --
16 "His aunt gives lives across the street." So by this time
17 they've actually got him in custody, because by that time
18 he's jumped up, he's tried to run off, they've already
19 figured out through Lavetta where she took him or where she
20 dropped him off so they were going to go and set up the
21 perimeter again, but before they could even do that he jumps
22 up and runs. So we have all of these investigative
23 witnesses, and I only listed them for you because, you know,
24 like I said, normally I would call maybe one or two people,
25 but when you have law enforcement come together in a

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1 situation like this you have so many people doing things in
2 different places. So I wanted to make sure that we had a
3 chronological order of every step that law enforcement took
4 so you could see, there were no missing links here. Every
5 single person worked together even though we've got two
6 different agencies. So Rickey Sanders happens to know the
7 defendant's name, knows him by Speedy, and then we have got
8 Terry Roberts who spoke to Lavetta first who gave him the
9 name of Speedy. Whether you believe that she told them that
10 night whether or not DeDe was in the vehicle or anybody else
11 was in the vehicle with her, that's up to you. The law
12 enforcement officers when they got that information the
13 night that it was Speedy and that she had dropped him off
14 somewhere else and they said well we know someone who goes
15 by the name of Speedy, they're just following the
16 information that's given to them. They want to find a
17 person who has a gun in their hand which they don't know is
18 not real yet and who has just robbed a woman at gunpoint and
19 threatened to kill her, all right? So they're following the
20 information as it comes to them, they're not making it up
21 and they don't have to, it is falling in their laps at that
22 point. All right. So bloodhound tracking. Unbiased.
23 Sadie Mae doesn't care, she just follows the freshest human
24 odor. So she's not going to follow tire tracks, she's not
25 going to follow anything of that nature, she's not going to

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1 be -- she's going to be following the human odor that she
2 gets from that crime scene. So when they're cutting out
3 from the crime scene starting along the edge of the road up
4 to where the actual robbery takes place where I submit to
5 you there's been no testimony that anyone actually walked
6 through the crime scene area, specifically asked every
7 single person that had anything to do with keeping that area
8 clean and pristine, no one walked through there. There was
9 somebody who drove by on the road but no one who actually
10 went to the crime scene. The handler gets there and she
11 locks on a scent exactly where the crime was committed.
12 So -- and I put those two things on there; the chain saw man
13 walking along the woods or the tree line, was never found by
14 Sadie Mae because she never picked up his odor and so we've
15 got a random man walking around with a chain saw, but that
16 is not what we are worried about here. What we want to
17 worry about is whether or not the dog is going to lead us to
18 a place where she's going to lock in on the scent again,
19 okay? She leads the handler down the street in the path in
20 the park, you've seen those pictures, she follows the path
21 to where Lavetta Turner lives on Branch Street, low and
22 behold when Lavetta comes back 15, 20 minutes whenever all
23 she's doing on her end of the world, getting food and
24 everything, she comes back and all of this is going on while
25 she's gone, where the dog stops is where she says Brockman

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1 says, "Lavetta, Lavetta, hey, I need a ride," that is where
2 the dog stops. That is not a coincidence, ladies and
3 gentlemen, that is unbiased evidence that the dog was
4 following a track and that there were no longer feet on the
5 ground. So then by, like I said, bad luck or whatever kind
6 of luck you want to call it for the defense or good luck for
7 law enforcement, they are able to actually reestablish the
8 scent whenever they go over to the new perimeter, and before
9 they can do it the defendant is there. Okay. So that is
10 the easiest track, as Mr. Frick would say, whenever they
11 actually reestablished going -- well, when they go to
12 Gardendale and they put Sadie Mae out. But remember what
13 they said, Sadie Mae only cares about the human odor, she's
14 not going to look up and chase after someone who's running,
15 they wanted to have her actually lock in on the scent. And
16 the reason why, ladies and gentlemen, is because what had
17 happened while they were at the church and at Branch Street
18 is evidence, she has that scent in her nose at that time.
19 If they do not have her reestablish and lock in on that
20 scent and say hunt them down, hunt them down, then we cannot
21 use that evidence as being reliable to show that when she
22 goes up and tries to put her paws on him it is because it's
23 the same scent she was following from the church. If they
24 were going to say, "Oh, we see some guy running now, go get
25 him, he must be guilty," that's not what they do. They

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1 don't say, "Sadie Mae, chase that person running, anyone
2 running from the police must be guilty." No. They back up,
3 find out from Mr. Michael Roberts where was it that he shows
4 up, he being the defendant whenever he sees him, they put
5 Sadie Mae there, she locks in on a scent, she follows, goes
6 about three houses down and finds the defendant hiding under
7 the shrubs, not because he ran but because she followed the
8 scent, which is why we have experts come in here and testify
9 to you about that. That's the reason why we make them show
10 why these dogs were reliable and how many times they have
11 been trained and they know what they're doing, that's
12 unbiased. She's just doing her job because she wants to be
13 loved. How pure of a level of evidence can you have other
14 than that? And the only reason why she went after him was
15 because she had picked up his human odor from the First
16 Baptist Church. All right. So what matters? Yeah, the gun
17 was found in the storage building. Now, one of the things
18 that was brought up was the fact that there was not Ms.
19 Waldrip's DNA on the front barrel of the gun. In order for
20 you to get DNA off of hair you heard the experts say, it
21 comes from the root, so they would have had to pull the hair
22 out of the root and rub it here because your DNA is in the
23 root, it's not on the ends of your hair. So there's your
24 explanation. He didn't put it -- it still makes me nervous,
25 he didn't put it on her skin or anything like that so that's

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1 where the touch DNA would come from. That's the reason why
2 it's not there. Also I don't know how long he held it
3 there, we don't know for sure how long all of this happened,
4 but clearly that's your explanation for her DNA not being
5 found on the gun. But we do have his DNA on the purse and,
6 of course, he admits to that because he knows he can't argue
7 against it. That's why after 365 days you're going to hear
8 him tell you this story that's why my DNA is on that purse.
9 So there it was, there's the storage building, the house,
10 his aunt's house. There is the gun inside the storage
11 building along with some of her items, Ms. Waldrip's, and
12 there is her purse. And the money -- the reason why the
13 money is significant is you remember Ms. Waldrip saying, I
14 had maybe between \$15 and \$20." I don't know about this
15 testimony Mr. Brockman gave about somebody coming into --
16 Matt Faile coming into the car and like taking his phone and
17 taking \$45 out of his pocket or anything like that, I don't
18 know where that's coming from, but either way we know that
19 when he gets to the jail he's got \$19 on him. So that's
20 another piece of evidence that you can consider as being --
21 you know, which gives more credibility to what Ms. Waldrip
22 is saying. And then all of her items there. So I'm just
23 going to finish again with the law, ladies and gentlemen,
24 and just tell you, all that I've asked you to do and all
25 that I've wanted you to do first of all is to listen, take

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1 everything in which all of you have done that. And I know
2 sometimes these cases, there's a lot of stuff, a lot of
3 moving parts, I get that. I wanted you to think about the
4 reasonable explanation about what happened that night.
5 There is only one reliable reasonable explanation which the
6 evidence supports and follows regarding what happened. He
7 was there, he was -- he had an opportunity, a woman by
8 herself in the dark and he took that opportunity to rob her
9 at gunpoint, hold her against her will and then run off.
10 And ladies and gentlemen, when you think about that in
11 comparison to what he wants you to believe, that is the only
12 reasonable explanation. That is why I've asked you to find
13 him guilty of all of these charges. That is the reason why
14 I'm asking you to weigh the evidence, apply the law based on
15 what the Court is going to tell you. Armed robbery was done
16 with violence. She believed and feared the weapon was real,
17 he did carry away her property so he's guilty. Assault and
18 battery first degree. He injured her or attempted to injure
19 her and had the present ability to do so, and on top of
20 that, which is not even required, he was threatening that he
21 was going to shoot her and kill her. And then kidnapping,
22 knowingly and unlawfully seized or confined another person.
23 He didn't just ask her throw me your purse, he ran up on
24 her, he ambushed her, grabbed her, put the gun to her head,
25 restricted her from movement, seized her and would not let

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1 her go, so he held her against her will. You get to weigh
2 the credibility of the witnesses, including the defendant in
3 this case. And like I said, on the night of this incident,
4 one hour and 11 minutes later law enforcement agencies, the
5 victim and an unknown witness who shows up randomly who
6 tells police Speedy, and that's where his whole plan fell
7 apart. Do not let him fool you in regards to what happened
8 that night. Reasonable doubt is a doubt that's going to
9 cause a reasonable person to hesitate to act. So what makes
10 sense when you look at the case? The Court is going to tell
11 you if you are firmly convinced that the evidence supports
12 his guilt that he was there, that he was on that scene,
13 that's why he was tracked and found, that's why his DNA is
14 on that purse, if you are firmly convinced that it was him
15 then you must find him guilty. And ladies and gentlemen,
16 that is all the State and Ms. Waldrip is asking you to do is
17 weigh the evidence, look at every piece of it and you will
18 come to the reasonable conclusion beyond a reasonable doubt
19 that he is guilty of all three charges. Thank you again.

20 THE COURT: Thank you, Madam Solicitor. Madam
21 Forelady, would y'all like a little break before I speak to
22 you about the law? It's going to take me less than 20
23 minutes. Do you want to take a little break or do you want
24 to stand up and stretch, or what y'all want to do? Okay.
25 Let's take about a ten minute recess and get you back in

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1 here and instruct you on the law, then y'all will have the
2 case. Do not talk about it, though.

3 (The jury left the courtroom.)

4 THE COURT: Madam Forelady, members of the jury, you
5 have heard the testimony, you've received the evidence,
6 you've heard both the arguments of the State and the
7 defense, I will now explain to you the law as it applies to
8 this case. Now, under the constitution and laws of the
9 State of South Carolina you are the finders of facts. I
10 don't have the right to pass upon the facts or even to
11 express any opinion that I may have because that's a matter
12 solely for you, the jury, to determine. As jurors it is
13 your duty to determine the effect, value and weight of the
14 evidence that's been presented during this trial. Now, as
15 the trial judge it has been my responsibility to preside
16 over the trial of this case and to rule upon the
17 admissibility of evidence offered during the trial. Again,
18 as I told you several times you are to consider only the
19 testimony which has been presented from this witness stand
20 together with any exhibits which have been made part of the
21 record. I have the additional duty to charge you the law
22 applicable to this case, and as the presiding judge I am the
23 sole judge of the law of this case. It is your duty as
24 jurors to accept as correct and to apply the law as I now
25 state it to you and use that to reach your verdict. Now

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1 again, ladies and gentlemen, the fact that I may instruct
2 you on various subjects in this case must not be taken by
3 you as indicating what you think my opinion of the evidence
4 is. Finally I charge you that you should not be concerned
5 with what you think the law ought to be, but rather with
6 what I charge you the law is. You are judges, the sole
7 judges of the credibility, that is the believability of the
8 witnesses who have testified and of the evidence which has
9 been presented. Now, in passing upon credibility, ladies
10 and gentlemen, you can take into consideration many things
11 such as the demeanor or the manner in which a witness
12 testified. You can -- whether or not a witness had reason
13 to be biased or prejudiced, or whether or not a witness'
14 testimony was contradicted on the one hand or supported and
15 corroborated on the other hand. All of these things you'll
16 consider bearing in mind that you should give the defendant
17 the benefit of any reasonable doubt. Now again, the fact
18 that the defendant was arrested, charged and indicted is not
19 evidence in this case and cannot be considered by you as
20 evidence of guilt in this case, nor does it create any
21 presumption or inference of guilt. Now, there are two types
22 of evidence which are generally presented during a trial,
23 direct evidence and circumstantial evidence. I'm going to
24 give you some law school definitions and then I'm going to
25 explain it to you so you can understand the difference

JURY CHARGE

1 between the two. Now, direct evidence directly proves the
2 existence of a fact and does not require further deduction.
3 Circumstantial evidence is a proof of a chain of facts and
4 circumstances all of which indicate the existence of a fact.
5 For example, if on a winter night you look outside before
6 you go to bed and you see brown grass on your front lawn,
7 you go to bed and you wake up the next morning and there's
8 snow on your lawn, it's now white and you see footprints
9 through it. Well, first you can infer that it snowed,
10 secondly you can infer that somebody has been walking on
11 your lawn. See, these are things that you can infer even
12 though you didn't actually see it snow, and even though you
13 didn't actually see somebody walk on your lawn. That's a
14 good way of demonstrating the circumstantial evidence to
15 you. Now, crimes may be proven by circumstantial evidence,
16 and the law makes no distinction between the weight or value
17 to be given to either direct or circumstantial evidence.
18 However to the extent that the State relies on
19 circumstantial evidence all of the circumstances must be
20 consistent with each other, and when taken together point
21 conclusively to the guilt of the accused beyond a reasonable
22 doubt. Now, if these circumstances merely portray the
23 defendant's behavior as suspicious the proof has failed.
24 Now, the State has the burden of proving the defendant
25 guilty beyond a reasonable doubt. Now, this burden rests

JURY CHARGE

1 with the State regardless of whether or not the State relies
2 on direct evidence, circumstantial evidence or some
3 combination of the two. I have already charged you on
4 expert witnesses during the course of the trial but I will
5 do it once more so you can understand the difference. The
6 rules of evidence ordinarily do not permit witnesses to
7 testify as to opinions or conclusions. This means that
8 normally when a person testifies they usually just testify
9 as to what they saw, heard or sensed by smell or something
10 like that. However, there is an exception for someone who
11 is qualified as an expert witness because of their
12 educations or experience, they may give testimony in the
13 form of an opinion. Now, to give opinion testimony in a
14 certain area doesn't mean that you have to accept the
15 opinion, but it's evidence for you to use in any way you see
16 fit and give it the weight and credibility you believe is
17 appropriate. Now, the defendant has pled not guilty to
18 these charges and that plea always places the burden on the
19 State to prove the defendant guilty. A person charged with
20 committing a criminal offense in South Carolina is never
21 required to prove innocence. Now, I charge you, ladies and
22 gentlemen, it is an important rule of law that the defendant
23 in a criminal trial, no matter what the seriousness of the
24 charge may be, will always be presumed to be not guilty of
25 the crime for which the indictment was issued unless guilt

JURY CHARGE

1 has been proven by evidence satisfying you, the jury, of
2 that guilt beyond a reasonable doubt. Now, this presumption
3 of innocence doesn't end when you begin your deliberations,
4 but it accompanies the defendant throughout the trial until
5 you reach a verdict of guilt based on evidence satisfying
6 you of that guilt beyond a reasonable doubt. Imagine if you
7 will just like I'm wearing a robe, imagine a robe of
8 righteousness placed about the shoulders of the defendant
9 which remains with him until it has been stripped away from
10 him by evidence satisfying you of his guilt beyond a
11 reasonable doubt. Now, this presumption of innocence,
12 ladies and gentlemen, is not just a mere legal theory, it's
13 not just a legal phrase, it's a substantial right to which
14 every defendant is entitled unless you, the jury, are
15 satisfied from the evidence of the defendant's guilt beyond
16 a reasonable doubt. So what is beyond a reasonable doubt?
17 What is a reasonable doubt in the law? A reasonable doubt
18 is a doubt which makes an honest, sincere, conscientious
19 juror in search of the truth to hesitate to act. Proof
20 beyond a reasonable doubt must therefore be proof of such a
21 convincing character that a reasonable person would not
22 hesitate to rely and act on it in the most important of his
23 or her own affairs. Now, proof beyond a reasonable doubt
24 can also be described as proof that leaves you firmly
25 convinced of the defendants guilt. Now, ladies and

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1 gentlemen, there's very few things we know in this world
2 with absolute certainty, and in criminal cases the law does
3 not require proof that overcomes every possible doubt. If
4 based on your consideration of the evidence you are firmly
5 convinced that the defendant is guilty then you must find
6 him guilty. If on the other hand you think there's a real
7 possibility that he's not guilty, you must then give him the
8 benefit of that doubt and find him not guilty. Now, in
9 order -- let's talk about intent. In order to establish
10 criminal liability criminal intent is required. For example
11 the mental state required to be proven by the State for a
12 particular time might be purpose, intent, knowledge,
13 recklessness or criminal negligence. Criminal intent must
14 be proven by the State beyond a reasonable doubt. Now,
15 criminal intent is always a matter that must be determined
16 by you, the jury, from all of the circumstances which are
17 surrounding a situation that's been presented to you.
18 There's no way you can prove intent to a mathematical
19 certainty. There's no way you can dissect a person's brain
20 like a medical scientist can do and determine what that
21 person had in mind, so the law says that criminal intent may
22 be inferred from the circumstances which have been shown to
23 have existed. Now, that's how you make a determination of
24 whether or not the element requiring intent was present.
25 It's not necessary to establish intent by direct and

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1 positive evidence, but intent can be established by
2 inference in the same way as any other fact by taking in
3 consideration all of the facts and circumstances of a case.
4 Now, criminal intent, ladies and gentlemen, is a mental
5 state, it's a conscience wrongdoing. It is up to you to
6 determine what the defendant intended to do based upon the
7 circumstances shown to have existed as to each crime
8 charged. Now, a person who has a past criminal record is
9 competent to testify during a trial. A past criminal record
10 does not affect the ability of that witness to testify, a
11 past record may only be considered by you if at all in
12 determining that witness' believability. Remember, you're
13 the sole judges of the facts of the case and the
14 believability of any and all of the witnesses. Now, the
15 defendant is charged with armed robbery. In order to prove
16 this offense the State must first prove beyond a reasonable
17 doubt that the defendant took personal property from the
18 person or presence of another person. Property is in the
19 presence of a person if it is within the person's reach,
20 inspection, observation or control so that the person could
21 if not overcome with violence or prevented by fear keep
22 possession of that property. The State must also prove
23 beyond a reasonable doubt that the defendant carried the
24 property away intending to permanently deprive the owner of
25 the property and to keep the property for the defendant's

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1 own use. The slightest removal of the property or the
2 complete possession of the property even if for an instance
3 by the defendant is sufficient to show a taking and carrying
4 away. The taking and carrying away of property must have
5 been done with violence or by putting the owner of the
6 property in a fear of violence. And finally the State must
7 prove beyond a reasonable doubt that the defendant was armed
8 with a deadly weapon or used what was represented as a
9 deadly weapon or what could reasonably be believed to be a
10 deadly weapon during a robbery. A deadly weapon is any
11 article, instrument or substance which is likely to cause
12 death or great bodily harm. Whether or not an instrument
13 has been used as a deadly weapon depends on the facts and
14 circumstances of each case. A pistol is a deadly weapon. A
15 gun may be a deadly weapon even if it's not operating.
16 Whether a toy gun, which has the appearance of or is
17 believed to be a real gun is a deadly weapon, that's a
18 factual question for you to determine. Whether a BB or
19 pellet gun is a deadly weapon is a factual question for you
20 to determine. Assault and battery first degree. A person
21 commits the offense of assault and battery in the first
22 degree if the person unlawfully offers or attempts to injure
23 another person with the present ability to do so, and the
24 act is accomplished by means likely to produce death or
25 great bodily injury. Now, great bodily injury means bodily

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1 injury which causes a substantial risk of death or which
2 causes serious permanent disfigurement or protracted loss or
3 impairment of the function of a bodily member or organ.
4 Kidnapping. The defendant is charged with kidnapping. The
5 State must prove beyond a reasonable doubt that the
6 defendant knowingly and unlawfully ceased, confined and
7 inveigled, decoyed, kidnapped, abducted or carried away
8 another person without authority of law. To do a thing
9 unlawfully is to do it willfully against the law. Knowingly
10 means with knowledge, consciously, not accidentally. Seize
11 means to take hold of suddenly or forcibly. Confine means
12 to limit, restrict or enclose within bounds, imprison or
13 shut or keep in. Inveigle means to lure, entice or lead
14 astray by false representations, promises or other deceitful
15 means. Decoy means to lure by or as if by a decoy. A decoy
16 is something to entice a person into a trap. Kidnap is to
17 remove a person against his will by unlawful force or by
18 fraud. Abduct means to carry off secretly or by force for
19 an illegal purpose. Carry away means to remove. Now,
20 ladies and gentlemen, the State does not have to prove that
21 the defendant did all of these things as I just defined,
22 instead if you find beyond a reasonable doubt that the
23 defendant did any one of these things you may find the
24 defendant guilty of kidnapping. Something done without the
25 authority of law is something which the law does not

JURY CHARGE

1 sanction or permit, allow, condone or provide justification
2 for. The kidnapping does not have to be for any personal or
3 monetary gain or for any illegal purpose, but may be for any
4 reason whatsoever. Let me say something about your
5 deliberations. The word deliberations is referred -- excuse
6 me, is defined as a careful consideration weighing up with a
7 view to a decision. See, the genius of our jury system is
8 that it allows 12 good people, both men and women from
9 differing backgrounds, life experiences and perspectives to
10 consider evidence, talk about it and ultimately reach a
11 verdict. Now, the task of a juror is called deliberations
12 for a reason. You, the jury, are to consider the evidence
13 in this case carefully and deliberately, discuss it in a
14 calm, thorough and courteous manner. Remember, you're not
15 partisans or advocates for one side over the other, you're
16 the judges of the facts. Your sole duty is to sort through
17 the information that you received in this trial and define
18 your verdict from the evidence presented in this courtroom.
19 The supreme law of our land, the United States Constitution,
20 affords everyone a day in court and a fair trial, so this
21 case is very important to both sides because it is their
22 day. I charge you, ladies and gentlemen of the jury, to
23 listen to the views of your fellow jurors, carefully
24 consider their viewpoints, courteously discuss the evidence.
25 Remember, you're doing something deliberately, you're not in

JURY CHARGE

1 a big hurry and you are tasked with a duty of utmost
2 importance. Furthermore your verdict must not be based on
3 sympathy, passion, prejudice, emotion or any other
4 consideration that's not in evidence in this case. Now, in
5 conclusion you've been selected by both the State and the
6 defense to be fair and impartial jurors. It is your duty
7 then in your deliberations to determine your verdict in this
8 case giving the defendant the benefit of every reasonable
9 doubt, and from the facts which you determine to give weight
10 to, you take and apply the law which I've just now given you
11 and use that to arrive at your verdict. Now, I've told you
12 the standards for you to apply to these charges in these
13 indictments, you've heard the evidence and now you've heard
14 the law, whatever your verdict is as to these indictments,
15 guilty or not guilty, Madam Forelady, you will indicate it
16 by marking the jury's decision in the blank on the verdict
17 form and then you will sign and then date the verdict form.
18 Now remember, Madam Forelady, although she's the only juror
19 who can write the verdict, it's not hers alone, the verdict
20 has to be unanimous, that means all 12 of you have to agree
21 to the verdict before you can write on this. And here is
22 the verdict form, it's quite straight forward. Number one,
23 as to indictment 18-GS-12-56 for the offense of armed
24 robbery, we the jury unanimously find the defendant, Jerrell
25 Trovase Brockman either not guilty or guilty, you check one.

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1 And then it says question two. Question two deals with the
2 charge of assault and battery first degree, and then
3 question three deals with the charge of kidnapping. You
4 either select not guilty or guilty on each one of these and
5 then you will sign it and date it down at the bottom.
6 Ladies and gentlemen, I'm going to send you to your jury
7 room but do not begin to discuss this case until you've
8 received all of those exhibits and this verdict form, once
9 you get that stuff that is your signal and you can finally
10 begin to discuss this case between and amongst yourselves.
11 Once you start deliberating you'll continue to do so until
12 you have reached a verdict at which time you'll knock on the
13 door, advise the bailiff and we'll bring you out here to get
14 your verdict. So at this time I am going to ask the jury to
15 get back all except for my alternates, Mr. Tibbs and Mr.
16 Horner, if y'all will please stay with me, everybody else
17 please go back to your jury room.

18 (The jury left the courtroom.)

19 THE COURT: Any exceptions to the charge from the
20 State?

21 MS. LIVELY: Not from the State, Your Honor.

22 THE COURT: Any from the defense?

23 MR. FRICK: None from the defense, Your Honor.

24 (The alternates were dismissed.)

25 THE COURT: All right. We have a verdict.

JURY VERDICT

1 (The jury returned to the courtroom.)

2 THE COURT: All right. All members of jury are
3 present. Madam Forelady, it's my understanding that the
4 jury has been able to reach a verdict; is that correct?

5 THE JUROR: Yes, sir.

6 THE COURT: And is the verdict unanimous?

7 THE JUROR: Yes, sir, Your Honor.

8 THE COURT: If you will please hand it to one of my
9 bailiffs. Madam Clerk, you may publish the verdict.

10 THE CLERK: Your Honor, this is case number
11 2018-GS-12-056, the State of South Carolina versus Jerrell
12 Brockman, as to the indictment number 2018-GS-12-056 for the
13 offense of armed robbery, we the jury unanimously find the
14 defendant, Jerrell Brockman, guilty. As to indictment
15 number 2018-GS-12-057, for the offense of assault and
16 battery first degree, we the jury unanimously find the
17 defendant, Jerrell Brockman, guilty. As to indictment
18 number 2018-GS-12-058, for the offense of kidnapping, we the
19 jury unanimously find the defendant, Jerrell Brockman,
20 guilty. I certify that this decision was the unanimous
21 decision of the jury, signed Sarah Sinclair as forelady on
22 November the 8th, 2018. If this is your verdict please say
23 so by the raising of your right hands.

24 (All jurors raised their hands.)

25 THE COURT: All right. Ladies and gentlemen of the

SENTENCING HEARING

1 jury, thank you so very much for your service to Chester
2 County and the State of South Carolina, I would ask that you
3 go back to your jury room at this time. Thank you very
4 much.

5 (The jury left the courtroom.)

6 THE COURT: Court will be in recess while the State
7 prepares sentencing sheets and while the victims get
8 prepared to speak to the Court if they wish to as well as
9 the defense to get prepared to speak in mitigation.

10 MR. FRICK: Can I go ahead and make a couple of
11 motions, Your Honor?

12 THE COURT: Of course, after your motions. Yes, sir?

13 MR. FRICK: At this time the defense would move for a
14 new trial asking for the -- taking into consideration all of
15 the objections the defense has made, issues of evidence
16 particularly regarding the video of Ms. Lavetta Turner and
17 other evidence I would ask you to grant a new trial.

18 THE COURT: All right. You are protected in the
19 record, those motions are respectfully denied. We're going
20 to be in a brief recess and I'll come back out in about 10
21 minutes and we'll commence sentencing, okay?

22 (Break in proceedings.)

23 THE COURT: All right. Madam Solicitor?

24 MS. LIVELY: Thank you, Your Honor. You've heard what
25 the charges are in this particular case and the defendant

SENTENCING HEARING

1 has now been convicted of but I'll just now for the record
2 once again put on the record; 2018-GS12-056 for armed
3 robbery, 57 for assault and battery first degree, and then
4 58 for kidnapping. I do have the sentence sheets prepared,
5 Your Honor, and we are prepared to go forward with
6 sentencing at this time.

7 THE COURT: All right. All right. If you'll let me
8 know his prior record before I hear anything further from
9 the State.

10 MS. LIVELY: Yes, sir, I will. This defendant actually
11 on his NCIC has been documented as a criminal gang member.
12 I know there's been some question about that in regards to
13 this defendant but it is on his NCIC so I present that
14 information to the Court. He has a possession of marijuana
15 from 2005, public disorderly conduct in 2005, possession of
16 cocaine first conviction from 2005, and a possession -- oh
17 that's the same one, I'm sorry. Then he's got assaulting a
18 police officer while resisting arrest from 2005. He has a
19 conviction of possession of a stolen pistol from 2007.
20 Unlawful possession of a weapon from 2007. Just making sure
21 I'm not duplicating things, Your Honor. As we mentioned
22 before, he did have a YOA sentence from 2010 but when we
23 went back to look at the conviction on that they're showing
24 a parole revocation for that purpose, that's the reason the
25 State didn't ask the Court to use that during the trial. He

SENTENCING HEARING

1 does have an assault and battery third degree conviction
2 from 2011. 2012 he's got a resisting arrest, conviction
3 date was 2013, I'm sorry. He's got the forgery, which was
4 from 2013, as well as criminal domestic violence second
5 degree convictions. And then in 2016 he has got
6 breach/obtaining goods by false pretenses conviction, and
7 then receiving stolen goods conviction which was enhanced
8 based upon the property crime enhancement. And that is his
9 complete record, Your Honor.

10 THE COURT: All right. I'll be glad to hear from you
11 and anything else you wish to offer before I hear from the
12 defense.

13 MS. LIVELY: Yes, sir, Your Honor. I do know that the
14 victim, Ms. Waldrip, has actually prepared a statement, I'm
15 not sure whether she's going to actually read the statement
16 out. Ms. Waldrip, if you want it come up here with me.

17 SPEAKER: The evening of November 8th, 2017 has changed
18 my life. Ever since that night I've lost all sense of
19 security. I never go out at night by myself anymore. I cry
20 myself to sleep a lot at night, and I'm constantly looking
21 over my shoulder to see if anybody is around me, and I just
22 don't want anybody else to go through this. I just hope
23 that when he's in prison that he'll take this time to take
24 responsibility for his actions and that he will also take
25 this time to change his life and hopefully become a

SENTENCING HEARING

1 productive citizen at some point when he does get out. I
2 just hope that he will seize this opportunity to -- that
3 he's been given to change his life so that he can come out
4 and live a productive life. Thank y'all.

5 THE COURT: Thank you, ma'am.

6 MS. LIVELY: Your Honor, you know, I stand behind the
7 verdicts of the jury, I think very clearly there was
8 overwhelming evidence in this particular case. And also,
9 Your Honor, the State has had to work very closely with
10 Ms. Waldrip, she's been here for every bond hearing, and she
11 has just been such a gracious person and has had to stand,
12 or sit in that witness stand, and every time she had to come
13 back in this courtroom it was heart-wrenching for her and it
14 was heart-wrenching for me, because anytime -- sometimes I
15 would rather do a drug case any day than have a victim case
16 and know how these cases never go away in the minds of
17 victims. So Your Honor, we're asking for a very substantial
18 sentence on this defendant. He's got a long record, he's
19 used weapons before, and even in his defense he talked about
20 how he was selling -- he was going to be selling crack that
21 night. Under the circumstances, Your Honor, I believe that
22 these verdicts do speak the truth and I'm just asking the
23 Court to take that into consideration in issuing your
24 sentences.

25 THE COURT: Thank you, Madam Solicitor. Mr. Frick?

SENTENCING HEARING

1 MR. FRICK: Thank you, Your Honor. Your Honor, Mr.
2 Brockman is 30 years of age. As you've heard through his
3 testimony today he is a life long resident of Chester, went
4 through Chester County Public Schools, got to about the 11th
5 grade, that's when he admittedly got into some trouble. I
6 think that was the first thing on his rap sheet when he said
7 he went down the road. I believe that may have been one of
8 the last times he went down the road. Judge, he does have
9 stuff on his record but it is not of a terribly violent
10 nature, certainly nothing that rises to the level of what
11 these accusations and this conviction is. Over the last
12 year I've gotten to know Mr. Brockman, quite honestly I find
13 it hard to believe that something like this would be this
14 his character. Judge, we ask for whatever leniency you can
15 show in this circumstance. He has been locked up since his
16 arrest that night, which I believe is 365 days as of today,
17 I ask you to credit him appropriately on that. Your Honor,
18 I don't think his record warrants a maximum sentence in this
19 circumstance. Judge, as this is also a kidnapping charge I
20 think you have to make a finding on the record whether or
21 not it was sexual in nature, which I don't think there was
22 any allegation that it was so in the future he would not be
23 required to register on the sex offender registry as our
24 statute requires in that kidnapping statute. Judge, as a
25 lawyer in this case I am troubled about this other person

SENTENCING HEARING

1 that seems to have been ignored in this case. There is
2 other DNA as a major contributor in this case that was not
3 explored, I'm saying that on my behalf of my concerns about
4 this case and who the perpetrator in it was. I ask you to
5 take that all into consideration and have whatever mercy and
6 leniency you can show Mr. Brockman. I do believe he wants
7 to address you. I have advised him, of course, there are
8 procedures after this and he does have the right to remain
9 silent as it could be used against him, but he does want to
10 address the Court.

11 THE COURT: Yes, sir, Mr. Brockman?

12 THE DEFENDANT: How are you doing? All I want to say
13 for the victim, I apologize what happened to her that night,
14 I didn't do it, you know what I'm saying, and I hope one
15 day, you know what I'm saying, that people can find out who
16 really did it because I wasn't the guy. But I do apologize
17 for what she went through that night. That's all I've got
18 to say.

19 THE COURT: Thank you, sir. Mr. Brockman, all things
20 happen for a reason. And I sat here listening to the facts
21 of this case, and of course as I heard the solicitor make in
22 her closing statement to the jury, I mean, the way the odds
23 stack up in this whole case are just amazing. I mean, this
24 incident happened and you were found guilty, it happened
25 exactly a year ago. The victim of this horrific -- of those

SENTENCING HEARING

1 horrific actions is a preacher's wife. Exactly to a year
2 later you're convicted. The odds of the lady who testified
3 she gave you a ride of coming back right at the scene when
4 the dog couldn't find the alleged scent just happened to
5 happen. Everything happens for a reason and I truly believe
6 that. And Ms. Waldrip, I want to thank you for your grace
7 throughout this process, and Preacher, I want to thank you
8 as well. I can't imagine, I cannot imagine. And it's tough
9 sitting up here having to pass judgment on you, young man,
10 because you are a young man, you know, and that's the job
11 that I've been given to do and that's why I wear this black
12 robe, I'm supposed to be representing justice. And as I say
13 frequently, of course, Ms. Waldrip has never heard it so
14 I'll repeat it to her and her family who is here, justice,
15 you know, justice is hard to define. You know, you have to
16 have mercy and compassion --

17 THE DEFENDANT: Yes, sir.

18 THE COURT: -- for you.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Someone who has been convicted in your
21 circumstances. But you also have to measures vengeance for
22 the victim, you know, and that's where it comes in. So I
23 don't know, you know, I'm human just like you, okay?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: I don't have all of the answers, man. He

SENTENCING HEARING

1 has all of the answers, right?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You learned that growing up, right?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. Man's justice is flawed by nature,
6 God's justice is perfect.

7 THE DEFENDANT: You're right.

8 THE COURT: But you were convicted of some serious
9 crimes and it's my job to pronounce judgment. Give me just
10 a moment.

11 (Break in proceedings.)

12 THE COURT: All right. As to indictment 18-GS-12-57,
13 having been found guilty of assault and battery in the first
14 degree the sentence of the Court is ten years in the South
15 Carolina Department of Corrections. As to indictment
16 18-GS-12-58, having been convicted of the charge of
17 kidnapping the sentence of the Court ten years in the South
18 Carolina Department of Corrections. And I make a specific
19 finding that this kidnapping was not sexual in nature. That
20 sentence is consecutive to the armed robbery sentence which
21 is as follows, on indictment 18-GS-12-56, having been found
22 guilty of the charge of armed robbery the sentence of the
23 Court is 25 years in the South Carolina Department of
24 Corrections. Good luck to you, sir. Take him into custody.

25 (End of the hearing.)

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 5th, and 7th-8th days of November, 2018.

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

12

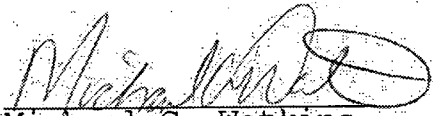
13

February 1, 2019

14

15

16


Michael C. Watkins

17

Court Reporter

18

19

20

21

22

23

24

25

WITNESSES

Lolita Fourney (CPD)

J. Newton

ARREST WARRANT NUMBER/DOA

2017A1220100288 (DOA-11-9-17)

ACTION OF GRAND JURY

Foreperson of Grand Jury

3/6/18

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-12-056

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

MARCH TERM 2018

**THE STATE
vs.**

Jerrell Trovase Brockman

Indictment for

Armed Robbery

SC Code: §16-11-0330(A)

CDR Code: 0139

Class: Felony, A

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

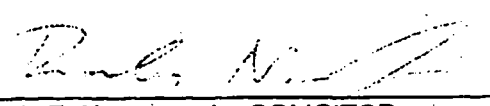
INDICTMENT

At a Court of General Sessions, convened on March 6, 2018, the Grand Jurors of Chester County present upon their oath:

ARMED ROBBERY

That Jerrell Trovase Brockman did in Chester County on or about November 8, 2017, while armed with a deadly weapon, to wit: pistol, feloniously take and carry away from the person or presence of Kathryn Waldrip by means of force, threats or intimidation goods or money of Kathryn Waldrip, such goods or monies being described as follows: purse containing money and personal items, 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

Lolita Fournay (CPD)

✓ J Nupton

ARREST WARRANT NUMBER/DOA

2017A1220100289 (DOA-11-9-17)

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 3/6/18

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-12-057

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

MARCH TERM 2018

THE STATE

vs.

Jerrell Trovase Brockman

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)

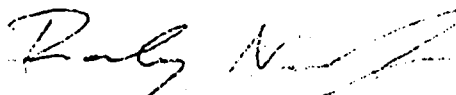
INDICTMENT

At a Court of General Sessions, convened on March 6, 2018, the Grand Jurors of Chester County present upon their oath:

ASSAULT AND BATTERY FIRST DEGREE

That Jerrell Trovase Brockman did in Chester County on or about November 8, 2017, unlawfully injure Kathryn Waldrip, 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 pistol to side of her side, telling her to shut up or he would shoot her, 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

Lolita Fournay (CPD)

V. J. Newton

ARREST WARRANT NUMBER/DOA

2017A1220100290 (DOA-11-9-17)

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: *3/6/18*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018-GS-12-058

The State of South Carolina
County of Chester

COURT OF GENERAL SESSIONS

MARCH TERM 2018

THE STATE
vs.

Jerrell Trovase Brockman

Indictment for
Kidnapping

SC Code: § 16-3-910
CDR Code: 0095
Class: Felony, A

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTER)

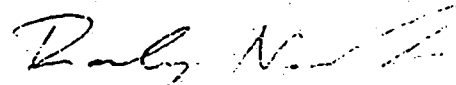
INDICTMENT

At a Court of General Sessions, convened on March 6, 2018, the Grand Jurors of Chester County present upon their oath:

KIDNAPPING

That Jerrell Trovase Brockman did in Chester County on or about November 8, 2017, by any means whatsoever unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away another person, the victim, Kathryn Waldrip, without authority of law in violation of § 16-3-910, *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

STATE OF SOUTH CAROLINA

COUNTY OF Chester
STATE VS.Jerrell Trovase Brockman

AKA:

Race: BLACK Sex: M Age: 30DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [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: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin 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] 12123
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 25 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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 ☐ OrderedTotal: \$ 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/ca \$ 3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk [Signature]Court Reporter: Mike Walker

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

483

INDICTMENT/CASE#: 2018GS12056A/W#: 2017A1220100288Date of Offense: 11/8/2017S.C. Code § : 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin 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.

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 25 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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 ☐ OrderedTotal: \$ 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/ca \$ 3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk [Signature]Court Reporter: Mike Walker

SCCA/217 (04/2018)

SC Court of Appeals

☐ 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: 2108Sentence Date: 11/8/18

RECEIVED

NOV 14 2018

484
STATE OF SOUTH CAROLINA

COUNTY OF Chester
STATE VS.
Jerrell Trovase Brockman
AKA:
Race: BLACK Sex: M Age: 30
DOB: [REDACTED]
Address:
City, State, Zip:
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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS12057
A/W#: 2017A1220100289
Date of Offense: 11/8/2017
S.C. Code § : 16-03-0600(C)(1)
CDR Code #: 3412

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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.
ATTORNEY: [Signature] 12123

Solicitor [Signature] SC Bar# [REDACTED] Defendant [Signature] Attorney for Defendant [Signature] SC Bar# [REDACTED]
WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years of ☐ 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: 18651256
☒ 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 \$ 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)

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:

RECEIVED

NOV 14 2018

SC Court of Appeals

☐ 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:
Sentence Date: 11/8/18

STATE OF SOUTH CAROLINA

COUNTY OF Chester
STATE VS.Jerrell Trovase Brockman

AKA:

Race: BLACK Sex: M Age: 30DOB: SS#

Address:

City, State, Zip:

DL#: SID#*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

IN THE COURT OF GENERAL SESSIONS

485

INDICTMENT/CASE#: 2018GS12058A/W#: 2017A1220100290Date of Offense: 11/8/2017S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)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:

Lively, Candice12123
SC Bar#

Defendant

Frick, William
Attorney for DefendantSCB69739
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 State Department of Corrections.☐ 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	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (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

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: not sexual in nature

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☐ Appointed PD or appointed SC Court of Appeals
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code: 2148Sentence Date: 11/8/18

Clerk of Court/ Deputy Clerk

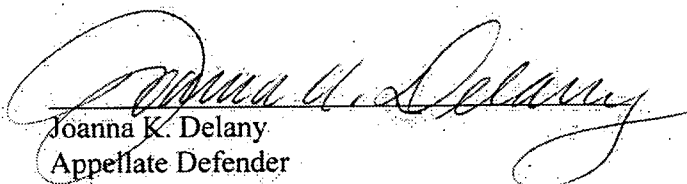
Court Reporter: Mike Watkins

SCCA/217 (07/2016)

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 20th day of December, 2019.

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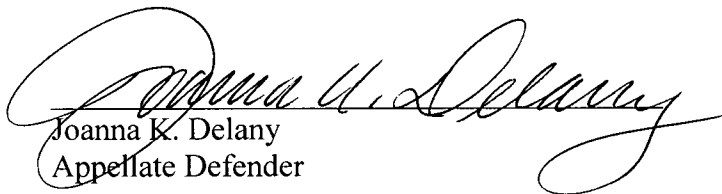
DEC 20 2019

SC Court of Appeals

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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 20th day of December, 2019.