

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County

Honorable J. C. Buddy Nicholson, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DARRELL EUGENE BLACKWELL,

APPELLANT

APPELLATE CASE NO. 2018-001892

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

WILLIAM F. SCHUMACHER, IV
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3713

DAVID R. WAGNER
Solicitor, Tenth Judicial Circuit

100 South Main St.
Anderson, SC 29624
(864) 260-4046

ATTORNEYS FOR RESPONDENT

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THE FOLLOWING DOCUMENTS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBIT #2-A (REDACTED CD OF INTERVIEW BETWEEN GARRETT
AND APPELLANT)
STATE’S EXHIBIT #4 (CD OF STORE ROBBERY)
STATE’S EXHIBITS #5-11 (PHOTOS)
STATE’S EXHIBITS #15-19 (PHOTOS)
STATE’S EXHIBIT #22 (PHOTO)
STATE’S EXHIBIT #26 (PHOTO OF A BLACK JACKET)**

State of South Carolina
County of Anderson

Court of General Sessions

State of South Carolina	)	
	)	
	)	Transcript of Record
v.	)	2016-GS-04-00433
	)	
Darrell Eugene Blackwell	)	
	)	
<u>Defendant.</u>	)	

October 8-9, 2018
Anderson, South Carolina

B E F O R E:

The Honorable J.C. Buddy Nicholson, Judge; and
a jury.

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

Catherine Huey, Deputy Solicitor
Attorney for the State

Stan Overby, Assistant Solicitor
Attorney for the State

Hadden Lucas, Assistant Public Defender
Attorney for the Defendant

Gordon Senerius, Assistant Public Defender
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

1 THE COURT: Okay.

2 THE WITNESS: (Approaching.)

3 THE CLERK: You do solemnly swear or affirm the
4 testimony you'll give this Court is the truth, the
5 whole truth, and nothing but the truth?

6 THE WITNESS: Yes, ma'am.

7 THE CLERK: Thank you. Please have a seat in
8 the witness chair.

9 THE WITNESS: (Complying.)

10 THE CLERK: And state your full name for the
11 record and spell your last name, please.

12 THE WITNESS: Scotty Hill, H-i-l-l.

13 INVESTIGATOR SCOTTY HILL,
14 having been produced and first duly sworn as a
15 witness on behalf of the States, then testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MS. HUEY:

19 Q. Investigator Hill, where are you currently
20 employed?

21 A. With the Anderson County Sheriff's Office.

22 Q. How long have you been employed there?

23 A. Almost six years.

24 Q. And what is your position?

25 A. I'm a detective in the criminal investigations

1 division.

2 Q. And is this a position you held back in January
3 and February of 2016?

4 A. It is.

5 Q. Did you talk with the defendant in this case
6 regarding taking a statement from him?

7 A. I did. Yes, ma'am. Well, I was present while
8 he was spoken with.

9 Q. And were you the lead in this case, or were you
10 there as a witness?

11 A. I was there as a witness.

12 Q. And so who took the lead when it came to taking
13 a statement from the defendant?

14 A. Detective Jamie Garrett.

15 Q. And were you with Detective Garrett throughout
16 this entire process though?

17 A. Yes, ma'am.

18 Q. Where did this interview take place?

19 A. It was at the Anderson County Detention Center.

20 Q. So the defendant, Darrell Blackwell, is he in
21 the courtroom today?

22 A. Yes, ma'am, he is.

23 Q. Okay. And is this the person that you spoke to
24 back in January, February of 2016?

25 A. It is.

1 Q. Okay. So this took place at the Anderson
2 County Detention Center, so he was already in
3 custody?

4 A. Yes, ma'am, he was.

5 Q. And where exactly in the detention center did
6 it take place?

7 A. It was the newer side of the jail, a
8 multi-purpose room. It's an office, slash, kind of
9 a storage room. It has a small desk and chairs.
10 And then the rest of the room is storage for
11 cleaning supplies.

12 Q. So who was present then?

13 A. It was Detective Garrett, I, and Mr. Blackwell.

14 Q. Just the three of you all?

15 A. Yes, ma'am.

16 Q. Okay. And did you all sit down at this table?

17 A. We did. Yes, ma'am.

18 Q. So there was a seat for everybody?

19 A. There was. Yes, ma'am.

20 Q. Was Mr. Blackwell in handcuffs?

21 A. No, he was not.

22 Q. But he'd obviously come from his jail cell?

23 A. Yes, ma'am.

24 Q. And was the defendant advised of his rights?

25 A. He was.

1 Q. And did you witness this?

2 A. I did.

3 Q. Was a form used ---

4 A. Yes, ma'am.

5 Q. --- to advise him of his rights?

6 A. Yes, ma'am.

7 Q. And did that form list out his rights?

8 A. It does. Yes, ma'am.

9 Q. Now, during the course of this interview and
10 having been -- when you were reading him his rights
11 or Detective Garrett was, was he denied anything?
12 Did he ever say he was hungry or needed something to
13 drink or he was in pain, anything along those lines?

14 A. He never mentioned anything like that. No.

15 Q. Did he seem to be under the influence of
16 anything?

17 A. He did not.

18 Q. Because, again, he'd been coming from the jail?

19 A. Right.

20 Q. Do you know about how long he had been there?

21 A. A little over two weeks.

22 Q. Okay. Since the date of arrest?

23 A. Yes, ma'am.

24 Q. So when his rights were explained to him by
25 Detective Garrett, did he seem to understand those

1 rights, Mr. Blackwell?

2 A. He did.

3 Q. Were any threats or promises made in order to
4 get him to sign the form?

5 A. No, ma'am.

6 Q. Any intimidation?

7 A. No.

8 Q. And so in your opinion, was his waiver of
9 rights voluntary?

10 A. Yes, ma'am.

11 Q. And did he then indicate he wished to give a
12 statement?

13 A. He did.

14 Q. And was that a written or an oral statement?

15 A. It was oral.

16 Q. And why is that?

17 A. We audio record our statements, so it was
18 captured on audio recording.

19 Q. And so when you say it was audio recorded, does
20 that include the Miranda, as well?

21 A. Yes, ma'am.

22 Q. I'm going to show you a few items. All right.
23 Investigator Hill, I'm going to show you what's been
24 marked as State's 1 for this hearing. If you could
25 take a look at that, please.

1 A. (Complying.)

2 Q. And do you recognize that form?

3 A. I do.

4 Q. And how are you able to recognize it?

5 A. It's the standard advisory rights form we use
6 at the sheriff's office, and it also has my
7 signature on it.

8 Q. Okay. And what does your signature indicate?

9 A. That I witnessed this form be filled out.

10 Q. Okay. And is the defendant's signature on
11 that?

12 A. It is. Yes, ma'am.

13 Q. And what does the defendant's signature
14 indicate?

15 A. At the top it indicates that he understood his
16 rights, and at the bottom it indicates that he
17 waived his rights and was willing to make a
18 statement.

19 MS. HUEY: Your Honor, at this time we'd admit
20 State's 1 for purposes of this hearing?

21 THE COURT: Any objection?

22 MR. LUCAS: Without objection, Judge.

23 THE COURT: All right. Admitted -- admitted
24 without objection.

25 (State's Exhibit No. 1 was received into

1 evidence.)

2 BY MS. HUEY:

3 Q. Investigator Hill, I'm also going to show you
4 State's 2. If you could take a look at that,
5 please.

6 A. (Complying.)

7 Q. And do you recognize that CD?

8 A. I do.

9 Q. And how are you able to recognize it?

10 A. I initialled and dated it last month.

11 Q. Okay. And what do your initials and date
12 indicate?

13 A. That is the statement that was given to us by
14 Mr. Blackwell on February 1, 2016.

15 Q. And does that fairly and accurately represent
16 the entire interview?

17 A. It does. Yes, ma'am.

18 Q. Including his Miranda and waiver?

19 A. Yes, ma'am.

20 Q. And does -- has it been altered in any way?

21 A. No.

22 MS. HUEY: Okay. Your Honor, at this time we'd
23 admit State's 2 for purposes of this hearing.

24 THE COURT: Any objection?

25 MR. LUCAS: Without objection.

1 THE COURT: Admitted without objection.

2 (State's Exhibit No. 2 was received into
3 evidence.)

4 BY MS. HUEY:

5 Q. And, Investigator Hill, finally I'm going to
6 show you State's 3. If you could take a look at
7 that.

8 A. (Complying.)

9 Q. And what is that, Investigator Hill?

10 A. That's the transcript of the interview.

11 Q. Okay. And have you reviewed that transcript
12 prior to your testimony today?

13 A. I have. Yes, ma'am.

14 Q. And does it fairly and accurately represent the
15 audio recording of the interview that took place on
16 February 1, 2016?

17 A. It does. Yes, ma'am.

18 MS. HUEY: Okay. Your Honor, at this time we'd
19 admit State's 3 into evidence for purposes of this
20 hearing.

21 THE COURT: Okay.

22 MR. LUCAS: No objection. Just for the purpose
23 of this hearing.

24 THE COURT: All right. Thank you, sir.

25 (State's Exhibit No. 3 was received into

1 evidence.)

2 MS. HUEY: So Investigator Hill -- and, Your
3 Honor, at this time we are happy to publish the
4 audio or the transcript, or we can ask Investigator
5 Hill a few questions in terms of what the statement
6 Mr. Blackwell gave included.

7 THE COURT: (No response.)

8 MS. HUEY: Judge?

9 THE COURT: Yes, ma'am. I'm sorry.

10 MS. HUEY: That's okay, Judge. At this time
11 I'm happy to publish the audio and -- and I know
12 I've provided copies of the transcript for Your
13 Honor. We also just ask Investigator Hill a few
14 questions regarding the statement.

15 THE COURT: You've already marked the
16 transcript, right?

17 MS. HUEY: I'm sorry, Judge?

18 THE COURT: You already marked the transcript?

19 MS. HUEY: Yes. It's already been admitted.

20 Yes, sir.

21 THE COURT: Okay.

22 MS. HUEY: Would you like to hear the audio ---

23 THE COURT: No.

24 MS. HUEY: --- at this time? Okay.

25 THE COURT: I was reading the transcript, but

1 go ahead.

2 MS. HUEY: Oh, well, Judge, just a couple more
3 questions then.

4 BY MS. HUEY:

5 Q. Just a couple more for follow-up. Investigator
6 Hill, were you ever out of Detective Garrett's
7 presence while he was speaking with the defendant,
8 Darrell Blackwell?

9 A. No, ma'am.

10 Q. You assisted him the entire time?

11 A. I did.

12 Q. And you were a witness to the entire incident?

13 A. Yes, ma'am.

14 MS. HUEY: That's all I have at this time,
15 Judge.

16 THE COURT: Cross-examination?

17 MR. LUCAS: Yes, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. LUCAS:

20 Q. Is it Detective Hill?

21 A. Yes, sir.

22 Q. On what date was Mr. Blackwell arrested?

23 A. I believe it was January 16, 2016. It's about
24 two weeks before we spoke with him.

25 Q. And the interview took place on February 1st of

1 2016?

2 A. Yes, sir.

3 Q. What was Mr. Blackwell's appearance during the
4 interview?

5 A. Similar to how he appears today, other than he
6 was in an orange jumpsuit.

7 Q. How would you describe his mental status during
8 that interview?

9 A. Seemed normal to me.

10 Q. Did he appear sleepy?

11 A. No, sir.

12 Q. Strung out?

13 A. No, sir.

14 Q. Under the influence of drugs?

15 A. No, sir.

16 Q. Did it appear that he knew what was going on
17 during the course of the interview?

18 A. Yes, sir.

19 Q. Now, during the interview, he was told that
20 there was a video recording of what occurred?

21 A. That's correct.

22 Q. But it wasn't shown to him immediately, was it?

23 A. Not right away. It was before the end of the
24 interview.

25 Q. And he was told what happened in the store,

1 correct?

2 A. Yes, sir.

3 Q. And that's used as an interrogation tactic?

4 A. Yes. Detective Garrett did that. I don't know
5 what his motives were behind it.

6 Q. Usually the idea is to get someone to agree
7 with you that, in fact, it happened a certain -- a
8 certain way, correct?

9 A. The motive is to find out what happened from
10 the person we're speaking with.

11 Q. Not to obtain a confession?

12 A. If they're guilty, then, yes, confession.

13 Q. So he was shown a video, and then without
14 seeing it he was told what happened?

15 A. Yes.

16 MR. LUCAS: No further questions, Judge.

17 THE COURT: Any redirect?

18 MS. HUEY: No, sir, Your Honor.

19 THE COURT: Detective, you may step down.

20 Thank you very much.

21 (Witness excused.)

22 THE COURT: Any other questions? Any other
23 witnesses?

24 MS. HUEY: No, sir, Your Honor.

25 THE COURT: Do you want to call any witnesses

1 on your behalf concerning just the *Jackson v. Denno*
2 issue?

3 MR. LUCAS: I don't think so, Your Honor.

4 THE COURT: Pardon?

5 MR. LUCAS: No -- no, Your Honor.

6 THE COURT: Okay. All right.

7 All right. Mr. Lucas, what is your objection
8 on the -- I read -- it's about almost half of it.
9 What's your objection as far as the statements are
10 concerned?

11 MR. LUCAS: Your Honor, we object to ---

12 THE COURT: From what I've been hearing, that
13 didn't have anything to do with the crime, but go
14 ahead.

15 MR. LUCAS: We object to it on the basis that
16 we don't think it was freely and voluntarily given.

17 THE COURT: It's what?

18 MR. LUCAS: We do not believe that it was
19 freely and voluntarily given.

20 THE COURT: Why not?

21 MR. LUCAS: I believe that Mr. Blackwell's will
22 was overborne during the course of this. He was
23 told what happened and that the video would show it
24 a certain way. They wouldn't show him the video.

25 And ---

1 THE COURT: Was he told what happened, or did
2 he say he had a video? I thought Detective Hill
3 told him he had a video, and he would show it to him
4 if he wanted to because he couldn't remember having
5 the knife.

6 MR. LUCAS: He was actually not able to get it
7 to play for -- for a while. And he told him what
8 the video showed and then got Mr. Blackwell to make
9 some incriminating statements. And then later on
10 towards the end, they -- they did, in fact, play it.
11 That -- that's the basis of my objection is that
12 opposition, Your Honor.

13 THE COURT: Have you looked at the transcript
14 on page 8, Mr. Lucas? It is line 17. This is
15 before he talked about -- he said he had a video.

16 It says, "Why you -- why this happened? This
17 happened from my end. You got to say it is. I'd
18 rather not talk about it how that could happen.
19 Just a minute and then start this."

20 And he said, "Yes, sir."

21 And the detective said, "Whatever you need to
22 do. Give me a couple of minutes."

23 And he goes on and he says -- tells him
24 basically what happened. Parked the truck in the
25 back of the store and tells the van was running hot,

1 said pull up to the front of the store and parked in
2 the back. And he went to the store to get some
3 water from her and talk to her. "I found that
4 little play gun. I had it on me that day." And
5 went on and on explaining what happened.

6 Where in that transcript does it indicate that
7 it wasn't voluntarily given?

8 MR. LUCAS: Your honor, in regards to the
9 video.

10 THE COURT: Pardon?

11 MR. LUCAS: In regards to ---

12 THE COURT: Tell me the page and line number,
13 and I'll be happy to read it.

14 MR. LUCAS: Sure. Page 18 ---

15 THE COURT: Page 18?

16 MR. LUCAS: --- line 21. And then further on
17 page 27, line 10.

18 THE COURT: All right. Page 18, line 20 what,
19 21?

20 MR. LUCAS: I'm sorry. Line 23.

21 THE COURT: Twenty-three?

22 MR. LUCAS: And then on the next page, the
23 detective ---

24 THE COURT: The detective says, "Yeah, he was.
25 It's on video, man. I mean, plain as day." Is that

1 what you're talking about?

2 MR. LUCAS: Yes, Your Honor. And then
3 continuing on -- onto page 19, as well.

4 THE COURT: Okay. Anything else?

5 MR. LUCAS: And then the -- the same kind of
6 thing, Your Honor.

7 THE COURT: What page?

8 MR. LUCAS: Page 27, line 17.

9 THE COURT: Line 17?

10 MR. LUCAS: And then going on after that.

11 THE COURT: It says, "Detective, did you
12 release the video? Why -- tell me why FF."

13 MR. LUCAS: And that fits -- fits into the
14 theme, Your Honor, of I think they're telling him
15 that there is a video, that it shows him acting a
16 certain way, and then trying to get him to agree to
17 that without actually showing him the video.

18 THE COURT: All right. Solicitor?

19 MS. HUEY: Your Honor, if I may just add a
20 couple of things.

21 Inside this interview room, they had trouble
22 pulling up the video. The investigator in no way
23 mislead Mr. Blackwell. They told him what was on
24 the video and then were able to finally pull it up.
25 You go to page 30, Your Honor, they were able to

1 finally pull up the video and show, in fact, yes,
2 that's him. He entered the store with a gun and a
3 knife and you could see him plain as day. They were
4 not misleading him. It's literally -- the entire
5 thing is on video. And once they were able to show
6 it to him, they did, in fact, show him the video.

7 THE COURT: Okay.

8 MS. HUEY: And -- and numerous times throughout
9 the transcript as you can see, Your Honor,
10 Investigator Garrett went out of his way to say, "If
11 you want to talk to me, we can stop at any time, you
12 know, you just tell me."

13 THE COURT: Well, he -- he asked him that
14 several times.

15 MS. HUEY: Yes, sir.

16 THE COURT: He told him that several times.

17 All right. Mr. Lucas, if you would please, be
18 very specific with me factual-wise and where-wise
19 why you think that the Court should suppress the
20 statement.

21 MR. LUCAS: Your Honor, Mr. Blackwell is not a
22 sophisticated man. He was led along through a
23 confession being told that the video showed certain
24 things and not actually being shown it. That's the
25 basis of our argument, Judge. Nothing more; nothing

1 less. And we think that that led to his willing to
2 be overborne and makes this confession not -- not
3 freely and voluntarily given.

4 THE COURT: All right. Motion to suppress
5 statements denied. The Court finds he was fully
6 advised of his rights under the Fifth and Sixth
7 Amendments. He had a right to remain silent. He
8 waived that right. It's cited as well in the
9 transcript. He had the right to select an attorney.
10 The State went through all his particular rights and
11 at certain times the detective told him if he wanted
12 to stop, he could stop.

13 He had a right to interrupt and term --
14 terminate. He had rights for an attorney. And I
15 find the statement was given without duress, without
16 coercion, without undue influence, without reward,
17 without promise, hope, reward, without promise,
18 without threats or injury, without compulsion.

19 In addition, any kind of situation. The
20 statement was voluntarily, freely, and conscious
21 will -- unrestrained will of the defendant. I find
22 the statements admissible. Anything else?

23 MS. HUEY: Nothing, Judge.

24 THE COURT: Anything else from the defendant?

25 MR. LUCAS: Nothing further, Your Honor.

1 THE COURT: Yes, sir.

2 MR. OVERBY: Ladies and gentlemen of the jury,
3 I want to be very clear and upfront when we talk
4 about this case. The man in the video conducting an
5 armed robbery at the Shop Rite on 714 Sayre Street
6 in January of 2016, the video surveillance you'll
7 see, the man in that the video is without a doubt
8 Darrell Blackwell, without a doubt.

9 And when I say without a doubt, when you see
10 this video, you will know exactly what I mean. You
11 will see Mr. Blackwell come into the -- come into
12 the store with a little small silver pistol. A
13 statement that he gave to law enforcement, which
14 will come in, will say it was cap gun, but you'll
15 also see him come in with a knife in his other hand.

16 You'll see him very clearly attempt to jump
17 over the cash register, over the counter, fail to do
18 so, walk back around to the back, open the money
19 drawer, take cash out, take cigarettes, and take a
20 box and walk out of the store. All on video.

21 You will see that he's wearing very distinctive
22 clothing, camouflage pants with a rip in the knee.
23 And you will hear from Investigator Rob Gebing of
24 the Anderson County Sheriff's Office that those
25 exact clothes on the video are found in the

1 possession of Mr. Darrell Blackwell on a consent to
2 search.

3 Mr. Blackwell is charged with armed robbery.
4 And armed robbery is something -- I'm not going to
5 spend a ton of time talking to you about the law.
6 The reason is, the judge has the province of
7 discussing the law, but generally speaking, armed
8 robbery is what you think it is. The use of a
9 weapon or what could reasonably appear to be a
10 weapon in the taking of a -- in the taking of a
11 person -- of property from another.

12 And this time, it's all on video. Every single
13 bit of it. There's no evidence of disguise his
14 identity whatsoever. This case is all about taking
15 a look at this and coming to the one possible
16 conclusion, that Mr. Blackwell robbed this store.
17 And as I said, when you see this evidence, you will
18 have no doubt that that is exactly what happened.

19 You may hear some reasons. I don't know. I
20 can't tell you what all is going come out -- come
21 around in this case. I have the sole burden of
22 proof, but I know what my evidence is going to show.
23 And that's what I want you to really consider when
24 you make the determination about whether or not
25 Mr. Blackwell committed this crime.

1 THE COURT: Mr. Lucas.

2 MR. LUCAS: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. LUCAS: Thank y'all for being here today.

5 The right to a jury trial is a fundamental
6 constitutional right for every man, but it was not
7 always so. There have been times in our history
8 where that right has been infringed upon.

9 1765 Parliament. And I suspect -- bet you
10 didn't think you were going to hear about coming in
11 today. The Parliament passed the Stamp Act which
12 was a tax on every single piece of printed paper in
13 the American economy. The equivalent today of
14 taxing every time you're on the internet and you hit
15 that enter key and you go to another website.
16 Incredibly unpopular.

17 And as part of the Stamp Act, Parliament made
18 it so that any violators would not have a right to a
19 trial by jury. It would be tried in Admiralty Court
20 where the sole judge of the fact and the law was a
21 royal judge appointed by the crown to be agent of
22 the Government. There would be no trial by jury
23 there.

24 Now, fast forward a couple of years later and
25 Parliament passed another act. And this one was

1 insulated with real officials from the trial in the
2 colonies. So any royal official charged with a
3 crime could not be try -- tried in the American
4 colonies in New England or New York or South
5 Carolina or wherever this crime occurred, but they
6 would have to go to England to be tried, and only
7 there could justice be found.

8 Well, needless to say, that was a problem for
9 the colonials. And it was one of the reasons that
10 eventually led to the American Revolution. One of
11 many, but still it was important enough that Thomas
12 Jefferson put it into the Declaration of
13 Independence. As of one of his grievances against
14 the crown, he complained of the denial of a right to
15 a jury trial in many cases that the colonials.

16 And later on even after that in 1791, the right
17 to a jury trial was included in the Bill of Rights.
18 In several other parts of the Constitution as well,
19 but most pertinent here in the Sixth Amendment which
20 provides that in all criminal prosecutions, an
21 accused has the right to a speedy and public trial
22 before an impartial jury.

23 Now, why so much emphasis on this? Why did the
24 founders think it was so important? Why is a trial
25 by jury so important today? It is a check on the

1 power of the Government. It is a check on
2 Governmental oppression on overreach. And the
3 founders would've said a check on tyranny, as well.

4 So in our system, a jury is the only thing that
5 stands between a criminal defendant and the vast
6 power of the Government. The only thing that stands
7 between a criminal defendant and loss of freedom, of
8 property rights, even life. And that is the role
9 these next two days, to find the facts in this
10 matter and to serve as a check on the power of the
11 Government, of the prosecution, of the judge.

12 Now, that's not the only thing that is
13 protecting Mr. Blackwell. We also have the Fifth
14 Amendments and the Fourteenth Amendments and a long
15 history of common law that provides other
16 protections, the presumption of innocence, that any
17 person accused of a crime and called for a trial is
18 presumed innocent until they -- until they're proven
19 guilty. And also reasonable doubt, the fact that
20 the prosecution has to prove every element necessary
21 to convict beyond a reasonable doubt.

22 Now, the judge is going to tell you what that
23 means later on. I think that there is some
24 confusion about it. It can seem a nebulous term,
25 but reasonable doubt simply means that the State has

1 to provide proof that leaves you firmly convinced
2 that a defendant is guilty. That's a high standard.
3 It, in fact, is the highest standard that we have in
4 our criminal justice system, and it is a heavy
5 burden for them to meet.

6 So during these next two days, I -- I ask only
7 that you fulfill your Constitutional duty, that you
8 stand between the defendant and the power of the
9 Government, and that you serve as a check on the
10 Government. And at the end of this case, I'm going
11 to come back and I'm going to ask you to fulfill
12 that role and to find Mr. Blackwell not guilty.
13 Thank you.

14 THE COURT: Solicitor, if you'll call your
15 first witness, please.

16 MR. OVERBY: May it please the Court, Your
17 Honor? The State calls Rhonda Phillips to the
18 stand.

19 (Witness approached.)

20 THE CLERK: Do you solemnly swear or affirm the
21 testimony you'll give the Court today in this case
22 to be the truth, the whole truth, and nothing but
23 the truth?

24 THE WITNESS: Yes, I do.

25 THE CLERK: If you would take the witness

1 stand, please, ma'am, and state your name and spell
2 your last name for the reporter, please.

3 THE WITNESS: My name is Rhonda Phillips.

4 RHONDA PHILLIPS,
5 having been produced and first duly sworn as a
6 witness on behalf of the State, testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MR. OVERBY:

10 Q. Good afternoon, Ms. Phillips. How are you?

11 A. I'm good. Thank you.

12 Q. Where are you employed presently?

13 A. I'm not employed at the moment.

14 Q. Okay. Where were you previously employed?

15 A. Anderson County Sheriff's Office.

16 Q. And what was -- what was your position with the
17 Anderson County Sheriff's Office?

18 A. I was a road deputy.

19 Q. Okay. What were some of your duties and
20 responsibilities as a road deputy?

21 A. Answer calls -- excuse me. I have a bit of a
22 cold. Answer calls that dispatch sends in. We
23 would obtain warrants if needed, do routine alarm
24 checks, just anything that's on the road.

25 Q. Okay. Would that include responding to armed

1 robberies?

2 A. Yes, sir, it would.

3 Q. Okay. How long were you in this position?

4 A. About a year and a half with the Sheriff's
5 Office.

6 Q. Okay. And on the night of January 9, 2016,
7 were you off -- were you in that position at that
8 time?

9 A. Yes, sir, I was.

10 Q. And on duty?

11 A. Yes, sir.

12 Q. Okay. Were you dispatched to the Shop Rite
13 convenient store at 714 Sayre Street on that
14 evening?

15 A. Yes, sir, I was.

16 Q. Okay. Is that in Anderson County?

17 A. Yes, sir.

18 Q. Okay. Why were you dispatched there?

19 A. It was a robbery in progress.

20 Q. Okay. Talk about how you came to be -- talk
21 about how you came to be dispatched out there, what
22 time you got there, et cetera.

23 A. It was right -- a couple minutes before nine
24 o'clock. Actually, it was a toned call. And when
25 it's an urgent situation that is happening at the

1 moment, the dispatch will just drop a tone on our
2 radios. The closest responding officers get there
3 as quick as you can.

4 Q. Okay. And were you the -- were you the first
5 responding officer there?

6 A. There was a couple of us that pulled up about
7 the same time. Corporal Harbin and Sergeant Jacobs
8 was there.

9 Q. And those are individuals that you worked with
10 on your shift?

11 A. Yes, sir.

12 Q. Okay. Now when you arrived, who else was there
13 aside from law enforcement?

14 A. There were two witnesses. Draquise Witcher and
15 Mikayla -- I'm sorry -- Chambers. And then the two
16 Patels that were at the store was Ashok and Hare
17 Krishna.

18 Q. Okay. So four people in total?

19 A. Yes, sir.

20 Q. Okay. Did you speak with these individuals?

21 A. I spoke with the two witnesses, and I believe
22 my sergeant spoke with the Patels.

23 Q. Okay. Did you personally take any statements?

24 A. Yes, sir. I took an audio statement.

25 Q. Okay.

1 A. And Corporal Harbin took the other audio
2 statement.

3 Q. Based on the information that you received, did
4 you determine a description of who you were looking
5 for?

6 A. We did. It came out over the radio, and we
7 also got a description on scene that it was a white
8 man with a beard that left in a van.

9 Q. Okay. And do you remember what color the van
10 was?

11 A. It was a white van.

12 Q. Okay. Do you know if the individual was
13 disguised?

14 A. Not to my knowledge.

15 MR. LUCAS: Object, Your Honor.

16 THE COURT: What's your objection?

17 MR. LUCAS: I don't think she has personal
18 knowledge regarding the appearance of the robber.

19 THE COURT: Overruled. Go ahead.

20 BY MR. OVERBY:

21 Q. And did you actually observe the surveillance
22 video from the store in this case?

23 A. No, sir, I did not.

24 Q. Okay. Were you able to locate the suspect on
25 this particular evening?

1 A. No, sir.

2 Q. Okay. Was anybody stopped by law enforcement
3 on this particular evening to your knowledge?

4 A. There was a call that went out that a van that
5 was matching the description and a deputy stopped
6 him on a traffic stop.

7 Q. Was that van determined to be involved in this?

8 A. No, sir.

9 Q. Okay. Did you have any other involvement in
10 this case?

11 A. No, sir, I did not.

12 MR. OVERBY: I have no further questions for
13 this witness. Please answer any questions from the
14 defense counsel.

15 THE WITNESS: Yes, sir.

16 THE COURT: Cross-examination?

17 MR. LUCAS: No questions, Your Honor.

18 THE COURT: Ms. Phillips, you may be step --
19 step down and you may be excused. Thank you so
20 much.

21 THE WITNESS: Thank you, sir.

22 (Witness excused.)

23 THE COURT: Call your next witness, please.

24 MR. OVERBY: Yes, Your Honor. At this time the
25 State calls Deputy Craig Holbrooks to the stand.

1 (Witness approached.)

2 THE CLERK: Do you solemnly swear or affirm the
3 testimony you'll give this Court today in this case
4 to be the truth, the whole truth, and nothing but
5 the truth?

6 THE WITNESS: I do.

7 THE CLERK: If you would take the witness
8 stand, please, sir, and state your name and spell
9 your last name for the reporter, please.

10 THE WITNESS: Craig Holbrooks,
11 H-o-l-b-r-o-o-k-s.

12 DEPUTY CRAIG HOLBROOKS,
13 having been produced and first duly sworn as a
14 witness on behalf of the State, testified as
15 follows:

16 DIRECT EXAMINATION

17 BY MR. OVERBY:

18 Q. Dependent Holbrooks, where are you employed?

19 A. The Anderson County Sheriff's Office.

20 Q. What is your position at the Anderson County
21 Sheriff's Office?

22 A. I'm a forensics investigator.

23 Q. Okay. And what are your duties and
24 responsibilities as a forensics investigator?

25 A. We identify, collect, document, transport any

1 evidence of a crime from a crime scene.

2 Q. Okay. And how long have you been in this
3 position?

4 A. Since April of 2014.

5 Q. Okay. And so you were in this position on the
6 night of January 9, 2016?

7 A. Yes, sir.

8 Q. Okay. Were you dispatched to the Shop Rite
9 convenient store at 714 Sayre Street on that
10 evening?

11 A. Yes, sir, I was.

12 Q. Okay. And why were you dispatched there?

13 A. I was requested to the scene in reference to an
14 armed robbery that had occurred.

15 Q. Okay. What were you asked to do?

16 A. I was asked to take photographs of some tire
17 impressions behind a business and also collect
18 evidence from inside the business.

19 Q. Okay. And when you say "evidence from inside
20 the business -- inside the business," what sort of
21 evidence do you mean?

22 A. I believe there was a flashlight on the floor
23 and also the video from the surveillance system.

24 Q. Okay. Did you observe the surveillance video?

25 A. Yes, sir. I watched it that night.

1 Q. As part of your duties, do you often -- are you
2 often responsible for collecting surveillance videos
3 in these matters?

4 A. Yes, sir. We typically collect all
5 surveillance video from any type of serious crime.

6 Q. And as a part of that, do you have familiarity
7 with surveillance videos and operations of
8 surveillance systems?

9 A. Most of the systems, I been able to use and
10 have used before.

11 Q. Okay. And in this particular case, were you
12 able to use this one?

13 A. I was able to use this one and I also spoke to
14 the store owner's son and had him on the phone
15 helping me work through the system to make sure I
16 was downloading it.

17 Q. Okay. Do you know whether this system records
18 in realtime?

19 A. Yes, sir, it does.

20 Q. Okay. And did you watch the video on that
21 particular evening?

22 A. Yes, sir. I watched it prior to downloading
23 it.

24 Q. Okay. And did you download and collect the
25 video, as well?

1 A. Yes, sir. I downloaded it onto a thumb drive
2 and then transported it back to the office. And
3 played -- after viewing it, I downloaded it and then
4 transported it back to the office and put it on the
5 video focus storage computer.

6 Q. Okay. Talk about what the video focus storage
7 computer is.

8 A. It is a storage -- it is a computer system
9 inside the secure evidence building where all videos
10 that are collected from crime scenes or from
11 incidents that we respond to or road patrol deputies
12 respond to, all the videos go on that one computer.

13 Q. And are those videos capable of being modified
14 or altered in any way?

15 A. No, sir.

16 Q. Did you and -- have you had an opportunity to
17 see this video since this incident?

18 A. I watched it yesterday after afternoon.

19 Q. And why did you do that?

20 A. Because I made a copy to bring to court.

21 Q. Okay. Did you bring that copy with you to
22 court here today?

23 A. Yes, sir.

24 MR. OVERBY: Okay. Your Honor, I'd like to
25 have this video disk marked as State's Exhibit

1 No. 4.

2 THE COURT: Any objection to State Exhibit 4?

3 MR. LUCAS: No, Your Honor.

4 THE COURT: All right. State's Exhibit 4
5 identified.

6 MR. OVERBY: Thank you, Your Honor.

7 (State's Exhibit No. 4 was received into
8 evidence.)

9 BY MR. OVERBY:

10 Q. Now on State's Exhibit No. 4, is the video
11 surveillance from the Shop Rite?

12 A. Yes, sir.

13 Q. Okay. And it has not been modified, changed,
14 altered, or dealt with in any way since the evening
15 in which you collected it?

16 A. No, sir, it's not.

17 MR. OVERBY: Okay. Your Honor, at this time
18 I'd like publish State's Exhibit No. 4?

19 THE COURT: All right. The statement or the
20 video? Are you going to publish the statement or
21 video? You said statement.

22 MR. OVERBY: Oh, I apologize. I thought I said
23 State's Exhibit No. 4.

24 THE COURT: Okay. I thought you said video,
25 but go ahead or statement.

1 MR. OVERBY: I apologize.

2 (State's Exhibit No. 4 was published for the
3 jury.)

4 BY MR. OVERBY:

5 Q. Now, you're able to see on your video screen
6 what I'm able to see; is that correct?

7 A. Yes, sir.

8 Q. So I'm going to reference a few things. The
9 manner in which this video drive catalogs is
10 basically separate camera feeds; is that correct?

11 A. That is correct.

12 Q. Okay. And various places within the store?

13 A. Yes, sir.

14 Q. Okay. I'm going to show you very specifically
15 20511100. Do you know where this camera is located
16 inside that store?

17 A. That's right behind the two registers inside
18 the business.

19 Q. In regards to the time stamp, are those always
20 accurate?

21 A. No, sir, they're not. It depends on how the
22 system was set up when it was -- when they started
23 the recording.

24 Q. Okay. Show another camera feed if that's okay,
25 20511500. That's not the one I'm looking for.

1 This is -- I apologize for that. This is
2 20511200. And, obviously, these are capturing
3 different angles at different -- at the same time,
4 correct?

5 A. That's correct.

6 Q. Now, you've already saw all these surveillance
7 videos, correct?

8 A. That's correct, sir.

9 Q. And so you've seen everything that's in them?

10 A. Yes, sir.

11 MR. OVERBY: I'm going to show you a series of
12 photographs which I'd like to have marked as State's
13 Exhibit Nos. 5, 6, 7, 8, 9, 10, and 11.

14 MR. LUCAS: Your Honor, I'm going to object on
15 the basis that we were not provided these photos in
16 discovery.

17 THE COURT: Object to all or just ---

18 MR. LUCAS: Object to all of them, Your Honor.
19 I've looked at my discovery packet.

20 THE COURT: What is your objection?

21 MR. LUCAS: It was not provided in discovery,
22 Your Honor. Other than that, I don't have any
23 further objection.

24 MR. OVERBY: Your Honor?

25 THE COURT: Yes, sir. All right. Madam

1 forelady and ladies and gentlemen of the jury, I'm
2 going to ask you to go to the jury room very
3 briefly. I'll get you back just as soon as I can.
4 Please don't discuss the case amongst yourselves.

5 (At 3:55 p.m., jury left the courtroom.)

6 THE COURT: All right. You say it was not
7 provided for you, number one. What did you request
8 and how did you request it?

9 MR. LUCAS: We sent a discovery motion in 2016.

10 THE COURT: Under what, Rule 5, or what?

11 MR. LUCAS: Rule 5 and Brady and also weekly
12 materials as well.

13 THE COURT: For the photos?

14 MR. LUCAS: I think that it would ---

15 THE COURT: They sent you the video, right?
16 And this is just stills of the video?

17 MR. OVERBY: That's correct.

18 THE COURT: You haven't received the stills; is
19 that correct?

20 MR. LUCAS: That is correct.

21 THE COURT: But you received the video?

22 MR. LUCAS: That's correct, Your Honor. So
23 we've been getting ---

24 THE COURT: All right. And your request for,
25 it looks like, under Rule 5 or whatever you're

1 objecting. You're saying you're entitled to it -- I
2 meant, where do you think you're entitled to the
3 stills since you got the video itself?

4 MR. LUCAS: Yes, Your Honor. I think we are
5 entitled to the stills because we're entitled to
6 know what evidence is going to be presented.

7 THE COURT: Well you did, the -- the whole
8 video.

9 MR. LUCAS: I was not aware they were going to
10 present the stills, Your Honor.

11 THE COURT: All right. Did you specifically
12 request the stills and the video, or what did you
13 just generally request?

14 MR. LUCAS: I would have to check, Your Honor.

15 THE COURT: And you requested the stills?

16 MR. LUCAS: I'll be happy to do so. I've got
17 it here.

18 THE COURT: Pardon?

19 MR. LUCAS: It covers photographs, Your Honor.
20 If I may approach?

21 THE COURT: Well this is not really
22 photographs. This is just a portion of what was on
23 the video. I mean, it's a still -- a still. It's
24 not a photograph by itself; is that correct?

25 MR. OVERBY: That's correct, Your Honor.

1 THE COURT: Now, I understand Rule 5 I believe
2 it's 1. Let's see. It's documents enhanced that
3 does infer photographs. Okay. Where else do you
4 think you may be entitled to it?

5 MR. LUCAS: Your Honor, if I can hand up our
6 discovery motion? It has specific language which
7 requests ---

8 THE COURT: I'll be glad to look at it if
9 you'll hand it up.

10 MR. LUCAS: It's request number three. And it
11 covers the documents that are material to the
12 preparation that may be used as evidence in the
13 State's case in chief, which these definitely are.

14 THE COURT: Well, that's just regurgitating
15 what Rule 5 says on line 3.

16 MR. LUCAS: Pretty close to it, Your Honor.

17 THE COURT: Almost verbatim. All right. I'll
18 be glad to hear why you think it should not be
19 admitted, assuming you're correct, that it should've
20 been produced under Rule 5. I'm not taking that
21 position, but the question assuming you are correct.

22 MR. LUCAS: It's also cumulative, Your Honor.

23 THE COURT: Pardon?

24 MR. LUCAS: It's also cumulative, as well. The
25 jury's already seen the video. Given that it was

1 not provided in discovery. I would think that it's
2 going to be keeping the case from -- or keeping the
3 State from presenting any evidence that they don't
4 have another means to get it into evidence,
5 specifically the video which was already published
6 to the jury.

7 THE COURT: Well, how have you been harmed?
8 You had the video. You could've cut what stills you
9 wanted out of it.

10 MR. LUCAS: Well, Your Honor, I think that ---

11 THE COURT: It's different if that photograph
12 was taken outside of the video itself. I understand
13 your argument there, but here you've got the video
14 and all they're doing is taking some stills. I
15 haven't seen them. Let me look at them.

16 MR. OVERBY: Yes, Your Honor.

17 THE COURT: Okay. Go ahead. I'm listening.

18 MR. LUCAS: Well, Your Honor, given that they
19 may be introduced into evidence, our discovery
20 request covers that. I think that it's appropriate
21 for the State to turn it over in abeyance of the
22 trial so that we could be prepared to meet that.

23 THE COURT: I'm sorry. It's what?

24 MR. LUCAS: Your Honor, given that our
25 discovery request covers that and also all documents

1 and tangible objects the State is going to use at
2 trial, I think they've got an obligation to turn it
3 over to us in advance of trial so that we could be
4 prepared to meet it.

5 The video is one thing. We knew that was
6 coming. The still shots, which I think are most
7 closely akin to the photographs, those were not
8 provided. We didn't know they were coming. We got
9 a number of other photographs that we're prepared to
10 meet, but this is new.

11 THE COURT: You got some other photographs?

12 MR. LUCAS: Well, sure.

13 THE COURT: Were they taken from the video?

14 MR. LUCAS: No, sir, Your Honor.

15 THE COURT: They're separate from the video?

16 MR. LUCAS: Separate from the video, so we've
17 had a large number of other photographs turned over,
18 you know, from the gas station and whatnot. And we
19 were aware of those, but these we were not aware of.

20 THE COURT: Okay.

21 MR. LUCAS: And defense takes the position that
22 to be used at trial, they ought to be turned over in
23 advance.

24 THE COURT: Anything else, Mr. Lucas?

25 MR. LUCAS: No, Your Honor. Thank you.

1 THE COURT: Solicitor, I'll be glad to hear
2 you.

3 MR. OVERBY: Your Honor, the bottom line is, is
4 that the still -- the video itself is what was
5 provided.

6 THE COURT: Well, my question is, why didn't
7 you get him the stills?

8 MR. OVERBY: Well ---

9 THE COURT: I mean, that's the question.

10 MR. OVERBY: I mean, the fact of the matter is,
11 is these stills we printed last week.

12 THE COURT: Why didn't you give them to him
13 last week?

14 MR. OVERBY: Well, that's kind of the
15 difficultly for -- difficult thing for me to
16 explain. So to be perfectly honest ---

17 THE COURT: Well, you need to explain it.

18 MR. OVERBY: Yes, Your Honor.

19 THE COURT: This the time to explain it.

20 MR. OVERBY: These stills are on a CD. Okay.

21 THE COURT: On a what?

22 MR. OVERBY: On a CD, on a disk. Okay. And we
23 printed them straight from this disk. My
24 understanding was that that had been provided in
25 discovery.

1 THE COURT: The CD? The CD had?

2 MR. OVERBY: Yes, Your Honor. So I'm looking
3 through my discovery responses to try and see if I
4 can find them.

5 THE COURT: Does the CD have various stills on
6 them?

7 MR. OVERBY: It did. Yes, sir.

8 THE COURT: All right. Then let me see if you
9 provided the CD to him.

10 MR. LUCAS: Your Honor, as an officer of the
11 court, I don't have -- I don't think that I've seen
12 it. I'm going from the best of my memory, but I do
13 not recall getting that CD.

14 THE COURT: Well, I understand, but they're
15 looking to see. Okay.

16 MR. LUCAS: Thank you, Your Honor.

17 MR. OVERBY: I'm checking this disk, Your
18 Honor.

19 THE COURT: While y'all are looking, I'm going
20 to take a short break. Okay. All I want to know is
21 if you sent him a CD that had the stills on it.
22 Okay?

23 MR. OVERBY: Yes, Your Honor.

24 THE COURT: All right. I'm going to take a
25 short break while you're looking.

1 MR. OVERBY: Yes, Your Honor.

2 THE COURT: Mr. Lucas, if you wouldn't mind,
3 take a look and see if you did receive the CD.

4 MR. LUCAS: I'm doing that right now, Your
5 Honor.

6 THE COURT: Take a short break.

7 (From 4:03 to 4:07 p.m., brief recess.)

8 THE COURT: We'll go back on the record. Go
9 ahead.

10 MR. OVERBY: Okay. We have a discovery
11 response dated September 20, 2018. It's Item No. 2
12 on the ---

13 THE COURT: When did you say?

14 MR. OVERBY: September 20, 2018, Your Honor.

15 THE COURT: Okay.

16 MR. OVERBY: And Item No. 2 on that discovery
17 response, which we provided obviously to Mr. Lucas,
18 is a copy of the search warrant that's labelled
19 "copy of search warrant photos and defendant
20 photos."

21 Now, four -- or three rather -- of these photos
22 that we're seeking to introduce are on those disks.
23 So these three have, in fact, been provided.

24 Mistakenly, as I received a copy of this, I
25 thought that an additional CD that we had, had

1 disclosed some of these stills which are simply
2 stills taken directly from the video itself.

3 THE COURT: Okay.

4 MR. OVERBY: But I didn't realize that we
5 hadn't disclosed these actual stills.

6 THE COURT: All right. Anything else to add?

7 MR. LUCAS: No, Your Honor.

8 THE COURT: All right. I'm going to deny your
9 motion and admit them with the objection, primarily
10 because the Court's of the opinion you got the video
11 and the still -- the purpose of the discovery is to
12 know what they have. You knew they had pictures.
13 You knew they had the photo showing your client's
14 face. You should've known that they were going
15 provide stills.

16 It would've been convenient if they had
17 provided those stills to you, but apparently they
18 were prepared until last week and I understand that.
19 Probably didn't start preparing for trial until last
20 week, but I think it's encompassed -- the stills
21 themselves are encompassed in the video and that's
22 been provided. If it was a photo outside the video
23 or in addition to the video, I'd probably take a
24 different position. Okay?

25 MR. LUCAS: Thank you, Your Honor.

1 THE COURT: So your motion is denied.

2 MR. OVERBY: Thank you, Your Honor.

3 THE COURT: All right. Anything else before we
4 bring the jury in?

5 MR. OVERBY: Nothing further from the State,
6 Your Honor.

7 THE COURT: Anything further from the defense?

8 MR. LUCAS: No, Your Honor.

9 THE COURT: Bring the jury, please.

10 THE BAILIFF: (Complying.)

11 THE COURT: And for the record, I -- the
12 Court's of the opinion it's not cumulative. It's
13 just a copy of what you already have.

14 For the record, identify the three photos that
15 were in the CD you sent in September. What number
16 are they?

17 MR. OVERBY: Yes, Your Honor. Those photos
18 will be State's Exhibit No. 5, State's Exhibit No.
19 6, and State's Exhibit No. 7.

20 THE COURT: Okay. So those three were provided
21 September the 18th?

22 MR. OVERBY: The 20th, Your Honor.

23 THE COURT: The 20th. Okay.

24 (At 4:10 p.m., jury entered the courtroom.)

25 THE COURT: All right. State's Exhibit 5, 6,

1 7, 8, 9, 10, and 11 are admitted with objection.

2 MR. OVERBY: Thank you, Your Honor.

3 (State's Exhibit Nos. 5, 6, 7, 8, 9, 10, and 11
4 are received into evidence.)

5 MR. OVERBY: Your Honor, at this time I'm
6 showing State's Exhibit 5 through 11 to
7 Mr. Holbrooks.

8 BY MR. OVERBY:

9 Q. Are those stills fair and accurate
10 representations of the contents of the video?

11 A. Yes, sir.

12 MR. OVERBY: Okay. Permission to publish, Your
13 Honor?

14 THE COURT: Yes, sir.

15 MR. OVERBY: State's Exhibit 5; State's
16 Exhibit 6; State's Exhibit 7; State's Exhibit No. 8;
17 State's Exhibit No. 9; State's Exhibit No. 10.

18 BY MR. OVERBY:

19 Q. What does he appear to be holding in his hand,
20 sir?

21 MR. LUCAS: Object to speculation, Your Honor,
22 and also ---

23 THE COURT: What's the legal objection?

24 MR. LUCAS: Speculation and also opinion
25 testimony. The photo should speak for itself, Your

1 Honor.

2 THE COURT: I'll overrule it. Go ahead.

3 THE WITNESS: It appears to be some type of
4 bladed object.

5 BY MR. OVERBY:

6 Q. Of what, sir?

7 A. A bladed object.

8 Q. Okay. Thank you, Your -- thank you. And
9 State's Exhibit Number 11?

10 MR. LUCAS: Same objection, Your Honor.

11 THE COURT: Overruled.

12 BY MR. OVERBY:

13 Q. Did you have any other involvement with this
14 case?

15 A. No, sir, I did not.

16 MR. OVERBY: Okay. I have no further questions
17 for you. Please answer any questions defense
18 counsel may have.

19 THE COURT: Cross-examination?

20 CROSS-EXAMINATION

21 BY MR. LUCAS:

22 Q. You're a forensics investigator?

23 A. Yes, sir.

24 Q. So you went out to the scene to see if there
25 was any evidence to collect?

1 A. Yes, sir, I did.

2 Q. And there weren't any fingerprints at the
3 scene?

4 A. No, sir.

5 Q. You didn't collect any DNA from Mr. Blackwell?

6 A. No, sir.

7 Q. Any blood from Mr. Blackwell?

8 A. No, sir.

9 Q. In fact, there was not any -- I'm sorry. Also,
10 you didn't collect the firearm from the scene, did
11 you?

12 A. No, sir, I did not.

13 Q. And there was no evidence to suggest that a
14 firearm was discharged?

15 A. Not that I'm aware of that night. No, sir.

16 Q. No casings?

17 A. No, sir.

18 Q. No bullets?

19 A. No, sir.

20 Q. No gunshot residue?

21 A. No, sir.

22 MR. LUCAS: Nothing further. Thank you.

23 THE COURT: Any redirect?

24 MR. OVERBY: None, Your Honor.

25 THE COURT: All right. You may step down.

1 Thank you very much.

2 (Witness excused.)

3 THE COURT: You have another witness?

4 MS. HUEY: Yes, sir. Your Honor, the State
5 calls Lieutenant Gebing to the stand.

6 (Witness approached.)

7 THE CLERK: You do solemnly swear or affirm the
8 testimony you'll give the Court today in this case
9 to be the truth, the whole truth, and nothing but
10 the truth?

11 THE WITNESS: I do, sir.

12 THE CLERK: If you'll take the witness stand,
13 please, sir, and state your name and spell your last
14 name for the reporter, please.

15 THE WITNESS: My name is Robert Ken Gebing,
16 Jr., G-e-b-i-n-g.

17 LIEUTENANT ROBERT GEBING,
18 having been produced and first duly sworn as a
19 witness on behalf of the State, testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MS. HUEY:

23 Q. Lieutenant Gebing, where are you currently
24 employed?

25 A. With the Anderson County Sheriff's Office.

1 Q. And your current position is what?

2 A. I'm the lieutenant over the criminal
3 investigations division.

4 Q. How long have you been in that position?

5 A. In that position, since January of 2017.

6 Q. And what was your position prior to that?

7 A. Prior to that, I was the sergeant over the gang
8 unit. Prior to that, I was the sergeant in criminal
9 investigations. And prior to that, I was a
10 detective in criminal investigations. So I've been
11 in some vast of criminal investigations since June
12 of 2005.

13 Q. So were you working then in the criminal
14 investigations division in January of 2016,
15 January 9th?

16 A. I was in the gang unit, but it was a subsection
17 of criminal investigations.

18 Q. Did you have an occasion to become involved in
19 the investigation to this particular case ---

20 A. I did.

21 Q. --- *State v. Darrell Blackwell*?

22 A. I did.

23 Q. And how did you become involved?

24 A. After we had gotten the -- after the robbery
25 took place, I had seen Detective Garrett who was the

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1 lead on this case, and he asked everybody to look at
2 the video just in case we recognized the gentleman.
3 So I did take the opportunity to do that.

4 And then a few days later, I was asked to
5 accompany Detective Garrett to a residence where we
6 believed we had built up enough of a lead that a
7 potential suspect was going to be there or something
8 leading to the resolution of this case.

9 Q. So as Deputy Holbrooks just testified, there
10 was a video taken from the incident location?

11 A. Yes.

12 Q. And as such, is that sort of thing typically
13 released to the media, because you didn't know who
14 was on the video?

15 MR. LUCAS: Objection to leading, Your Honor.

16 THE COURT: I hadn't heard -- she hasn't
17 finished the question yet. Finish the question.

18 BY MS. HUEY:

19 Q. Did you know who was on the video ---

20 A. I did not.

21 Q. --- when you first saw it?

22 A. I did not.

23 THE COURT: All right. What's your objection?

24 MR. LUCAS: Leading, Your Honor.

25 THE COURT: Overruled. Go ahead.

1 BY MS. HUEY:

2 Q. Did anyone within the sheriff's office know who
3 it was on the video?

4 A. It was my understanding at the time, no.

5 Q. Okay. And so as a result of that, what is the
6 common practice, if any?

7 A. Typically, our best practice is if we have by
8 our video made some leads by being presented to the
9 public, we will reach out to local media outlets.

10 And we have inhouse now, we've got a gentleman
11 who manages our media releases through Facebook and
12 other outlets, but that's common practice and has
13 been for quite some time.

14 Q. And the purpose of the media release is what?

15 A. Again, just to get information out to the
16 public and ask for the public's help in identifying
17 somebody or generating some tips.

18 Q. And to generate tips; is that correct?

19 A. Correct.

20 Q. Okay. And so did you develop tips or leads as
21 a result of this?

22 A. We did.

23 Q. And is it common to receive tips or calls
24 during the course of an investigation such as this?

25 A. It is. You know, it's hit and miss, but if you

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1 have decent video and it's something that the public
2 takes an interest in. Some we -- you know, it's not
3 uncommon at all for us to generate some sort of tip
4 from a media release.

5 Q. And did you do so in this particular case?

6 A. We did.

7 MR. LUCAS: Objection to leading.

8 THE COURT: (No response.)

9 MR. LUCAS: Object to leading, Judge.

10 THE COURT: I'm sorry?

11 MR. LUCAS: I objected to leading. I don't
12 know if you heard.

13 THE COURT: Overruled. Go ahead.

14 BY MS. HUEY:

15 Q. So what was your specific involvement as it
16 relates to this case?

17 A. After the investigation started to steer in a
18 certain direction, I was asked to accompany
19 Detective Garrett to a -- to a residence in
20 following-up on some leads that had been generated
21 as a result of incoming tips.

22 Q. And what residence was that?

23 A. That was ■ 2 and ■ 3 Gilbert Street.

24 Q. And who did you discover to have lived in these
25 locations?

1 A. [REDACTED] 2 is the residence of Johnnie Taylor. And
2 then, you know, at the time we weren't necessarily
3 able to determine the extent of Johnnie Taylor and
4 Darrell Blackwell.

5 Q. At these two residences?

6 A. Correct. They're side by side.

7 Q. And how is Johnnie Taylor related to Darrell
8 Blackwell?

9 A. It's his mother.

10 Q. And were you able to speak with Ms. Taylor?

11 A. We were.

12 Q. And as a result of your conversation with her,
13 what, if anything, did you then do?

14 A. During the course of that contact, we learned,
15 again, that Mr. Blackwell had ties to that
16 residence. We observed that there was a van
17 matching one that we were interested in. And we
18 also were able to locate some clothing items that we
19 believed very closely matched items that were seen
20 on the video.

21 Q. Okay. So let me back you up. In terms of the
22 van, what was of interest, if anything, as it
23 relates to the van?

24 A. Earlier witnesses had apparently told us that
25 they had seen a ---

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1 MR. LUCAS: Object to hearsay, Judge.

2 THE COURT: What? I'm sorry. What?

3 MR. LUCAS: Hearsay. He's stating what earlier
4 witnesses had told him or he's getting ready to.
5 They can come in and testify to that, Your Honor,
6 but it's not appropriate to come through an
7 investigator.

8 THE COURT: Rephrase your question.

9 BY MS. HUEY:

10 Q. Had a BOLO been issued as a result of the armed
11 robbery at the Shop Rite on January 9th of 2016?

12 MR. LUCAS: Object to leading, Your Honor.

13 THE COURT: Overruled. She said, "Was one
14 issued?" Go ahead.

15 THE WITNESS: I was aware that we were looking
16 for a white in color van that may have been involved
17 in this instance.

18 BY MS. HUEY:

19 Q. And did you yourself observe a white van then
20 at ■ 2 or ■ 3 Gilbert?

21 A. It was at ■ 3. Myself and Detective Garrett
22 actually had been out there the day prior to make
23 contact with Ms. Taylor, observed that van on the
24 back of the property at ■ 3. We observed a power
25 cord running from ■ 2 to ■ 3. We were not able to

1 make contact with anybody that day, so we left it
2 alone and returned the following day which was
3 January 13th.

4 Q. And did you determine who that van was
5 registered to?

6 A. The tag on the van was registered to
7 Mr. Blackwell.

8 Q. The defendant in this case?

9 A. Yes.

10 Q. Now, I believe you also testified that you did
11 obtain a consent to search; is that correct?

12 A. Again, during the course of the contact with
13 Ms. Taylor, we learned of some clothing items that
14 we thought may have been of interest in this case.
15 They closely resembled what we observed on the
16 video.

17 Once we were steered in the direction of the
18 clothing, we did engage Ms. Taylor and asked for
19 consent to search, thus collect those -- enabling us
20 to collect those items for evidence purposes.

21 Q. And so what, if anything, did you locate?

22 A. A pair of like darker colored camouflage pants,
23 which, again, in our opinion were consistent with
24 what was on the video.

25 There was a white in color bandanna which we

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1 had observed -- or myself included on the video that
2 as the suspect came in and out of the store. He had
3 some sort of a white item either tied to or adhered
4 to his right lower leg. And this bandanna was,
5 again, consistent with that. And it was actually
6 located with the camouflage pants.

7 And then a grayish hoody-type sweatshirt.

8 Q. Okay. And what was the significance of the
9 hooded sweatshirt?

10 A. Again, we knew that we were looking for
11 something with a black outer that had something
12 grey. And not knowing necessarily at the time if
13 those were all, you know, a black item with an
14 attached gray hood or a black item with a
15 secondary -- you know, a secondary item of clothing
16 underneath.

17 We seized it just for the -- in the event that
18 it was two separate clothing items, but our suspect
19 on video had some sort of gray hood.

20 Q. And then the purpose of collecting these items
21 as it compares to the video, as well?

22 A. Again, it's confirmatory for us. As we
23 developed Mr. Blackwell's lead, you know, we --
24 we -- we noted physical similarities. We noted,
25 again, finding the van and then these clothing items

1 that very, very closely resembled what was on the
2 video. It was further confirmation that we may be
3 on the right -- the right track.

4 Q. And did you yourself collect these items?

5 A. I did.

6 Q. And do you remember where they were?

7 A. They were in like a laundry area towards the
8 back of the house.

9 Q. And when you collect items, how do you -- how
10 do you go about doing that?

11 A. In this particular case, I excused myself for a
12 minute. I -- I borrowed Detective Garrett for a few
13 moments, took some pictures, and then I left the
14 house to go outside and retrieve a paper bag from my
15 vehicle. And came back in and collected them and
16 bagged them.

17 After that, we closed out the consent to search
18 and provided Ms. Taylor with a copy noting what
19 items we were seizing. And then those items were
20 then transported to our -- our evidence holding
21 facility at the Anderson County Sheriff's Office.

22 Q. And what kind of facility is that?

23 A. It's a secured facility. It's a -- it was a
24 former law enforcement center. Now it houses our
25 forensics. Our forensics areas and our evidence

1 holding areas.

2 You go in the back door which is, you know,
3 secured gate with a lock. And then there's various
4 lockers, so you can place your items in a locker and
5 you submit evidence sheet so that way the evidence
6 technicians have something to reference. They'll
7 take your sheet and they'll catalog it and put in
8 the computer and they'll actually store it longer,
9 but it's -- the onus is on me to bag it up, seal it,
10 initial, date, things of that nature.

11 Q. And did you so in this case?

12 A. I did.

13 Q. All right. Lieutenant Gebing, I'm going to
14 show you what's been marked as State's 12, 13, and
15 14. And do you have gloves, Lieutenant Gebing?

16 A. I have some on the desk.

17 Q. Okay. I will pass them to you. Are you able
18 recognize 12, 13, and 14?

19 A. Without opening the bag, I can tell from the
20 outside that they're -- the red evidence tape is
21 what I put there. I know this because it bears my
22 initials and the like, handwritten date of
23 January 13, 2016.

24 These generated labels are from our evidence
25 division. They are able to generate this after I

1 turn in the handwritten sheet.

2 And then at some point it's been re-examined
3 and resealed by our evidence division as part of our
4 investigation in this case.

5 Q. And does each label have a particular item
6 number?

7 A. Yes, it does.

8 Q. And that number corresponds with what's in the
9 bag; is that correct?

10 A. Yes.

11 Q. Okay. Do have something to open the bag,
12 Lieutenant Gebing?

13 A. (Opening.)_

14 Q. Okay. Now do you recognize what's in the bag,
15 Lieutenant Gebing?

16 A. I do.

17 Q. Okay. And how are you able to recognize those?

18 A. Again, these are the items that I collected and
19 then I placed in the bag. We photographed these
20 prior to collecting them. These were the pants that
21 we had found.

22 As we found them, this rip was there prior to
23 us collecting them. This was the bandanna that we
24 found with the pants. And then this sweatshirt was
25 hanging up in the laundry area, as well.

1 Q. And how many days did you respond to
2 Ms. Taylor's home after this incident?

3 A. I went twice. I went on the 12th with
4 Detective Garrett briefly. When we did not make
5 contact, we left. And then I returned on the 13th
6 in the morning and made contact with Ms. Taylor and
7 collected these items.

8 Q. Okay. So several days after the incident
9 though?

10 A. Yes.

11 Q. Okay. And, again, Ms. Taylor is the
12 defendant's mother?

13 A. Correct.

14 MS. HUEY: Your Honor, at this time we'd admit
15 State's 12, 13, and 14 into evidence.

16 THE COURT: Any objection?

17 MR. LUCAS: Your Honor, I would simply object
18 on the basis that it's not clear to me that
19 Ms. Taylor was the homeowner and had the right to
20 consent to the search and would base the objection
21 upon that, Your Honor.

22 MS. HUEY: Your Honor, may we approach?

23 THE COURT: Pardon?

24 MS. HUEY: May we approach?

25 THE COURT: Yes, ma'am.

1 MR. LUCAS: Thank you, Your Honor.

2 THE COURT: I thank you for making the motion
3 and making the Court aware of it. Thank you very
4 much.

5 All right. Any other motions that you know
6 you're going to probably make where we can take it
7 outside the jury?

8 MR. LUCAS: None at this time, Your Honor.

9 THE COURT: Okay. Thank you very much. All
10 right. Anything before we bring the jury in?

11 MS. HUEY: I'm going to go ahead and mark these
12 pictures really quickly, Judge, if I may?

13 THE COURT: Do you want these back?

14 MS. HUEY: Yes, sir.

15 (Brief recess while exhibits were marked.)

16 MS. HUEY: All right. Judge, we're ready.

17 THE COURT: Pardon?

18 MS. HUEY: I said I'm ready.

19 THE COURT: You're ready. Bring the jury,
20 please.

21 THE BAILIFF: (Complying.)

22 (At 4:54 p.m., jury entered the courtroom.)

23 THE COURT: All right. State's Exhibit 12, 13,
24 and 14, which is in one particular bag; 12 is the
25 bandanna; 13 is the pants; 14 is the sweatshirt.

1 And 12, 13, and 14 are marked. And that's on the
2 outside of the brown paper bag and admitted with
3 objection. Please proceed.

4 MS. HUEY: Thank you, Judge.

5 BY MS. HUEY:

6 Q. Just a few more questions, Lieutenant Gebing.
7 I'm also going to show you what's been marked as
8 State's 15, 16, and 17. If you could take a look at
9 those photos, please.

10 A. Yes, ma'am.

11 Q. And are you able to recognize those photos?

12 A. I am.

13 Q. And how are you able to recognize them?

14 A. These are photos that I took of the pants and
15 the bandanna as we found it at ■ 2 Gilbert Street.

16 Q. And that is as a result of Ms. Taylor's consent
17 to search?

18 A. Correct.

19 Q. Signed consent to search?

20 A. Correct.

21 Q. Okay. Have they been -- they fairly and
22 accurately depict what you collected on that
23 particular date?

24 A. They do.

25 Q. And have they be altered or changed in any way?

1 A. They have not.

2 MS. HUEY: Your Honor, at this time we'd admit
3 15, 16, and 17 into evidence.

4 THE COURT: Any objection to 16 and 17?

5 MR. LUCAS: None, Your Honor.

6 THE COURT: All right. Sixteen and 17 admitted
7 without objection.

8 MS. HUEY: And 15, Your Honor.

9 THE COURT: And 15 without objection.

10 (State's Exhibit Nos. 15, 16, and 17 were
11 received into evidence.)

12 BY MS. HUEY:

13 Q. Okay. Investigator -- Lieutenant Gebing,
14 excuse me. Okay. Lieutenant Gebing, this is
15 State's 15. Could you describe what that is to the
16 jury?

17 A. At the center of the photo, these are the
18 camouflage pants and the white bandana hanging on a
19 hanger in the laundry area as we were directed.

20 Q. Okay. That's where Ms. Taylor directed you?

21 A. Yes.

22 Q. And this is State's 16.

23 A. Again, in the center, the camouflage pants, the
24 bandanna, slightly closer.

25 Q. And State's 17.

1 A. This photo depicts the rip in the pant leg of
2 the camouflage pants as we found them.

3 Q. And, Lieutenant Gebing, if you could, what was
4 the significance of these particular items to you?

5 A. Again, they -- they were confirmatory in that
6 our tips had steered us in a certain direction in
7 that we were beginning to find clothing that was
8 very, very consistent with what we were observing on
9 the -- that was the evidentiary value as far as we
10 were concerned.

11 MS. HUEY: Your Honor, that's all I have for
12 this witness.

13 THE COURT: Cross-examination?

14 CROSS-EXAMINATION

15 BY MR. LUCAS:

16 Q. Investigator Gebing, the lead investigator in
17 this case was Detective Garrett?

18 A. Correct.

19 Q. And he was responsible for supervising and
20 running the investigation?

21 A. Not necessarily supervising. He was the
22 collection point. It was that he had overall
23 responsibility of the entire case.

24 Q. Does he still work for the Anderson County
25 Sheriff's Department?

1 A. He does not. He works for an agency in
2 Washington State.

3 Q. And when you were given a consent to search for
4 Ms. Taylor's home, did you do anything beyond going
5 to retrieve the clothing from the laundry room?

6 A. No. We focused on common areas of that home
7 that we felt she could give consent to. There was a
8 room that we felt was probably one that the
9 defendant may identify as his. And then again, the
10 property next door he may very well identify as his
11 and have a reasonable expectation of privacy there.
12 So what she consented to was the things that we felt
13 she could, you know, overly controlled and give us
14 consent of the common areas such as the laundry
15 room.

16 Q. So you searched part of the house, but not all
17 of it?

18 A. We didn't really even search. We went straight
19 to what she directed us to.

20 Q. But you walked through the house and had the
21 ability to observe things ---

22 A. Oh, yeah.

23 Q. --- within it?

24 A. I mean, she wasn't -- we didn't obviously turn
25 off our senses. We -- we were able to look at

1 things that we could observe from a place we had a
2 right to be.

3 Q. Absolutely. I understand. So during the
4 course of that, you didn't see a gun, did you?

5 A. No, sir.

6 Q. No cigarette coupons?

7 A. No, sir.

8 Q. No large amounts of cash?

9 A. No, sir.

10 Q. None of that?

11 A. No, sir.

12 MR. LUCAS: Okay. Nothing further. Thank you.

13 THE COURT: Any redirect?

14 MS. HUEY: No, sir, Your Honor.

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

17 THE WITNESS: Thank you, Your Honor.

18 (Witness excused.)

19 THE COURT: Could I see the Solicitor up here
20 for just a second on tomorrow's schedule for
21 tomorrow?

22 MS. HUEY: Yes, sir, Your Honor.

23 THE COURT: Not about this case.

24 (Sidebar discussion.)

25 THE COURT: All right. Ladies and gentlemen of

1 to be something more than that to provide probable
2 cause.

3 Now, maybe Investigator Garrett told the
4 magistrate something else, but he's not here and we
5 can't speculate as to what he might've told the
6 magistrate beyond what is in this affidavit.

7 THE COURT: I believe the only thing received
8 from or seized that's going to be put in evidence is
9 the stocking cap; is that correct?

10 MR. OVERBY: That's correct, Your Honor.

11 THE COURT: All right. Give me a chance to
12 read the affidavit. Okay? Thank you.

13 MR. LUCAS: Thank you, Your Honor.

14 THE COURT: I'm glad to hear -- glad to hear
15 from the State.

16 MR. OVERBY: Yes, Your Honor. May it please
17 the Court? I'm going to hand up a case for you, if
18 you don't mind, Your Honor.

19 THE COURT: Do you want to offer any testimony
20 after this, or you just going to stand on what's in
21 here?

22 MR. OVERBY: Your Honor, I'm going to stand on
23 what the warrant -- the affidavit says.

24 THE COURT: What's in the affidavit. Okay.

25 MR. OVERBY: I'm going to hand you the case of

1 THE COURT: Anything else?

2 MR. LUCAS: Since we are -- the jury has not
3 come in yet, Your Honor. I anticipate an issue
4 regarding the admissibility of the video recorded
5 statement from Mr. Blackwell. I know that the
6 Solicitor's Office has redacted in part to remove
7 any references that would violate 403 or 401 or
8 prior convictions.

9 I have some additional concerns, Your Honor,
10 relating both to hearsay and confrontation clause.
11 Based on the testimony of *Jackson v. Denno* hearing,
12 the entire interrogation was conducted by Detective
13 Garrett. He's asking all the questions. Detective
14 Garrett is not here. So we think that raises some
15 issues with hearsay statements and also the
16 confrontation clause.

17 Because the way the interrogation is done,
18 Detective Garrett will make a statement and then try
19 to get Mr. Blackwell to agree to it. We think to
20 get those into evidence, Detective Garrett has to be
21 here. And also he's not available to be
22 cross-examined.

23 In addition, Your Honor, there are also some
24 hearsay concerns with it. Hearsay within hearsay
25 and that there are witness statements that are made

1 within it. We think that this is akin to a
2 situation of a jail phone call where you have the
3 defendant on the line and then another person who's
4 not being called to testify. I think the
5 appropriate way to deal with it is just to play the
6 victim's -- the defendant testify -- or the
7 defendant making the statement.

8 And I have a case on it as well, Your Honor,
9 relating to audio recorded statements. If I may
10 hand it up? It's *State v. Jaquawn Brewer*. And it's
11 cited at 2015, South Carolina Supreme Court case,
12 Appellate Case No. 2012208487.

13 THE COURT: I assume -- we haven't heard from
14 him, but I assume Detective Scotty Hill who was
15 present during the -- during the taking of
16 statements will be testifying about this; is that
17 correct?

18 MR. OVERBY: That's correct, Your Honor.

19 THE COURT: All right. What I'll do is, I'll
20 take your motion under advisement until we hear from
21 Dr. Hill -- excuse me -- Detective Hill, unless
22 y'all want to address it now before we bring the
23 jury in? I don't know what you plan on doing as far
24 as the statement is concerned.

25 MS. HUEY: Your Honor, we will seek to

1 introduce it. Investigator Hill will probably be the
2 last witness we'll call. We only have a couple more
3 to call.

4 Our position is that we have redacted the
5 references to drug use that Mr. Lucas suggested to
6 us yesterday afternoon. And so our position is that
7 the rest of the audio can come in. This is an audio
8 statement. We did have it transcribed, Your Honor.

9 THE COURT: Are you planning on introducing the
10 audio or a copy of the transcription or both?

11 MS. HUEY: Well, Your Honor, we had originally
12 planned on introducing the transcript because it's
13 easier to redact ---

14 THE COURT: Right.

15 MS. HUEY: --- but Mr. Lucas has an objection to
16 that; so therefore, we went back to the CD and
17 redacted the CD. And so then our intention is to
18 admit the audio.

19 THE COURT: Okay. So you are -- you are going
20 to introduce the audio through Detective Garrett?

21 MS. HUEY: Yes, sir. Because he was a witness
22 to the entire incident as he testified to at Jackson
23 Denno.

24 THE COURT: All right. I believe the part of
25 what Mr. Lucas was referring to was the detective

1 asking the questions. I believe it was Investigator
2 Garrett who's not here. I believe he testified it
3 was -- I forget where he said he was, but he's no
4 longer employed at the Sheriff's Department.

5 MS. HUEY: Correct, Your Honor.

6 THE COURT: What's -- what's your position on
7 the fact that he doesn't have the right to confront
8 Garrett since he's not present?

9 MS. HUEY: I think he has a right to confront
10 Investigator Hill who was present for the entire
11 process.

12 THE COURT: Okay.

13 MS. HUEY: That's the purpose of -- that's why
14 there are generally two officers involved in these
15 hearings, Your Honor.

16 THE COURT: I understand. All right. Anything
17 you want to say to the Court?

18 MR. LUCAS: Investigator Hill didn't ask any of
19 the questions.

20 THE COURT: I'm sorry. What?

21 MR. LUCAS: I'm sorry, Your Honor.

22 Investigator Hill did not ask any of the questions.

23 THE COURT: I understand, but Investigator Hill
24 was sitting there listening to the questions. He
25 was there. I assume he was in the room the entire

1 time. We haven't heard from him, so I don't know
2 what he's going to say.

3 MR. LUCAS: We heard from him in a depo.

4 THE COURT: Do you want -- do you want to hear
5 from Hill outside the presence of the jury, or do
6 you want to wait for his testimony?

7 MR. LUCAS: Whichever you prefer, Your Honor.

8 THE COURT: It doesn't matter to me.

9 MR. LUCAS: We can wait until his testimony.

10 THE COURT: Pardon?

11 MR. LUCAS: We can wait until his testimony,
12 Your Honor.

13 THE COURT: All right. When it gets to a
14 pertinent point, I'll be glad to send the jury out
15 and listen to it in en camera if you want me to.
16 Okay?

17 MR. LUCAS: Yes, Your Honor.

18 THE COURT: Just let me know when you want to
19 do that.

20 MR LUCAS: I'll do that. Thank you.

21 THE COURT: Anything else before we bring the
22 jury in? As far as the motion is concerned, I'll
23 take it under advisement until we hear from
24 Investigator Hill.

25 MS. HUEY: Yes, sir. We're ready to proceed.

1 THE COURT: All right.

2 (At 10:16 a.m., jury entered the courtroom.)

3 THE COURT: Solicitor, can call your next
4 witness, please?

5 MS. HUEY: Yes, Your Honor. The State calls
6 Investigator Pigman to the stand.

7 (Witness approached.)

8 THE CLERK: Do you solemnly swear or affirm the
9 testimony you'll give the Court today in this case
10 to be the truth, the whole truth, and nothing but
11 the truth?

12 THE WITNESS: I do.

13 THE CLERK: If you'll take the stand, please,
14 sir, and state your name and spell your last name
15 for the reporter, please.

16 THE WITNESS: Kenneth Pigman, P-i-g-m-a-n.

17 INVESTIGATOR KENNETH PIGMAN,
18 having been produced and first duly sworn as a
19 witness on behalf of the State, then testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MS. HUEY:

23 Q. Investigator Pigman, where are you currently
24 employed?

25 A. The Anderson County Sheriff's Office.

1 Q. And in what position there?

2 A. I'm a detective with the criminal
3 investigations division.

4 Q. And were you employed in that position in
5 January of 2016?

6 A. I was.

7 Q. And did you work with an Investigator Garrett
8 at that time?

9 A. I did.

10 Q. As such, did you have an occasion to become
11 involved in the investigation of this particular
12 case against Darrell Blackwell?

13 A. I did.

14 Q. And how so?

15 A. Investigator Garrett needed assistance
16 executing two search warrants, and I was available
17 that day and went with him to assist him.

18 Q. And which locations were those search warrants
19 executed?

20 A. ■ 2 and ■ 3 Gilbert Street in Anderson.

21 Q. And do you know why those particular locations
22 were being searched, or were you just there
23 assist -- assisting Investigator Garrett?

24 A. I was there assisting Investigator Garrett.

25 Q. Were you familiar with this case at all? Did

1 you see the video in particular?

2 A. I have seen the video. Yes.

3 Q. So when you went to this location, these are
4 two residences; is that correct?

5 A. Yes. That's correct.

6 Q. And can you describe them?

7 A. They are older mill hill-style houses, smaller
8 single-story residences.

9 Q. How close do you think they are to one another?

10 A. They're side by side. They're fairly close.

11 Q. Where was the search warrant first executed,
12 which location?

13 A. The first search warrant was executed at ■ 3
14 Gilbert.

15 Q. At ■ 3 Gilbert Street?

16 A. That's correct.

17 Q. And who was the person that lived there?

18 A. That was reported to be Darrell Blackwell's
19 residence, himself.

20 Q. And so when you arrived at ■ 3, what, if
21 anything, did you notice upon your arrival?

22 A. There was a van parked around back and the
23 residence didn't appear that anyone was staying
24 there full-time. It appeared to be somewhat
25 unoccupied.

1 Q. But you noticed a what van?

2 A. Yes.

3 Q. Are you aware of any significance of a white
4 van?

5 A. I believe the white van was mentioned somewhere
6 by Investigator Garrett as a possible suspect.

7 MR. LUCAS: Object to speculation, Your Honor.

8 THE COURT: I'll sustain the objection. Don't
9 testify to what somebody else told you. Okay. Just
10 testify to what you observed.

11 THE WITNESS: Okay.

12 BY MS. HUEY:

13 Q. Did you know the white van was of some
14 significance?

15 A. I do not recall.

16 Q. But investigate -- Investigator Garrett want
17 that photographs?

18 A. Yes.

19 MR. LUCAS: Objection, Your Honor. That goes
20 to what Investigator Garrett wanted.

21 THE COURT: What's your legal objection?

22 MR. LUCAS: A lack of knowledge, Your Honor.
23 He does not know what Investigator ---

24 THE COURT: Overruled. Go ahead.

25 BY MS. HUEY:

1 Q. And as such, was a photo taken of the white
2 van?

3 A. Yes, it was.

4 Q. I'm going to show you what's been marked as
5 State's 19. If you could take a look at that,
6 please.

7 A. (Complying.)

8 Q. Do you recognize that van?

9 A. I do.

10 Q. And how are you able to do so?

11 A. That is the van that was in the back side of
12 the residence, and that is me in the picture next to
13 the van.

14 Q. So -- and is that what you witnessed yourself
15 then, observed ---

16 A. Yes.

17 Q. --- on the day of the execution of the search
18 warrant?

19 A. Yes.

20 Q. Okay. And it fairly and accurately depicts
21 what you observed?

22 A. Yes.

23 MS. HUEY: Your Honor, at this time we'd admit
24 State's 19 into evidence.

25 THE COURT: Any objection?

1 MR. LUCAS: Only to the search warrant, Your
2 Honor. I just renew that.

3 THE COURT: Pardon? I'm sorry.

4 MR. LUCAS: I'd simply like to renew my
5 objection to the search warrant, but other than
6 that, no objection.

7 THE COURT: Okay. All right. State's
8 Exhibit 19 is admitted.

9 MS. HUEY: Thank you, Judge.

10 (State's Exhibit No. 19 was received into
11 evidence.)

12 THE COURT: Assuming the search warrant is
13 appropriate, then the Court overrules it at the
14 time, okay, so don't publish it to the jury.

15 MS. HUEY: Thank you, Judge.

16 BY MS. HUEY:

17 Q. So this was the white van you observed when you
18 first arrived ---

19 A. Yes.

20 Q. --- at Gilbert Street?

21 THE COURT: Don't publish it to the jury.

22 MS. HUEY: You said don't publish it? I'm
23 sorry.

24 THE COURT: Do not publish it until we hear the
25 search warrant issue. Okay?

1 MS. HUEY: Judge, may I approach?

2 THE COURT: Yes, ma'am.

3 (Sidebar discussion.)

4 MS. HUEY: May I publish?

5 THE COURT: All right. Ladies and gentlemen,
6 that's the Court's error. The Court's ruling the
7 photograph is admissible, and she -- the State can
8 publish it to the jury at this time.

9 MS. HUEY: Thank you, Judge.

10 BY MS. HUEY:

11 Q. Again, this is State's 19. Investigator
12 Pigman, this the white van you observed at Gilbert
13 Street?

14 A. Yes.

15 Q. So, Investigator Pigman, what, if anything,
16 else was collected then at that particular location?

17 A. ■ 3 Gilbert Street, we located a brown stocking
18 cap in the backyard of the residence hanging on a
19 fence. It appears as if it had been hung up to dry
20 like it were wet when they hung it.

21 Q. Okay. I'm going show you what's been marked as
22 State's 18. Would you take a look at that, please?

23 A. Yes. That's the stocking cap I was speaking
24 of.

25 Q. Okay. And is that the stocking cap you

1 observed then?

2 A. Yes.

3 Q. On that particular date of the execution of the
4 search warrant?

5 A. It is.

6 Q. Does it fairly and accurately depict what you
7 observed?

8 A. It does.

9 Q. And was that item then collected afterward?

10 A. Yes, ma'am, it was.

11 MS. HUEY: Your Honor, at this time we'd
12 admit -- admit -- move to admit, excuse me, State's
13 18 into evidence.

14 THE COURT: Okay. Solicitor, I admitted your
15 objection -- previous objection as to the search
16 warrant.

17 MR. LUCAS: Thank you, Your Honor.

18 THE COURT: All right. Thank you very much.

19 (State's Exhibit No. 18 was received into
20 evidence.)

21 BY MS. HUEY:

22 Q. So, again, State's 18, Investigator Pigman,
23 this is the brown Carhartt hat that was collected
24 where the defendant was reported to have been
25 staying at some point; is that correct?

1 A. Yes.

2 Q. Now, did you also search another residence at
3 that time, Investigator Pigman?

4 A. Yes. We did also search ■ 2 Gilbert Street.

5 Q. And what, if anything, did you locate at that
6 particular residence?

7 A. At ■ 2 we located two unopened packs of Seneca
8 cigarettes, which matched items that were stolen
9 during this incident.

10 Also, a black jacket with a gray hood which
11 resembled what the defendant was wearing in the
12 surveillance video.

13 Q. Investigator Pigman, I'm going to show you
14 what's been marked as State's 26.

15 THE COURT: I'm sorry. What number?

16 MS. HUEY: State's 26.

17 THE COURT: Twenty-six. Okay.

18 BY MS. HUEY:

19 Q. If you'll take a look at that, please.

20 A. (Complying.) Yes. That's the jacket I was
21 speaking of.

22 Q. Okay. And, again, that was -- jacket was
23 collected at the execution of the search warrant?

24 A. That's correct. At ■ 2.

25 Q. Okay. Does it fairly and accurately depict

1 what was collected and what you observed?

2 A. Yes.

3 MS. HUEY: Your Honor, at this time we'd admit
4 States's 26 into evidence.

5 THE COURT: Any objection?

6 MR. LUCAS: Without objection, Judge.

7 THE COURT: State's 26 be admitted without
8 objection.

9 (State's Exhibit No. 26 was received into
10 evidence.)

11 BY MS. HUEY:

12 Q. And so this was the black jacket collected ---

13 A. Yes.

14 Q. --- is that correct, Investigator Pigman?

15 A. Yes, it is.

16 Q. And when we say these items are collected,
17 Investigator Pigman, when you collect them, what do
18 you then do with them?

19 A. They would be collected and taken and placed
20 into property and evidence.

21 Q. And that is -- what is property and evidence?

22 A. It's a secured building next door to the
23 sheriff's office where all the evidence is securely
24 kept.

25 Q. And did you do so in this case?

1 A. Yes.

2 Q. Or did you assist in this?

3 A. I assisted.

4 Q. Investigator Pigman, I'm going to show you
5 what's been marked as State's 20 and ask you to open
6 the bag without taking it out.

7 A. (Complying.)

8 Q. And do you recognize that item, Investigator
9 Pigman?

10 A. Yes. That's the brown stocking cap that we
11 collected.

12 Q. Okay. That you and Investigator Garrett
13 collected and then turned into property and
14 evidence?

15 A. That's correct.

16 Q. Is it in substantially the same condition as it
17 was before?

18 A. Yes, it is.

19 Q. Okay. Altered in any way?

20 A. No, ma'am.

21 MS. HUEY: Your Honor, at this time we'd admit
22 State's 20 into evidence.

23 THE COURT: Any objection?

24 MR. LUCAS: Just the search warrant objection,
25 Your Honor.

1 THE COURT: Okay. State's Exhibit 20?

2 MS. HUEY: Yes, sir.

3 THE COURT: Will be admitted with objection.

4 (State's Exhibit No. 20 was received into
5 evidence.)

6 BY MS. HUEY:

7 Q. And, Investigator Pigman, if you can now take
8 it out of the bag, please, and show the jury.

9 A. (Complying.)

10 Q. And, again, that was located outside the
11 defendant's residence?

12 A. Yes.

13 Q. Now, show you one other thing. All right.
14 Investigator Pigman, I'm going to show you what's
15 going to be marked as State's 27 in reference to the
16 black hoody that was collected.

17 A. Okay.

18 Q. And when you open this, I would ask that you
19 just address the black hoody.

20 A. Okay. (Complying.) Yes. This appears to be
21 the black jacket that we collected that day.

22 Q. And is it a fairly and accurately in a -- or is
23 it -- is it essentially in the same condition?

24 Excuse me.

25 A. Yes, it is.

1 Q. As the one you observed and collected at the
2 defendant's mother's house?

3 A. Yes.

4 MS. HUEY: At this time we'd admit State's 27
5 into evidence, Your Honor.

6 THE COURT: Any objection?

7 MR. LUCAS: Without objection, Judge.

8 THE COURT: Twenty-seven admitted without
9 objection.

10 (State's Exhibit No. 27 was received into
11 evidence.)

12 BY MS. HUEY:

13 Q. I'm going to ask you to just pull out the black
14 hoody then and show that to the jury, please.

15 A. (Complying.)

16 Q. That was State's 27. So, Investigator Pigman,
17 all of these items then were put into property and
18 evidence and brought here this week. Did you have
19 any other involvement in the case?

20 A. No, I didn't.

21 MS. HUEY: That's all I have for this witness,
22 Judge.

23 THE COURT: Any cross-examination?

24 MR. LUCAS: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. LUCAS:

2 Q. Detective Pigman, you testified that you were
3 present for the search of both ■ 2 Gilbert Street
4 and ■ 3?

5 A. That's correct.

6 Q. Okay. And ■ 3 Gilbert Street is the house of
7 Darrell Blackwell?

8 A. Darrell Blackwell's mother. I'm sorry. ■ 3 is
9 the residence of Darrell Blackwell. That's correct.

10 Q. And you searched the whole house?

11 A. Yes.

12 Q. Didn't find a laptop there?

13 A. Not that I recall.

14 Q. Didn't find any large amounts of money?

15 A. Not that I recall.

16 Q. Well, so you didn't or you just don't remember?

17 A. It wasn't collected, so I assume we did not.

18 Q. Okay. No cigarette coupons?

19 A. No.

20 Q. And no large number of cigarette packs?

21 A. No.

22 Q. And you were also present for the search of

23 ■ 2 ---

24 A. Yes.

25 Q. --- Gilbert Street?

1 A. Yes.

2 Q. And same thing there, no -- no laptop?

3 A. Not that was collected. No.

4 Q. No large sums of money? No gun or knife?

5 A. Not that was collected. No.

6 Q. And the same would go for [REDACTED] 2 Gilbert Street,
7 no gun or knife was collected there either?

8 A. No.

9 MR. LUCAS: Nothing further. Thank you.

10 THE COURT: Any redirect?

11 MS. HUEY: Just one question.

12 REDIRECT EXAMINATION

13 BY MS. HUEY:

14 Q. Investigator Pigman, what was the date the
15 search warrants were executed?

16 A. I do not have a copy of the search warrant, but
17 I believe it was January 13th of 2016.

18 MS. HUEY: That's all I have, Judge.

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

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 THE COURT: Call your next witness.

24 MS. HUEY: Your Honor, the State calls Steve
25 Blackwell to the stand.

1 MR. LUCAS: Your Honor, I have a brief matter
2 of law regarding Mr. Steve Blackwell.

3 THE COURT: A matter of what?

4 MR. LUCAS: A matter of law.

5 THE COURT: All right. If the lawyers will
6 come up here for just a second while Mr. Blackwell's
7 coming in the courtroom.

8 (Sidebar discussion.)

9 (Witness approached.).

10 THE CLERK: Do you solemnly swear or affirm the
11 testimony you'll give the Court today in this case
12 to be the truth, the whole truth, and nothing but
13 the truth?

14 THE WITNESS: I do.

15 THE CLERK: If you'll take the witness stand
16 and state your name and spell your last name for the
17 reporter, please.

18 THE WITNESS: Mark Steven Blackwell,
19 B-l-a-c-k-w-e-l-l.

20 MARK STEVEN BLACKWELL,
21 having been produced and first duly sworn as a
22 witness on behalf of the State, testified as
23 follows:

24 DIRECT EXAMINATION

25 BY MS. HUEY:

1 Q. Mr. Blackwell, how old are you?

2 A. Fifty-one.

3 Q. And where do you work?

4 A. Wood Engineering in Greenville.

5 Q. Are you from Anderson?

6 A. I'm from Anderson.

7 Q. How long have you lived in Anderson?

8 A. My whole life.

9 Q. And do you have family in the area?

10 A. I do.

11 Q. All right. And who's your family?

12 A. My wife's family are Mets from Iva. And then
13 my family is my mother. She's still living. And my
14 brother Darrell and my children. I have a son and a
15 daughter-in-law. My son is at Clemson. Attends
16 Clemson. And my other daughter is married and her
17 husband is in the Army. And three grandkids in
18 Texas.

19 Q. So you have a lot of family close by?

20 A. I do.

21 Q. But in particular, your mother is still alive,
22 as well as your brother?

23 A. Yes.

24 Q. Okay. And what is your mother's name?

25 A. Johnnie Sue Taylor.

1 Q. And how long was she married to your father?

2 A. He was 54 when he passed away and they were
3 married in their early 20s, so for almost 30 years I
4 guess.

5 Q. And you mentioned the defendant in this case.
6 I believe you acknowledged that he's seated at
7 defense table; is that correct?

8 A. Yes.

9 Q. And his name is Darrell?

10 A. Yes.

11 Q. And is he your full brother?

12 A. Yes.

13 Q. So did you all grow up in the same house
14 together and everything?

15 A. Yes.

16 THE COURT: Can the jury hear this witness? Is
17 there anybody who can't hear? Speak up a little
18 bit, okay, so the jury can hear you.

19 THE WITNESS: I'm sorry.

20 THE COURT: Speak into the microphone. I'm
21 sorry. Go ahead.

22 BY MS. HUEY:

23 Q. But you all grew up together ---

24 A. We did.

25 Q. --- you and your brother?

1 THE WITNESS: Is that better?

2 THE COURT: Yes, sir.

3 BY MS. HUEY:

4 Q. Where does your mother live now?

5 A. Gilbert Street in Anderson off of Whitner.

6 Q. Now, Mr. Blackwell, specifically in reference
7 to January of 2016, did you observe some video
8 surveillance stills on TV or on Facebook related to
9 this case?

10 A. Yes.

11 MR. LUCAS: Your Honor, objection. Based
12 on ---

13 THE COURT: Pardon?

14 MR. LUCAS: I object to this line of testimony
15 based upon the lack of personal knowledge.

16 THE COURT: Overruled. Go ahead.

17 MS. HUEY: And as ---

18 THE COURT: She asked if he observed the video.
19 I don't know what video he observed yet. Go ahead.

20 BY MS. HUEY:

21 Q. And can you describe what you observed then?

22 A. I seen several videos. It was on the local
23 news and Facebook. It was different videos of a
24 robbery.

25 MR. LUCAS: Your Honor ---

1 THE WITNESS: What I assumed to be a robbery.

2 MR. LUCAS: Your Honor, I'm going to make the
3 same objection on the grounds that Mr. Blackwell has
4 no personal knowledge regarding the robbery.

5 THE COURT: He's testifying to what he
6 observed. How can he not have personal knowledge of
7 what he observed? Overruled. Please proceed.

8 MR. LUCAS: Thank you, Your Honor.

9 BY MS. HUEY:

10 Q. As a result of what you observed, what did you
11 do, if anything, regarding law enforcement?

12 A. What I observed was, again, those photographs
13 or still images and I think there was some video as
14 well, which caused a lot of contradiction within the
15 family. There was a lot of people calling, calling
16 myself, calling my mother, calling my niece.

17 And, you know, I called. They had a hotline or
18 whatever set up to call in for tips or whatever, and
19 I called in.

20 Q. And what did you say when you called in?

21 A. I identified who I thought was my brother in
22 the picture.

23 MS. HUEY: That's all I have, Judge.

24 THE COURT: Cross-examination?

25 CROSS-EXAMINATION

1 BY MR. LUCAS:

2 Q. Mr. Blackwell, we spoke on the phone this
3 weekend, did we not?

4 A. Yes.

5 Q. And you told me that Darrell Blackwell was
6 living with your mother?

7 A. That's correct.

8 Q. And you're concerned that he is a burden upon
9 her?

10 A. She's an enabler.

11 MR. LUCAS: Nothing further, Your Honor.

12 THE COURT: Any redirect?

13 MS. HUEY: No, sir, Your Honor.

14 THE COURT: You may step down, Mr. Blackwell.

15 Thank you so very much.

16 (Witness excused.)

17 THE COURT: Call your next witness, please.

18 MS. HUEY: Your Honor, the State calls

19 Investigator Scotty Hill.

20 (Witness approached.)

21 THE CLERK: Do you solemnly swear or affirm the
22 testimony you'll give the Court today in this case
23 to be the truth, the whole truth, and nothing but
24 the truth?

25 THE WITNESS: Yes, sir.

1 THE CLERK: If you'll take the witness stand
2 please, sir, and state your name and spell your last
3 name for the reporter, please.

4 THE WITNESS: Scotty Hill, H-i-l-l.

5 INVESTIGATOR SCOTTY HILL,
6 having been produced and first duly sworn as a
7 witness on behalf of the State, then testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MS. HUEY:

11 Q. Investigator Hill, where do you currently work?

12 A. I work for the Anderson County Sheriff's
13 Office.

14 Q. And what's your position there?

15 A. I'm a detective in the criminal investigations
16 division.

17 Q. And was that your position in February of 2016?

18 A. Yes, ma'am.

19 Q. Did you talk with the defendant in this case
20 regarding taking a statement from him?

21 A. I was present while another detective spoke
22 with him.

23 Q. And tell -- tell the jury a little bit about
24 that. Is that a common procedure?

25 A. Yes, ma'am. It's normal for us to take two

1 detectives to speak with somebody about a case.

2 It's usually a safety thing, also to have a witness
3 to the interview.

4 Q. And so were you a witness to this entire
5 interview?

6 A. Yes, ma'am.

7 Q. Were you ever outside of -- let me back up.
8 Who else was present for the interview?

9 A. Myself, Detective Jeramy Garrett, and
10 Mr. Blackwell.

11 Q. And in this particular case, was Detective
12 Garrett taking the lead so to speak?

13 A. Yes, ma'am.

14 Q. And what does that mean?

15 A. Well, it's his case so he had the most
16 knowledge about the case, so he would do -- he would
17 do most of the talking.

18 Q. So he was the one actually doing the
19 questioning; is that correct?

20 A. Yes, ma'am.

21 Q. And you were there to witness the entire
22 incident?

23 A. I was.

24 Q. And were you ever outside of Detective
25 Garrett's or the defendant's presence?

1 A. No, ma'am.

2 Q. It was the three of you all the time?

3 A. Yes.

4 Q. Okay. And so tell us where this interview took
5 place.

6 A. It was at the detention center. And at the
7 time, it was a multi-purpose room. It was used for
8 storage, and it also had a small desk in like an
9 office area that we would use as -- for an interview
10 room.

11 Q. And that's where this interview took place?

12 A. Yes, ma'am.

13 Q. And was it recorded in any way?

14 A. It was audio recorded.

15 Q. What's the first step when you do an interview
16 such as this?

17 A. Advise the person of their rights and then we
18 read their rights.

19 Q. And was that done in this particular case?

20 A. It was.

21 Q. And, again, you were a witness to that?

22 A. I was.

23 Q. Investigator Hill, I'm going to show what's
24 been previously marked as State's 1. If you could
25 take a look at that, please.

1 A. (Complying.)

2 Q. Do you recognize that item?

3 A. Yes, I do.

4 Q. And how are you able to recognize that?

5 A. It's the standard form we use, advisory rights
6 form we use at the sheriff's office and it also has
7 my signature on it.

8 Q. And what does your signature indicate?

9 A. That I witnessed this form be completed.

10 Q. Does it fairly and accurately depict the form
11 as it was used on February 1st of 2016?

12 A. Yes, ma'am.

13 Q. And has it been altered in any way?

14 A. No.

15 MS. HUEY: Your Honor, at this time we'd move
16 to admit State's 1 into evidence.

17 THE COURT: Any objection?

18 MR. LUCAS: Without objection, Your Honor.

19 THE COURT: All right. State's Exhibit 1
20 admitted without objection.

21 (State's Exhibit No. 1 was received into
22 evidence.)

23 BY MS. HUEY:

24 Q. So, Investigator Hill, if you could just tell
25 the jury a little bit what is on that form as

1 State's 1.

2 A. It's, you know, advisory rights. We usually
3 fill out the person we're talking to and put their
4 name, the date, and the location, which here it says
5 ACDC which is the Anderson County Detention Center.

6 It's common practice for us to have the person
7 we're interviewing read the first two lines out
8 loud, just demonstrating that they can read and
9 write. So then we'll have them initial that they
10 read those two lines out loud, and then usually the
11 detective will read the rest of the form to them
12 while they follow along.

13 Once we finish the top portion of the form, we
14 ask them if they understand their rights. If the
15 person says yes, they'll sign it saying they
16 understand their rights and that's what we witness
17 and date and time stamp that right down there.

18 The bottom of the form is a waiver of rights.
19 After they sign the top saying they understand their
20 rights, we go over the bottom, making sure the
21 person's freely waiving their right to counsel and
22 are willing to speak with us. So the detective will
23 read the entire paragraph here to the person.

24 We also underline coercion. A lot of people
25 don't know what coercion means, so we'll explain it

1 to them, and we have them initial that that was
2 explained to them. And if they're willing to speak
3 with us, they'll sign it. And then we'll witness it
4 and again we'll date it and time it.

5 Q. And was all that done in this case?

6 A. Yes, ma'am.

7 Q. So the first part of the form is their rights,
8 making sure the defendant's aware of their rights;
9 is that correct?

10 A. Yes, ma'am.

11 Q. And so could you read specifically what those
12 rights are?

13 A. Yes. It starts with, "Before you're asked any
14 questions, you must understand your rights.

15 "You have the right to remain silent. Anything
16 you say can be used against you.

17 "You have the right to speak to a lawyer for
18 advice before you're asked any questions and have
19 him with you during questioning. If you cannot
20 afford a lawyer, one will be appointed for you
21 before your questioned if you wish.

22 "If you decide to answer questions now without
23 a lawyer present, you'll still have the right to
24 stop answering questions at any time.

25 "You also have the right to stop answering

1 questions at any time until you speak with a
2 lawyer."

3 Q. And so those are his rights ---

4 A. Yes.

5 Q. --- that were read to him, and he initialled
6 accordingly?

7 A. Yes.

8 Q. And then did he say he wanted to give a
9 statement?

10 A. He did.

11 Q. Okay. And so that's where he would sign the
12 bottom of the form; is that correct?

13 A. Yes, ma'am.

14 Q. Now, during the course of this interview, did
15 the defendant seem comfortable?

16 A. Yes, he did.

17 Q. Did he ever ask for anything, something to
18 drink, something to eat?

19 A. No, ma'am.

20 Q. Did he ever act like he was tired?

21 A. No, ma'am.

22 Q. He seemed comfortable throughout the process?

23 A. He did.

24 Q. And so in your view, was the statement he gave
25 voluntarily given?

1 A. Yes, ma'am.

2 Q. So, Investigator Hill, you originally or
3 initially said that you -- this was audio recorded;
4 is that correct?

5 A. That is.

6 Q. I'm going to show you what's been marked as --
7 previously marked as State's 2. If you'll take a
8 look at this, please.

9 A. (Complying.)

10 Q. Do you recognize that item?

11 A. Yes, ma'am.

12 Q. And how are you able to recognize it?

13 A. It's a disk with the audio recording from the
14 interview on it.

15 Q. And have you had an opportunity to listen to
16 that again?

17 A. Yes.

18 Q. And what, if anything, indicates that -- that
19 was done?

20 A. Oh, I -- sorry. I initialled it and dated it
21 when I listened to it.

22 Q. And does that fairly and accurately depict the
23 entire interview as you recall it from February 1st
24 of 2016?

25 A. Yes, ma'am.

1 Q. And has it been altered in any way?

2 A. No, ma'am.

3 MS. HUEY: Your Honor, at this time we'd like
4 to admit State's 2 into evidence.

5 THE COURT: You have an objection; is that
6 correct?

7 MR. LUCAS: I do, Your Honor.

8 THE COURT: Let me see the attorneys up here
9 just a second, please.

10 (Sidebar discussion.)

11 THE COURT: All right. Ladies and gentlemen of
12 the jury, I know you -- you've been in the courtroom
13 for about 50 minutes now. We've been in the
14 courtroom for an hour and a half. We're going to
15 take a break at this time. Please do not discuss
16 the case amongst yourselves. We'll take about a 15,
17 20-minute break.

18 Mr. Clerk, do you take smokers anywhere if they
19 need to smoke?

20 THE CLERK: Yes, sir. If they -- if they care
21 to, the bailiffs will take them.

22 THE COURT: If anybody needs to smoke, let us
23 know. They'll take an appropriate break for
24 smoking. Please don't discuss the case. Please
25 follow the bailiff to the jury room.

1 (At 10:56 a.m., jury left the courtroom.)

2 THE COURT: We're going to take a break at this
3 time. During the break, don't discuss the case with
4 anyone.

5 THE WITNESS: Yes, sir. No problem.

6 THE COURT: Thank you very much. We'll take
7 about a 15-minute break, and then I'll allow you to
8 cross-examine this witness. And citing your
9 objection to the audio, the Court can finish it.
10 And then they can redirect, and I'll listen to
11 arguments and make a decision. Okay?

12 MR. LUCAS: Thank you, Your Honor.

13 THE COURT: Thank you very much.

14 (From 10:53 to 11:32 a.m., recess was taken.)

15 THE COURT: All right. Mr. Lucas, you want to
16 put a motion on the record to suppress the video; is
17 that correct?

18 MR. LUCAS: That -- that is correct, Your
19 Honor.

20 THE COURT: I'm going to allow you to
21 cross-examine Mr. -- Detective Hill who was present
22 at the recording the entire time I understand, but
23 he was not the detective that actually asked the
24 questions; is that correct?

25 MR. LUCAS: That's my understanding.

1 THE COURT: So I'll be glad to hear your motion
2 and all. Do you want to ask questions before you
3 make your motion or your arguments, or how do you
4 want to proceed?

5 MR. LUCAS: If I may, I have two questions,
6 Your Honor.

7 THE COURT: Be my guest.

8 CROSS-EXAMINATION

9 BY MR. LUCAS:

10 Q. Detective Hill, it's my understanding you were
11 present for the entirety of the interview?

12 A. Yes, sir.

13 Q. But did not ask any questions?

14 A. That's correct.

15 MR. LUCAS: And if I may, I have a third
16 question, Your Honor.

17 BY MR. LUCAS:

18 Q. All questions were asked by Investigator
19 Garrett?

20 A. Yes, sir.

21 MR. LUCAS: Thank you.

22 THE COURT: Is that all the cross you have?

23 MR. LUCAS: That's all the cross I have.

24 THE COURT: All right. Any redirect as to that
25 cross on behalf of the State?

1 MS. HUEY: No, sir, Your Honor.

2 THE COURT: I'll be glad to hear your motion.

3 MR. LUCAS: Your Honor, the motion is that
4 based upon the fact that we think that Investigator
5 Garrett not being here is, first, a violation of
6 Mr. Blackwell's Sixth Amendment confrontation
7 rights. It violates the confrontation clause
8 because we do not have the ability to cross-examine
9 Investigator Garrett due to him being in Washington
10 State and not here in this courtroom.

11 And then, secondly, Your Honor, it's the
12 defense position that any statements made by
13 Investigator Garrett during the course of the
14 interrogation are hearsay. And it's clear that
15 they're being offered for truth and not some
16 non-hearsay purpose because it's an interrogation
17 video. It's being offered for the truth of any
18 admissions.

19 It's important to exclude his statements
20 because they're offered for context. So he'll say
21 something and then ask Mr. Blackwell if that is
22 accurate. And it's our position that's improper,
23 Your Honor, that it's inadmissible hearsay, and it's
24 a violation of the confrontation clause. And also
25 that that type of use is prohibited by *State v.*

1 Brewer or *State v. Jaquwn Brewer*, which I've ---

2 THE COURT: Do you have any cases that
3 substantiate that position; i.e., a police officer
4 observed the confession and the police officer who's
5 asking the question, that violates the confrontation
6 clause? Do you have a case that says that on that
7 fact scenario anywhere east of the Mississippi?

8 MR. LUCAS: It's a South Carolina case, and if
9 I can go down with the facts?

10 THE COURT: What are the facts? What's the
11 cite in the case?

12 MR. LUCAS: The case is, again, *Jaquwn Brewer*.
13 I don't have the reporter's cite, but it's Appellate
14 Case No. 2012-208 ---

15 THE COURT: All right. What's the facts of the
16 case and what's the ruling?

17 MR. LUCAS: The facts of the case, Your Honor,
18 is that you have a -- there was an interrogation.
19 And during the course of that, it included a number
20 of hearsay statements, assertions by officers and
21 whatnot. And the State offered an un-redacted ---

22 THE COURT: Well, a hearsay statement is
23 different than confrontation. We're talking about
24 confrontation. We're not talking about hearsay. I
25 asked if you have a case that says the fact scenario

1 we have here violates the confrontation clause of
2 the Constitution is my question to you.

3 MR. LUCAS: This is a hearsay case, Your Honor.
4 I do not have a confrontation clause case.

5 THE COURT: Do you have one in any other state
6 out -- even outside of South Carolina?

7 MR. LUCAS: I do not, Your Honor.

8 THE COURT: Do you have any Federal cases?

9 MR. LUCAS: Not at hand, but I think that it's
10 a clear Constitutional violation. I don't think I
11 need a case.

12 THE COURT: Well, if it's that clear, there
13 would be some cases on it, would it not?

14 MR. LUCAS: I expect that there is, Your Honor.

15 THE COURT: But you haven't looked for them, or
16 what's the situation?

17 MR. LUCAS: It caught me by surprise that
18 Investigator Garrett is not here testifying today.
19 This is a new issue for me as of yesterday. I don't
20 have case law, Your Honor, but I think it's a clear
21 confrontation.

22 THE COURT: Well, do you need time to do some
23 research? I'm not trying to hurry you. I just want
24 to be fair with you. If there is a case out there,
25 I'd like to see if. I don't want to see a hearsay

1 case, but I'd like to see one on confrontation.

2 MR. LUCAS: I'll stand on my arguments, Your
3 Honor.

4 THE COURT: You'll stand on your argument?

5 MR. LUCAS: Yes, Your Honor.

6 THE COURT: If you want more time to do some
7 research, I'll give you some time to do some
8 research if you so choose.

9 MR. LUCAS: I don't think it's necessary, Your
10 Honor. I think just based on the fact that they're
11 offering statements made by Investigator Garrett.
12 He's not here for cross-examination. That's the
13 basis of the argument. I'll stand on that.

14 THE COURT: Thank you. I'll be glad to hear
15 from the State.

16 MS. HUEY: Your Honor, obviously our position
17 is different, it's the opposite. We don't think
18 it's a confrontation matter because it's an exhibit.
19 It's a piece of evidence. This is a recording. For
20 years, I'm sure as you're aware, Judge, the defense
21 has argued, "Why didn't you record this? That would
22 be the best piece of evidence if it was all
23 recorded." Well, here it is recorded, Your Honor,
24 and that's what we're seeking to introduce.

25 In terms of the hearsay, we do not think

1 statements made by Investigator Garrett are offered
2 for the truth of the matter therein. We do concede
3 certain statements and we've already redacted where
4 Investigator Garrett mentions what the defendant's
5 mother, for instance, heard or said. That's fine.
6 We have redacted those.

7 But in terms of the statements -- the question
8 that Jeramy Garrett asked the defendant in front of
9 Scotty Hill, the other investigator present, those
10 are not being offered for the truth of the matter
11 therein. And they simply provide context to what
12 the defendant is saying.

13 If you take out all of the defendant's
14 questioning and only leave or -- and you're only
15 left with what the defendant says, it also has no
16 context.

17 THE COURT: Thank you very much. Anything you
18 want to say very briefly in rebuttal before I rule?

19 MR. LUCAS: Yes, Your Honor. The Brewer case
20 addresses the context argument in Section 2(a),
21 third paragraph down. The Court says, "Indeed, we
22 find no support in the law for the State's argument
23 that interrogators' statements were admissible for
24 purposes of context or for the effect the statements
25 had on Brewer."

1 And it says, "Allowing agents to narrate the
2 course of their investigations, and thus spread
3 before juries damning information that is not
4 subject to cross-examination, would go far toward
5 abrogating the defendant's rights under the Sixth
6 Amendment and the hearsay rule."

7 THE COURT: All right. Where are you reading
8 from?

9 MR. LUCAS: That's *State v. Jaquwn Brewer*, Your
10 Honor. And that is in Section 2(a), third paragraph
11 down of the case. And I apologize for not having a
12 pen site, Your Honor.

13 THE COURT: I'm sorry. What? You want to
14 add -- do you have the whole case there?

15 MR. LUCAS: I handed it up earlier, Your Honor,
16 but I will circle the language that I am referring
17 to.

18 THE COURT: Is this what you're handing up?

19 MR. LUCAS: That -- that is correct, Your
20 Honor.

21 THE COURT: Thank you.

22 MS. HUEY: And, Your Honor, if I may offer the
23 State's position as to how that be distinguished?

24 THE COURT: I'm sorry. What?

25 MS. HUEY: May I offer the State's position as

1 to how that can be distinguished?

2 THE COURT: Go ahead.

3 MS. HUEY: Brewer specifically talks about
4 other witness's statements that the interrogating
5 officer uses.

6 THE COURT: Right.

7 MS. HUEY: That's what they're saying he can't
8 get into, and we're conceding that. We've redacted
9 that.

10 THE COURT: Y'all have redacted all that?

11 MS. HUEY: Yes, sir.

12 THE COURT: Yeah. All right. *The State v.*
13 *Brewer* is 111 S.C. 44, 2015 Supreme Court case. The
14 Court's of the opinion that that case's statements
15 and confessions that were hearsay or double
16 hearsay or however you want to refer to it. And on
17 the hearsay within hearsay, I think Brewer said that
18 it had a right to confrontation.

19 In this case, it's been redacted. And those
20 statements are not being -- being played on the
21 video; therefore, I don't think Brewer applies. And
22 your motion is denied. Thank you very much. All
23 right.

24 MR. OVERBY: Your Honor ---

25 THE COURT: Are you ready to bring the jury?

1 MR. OVERBY: --- perhaps just if I may just
2 briefly convince Your Honor.

3 I think it's important to put on the record
4 exactly what the redactions are in reference to the
5 transcript, which is already in evidence. That's
6 how I've already -- that's how I've done it. I've
7 done an audio recording redaction, which will be
8 marked as Exhibit 2-A.

9 THE COURT: All right. Mr. Lucas, is there any
10 other redactions that you feel are necessary to
11 avoid the confrontation as to the hearsay and the
12 statements?

13 MR. LUCAS: I do not, Your Honor. Obviously,
14 our position is that it shouldn't come in at all,
15 but I have gone over it with the -- or I've gone
16 over it with Mr. Overby with their redactions, and
17 we've agreed upon the ones that we think are
18 necessary.

19 THE COURT: All right.

20 MR. OVERBY: If I could just put those -- can I
21 put those on the record?

22 MS. LUCAS: Yes.

23 THE COURT: Yes, sir.

24 MR. OVERBY: Page 7, line 17 through 21,
25 reference a potential prior bad acts or act thereof.

1 Page 10, line 25, and page 11, lines 1 through
2 10, reference a prior drug usage.

3 Page 12, line 22 through 24, "I don't know if
4 you were that doped up. You didn't know that you
5 went in there to rob that place."

6 Page 16, line 11 through 25. All of page 17.
7 Page 18, line 1 through 4. Page 20, line 23 through
8 25. Page 21, line 22 through 25. Page 23, line 24
9 and 25. And also page 22, lines 1 through 24. Page
10 24, lines 1 through 17. Page 25, lines 12 through
11 25. Page 26, lines 1 through 3. Page 28, line 13
12 through 28. Page 29, lines 1 through 21.

13 I actually included page 12, line 16 through
14 19. That was a hearsay statement as to one of the
15 witnesses who came into the store.

16 Page ten, lines 20 through 24. Page -- well,
17 23 and 24. We actually included portions of that,
18 and I have discussed that with Mr. Lucas already.

19 Page 20, line 4 through 8. And -- and that is
20 the extent of the redaction.

21 THE COURT: Okay. And you were reading from a
22 recorded interview of Darrell Eugene Blackwell, May
23 15, 2016, which was transcribed by Dianne
24 Marcengill, Circuit Court Reporter in Walhalla; is
25 that correct?

1 MR. OVERBY: That is correct, Your Honor.

2 THE COURT: I'm going to mark that
3 transcription that you just referred to as Court's
4 Exhibit -- I believe it would be Court's Exhibit No.
5 1.

6 MS. HUEY: And, Your Honor, as a matter of
7 housekeeping, Mr. Lucas and I discussed earlier the
8 date is actually incorrect. And I believe he's
9 willing to stipulate to a consent.

10 THE COURT: What date is incorrect?

11 MS. HUEY: It's listed as March or May I think
12 you said, but it's actually February 1, 2016.

13 MR. LUCAS: And we'll stipulate to that, Your
14 Honor.

15 THE COURT: All right. You want me to
16 handwrite it on the Court's exhibit?

17 MS. HUEY: Yes, sir. If you don't mind, or I
18 can do it, whichever.

19 THE COURT: Just as soon as she marks it,
20 I'll -- soon as she marks it, I'll put the correct
21 date on it.

22 (Court's Exhibit No. 1 was marked for
23 identification.)

24 THE COURT: Okay. Anything else before we
25 bring the jury in?

1 MR. LUCAS: Just to renew my objections from
2 earlier in the case, Your Honor.

3 We move that the statement not be admitted
4 because it was not freely and voluntarily given. I
5 just wanted to renew that objection before the jury
6 came in.

7 THE COURT: Well, why don't you wait and bring
8 that when they offer it? Okay.

9 MR. LUCAS: I'll be happy to do so.

10 THE COURT: Please do it then rather than now.
11 Okay? I think that's the appropriate time to do it.
12 Anything else?

13 MS. HUEY: No, sir, Your Honor.

14 THE COURT: All right. Bring us the jury,
15 please.

16 THE BAILIFF: (Complying.)

17 (At 11:52 a.m., jury entered the courtroom.)

18 THE COURT: Solicitor?

19 MS. HUEY: Your Honor, at this time the State
20 seeks to introduce 2-A into evidence and publish to
21 the jury.

22 THE COURT: That is the audio recording; is
23 that correct?

24 MS. HUEY: Yes, sir, Your Honor.

25 THE COURT: All right. Does the defense have

1 an objection they want me to hear on that?

2 MR. LUCAS: Yes, Your Honor. Defense's
3 objection is based upon the fact that it's a
4 violation of Mr. Blackwell's Sixth Amendment
5 confrontation clause rights, that all statements by
6 Investigator Garrett are inadmissible hearsay.

7 And, lastly, that the statement was not freely
8 and voluntarily given. I would incorporate all
9 prior argument into that objection.

10 THE COURT: All right. As the Court ruled in
11 two in camera hearings, that motion is denied.
12 Thank you very much.

13 MR. LUCAS: It's overruled, Your Honor?

14 THE COURT: Pardon?

15 MR. LUCAS: It's overruled?

16 THE COURT: All of them that you mentioned.

17 MR. LUCAS: Thank you, Your Honor.

18 THE COURT: Thank you.

19 MS. HUEY: Thank you, Judge.

20 (State's Exhibit No. 2-A was received into
21 evidence.)

22 (Playing the audio.)

23 BY MS. HUEY:

24 Q. So, Investigator Hill, is that the statement as
25 you remember it?

1 A. Yes, ma'am.

2 Q. Okay. And, again, you were present for the
3 entire interview?

4 A. I was.

5 Q. And I think sometimes we can hear -- is that
6 your voice we hear on the recording just a few
7 times?

8 A. Yes, ma'am. The third voice you hear is me.

9 Q. Now toward the end of the interview, is
10 Investigator Garrett able to pull up the video?

11 A. He was.

12 Q. Okay. And so is that what's going on toward
13 the end?

14 A. Yes, ma'am.

15 Q. You can't see that, but...

16 A. Yeah, we were watching it.

17 Q. Okay. But Mr. Blackwell was shown the video?

18 A. Yes, ma'am.

19 Q. Okay. And so during the course of that, did he
20 acknowledge that was him?

21 A. He did.

22 Q. And did he acknowledge going in that day?

23 A. He did.

24 Q. At the Shop Rite on 714 Sayre Street in
25 Anderson County?

1 A. Yes, ma'am.

2 Q. The other thing -- Investigator Hill, I'm also
3 going to show you what's been marked as State's 22.
4 Can you take a look at that?

5 A. Yes, ma'am.

6 Q. Are you able to recognize the person in that
7 photo?

8 A. I am.

9 Q. Okay. And who is the person in that photo?

10 A. It's Mr. Blackwell. The person we spoke with
11 in that recording.

12 Q. Okay. And that is the same person you spoke
13 with on February 1st of 2016?

14 A. It is. Yes, ma'am.

15 MS. HUEY: And at this time, Your Honor, we'd
16 admit State's 22 into evidence.

17 THE COURT: Any objection?

18 MR. LUCAS: None, Your Honor.

19 THE COURT: All right. Twenty-two admitted
20 without objection.

21 (State's Exhibit No. 22 was received into
22 evidence.)

23 BY MS. HUEY:

24 Q. So this is Darrell Blackwell. And, again, I
25 believe you acknowledge that Mr. Blackwell is also

1 in the courtroom today; is that correct?

2 A. He is.

3 Q. And where is he seated?

4 A. Right there (indicating).

5 Q. Okay. And at the defense table; is that
6 correct?

7 A. Yes, ma'am.

8 MS. HUEY: That's all I have at this time,
9 Judge.

10 THE COURT: Cross-examination?

11 MR. LUCAS: Yes, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. LUCAS:

14 Q. Detective Hill, Mr. Blackwell was originally
15 charged with grand larceny to its value 2,000 to
16 \$10,000, correct?

17 A. I'm not sure about that.

18 MS. HUEY: Objection.

19 THE COURT: What's the legal objection?

20 MS. HUEY: Relevance, Your Honor.

21 MR. LUCAS: It's within the scope of direct,
22 Your Honor.

23 THE COURT: Go ahead. I'll overrule.

24 BY MR. LUCAS:

25 Q. And he was originally accused of stealing \$1600

1 in cash?

2 A. I don't know. It wasn't my case, so I don't
3 know all the details like that.

4 Q. \$500 in cigarettes?

5 A. I don't know.

6 Q. Cigarette coupons of \$600?

7 A. Again, I'm not sure.

8 Q. And a laptop?

9 A. I don't know.

10 Q. And in -- in the course of this interview, he
11 denied taking any laptop?

12 A. He did deny it. Yes, sir.

13 Q. And any cigarette coupons?

14 A. I don't remember him saying he took cigarette
15 coupons. No.

16 Q. And there's also reference to three other
17 people in the store, two clerks?

18 A. Yes, sir.

19 Q. And then one other woman inside the store?

20 A. Yes, sir.

21 Q. And those are Hare Krishna Patel?

22 A. I'm not sure of their names.

23 Q. Does Hare Krishna Patel sound correct?

24 A. I remember the last name Patel.

25 Q. And there was a second Patel?

1 A. Yes, sir. I believe so.

2 Q. Ashok Patel?

3 A. I just remember the last names. Again, I don't
4 know the first names.

5 Q. And do you know if both of those Patels still
6 live in Anderson County?

7 A. I do not.

8 MR. LUCAS: One moment, Your Honor.

9 (Counsel conferred briefly.)

10 BY MR. LUCAS:

11 Q. And the woman inside the store, was that
12 Mikayla Chambers?

13 A. I don't know.

14 Q. Any idea whether she still lives in Anderson
15 County, South Carolina?

16 A. I don't know.

17 MR. LUCAS: Okay. Thank you. Nothing further,
18 Your Honor.

19 THE COURT: Any redirect?

20 MS. HUEY: I don't have any further, Judge...

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

22 Thank you very much.

23 THE WITNESS: Thank you.

24 (Witness excused.)

25 THE COURT: Call your next witness, please.

1 MS. HUEY: Your Honor, the State rests.

2 THE COURT: All right. Madam forelady and
3 ladies and gentlemen of the jury, it's 12:30 at this
4 time. And since the State has rested their case,
5 that means they're not going to offer any further
6 testimony at this time, and I have to take up
7 certain motions with the parties concerning the
8 case.

9 Therefore, what I'm going to do is send you to
10 lunch at this time, take up the motions, and we'll
11 continue when you get back from lunch. It's 12:30.
12 I assume the motion -- I'm not sure how long the
13 motion may take, but if you'll be back in the jury
14 room at 2:30, we'll continue at that time.

15 Please don't discuss the case amongst
16 yourselves. I'll see you at 2:30. When you come to
17 the courthouse, come straight to the court -- excuse
18 me -- come straight to the jury room. See you then
19 at 2:30.

20 (At 12:29 p.m., jury left the courtroom.)

21 THE COURT: Any motions from the State?

22 MS. HUEY: No, sir, Your Honor.

23 THE COURT: Any from the defendant?

24 MR. LUCAS: Just the motion for directed
25 verdict, Your Honor. The grounds being

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. All right. Do you have any
3 requested charge from the defendant?

4 MR. LUCAS: I do, Your Honor.

5 THE COURT: Pardon?

6 MR. LUCAS: Just -- just one, Your Honor.

7 THE COURT: Does the State have any?

8 MR. LUCAS: Permission to approach, Your Honor.

9 THE COURT: All right. Everyone bring the
10 requested charge up here.

11 MS. HUEY: Potential voluntary intoxication is
12 not a defense.

13 THE COURT: Well, come on up here and we can
14 have a private talk rather than putting it on the
15 record.

16 (Sidebar discussion.)

17 MS. HUEY: Judge, the State is ready to
18 proceed.

19 THE COURT: Is the defense ready?

20 MR. LUCAS: We are ready, Your Honor.

21 THE COURT: Bring the jury, please, sir.

22 THE BAILIFF: (Complying.)

23 (At 3:08 p.m., jury entered the courtroom.)

24 THE COURT: Mr. Lucas, while the jury is coming
25 in, you renew your motions that you made at the end

1 MR. LUCAS: I'd like to make the directed
2 verdict motion in more detail to accurately preserve
3 the record.

4 THE COURT: Okay. Are you making it at this
5 time?

6 MR. LUCAS: I'd like to, Your Honor.

7 THE COURT: Well, go ahead and make it. I said
8 do you have anything you want to add that you didn't
9 make at the end of the State's case.

10 MR. LUCAS: I -- I do, Your Honor.

11 THE COURT: You got another portion?

12 MR. LUCAS: It'll take two to three minutes,
13 Your Honor.

14 THE COURT: All right. Madam forelady and
15 ladies and gentlemen of the jury, go to the jury
16 room, please.

17 (At 3:10 p.m., jury left the courtroom.)

18 THE COURT: Let me hear you on your motion.

19 MR. LUCAS: Thank you, Your Honor. The defense
20 is renewing the directed verdict motion on the basis
21 of insufficiency of the evidence, specifically that
22 the State has not been able to prove beyond a
23 reasonable doubt that the defendant was armed.

24 The armed robbery statute, which is S.C. Code
25 Section 16-11-330, requires the State to prove that

1 during the commission of a robbery, the defendant
2 was either armed with a pistol, knife, slingshot,
3 metal knuckles, or other deadly weapon or that while
4 alleging either by action or words, the defendant
5 was, one, armed while using a representation of a
6 deadly weapon or, two, any other object which a
7 person present during the commission of the robbery
8 believed to be a deadly weapon.

9 The key part of that is a person present during
10 the commission of the robbery reasonably believed.
11 So, Your Honor, we believe the State has not proved
12 beyond a reasonable doubt that the defendant had a
13 gun. No gun has been recovered. There was no
14 indication that a real gun was used during the
15 commission of the crime.

16 The defendant only stated that he had a toy
17 gun, which he alleged was a cap gun. A knife is not
18 clearly shown on the video. So our position is they
19 have not proven the existence of a weapon and have
20 not met that portion of the statute, and by
21 definition cannot meet the second part about a
22 representation because that part requires a person
23 present during the commission of the robbery
24 reasonably believed it to be a deadly weapon.

25 The State has not called anybody present during

1 the robbery to testify to that and by definition
2 cannot be that. That's the basis for the motion,
3 Your Honor.

4 THE COURT: Solicitor?

5 MS. HUEY: Your Honor, the entire incident is
6 on video. Rhonda Phillips testified that she was
7 the first responding officer to a robbery in
8 progress.

9 Once she arrived, forensics was called out.
10 Greg Holbrooks collected the video. And on the
11 video, you can clearly see the clerk jump back when
12 the defendant enters the store and tries to get over
13 the counter with a knife in one hand and a gun in
14 the other.

15 The knife is clearly visible from a still
16 that's been admitted into evidence. So that in and
17 of itself is a deadly weapon to satisfy the first
18 part of the statute. And we also believe the fact
19 that the clerk jumped back, in addition to the
20 defendant admitting to having a toy gun, that is
21 enough to establish the second part of the statute,
22 as well. There are two deadly weapons involved
23 here.

24 THE COURT: As far as the pistol is concerned,
25 what's your opinion on the fact the statute says the

1 person present.

2 MS. HUEY: A person present, which is shown on
3 the video. I don't think it says a person has to
4 testify to that. We test -- I mean, we try cases
5 all the time without victims, Your Honor. And in
6 this case, we actually have a video of the incident
7 which usually quite rare.

8 THE COURT: Thank you very much. Anything in
9 brief rebuttal?

10 MR. LUCAS: Just briefly, Your Honor. This --
11 the standard is proof beyond a reasonable doubt.
12 Any number of reasons why somebody could jump back.
13 That alone is not sufficient to prove that that
14 person actually reasonably believed that
15 Mr. Blackwell ---

16 THE COURT: Well, that's as to the pistol, but
17 the still video or the still picture from the camera
18 very clearly shows a blade -- a knife blade. That
19 in itself meets the criteria for you to get to a toy
20 pistol, whether it's a toy pistol or not or whether
21 anyone was present.

22 And I'm of the opinion it would probably affect
23 the charge itself, not -- granted not -- the remedy
24 is not to give you a directed verdict. Okay?

25 MR. LUCAS: Thank you, Your Honor.

1 THE COURT: That motion is denied.

2 All right. Anything else before we bring the
3 jury for closing arguments? I assume you're going
4 first; they go last.

5 MS. HUEY: I believe so, Judge.

6 THE COURT: Is that correct?

7 MR. LUCAS: That -- that's correct, Your Honor.

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

10 MR. LUCAS: Nothing from the defense.

11 THE COURT: All right. Bring us the jury
12 please, sir.

13 THE BAILIFF: (Complying.)

14 (At 3:15 p.m., jury entered the courtroom.)

15 THE COURT: Solicitor?

16 MS. HUEY: May it please the Court?

17 THE COURT: Yes, ma'am.

18 MS. HUEY: You all may have heard the phrase,
19 "Things aren't always as they seem." But you know
20 what? Sometimes they are. And that's what we have
21 in this case.

22 The defendant, Darrell Blackwell, entered the
23 Shop Rite store at 714 Sayre Street in Anderson
24 County on January 9th of 2016. He had a gun in one
25 hand and a knife in the other. Entered the store.

1 Tried to hop up on the counter. When that didn't
2 work, he then went around the counter and proceeded
3 to take money and other items behind the counter.
4 Money from the register and other items --
5 cigarettes, a box. And then he walked out of the
6 store. The entire thing is literally on video.

7 In addition to that, these images, these
8 videos, stills were released to the public. You had
9 witnesses on scene saying that he left in a white
10 van. When the images were released to the public,
11 tips came in pointing law enforcement in the
12 direction of Darrell Blackwell.

13 Tips came in. Including a tip from the
14 defendant's own brother, Steve Blackwell, who had
15 come and testified today rather, that, yes, he
16 recognized him as his brother. And as a result, he
17 called the police himself.

18 Consent to search was done at mom's house.
19 What did law enforcement find at mom's house? Camo
20 pants, a white bandanna matching what the robber was
21 wearing during the incident with a rip in the
22 pock -- the pants no less.

23 Then search warrants were executed at mom's
24 house later, as well as the defendant's house. We
25 see the white van, which you will have a picture of.

1. White van registered to Darrell Blackwell. Again,
2 matching the description of the vehicle that left
3 the Shop Rite on January 9, 2016, after the robbery.

4 You also have as a result of the search warrant
5 a brown Carhartt hat. The actual hat is in
6 evidence, as well. Now that's important to note
7 from the video because a brown Carhartt-type hat is
8 being worn by the robber. And that is collected at
9 the defendant's residence. You have all that.

10 Then you have law enforcement speaking with
11 Darrell Blackwell himself. And what does he say in
12 his own words freely and voluntarily? "Yes, I had a
13 gun. Yes, I was there." There's no question he was
14 there. He says it himself. His memory gets a
15 little hazy regarding what he actually did when he
16 was there, but luckily we have the video to fill in
17 those gaps.

18 I'm going to show the video to you again. This
19 is the portion of the video where the defendant is
20 entering the store.

21 (Playing the video.)

22 MS. HUEY: In that video, you can clearly see
23 the defendant walk in. And at various parts in that
24 video, you can see a gun in one hand and a knife in
25 the other. You see the clerk jump back because

1 what? He has seen a knife and a gun, and he's
2 getting out of the way. And he lets Darrell
3 Blackwell do what he wants, take that money and get
4 out of here. And that's exactly what Darrell
5 Blackwell does.

6 The defendant is charged with armed robbery.
7 That's the only charge before you today. There's no
8 dollar amount associated with armed robbery. He
9 could've taken one pack of cigarettes. He could've
10 taken \$1 while he was armed. That, of course, he
11 took much more than that, but it doesn't matter.
12 There's no dollar value. It doesn't even have to be
13 money. It can be other items. That's what he's
14 charged with.

15 Additionally, the robbery, which you can
16 clearly see, has to be with a deadly weapon. In
17 this case, we have two weapons. We have the knife,
18 which, again, you can clearly see, and there's an
19 actual still that shows the knife blade. This isn't
20 some little pocketknife. This is a substantial
21 knife. That constitutes a deadly weapon that the
22 judge will charge you on later.

23 In addition to that, and by the defendant's own
24 admission, he has a gun. Now he says it's a cap
25 gun. We don't know. We don't have the gun, but

1 what you'll also hear the judge charge is that the
2 reason -- if a reasonable person believed that to be
3 a gun, then that counts as a deadly weapon. The
4 clerk doesn't know that's a cap gun, but he sees a
5 knife and what looks like a gun, and he hops back
6 and gets out of the way. That's because an armed
7 robbery is being committed in that store.

8 Now, the defense opened their case on the
9 defendant's fundamental rights to a jury trial, and
10 that is absolutely the case. And that's why we're
11 all here. You've been chosen. I'm here presenting
12 evidence. We've had various witnesses. And, of
13 course, the defendant is present. That is a
14 fundamental right. And it is my burden to prove to
15 you beyond a reasonable doubt that the defendant is,
16 in fact, guilty of this armed robbery.

17 But sometimes things are really what they
18 appear to be. You take your common sense back with
19 you in that jury room. It's clearly on video. This
20 isn't a kind of case where I have to stand up in
21 front of you and say -- because I've had other cases
22 where the face is covered or they're wearing a mask,
23 and I have to show you all that I think it's this
24 person. We know it's Darrell Blackwell. He admits
25 to being there. He admits to carrying a gun, albeit

1 a cap gun.

2 I also usually have to spend a lot of time
3 talking about beyond a reasonable doubt because
4 that's the burden I have, which is a very high
5 burden. I also say, and the judge will charge you,
6 that that means not beyond every doubt though
7 because there are few things in life we know with
8 absolute certainty.

9 But you know what we know with absolute
10 certainty in this case? Darrell Blackwell committed
11 that armed robbery. And please don't mistake my
12 brevity for a lack of seriousness. This is an
13 important case. It's an important case to Darrell
14 Blackwell certainly, and it's an important case to
15 the State, but sometimes things really are what they
16 appear to be. And we are lucky enough to have it on
17 video and have it corroborated. Find the defendant
18 guilty of armed robbery. Thank you.

19 MR. LUCAS: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. LUCAS: Thank you. Ladies and gentlemen,
22 thank y'all for being here these two days. I know
23 it's an inconvenience. I know that we all
24 appreciate you taking time out of your lives to be
25 here.

1 The issue in this case is real simple. Was
2 Darrell Blackwell armed when he went into the store?
3 You've heard the Solicitor tell you that sometimes
4 things are what they appear, but I've got some
5 questions about what we heard these last two days
6 and maybe things are what they appear and maybe
7 they're not.

8 But what I do know is that the people who were
9 best positioned, the people who were in that store
10 are not here today. Right at the beginning of this
11 case, you heard that there were two clerks in the
12 store, the Patel brothers.

13 And then two other people, Mikayla Chambers and
14 a Mr. Witcher. They were all at the store, which is
15 here in Anderson County. They could've been called
16 in to testify, to tell you what happened in there,
17 whether they thought that Mr. Blackwell had a weapon
18 or whether they didn't. The State didn't call them.

19 And that -- that raises a question for me.
20 What do they not want you to hear? What do the
21 Patel brothers have to say? What does Mr. Witcher
22 have to say? What does Mikayla Chambers have to say
23 that they don't want you to hear?

24 I also wonder the same about the lead
25 investigator. We've heard about Detective Garrett.

1 He's apparently in Washington State now, no longer
2 employed by the Anderson County Sheriff's Office,
3 but it's not that hard to bring somebody back to
4 testify.

5 And Detective Garrett, he's a plane ticket
6 away. Well, they have all the resources of the
7 Government available to them. They didn't choose to
8 bring him. And why didn't they bring him? Because
9 there's something we could've cross-examined him
10 about that they don't want you to hear.

11 Now, the statute is real clear about what the
12 State has to prove to convict Mr. Blackwell of armed
13 robbery, and the judge is going to instruct you on
14 that here in a few minutes. They have to prove, and
15 they have to prove this beyond a reasonable doubt,
16 which is the highest standard that we have. So it's
17 not "we think" or "it might be." You have to be
18 very certain of it. You have to be firmly convinced
19 they have met their burden of proof.

20 They have to prove that either Mr. Blackwell --
21 and I'm reading from the statute -- was armed with a
22 pistol, a dirk, a slingshot, metal knuckles -- metal
23 knuckles, a razor, or another deadly weapon. So
24 either that he actually had a weapon or, secondly,
25 that he alleged, either by actions or by words, that

1 he was armed while using a representation of a
2 deadly weapon or any object which a person present
3 during the commission of the robbery reasonably
4 believed to be a deadly weapon.

5 Now, the State has argued that the clerk
6 jumping back, that that means that he reasonably
7 believed that Mr. Blackwell had a deadly weapon.
8 Well, what happened right before that? He crawled
9 over the counter. And if I -- if Mr. Blackwell
10 crawled over the counter at someone, I can assure
11 you what a reasonable response is, to step back from
12 someone. And I submit to you that if the State
13 wants to argue that a person reasonably believed
14 something and the statute says a person present
15 during the commission of the robbery, they need to
16 bring that person or those persons in here to court
17 to testify about it, and that didn't happen.

18 Now, you heard Mr. Blackwell's statement, and
19 he was not trying to hide the ball. He talked to
20 investigators. He didn't have to. He could've
21 invoked his right to counsel or his right to remain
22 silent, but instead of doing that, he said, "Yeah.
23 I'll talk to you." And he told investigators that
24 he was there. He disagreed with what was taken.
25 They were asking him and initially charged him with

1 taking \$2500, a laptop, and \$650 worth of
2 cigarettes. He said that didn't happen. It appears
3 the State doesn't think that that happened either
4 because they're not proceeding on it.

5 But what he did say and what he told
6 Investigator Garrett was that it was not a real gun.
7 It was a cap gun. And we've not seen anything over
8 the course of these two days to prove that it was a
9 real gun. There's no gun ever recovered from
10 Mr. Blackwell's house or his mother's house. You
11 heard Investigator Holbrooks testify that there was
12 no indication that a gun was actually used during
13 the commission of a crime.

14 So what the State is asking you to do is to
15 speculate, to speculate that what Mr. Blackwell
16 tells you is a cap gun, if that's a real gun. Well,
17 I submit to you that speculation is not proof beyond
18 a reasonable doubt.

19 And so if it's not actual -- he doesn't
20 actually have a gun, then does he have a knife?
21 Well, look at the video. Look at the video and
22 decide for yourselves, but I would tell you that the
23 way the law is written, he either has to actually
24 have a deadly weapon. Or if he doesn't, then a
25 person has to be present who reasonably believed

1 that he did. Well, there was no one present brought
2 into court to testify to that. You didn't hear from
3 them. They were not brought in.

4 So, ladies and gentlemen, I would ask you to
5 find Mr. Blackwell not guilty because he was not
6 armed when this occurred. And the State has --
7 their burden of proof is very high on that. It's
8 beyond a reasonable doubt. And they have to present
9 evidence that suggests only one logical conclusion
10 and they've not done that. Find him not guilty.
11 Thank you.

12 THE COURT: All right. Madam forelady and
13 ladies and gentlemen of the jury, I want to give you
14 a copy of these instructions in written form. And
15 during your deliberations, you may refer to the
16 instructions to guide your decision making. You
17 must consider the instructions as a whole and not on
18 some or others. And, madam forelady, after you
19 finish reaching your verdict, please return the
20 charge form back to the Court, please.

21 Under our Constitution and code of laws, only
22 you, the jury, can make findings of fact in this
23 case. I am not permitted to indicate to you how I
24 may feel about the testimony and evidence, which has
25 been presented. Throughout this trial, it has been

1 my intention to be fair and impartial toward each of
2 the parties involved.

3 Necessarily, you must determine the credibility
4 of the witnesses who have testified in this case.
5 Credibility means believability. It is your duty as
6 jurors to analyze and to evaluate the evidence and
7 determine which evidence convinces you it of its
8 truth.

9 As you decide whether or not to believe a
10 witness's testimony about a particular matter, you
11 may consider the following:

12 The manner and appearance of the witness while
13 on the witness stand. Was he or she straightforward
14 or hesitant in answering?

15 The testimony of the witness. Was it
16 consistent or inconsistent?

17 How the witness came to know the facts that he
18 or she testified to. Was the witness present during
19 the incident or did the witness happen on the scene
20 after the incident occurred?

21 The reason the witness would want to give
22 testimony, which could help or hurt one side or the
23 other. Has the witness exhibited to you any
24 interest, bias, prejudice, or other motive in the
25 case? Thus, you may consider whether a particular

1 witness may gain some other reward, payment,
2 personal advantage, or vindication through his or
3 her testimony.

4 The strength of the testimony of the witness.
5 Was the testimony of the witness strengthened or
6 weakened by other testimony or evidence?

7 The duration and length of time between the
8 incident and when they reported the incident. Would
9 the duration and length of time weaken or strengthen
10 the testimony?

11 All prior statements. Were prior statements
12 made by the witness consistent or inconsistent?

13 In determining the believability of the
14 witnesses who have testified, you may believe one
15 witness over several or several witnesses over one.
16 You may believe a part of the testimony of a witness
17 and reject the remaining part of the same witness.
18 You may believe the testimony of a witness in its
19 entirety or reject the testimony of a witness in its
20 entirety.

21 Of course, you do not determine the truth by
22 counting the number of witnesses who testified.

23 I instruct you and emphasize that the fact that
24 the defendant did not testify is not a factor to be
25 considered by you in any way in your deliberations

1 and in your consideration on the question of the
2 guilt or the innocence of the defendant. It must
3 not be considered by you in any manner whatsoever.
4 A defendant has the Constitutional right to remain
5 silent, and the assertion of this right must not be
6 considered by you in your deliberations. I repeat,
7 under your oath, you are to draw no conclusion
8 whatsoever from the fact that the defendant in this
9 case did not testify. The fact that this defendant
10 did not testify should not even be discussed in the
11 jury room. The burden of proof, as I have stated to
12 you, is on the State. The defendant is not required
13 to prove his innocence. The burden of proof remains
14 with the State to prove guilt beyond a reasonable
15 doubt.

16 As finders of the facts, this does not mean you
17 are limited to fabricated facts. You must determine
18 the facts based on the evidence you hear in the
19 courtroom alone. You may not draw conclusions from
20 facts that do not exist or are not supported by any
21 evidence at all. You may, however, draw reasonable
22 conclusions from facts you find are supported by
23 evidence presented in the courtroom.

24 The same constitutional laws, which designate
25 and make you the finders of the fact, make me the

1 sole instructor of the law. It is my duty to charge
2 you the law applicable to this case, and it is your
3 duty as jurors to accept and apply the law as I now
4 state it to you. The lawyers are not the
5 instructors of the law. You must accept the law and
6 apply the law exactly as I state it to you. You
7 must not base your decisionmaking on your idea of
8 what the law is or what you think the law should be.

9 The defendant has pled not guilty to these
10 indictments -- this indictment which places the
11 burden on the State to prove the defendant guilty.
12 A person charged with committing a criminal offense
13 in South Carolina is never required to prove himself
14 innocent.

15 I charge you that it is a vital, important rule
16 of law that the defendant in a criminal trial, no
17 matter what the seriousness of the charge may be,
18 must always be presumed to be innocent until his
19 guilt has been proven beyond a reasonable doubt.
20 This presumption of innocence remains with the
21 defendant at all times, from the moment he appears
22 in this court, throughout the trial, and until you
23 the jury reach a verdict of guilt beyond a
24 reasonable doubt based on the testimony and evidence
25 presented.

1 The presumption of innocence is a substantial
2 right to which every defendant is entitled, unless
3 and until you reach a verdict of guilty beyond a
4 reasonable doubt. If you the jury do not find the
5 defendant guilty beyond a reasonable doubt, it is
6 your duty to acquit the defendant.

7 Now, what is a reasonable doubt? A reasonable
8 doubt is kind of the doubt that would cause a
9 reasonable person to hesitate to act. The State has
10 the burden of proving the defendant guilty beyond a
11 reasonable doubt. Some of you may have served as
12 jurors in civil cases, where you were told that it
13 is only necessary to prove that a fact is more
14 likely true than not true, such as by the greater
15 weight or preponderance of the evidence. In
16 criminal cases, the State's burden is more and must
17 be proven more powerful than that and it must be
18 proof beyond a reasonable doubt.

19 Proof beyond a reasonable doubt is proof that
20 leaves you firmly convinced of the defendant's
21 guilt. There are very few things in this world that
22 we know with absolute certainty. And in criminal
23 cases, the law does not require proof that overcomes
24 every possible doubt. If, based on your
25 consideration of evidence, you are firmly convinced

1 that the defendant is guilty of the crime charged,
2 you must find the defendant guilty. On the other
3 hand, you find there is a real possibility the
4 defendant is not guilty, you must give him the
5 benefit of the doubt and find him not guilty. The
6 evidence or lack of evidence from which you are to
7 determine the facts includes the following:

8 The sworn testimony of the witnesses, both on
9 direct and cross-examination, regardless of which
10 side called the witness.

11 The exhibits that have been received into
12 evidence by the Court.

13 And any facts which have been agreed to or
14 stipulated.

15 Arguments and statements made by the lawyers
16 are not evidence. The lawyers are not witnesses.
17 Their opening statement, closing arguments, and
18 other statements are intended to help you interpret
19 the evidence but are not evidence. If the facts, as
20 you remember them, differ from the lawyers
21 statements, your memory controls.

22 Questions and objections by the lawyers are not
23 evidence. Lawyers have a duty to their client to
24 make -- excuse me -- to make objections when they
25 believe a question is improper under the rules of

1 evidence. You should not allow any objections or
2 the Court's ruling on the objections to influence
3 you.

4 Testimony that has been stricken, or that you
5 have been instructed to disregard.

6 Anything you may have seen on television, read
7 in the newspaper or on the internet, or heard from
8 others when court is not in session is not evidence.
9 You should base your decision solely on the sworn
10 testimony of witnesses, exhibits received into
11 evidence by the Court, and any facts agreed to.

12 The fact the defendant was arrested, charged,
13 and indicted in this case is not evidence and cannot
14 be considered as evidence of guilt, nor does it
15 create a presumption or inference of guilt. The
16 indictment is simply the formal written instrument
17 which contains the charges made against the
18 defendant.

19 There are two types of evidence which are
20 generally presented during a trial -- circumstantial
21 evidence and direct evidence. Direct evidence
22 directly proves the existence of a fact and does not
23 require deduction. Circumstantial evidence is proof
24 of chain of facts and circumstances indicating the
25 existence of a fact.

1 Crimes may be proven by circumstantial
2 evidence. The law makes no distinction between the
3 weight or value to be given to either direct or
4 circumstantial evidence. However, to the extent the
5 State relies on circumstantial evidence, all of the
6 circumstances must be consistent with each other,
7 and when taken together, point conclusively to the
8 guilt of the accused beyond a reasonable doubt. If
9 these circumstances merely portray the defendant's
10 behavior as suspicious, the proof has failed.

11 The State has the burden of proving the
12 defendant guilty beyond a reasonable doubt. This
13 burden rests with the State regardless of whether
14 the defendant -- the State relies on direct or
15 circumstantial evidence.

16 In determining the guilt or innocence of the
17 defendant, you cannot consider any possible penalty
18 for any particular crime. The punishment for the
19 crime is a matter for me to determine and should
20 never be considered by you in any way whatsoever in
21 arriving at an impartial verdict as to the guilt or
22 innocence of the defendant.

23 A statement alleged to have been made by the
24 defendant has been admitted into evidence in this
25 case. While the Court has determined that the

1 statement is admissible, I instruct you that you
2 make the ultimate discussion of whether or not the
3 defendant made the statement.

4 If the defendant did make the statement, you
5 must determine whether the statement was made by the
6 defendant voluntarily and of his own free will.
7 This means that the statement was not caused by
8 pressure, force, fear, threats, coercion, or
9 intimidation, or by hope or a promise of leniency or
10 a reward of any kind.

11 In determining whether the statement was
12 voluntary, you should consider both the
13 characteristics of the defendant and the details of
14 the questioning. Some of the factors that you may
15 consider are the age of the defendant; the
16 defendant's education or lack thereof; the
17 defendant's mental capacity or ability; the
18 defendant's IQ or intelligence; the defendant's
19 background and environment; the place and length of
20 the detention; the nature of the questioning; and
21 the advice, or the lack thereof, to the defendant of
22 his Constitutional rights including, but not limited
23 to, the right to remain silent; that any statement
24 could be used against him in a court of law; the
25 right to have a lawyer present; that if he could not

1 afford a lawyer, a lawyer would be appointed to
2 represent him without any cost; that he could stop
3 making a statement at any time. You must carefully
4 consider all of the surrounding circumstances
5 surrounding before you give any weight to an alleged
6 statement.

7 The State has the burden of proving beyond a
8 reasonable doubt that the alleged statement was
9 voluntary. If you determine it was, you may give
10 the statement any further consideration you deem
11 proper. You must decide what weight, if any, should
12 be given to the alleged statement. If you determine
13 the alleged statement was not the free and voluntary
14 statement of the defendant, you should not consider
15 the statement at all.

16 Armed robbery. The defendant is charged with
17 armed robbery. In order to prove this offense, the
18 State must first prove beyond a reasonable doubt
19 that the defendant took personal property from the
20 person or presence of another person.

21 Property is a presence -- in the presence of a
22 person if it is within the person's reach,
23 inspection, observation, or control so that the
24 person could, if not overcome with violence or
25 prevented by fear, keep possession of the property.

1 The State must also prove beyond a reasonable
2 doubt that the defendant carried the property away
3 intending to permanently deprive the owner of the
4 property and to keep the property for the
5 defendant's own use. The slightest removal of the
6 property or the complete possession of the property,
7 even if for an instant, by the defendant is
8 sufficient to show a taking and carrying away of the
9 property.

10 The taking and carrying away of the property
11 must have been done with violence or by putting the
12 owner of the property in fear of violence.

13 Finally, the State must prove beyond a
14 reasonable doubt that the defendant was armed with a
15 deadly weapon during the robbery. The State must
16 prove either that the defendant was armed with a
17 deadly weapon or that the defendant alleged, either
18 by his actions or words, that he was armed while
19 using a representation of a deadly weapon or any
20 object which a person present during the commission
21 of the robbery reasonably believed to be a deadly
22 weapon.

23 A deadly weapon is any article, instrument, or
24 substance which is likely to cause death or great
25 bodily harm. Whether an instrument has been used as

1 a deadly weapon depends on the facts and
2 circumstances of each case.

3 The following are examples of instruments which
4 may be deadly weapons: A pistol, a shotgun, a
5 rifle, a dirk, a dagger, a knife, a slingshot, metal
6 knuckles, a razor, gasoline, a firebomb or Molotov
7 cocktail, and lighter fluid. A gun may be a deadly
8 weapon even it is not operational.

9 Now, you've been chosen and selected as fair
10 and impartial jurors whose purpose is to impartially
11 find and determine the facts of this case. You are
12 to decide this case from the testimony you have
13 heard and any evidence that has been presented.

14 I charge you that, as jurors, you must decide
15 the issues in this proceeding without bias or
16 prejudice to any party. You cannot allow yourself
17 to be governed by sympathy, by prejudice, by
18 passion, by public opinion, or by any other
19 arbitrary factor.

20 Both the State and the defendant have the right
21 to expect that each of you will carefully and
22 impartially consider all of the evidence in the case
23 and that you will follow the law as I have explained
24 it to you. If you render your verdict in accordance
25 with what I have just charged you, no one will have

1 a right to criticize your verdict, and you will have
2 fully discharged your duty as jurors.

3 Madam forelady, the defense has prepared a
4 verdict -- prepared a verdict form. And at the top
5 it says, *The State of South Carolina v. Darrell*
6 *Eugene Blackwell*, in the Court of General Sessions,
7 Tenth Circuit, County of Anderson, with the
8 indictment number and it says armed robbery.

9 (A) As to the charge of armed robbery,
10 Indictment No. 2016-GS-04-00433, we the jury
11 unanimously find the defendant not guilty.

12 (B) As to the charge of armed robbery,
13 indictment number, we the jury unanimously find the
14 defendant guilty. A place for the forelady to sign
15 and date it today.

16 As the verdict form says, ladies and gentlemen,
17 the verdict has to be unanimous. I'll tell you it's
18 a collective reason and process on all your parts.
19 Please consider each other's opinions, evaluate the
20 testimony, evaluate the evidence, and reach a fair
21 and just verdict.

22 Madam forelady, I'm going to ask you to go to
23 the jury room. But before you begin your
24 deliberation, wait till the bailiff brings you the
25 verdict form, the charge book, and all the evidence

1 that has been presented because I have to take up
2 the charge with the attorneys before you begin your
3 deliberations.

4 As to the alternates, let me see, Bagwell and
5 Wilson. If you would just keep your seats while the
6 rest of the 12 go to the jury room. I'll talk with
7 you shortly.

8 Madam forelady and ladies and gentlemen of the
9 jury, if you'll follow the bailiff to the jury room,
10 please.

11 (At 3:50 p.m., jury left the courtroom.)

12 THE COURT: Any exceptions to the charge from
13 the State?

14 MS. HUEY: Nothing from the State, Your Honor.

15 THE COURT: Any exceptions from the charge from
16 the defendant?

17 MR. LUCAS: Your Honor, like we discussed at
18 the bench conference earlier, I just wanted to put
19 on the record that we requested the charge of strong
20 arm robbery. And we're requesting it on the basis
21 that we believe the defendant's statements, that he
22 did not have a knife and it was a toy gun, would
23 substantiate that charge.

24 THE COURT: All right. Do you have a proposed
25 charge?

1 MR. LUCAS: I do, Your Honor.

2 THE COURT: You can mark it. I believe it's
3 Court Exhibit No. 2; is that correct?

4 MR. LUCAS: Number 3.

5 THE COURT: Number 3. Okay. Number 3.

6 I'm sorry. Solicitor, do you want to add
7 something to that?

8 MS. HUEY: I would say, I think it's Number 3,
9 Judge.

10 THE COURT: I'm sorry. What?

11 MS. HUEY: Court's Exhibit 3, I believe is what
12 it is.

13 THE COURT: All right. Court's Exhibit 3.

14 (Court's Exhibit No. 3 was marked for
15 identification.)

16 THE COURT: State have any response to his
17 requested charge, whether you desire for the record
18 if you so choose?

19 MS. HUEY: Your Honor, we -- we don't believe
20 that strong arm robbery should be charged as
21 previously discussed. The only evidence in the
22 record is that a knife was used based on the video
23 and stills.

24 Additionally, the defendant himself does admit
25 to having a gun, albeit a toy gun. That still lends

1 itself to armed robbery as opposed to strong arm.

2 THE COURT: All right. As I stated earlier in
3 our charge conference, I'm not going to charge that,
4 so your motion to make it strong arm robbery is
5 denied.

6 If there's any other motions?

7 MR. LUCAS: None at this time, Your Honor.

8 THE COURT: All right. If the parties would
9 come forward, make sure all the exhibits that were
10 put on the record and all the exhibits put up on
11 behalf of the State and defendant, and we'll get the
12 bailiff to take the exhibits back and the verdict
13 form and they can begin deliberations.

14 MS. HUEY: If I may put one other thing on the
15 record, Your Honor?

16 THE COURT: Yes, ma'am.

17 MS. HUEY: Mr. Lucas and I discussed prior to
18 lunch Exhibit 23. I don't know that -- I think we
19 just need to clarify that that was admitted into
20 evidence, and I believe Mr. Lucas doesn't have an
21 objection to that.

22 THE COURT: Twenty-three?

23 MS. HUEY: I believe it's 23, Your Honor.

24 THE COURT: The consent form?

25 MS. HUEY: Yes, sir, Your Honor.

1 that happened before this. I went through my fifth
2 divorce. I was separated.

3 THE COURT: And the boyfriend then pulled a gun
4 on you. I read that.

5 THE DEFENDANT: Thirty days before this, her
6 boyfriend pulled a gun and stuck it in my face and
7 told me he'd kill me. For 30 days I stayed awake
8 because every time I seen him, I seen -- every time
9 I closed my eyes, I seen that gun in my face and him
10 kill me, so I stayed up 30 days prior to this
11 happening.

12 Then the girl that worked at the store, she
13 came out of the store.

14 THE COURT: I read all of that where she said
15 they were mean to her and you wanted to go in there
16 and set it straight.

17 THE DEFENDANT: Yeah, that's what happened.

18 THE COURT: Anything else?

19 THE DEFENDANT: No.

20 THE COURT: Indictment No. 0433, armed robbery,
21 sentence you to the State Department of Corrections
22 for a period of 18 years. Thank you very much.

23 (The proceedings concluded at 4:25 p.m.)

24 - - -

25



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Allison Y. Evans, PsyD, Chair
Everard Rutledge, PhD, Vice Chair
Beverly Cardwell
Louise Haynes
Bob Hiott, MEd
J. Buxton Terry
Sharon L. Wilson

STATE DIRECTOR

John H. Magill

Catherine Huey
Assistant Solicitor
PO Box 8002
Anderson, SC 29622

September 15, 2017

Division of Inpatient Services
G. Werber Bryan Psychiatric Hospital
Forensic Evaluation and Treatment Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-5600

Re: The State of South Carolina vs. Blackwell, Darrell
DMH #: 1038-4399
Anderson County, Court of General Sessions

Dear Assistant Solicitor Huey:

In accordance with the court order issued by the Honorable J. Cordell Maddox, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 10 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

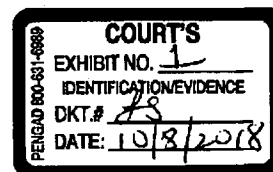
9/15/17
Date

Kelly L. Gothard
Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Austin McLain, Attorney at Law, 310 Camson Road, Anderson, SC 29625

KG/tl

MISSION STATEMENT
To support the recovery of people with mental illnesses.



**CAPACITY TO STAND TRIAL EVALUATION
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE**

DATE OF EVALUATION: August 30, 2017

NAME: Darrell Blackwell

SCDMH #: 1038-4399

PRESIDING EXAMINER: Seth Judd, D.O.
Fellow in Forensic Psychiatry
University of South Carolina School of Medicine

SECOND EXAMINER: Marsha DeRosier, LISW-CP
Social Worker

PSYCHIATRIC DIAGNOSES: Alcohol Use Disorder
Stimulant Use Disorder,
Methamphetamine-type and Cocaine
Anxiolytic Use Disorder
Opioid Use Disorder
Cannabis Use Disorder
Other Specified Trauma and Stressor-Related
Disorder

OPINION REGARDING CAPACITY TO STAND TRIAL

Mr. Blackwell currently has the capacity to stand trial.

DISPOSITION

Mr. Blackwell was returned to the Anderson County Detention Center at the conclusion of this evaluation.

IDENTIFYING INFORMATION

Mr. Darrell Blackwell is a 51 year-old Caucasian male who was seen at Forensic Evaluation Service pursuant to a court order from the Anderson County Court of General Sessions. This court order requests an evaluation of the defendant's competency to stand trial pursuant to State v. Blair, 275 S.E. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976). He is currently charged Armed Robbery, Possession of a Weapon during the Commission of a Violent Crime, Grand Larceny, and Failure to Stop for a Blue Light. According to the court order, it was

issued for the following reasons: "Nature and circumstances of the crime and defendant's prior mental history."

Prior to participating in the evaluation, Mr. Blackwell was warned regarding the limitations of confidentiality. He was informed that the evaluation was court ordered and was not for the purpose of providing treatment. He was informed that the evaluators were employed by the South Carolina Department of Mental Health and were not paid by his attorney or the solicitor. The defendant was informed that after the evaluation a report would be submitted to the defense attorney, the solicitor, and the judge in this case. He was also informed that the evaluator could be called to court to testify at a hearing related to his capacity to stand trial. Mr. Blackwell was able to answer questions regarding this information correctly and voluntarily agreed to participate in the evaluation.

SOURCES OF INFORMATION

1. Anderson County Court of General Sessions Court Order requesting this evaluation.
2. Arrest Warrant 2016A0410100033 for the charge of Armed Robbery.
3. Arrest Warrant 2016A0410100034 for the charge of Possession of a Weapon during the Commission of a Violent Crime.
4. Arrest Warrant 2016A0410100035 for the charge of Grand Larceny.
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6. Supplementary report by Officer Holbrooks dated January 10, 2016.
7. Supplementary report by Officer Banister dated January 10, 2016.
8. Supplementary report by Officer Garrett dated January 12, 2016.
9. Supplementary report by Officer Pearson dated January 12, 2016.
10. Supplementary report by Officer Marano dated January 12, 2016.
11. Supplementary report by Officer Carroll dated January 17, 2016.
12. Affidavit of Photo Identification by the alleged victim, Roshan Patel, signed January 12, 2016.
13. Police audio recording of interview with the defendant, Darrell Blackwell.
14. Police audio recording of interview with Johnnie Taylor.
15. Police audio recording of interview with Steve Blackwell.
16. Police audio recording of interview with Johnnie Taylor.
17. Police audio recording of interview with Harikrishna Patel.
18. Police audio recording of interview with Johnnie Taylor.
19. Crime scene photos dated January 9, 2016.
20. Video surveillance from Shop Rite dated January 9, 2016.
21. Arrest Warrant 2016A0410201419 for the charge of Failure to Stop for Blue Light.
22. Incident report related to the charge of Failure to Stop for Blue Light dated October 9, 2016.
23. National Crime Information Center (NCIC) report on Darrell Blackwell.
24. Social history obtained from Johnnie Taylor, the defendant's mother by Marsha DeRosier, LISW-CP, SCDMH Social Worker.

25. A two-hour and 40-minute clinical forensic interview on August 28, 2017.

CLINICAL PRESENTATION AND PSYCHIATRIC HISTORY

Mr. Blackwell reported that he has been at the Anderson County Detention Center for the past 14 days after he failed to show for his initial capacity to stand trial evaluation on August 14, 2017. At the detention center Mr. Blackwell reported that his sleep is "decent" and appetite poor. He reported a 65 lb. weight loss over the past two years which he attributed to methamphetamine use. He days are occupied with reading the Bible. He described his current mood as "great" and rated his mood as seven out of ten, where ten is the best mood. He denied suicidal or homicidal ideation. He denied auditory or visual hallucinations and paranoid or grandiose delusions.

Mr. Blackwell denied a history of mental health treatment, including outpatient and inpatient treatment. He reported a history of having visions, seeing things that other people could not see, and feeling paranoid. He also reported periods of time where he would feel "hyper", energetic, and could go for days without sleep. However, he stated that these symptoms occurred when he was using illicit drugs.

The defendant reported that he has been depressed on and off for the last two years due to multiple life stressors. He had difficulty describing his associated symptoms of depression. In December of 2015, roughly 30 days prior to the date of the alleged offense, Mr. Blackwell reported a traumatic event in which his wife's boyfriend (he and his wife are separated) put a gun up to his face. He stated that afterward he was up for 30 days because he was afraid to go to sleep. Since this event he has been irritable, isolates himself from others, and has experienced more memory problems. He also increased his use of drugs which included marijuana, methamphetamine, and alcohol.

From the social history his mother reported that Mr. Blackwell would hear and talk about demons. She added that he would have elevated energy despite not sleeping. She also reported that he would get anxious, nervous, and think someone was going to steal from him. His mother added that the defendant did not have a prior history of mental health treatment as he would not keep his appointments. These symptoms, as described by his mother, would be consistent with chronic methamphetamine use.

ALCOHOL AND SUBSTANCE USE HISTORY

Mr. Blackwell has an extensive history of alcohol and drug use. Mr. Blackwell began drinking at the age 13. After high school he would drink to intoxication and would consume six to 24 beers a day. More recently he stated that he has been drinking 12 beers a day and that this amount no longer leads to intoxication. His last alcohol use was 14 days ago. The defendant reported over 30 arrests related to public intoxication and DUIs. He reported a history of tolerance, cravings, and withdrawal symptoms with alcohol. He has failed to quit drinking in the past. His alcohol use has led to relationships and employment problems. He has given up hobbies and activities because of his heavy drinking. The defendant also reported memory problems which

he believed may be due to drinking. When intoxicated he would get angry, fight others, and then feel depressed. He would continue to drink despite these psychological problems.

Mr. Blackwell reported that he first began using "crank" or methamphetamine at age 17. The defendant used methamphetamine 14 days ago. He was using about one to two grams each day. He reported a history of tolerance, withdrawal, and cravings for the methamphetamine. He has failed to quit using methamphetamine multiple times in the past. Methamphetamine use has led to legal, job, and relationship problems. He has used methamphetamines in dangerous situations such as driving. He continued to use methamphetamines despite experiencing paranoia, anxiety, and depression. He would also go days without sleeping during methamphetamine binges.

Mr. Blackwell indicated that he first used cocaine at age 17 and last used four years ago. He reported a period of sobriety for about ten years. In the past he would use one to three grams of cocaine daily. Initially he snorted cocaine, then later switched to crack cocaine and, eventually, intravenous cocaine use. He developed tolerance for cocaine and reported a history of cravings and withdrawal symptoms. He also reported employment, relationship, and legal problems related to cocaine use.

The defendant reported that his drug of choice was marijuana. He began using marijuana at age 14 and last used 14 days ago. He reported daily use with some tolerance and cravings, but he denied a history of withdrawal symptoms. He reported that his first wife was concerned about his marijuana use as this led to financial problems. He has used marijuana in dangerous situations such as driving and has legal charges related to marijuana.

Mr. Blackwell also reported the abuse of pain pills. He would use "high ball," a mixture of cocaine and pain pills. He last abused pain pills ten years ago. He stated that he used pain pills daily for four to five years but then later reported he would use only them when they were available. He reported a history of tolerance and cravings but not withdrawal symptoms. He had failed to cut down on pain pill use in the past. He added that he was "hooked on pain pills."

The defendant also reported a history of benzodiazepine abuse. He would obtain Xanax® and Klonopin® from the street. He last used benzodiazepines 18 days ago. He used benzodiazepines daily for three years, about one to two pills per day. He could not recall if benzodiazepine use impaired his memory but reported a history of withdrawal symptoms. He reported that after taking Xanax he failed to show to work and was fired. He stated that several of his DUIs involved a combination of alcohol and benzodiazepines.

Mr. Blackwell reported a history of drug and alcohol treatment about eight years ago at Home View in Greenville. He stated that he was there for 28 days and received treatment for crack cocaine and alcohol. He reported that this treatment was court ordered after he failed a drug test while on probation. He has also attended Alcoholics

Anonymous and Narcotics Anonymous groups. He denied other substance use treatment.

MEDICAL HISTORY

Mr. Blackwell reported a history of high blood pressure and diabetes. He does not currently take medications and he denied allergies to medications. He stated that he had skin grafts in the early 80's after his legs were burned in a motorcycle accident. He reported three past traumatic brain injuries. The first occurred while he was incarcerated and was hit on the right side of his head, which resulted in lost consciousness and bleeding out of his right ear and nose. The second traumatic brain injury occurred after he was hit with a pistol in the head. In 2015 he was involved in a single motor vehicle accident (motorcycle) in which he ran into a tree and was not wearing a helmet. He was treated at the AnMed Health Medical Center. His blood alcohol level was 0.118 and his urine drug screen was positive for marijuana, cocaine, and amphetamine at that time.

FAMILY HISTORY

Mr. Blackwell reported that his father passed away in 1994. He had a genetic lung disease called alpha-1 antitrypsin deficiency. His father had a double lung transplant but passed away in 1994 due to lung complications. He reported that his father was an alcoholic. His mother is currently alive and has Alzheimer's disease (Major Neurocognitive Disorder [dementia]), diabetes, and high blood pressure. He stated that multiple family members are alcoholics. He denied a family history of mental illness.

SOCIAL HISTORY

Mr. Blackwell reported that he was born in Anderson, South Carolina. He grew up with his biological parents and his younger brother. He described his childhood as "wonderful, I've been blessed." He recalled his dad physically fighting with his mom once while intoxicated, but he denied a personal history of abuse. He was raised as a Baptist and now goes to High Praises Church.

Mr. Blackwell graduated from high school. He reported that he was an average student. He denied participation in special education classes and behavioral problems at school.

Mr. Blackwell was last employed two years ago at a heating and air company. He is now financially supported by his mother. He reported that he cannot work because his mind "can't stay focused." His longest job was at a meat manufacturing plant for ten years from 1994 to 2004. He has had several other jobs in the past including owning his own lawn business and several jobs in construction. He has never received disability.

Mr. Blackwell has been married and divorced five times. He has two daughters, ages 26 and 27 years old. He has an estranged relationship with his daughters. He is not currently married but is in a current relationship.

Mr. Blackwell reported that he was first arrested at age 17 for a DUI. He denied going to juvenile detention. He reported that his longest incarceration was for seven months in jail and one day in prison after he was charged with Burglary and Assault and Battery. He reported over 30 arrests and that most of these were related to alcohol. According to the National Crime Information Center Mr. Blackwell has a long legal history beginning in 1984 with a DUI. He has also been arrested for the following charges: Public Disorderly Conduct Drunk, Driving Under Suspension, Public Drunk, Open Container, Failure to Stop for Blue Light, Violation of South Carolina Gun Law, Possession of a Controlled Substance, Possession of Marijuana, Fraudulent Checks, Burglary Third Degree, Shoplifting, Petty Larceny, Giving False Information, Grand Larceny, Burglary First Degree, Assault and Battery of a High and Aggravated Nature, Littering, Hindering an Officer, and Possession of Methamphetamine/Cocaine.

MENTAL STATUS EXAMINATION

Mr. Blackwell is a 51-year-old Caucasian male who appeared older than his stated age. He was dressed in an orange jumpsuit, his hair was combed, and he had good hygiene. He had a scruffy white beard. There were no visible tattoos. His rate of speech was increased but he was redirectable. His speech volume and tone were normal. He did not display abnormal body movements. He described his mood as "great" and his affect, or range of facial expressions, was congruent with his mood. His thought process was coherent, goal-directed, and circumstantial, as the defendant would get off topic and then eventually come around to answering the question. He denied suicidal or homicidal ideation. He denied psychotic symptoms, including hallucinations and delusions.

Mr. Blackwell was alert and oriented to person, place, date, and time. He was able to register three words and was able to recall two of the three words after a period of about five minutes. When given a clue, he was able to recall the third item. We did not find significant impairment of either recent or remote memory when collecting information about Mr. Blackwell's past. His fund of knowledge was estimated to be adequate based on his knowledge of current and past presidents. His concentration and attention was adequate, although he did struggle to spell the word *world* backward. He was able to correctly complete a simple calculation. He demonstrated the capacity for abstract reasoning as evidenced by his ability to place similar objects into abstract categories. He was able to adequately interpret a proverb. His judgment was estimated to be poor based on his inability to stop using illicit drugs despite ongoing legal problems.

DIAGNOSTIC FORMULATION

Mr. Blackwell has a long history of heavy alcohol use and has developed tolerance, cravings, and withdrawal symptoms. He has had numerous arrests related to drinking

alcohol. He has used alcohol in hazardous situations such driving. He reported family and employment problems related to drinking. He has failed to quit drinking in the past and has given up activities in pursuit of alcohol. He has also continued to drink despite persistent psychological problems. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria as outlined in the Diagnostic Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) for Alcohol Use Disorder.

Mr. Blackwell also has a long history of heavy methamphetamine use which has led to legal, relationship, and employment problems. He has a history of cravings, tolerance, withdrawal symptoms with methamphetamine. He has used methamphetamines in hazardous situations (driving) and continued to use despite chronic psychological problems (insomnia, anxiety, depression, and paranoia). Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Stimulant Use Disorder, Amphetamine-type Substance.

We believe the defendant would also meet the diagnostic criteria for Stimulant Use Disorder, Cocaine. Evidence for this diagnosis is based on his history of heavy cocaine use along with the following: development of tolerance, withdrawal symptoms, and cravings for cocaine. In addition, he reported legal, relationship, and employment problems related to his use of cocaine.

The defendant has a long history of marijuana use which has led to the development of tolerance and cravings. He has also used marijuana in hazardous situations (driving) and has legal charges related to marijuana. In addition, he reported a previous relationship problem as a consequence of his marijuana use. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Cannabis Use Disorder.

Mr. Blackwell has a history of addiction to opioids in the form of pain pills. He developed tolerance and cravings for the pain pills. He had failed to quit on several occasions in the past and would use in combination with other drugs such as cocaine. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Opioid Use Disorder.

He also reported a history of abusing benzodiazepines. He reported a history of withdrawal symptoms and job loss related to benzodiazepine use. He would also use benzodiazepines in hazardous situations such as drinking and driving. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Alcohol Use Disorder.

Mr. Blackwell reported a history of a traumatic event after a gun was put in his face by his estranged wife's boyfriend. As a consequence of this event, he has experienced symptoms which are consistent with a trauma and stress related disorder. He was more irritable, isolated himself from others, and experienced more memory problems. He has also engaged in self-destructive behavior as evidenced by an increase in drug and alcohol use. However, some of these symptoms may also be a result of his drug and alcohol use. Therefore, at this time we do not believe that Mr. Blackwell meets the

threshold for Posttraumatic Stress Disorder but would instead meet the diagnostic criteria for Other Specified Trauma and Stressor-Related Disorder.

Mr. Blackwell reported a history of a traumatic event of a gun being put in his face by his estranged wife's boyfriend. As a consequence of this event, he has experienced symptoms which are consistent with a trauma and stress related disorder. He was more irritable, isolated himself from others, and experienced more memory problems. He has also engaged in self-destructive behavior as evidenced by an increase in drug and alcohol use. However, his increased irritability and self-isolation may also be a result of his drug and alcohol use. Although we do not believe that Mr. Blackwell meets the full diagnostic criteria for Posttraumatic Stress Disorder, we are assigning a diagnosis of Other Specified Trauma and Stressor-Related Disorder.

CONCLUSION REGARDING CAPACITY TO STAND TRIAL

On the date of the evaluation Mr. Blackwell was able to state the charges against him. He appreciates their seriousness and knows he could be facing significant time in prison. He was able to state his attorney's name and understands that the role of his attorney is to help him with his case. He understands that he could ask his attorney about the length of his potential incarceration if he was found guilty.

Mr. Blackwell was able to identify the role and function of the jury and judge, but required education about the role of the solicitor. After a period of delay he was able to state that the role of the solicitor is to "prove [him] guilty" and understands that the solicitor is not on his side. He stated that the judge's role was to "discern truth," to look at the "evidence at hand," and to find him "guilty or not guilty." He described the role of the jury is to determine if he was guilty or not guilty. Mr. Blackwell was able to identify himself as the defendant in his case.

The defendant is aware of and understands the meaning of the pleas *guilty* and *not guilty*. He understands that a guilty plea would result in the judge giving him a sentence. He understands that a not guilty plea would result in a trial to discover if he is guilty or not guilty. The defendant knows that he could ask his attorney to find out information about other possible pleas. Mr. Blackwell understands the concept of a plea bargain and that a defendant would have to "plead guilty" in exchange for "lesser time."

He described evidence as "proof of what happened" and was able to identify potential evidence in his case (surveillance video). Mr. Blackwell defined witnesses as "people that were there" and was able to identify potential witnesses in his case (two store clerks and a customer). He was able to solve a hypothetical problem in the courtroom. For example, if someone was lying about him in the courtroom, he would talk to his lawyer. He appreciates the importance of appropriate courtroom behavior. He was able to state a desired outcome in his case and he was able to discuss a potential defense.

Mr. Blackwell exhibited a factual as well as rational understanding of the legal system. He was able to answer all of our questions in a rational manner and would be able to answer questions posed to him by his lawyer or the court in a rational manner. He would be able to assist his attorney in the preparation of his defense. Therefore, it is our opinion that he has capacity to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981), and S.C. Code Ann. §44-23-410 (1976).

A handwritten signature in black ink, appearing to read 'Seth Judd', with a stylized flourish at the end.

Seth Judd, D.O.
Fellow in Forensic Psychiatry
University of South Carolina School of Medicine



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

Alison Y. Evans, PsyD, Chair
Everard Rutledge, PhD, Vice Chair
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September 15, 2017

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Information: (803) 935-5600

STATE DIRECTOR

John H. Magill

Austin McLain
Attorney at Law
301 Camson Road
Anderson, SC 29625

Re: The State of South Carolina vs. Blackwell, Darrell
DMH Case #: 1038-4399
Anderson County, Court of General Sessions

Dear Attorney McLain:

In accordance with the court order issued by the Honorable J. Cordell Maddox, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

Please see the attached report for the results of this evaluation.

This 11 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

9/16/17
Date

Kelly Gothard, Ph.D.
Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Catherine Huey, Assistant Solicitor, PO Box 8002, Anderson, SC 29622

KG/tl

MISSION STATEMENT

To support the recovery of people with mental illnesses.



CRIMINAL RESPONSIBILITY AND CAPACITY TO CONFORM
EVALUATION
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE

DATE OF EVALUATION: August 30, 2017

NAME: Darrell Blackwell

SCDMH #: 1038-4399

PRESIDING EXAMINER: Seth Judd, D.O.
Fellow in Forensic Psychiatry
University of South Carolina School of Medicine

SECOND EXAMINER: Marsha DeRosier, LISW-CP
Social Worker

PSYCHIATRIC DIAGNOSES: Alcohol Use Disorder
Stimulant Use Disorder,
Methamphetamine-type and Cocaine
Anxiolytic Use Disorder
Opioid Use Disorder
Cannabis Use Disorder
Other Specified Trauma and Stressor-Related
Disorder

OPINION REGARDING CRIMINAL RESPONSIBILITY

Mr. Blackwell would have been criminally responsible on or about January 9, 2016 for the charges of Armed Robbery, Possession of a Weapon during the Commission of a Violent Crime, and Grand Larceny.

Mr. Blackwell would have been criminally responsible on or about October 9, 2016 for the charge of Failure to Stop for a Blue Light.

OPINION REGARDING CAPACITY TO CONFORM

Mr. Blackwell would have had sufficient capacity to conform his behavior to the requirements of the law on or about January 9, 2016.

Mr. Blackwell would have had sufficient capacity to conform his behavior to the requirements of the law on or about October 9, 2016.

DISPOSITION

Mr. Blackwell was returned to the Anderson County Detention Center at the conclusion of this evaluation.

IDENTIFYING INFORMATION

Mr. Darrell Blackwell is a 51 year-old Caucasian male who was seen at Forensic Evaluation Service pursuant to a court order from the Anderson County Court of General Sessions. This court order requests an evaluation of his criminal responsibility and capacity to conform his behavior to the requirements of the law on or about January 9, 2016 and October 9, 2016 pursuant to S.C. Code Ann. §17-24-10 (1976). He is currently charged with Armed Robbery, Possession of a Weapon during the Commission of a Violent Crime, Grand Larceny, and Failure to Stop for a Blue Light. According to the court order, it was issued for the following reasons: "Nature and circumstances of the crime and the defendant's prior mental history."

Prior to participating in the evaluation, Mr. Blackwell was warned regarding the limitations of confidentiality. He was informed that the evaluation was court ordered and was not for the purpose of providing treatment. He was informed that the evaluators were employed by the South Carolina Department of Mental Health and were not paid by his attorney or the solicitor. The defendant was informed that after the evaluation a report would be submitted to the defense attorney. He was informed the report may also go to the solicitor and the judge in this case. He was also informed that the evaluator could be called to court to testify at trial. Mr. Blackwell was able to answer questions regarding this information correctly and voluntarily agreed to participate in the evaluation.

SOURCES OF INFORMATION

1. Anderson County Court of General Sessions Court Order requesting this evaluation.
2. Arrest Warrant 2016A0410100033 for the charge of Armed Robbery.
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24. Social history obtained from Johnnie Taylor, the defendant's mother by Marsha DeRosier, LISW-CP, SCDMH Social Worker.
25. A two-hour and 40-minute clinical forensic interview on August 28, 2017.

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Mr. Blackwell denied a history of mental health treatment, including outpatient and inpatient treatment. He reported a history of having visions, seeing things that other people could not see, and feeling paranoid. He also reported periods of time where he would feel "hyper", energetic, and could go for days without sleep. However, he stated that these symptoms occurred when he was using illicit drugs.

The defendant reported that he has been depressed on and off for the last two years due to multiple life stressors. He had difficulty describing his associated symptoms of depression. In December of 2015, roughly 30 days prior to the date of the alleged offense, Mr. Blackwell reported a traumatic event in which his wife's boyfriend (he and his wife are separated) put a gun up to his face. He stated that afterward he was up for 30 days because he was afraid to go to sleep. Since this event he has been irritable, isolates himself from others, and has experienced more memory problems. He also increased his use of drugs which included marijuana, methamphetamine, and alcohol.

From the social history his mother reported that Mr. Blackwell would hear and talk about demons. She added that he would have elevated energy despite not sleeping. She also reported that he would get anxious, nervous, and think someone was going to steal from him. His mother added that the defendant did not have a prior history of mental

health treatment as he would not keep his appointments. These symptoms, as described by his mother, would be consistent with chronic methamphetamine use.

ALCOHOL AND SUBSTANCE USE HISTORY

Mr. Blackwell has an extensive history of alcohol and drug use. Mr. Blackwell began drinking at the age 13. After high school he would drink to intoxication and would consume six to 24 beers a day. More recently he stated that he has been drinking 12 beers a day and that this amount no longer leads to intoxication. His last alcohol use was 14 days ago. The defendant reported over 30 arrests related to public intoxication and DUIs. He reported a history of tolerance, cravings, and withdrawal symptoms with alcohol. He has failed to quit drinking in the past. His alcohol use has led to relationships and employment problems. He has given up hobbies and activities because of his heavy drinking. The defendant also reported memory problems which he believed may be due to drinking. When intoxicated he would get angry, fight others, and then feel depressed. He would continue to drink despite these psychological problems.

Mr. Blackwell reported that he first began using "crank" or methamphetamine at age 17. The defendant used methamphetamine 14 days ago. He was using about one to two grams each day. He reported a history of tolerance, withdrawal, and cravings for the methamphetamine. He has failed to quit using methamphetamine multiple times in the past. Methamphetamine use has led to legal, job, and relationship problems. He has used methamphetamines in dangerous situations such as driving. He continued to use methamphetamines despite experiencing paranoia, anxiety, and depression. He would also go days without sleeping during methamphetamine binges.

Mr. Blackwell indicated that he first used cocaine at age 17 and last used four years ago. He reported a period of sobriety for about ten years. In the past he would use one to three grams of cocaine daily. Initially he snorted cocaine, then later switched to crack cocaine and, eventually, intravenous cocaine use. He developed tolerance for cocaine and reported a history of cravings and withdrawal symptoms. He also reported employment, relationship, and legal problems related to cocaine use.

The defendant reported that his drug of choice was marijuana. He began using marijuana at age 14 and last used 14 days ago. He reported daily use with some tolerance and cravings, but he denied a history of withdrawal symptoms. He reported that his first wife was concerned about his marijuana use as this led to financial problems. He has used marijuana in dangerous situations such as driving and has legal charges related to marijuana.

Mr. Blackwell also reported the abuse of pain pills. He would use "high ball," a mixture of cocaine and pain pills. He last abused pain pills ten years ago. He stated that he used pain pills daily for four to five years but then later reported he would use only them when they were available. He reported a history of tolerance and cravings but not

withdrawal symptoms. He had failed to cut down on pain pill use in the past. He added that he was "hooked on pain pills."

The defendant also reported a history of benzodiazepine abuse. He would obtain Xanax® and Klonopin® from the street. He last used benzodiazepines 18 days ago. He used benzodiazepines daily for three years, about one to two pills per day. He could not recall if benzodiazepine use impaired his memory but reported a history of withdrawal symptoms. He reported that after taking Xanax he failed to show to work and was fired. He stated that several of his DUIs involved a combination of alcohol and benzodiazepines.

Mr. Blackwell reported a history of drug and alcohol treatment about eight years ago at Home View in Greenville. He stated that he was there for 28 days and received treatment for crack cocaine and alcohol. He reported that this treatment was court ordered after he failed a drug test while on probation. He has also attended Alcoholics Anonymous and Narcotics Anonymous groups. He denied other substance use treatment.

MEDICAL HISTORY

Mr. Blackwell reported a history of high blood pressure and diabetes. He does not currently take medications and he denied allergies to medications. He stated that he had skin grafts in the early 80's after his legs were burned in a motorcycle accident. He reported three past traumatic brain injuries. The first occurred while he was incarcerated and was hit on the right side of his head, which resulted in lost consciousness and bleeding out of his right ear and nose. The second traumatic brain injury occurred after he was hit with a pistol in the head. In 2015 he was involved in a single motor vehicle accident (motorcycle) in which he ran into a tree and was not wearing a helmet. He was treated at the AnMed Health Medical Center. His blood alcohol level was 0.118 and his urine drug screen was positive for marijuana, cocaine, and amphetamine at that time.

FAMILY HISTORY

Mr. Blackwell reported that his father passed away in 1994. He had a genetic lung disease called alpha-1 antitrypsin deficiency. His father had a double lung transplant but passed away in 1994 due to lung complications. He reported that his father was an alcoholic. His mother is currently alive and has Alzheimer's disease (Major Neurocognitive Disorder [dementia]), diabetes, and high blood pressure. He stated that multiple family members are alcoholics. He denied a family history of mental illness.

SOCIAL HISTORY

Mr. Blackwell reported that he was born in Anderson, South Carolina. He grew up with his biological parents and his younger brother. He described his childhood as "wonderful, I've been blessed." He recalled his dad physically fighting with his mom

once while intoxicated, but he denied a personal history of abuse. He was raised as a Baptist and now goes to High Praises Church.

Mr. Blackwell graduated from high school. He reported that he was an average student. He denied participation in special education classes and behavioral problems at school.

Mr. Blackwell was last employed two years ago at a heating and air company. He is now financially supported by his mother. He reported that he cannot work because his mind "can't stay focused." His longest job was at a meat manufacturing plant for ten years from 1994 to 2004. He has had several other jobs in the past including owning his own lawn business and several jobs in construction. He has never received disability.

Mr. Blackwell has been married and divorced five times. He has two daughters, ages 26 and 27 years old. He has an estranged relationship with his daughters. He is not currently married but is in a current relationship.

Mr. Blackwell reported that he was first arrested at age 17 for a DUI. He denied going to juvenile detention. He reported that his longest incarceration was for seven months in jail and one day in prison after he was charged with Burglary and Assault and Battery. He reported over 30 arrests and that most of these were related to alcohol. According to the National Crime Information Center Mr. Blackwell has a long legal history beginning in 1984 with a DUI. He has also been arrested for the following charges: Public Disorderly Conduct Drunk, Driving Under Suspension, Public Drunk, Open Container, Failure to Stop for Blue Light, Violation of South Carolina Gun Law, Possession of a Controlled Substance, Possession of Marijuana, Fraudulent Checks, Burglary Third Degree, Shoplifting, Petty Larceny, Giving False Information, Grand Larceny, Burglary First Degree, Assault and Battery of a High and Aggravated Nature, Littering, Hindering an Officer, and Possession of Methamphetamine/Cocaine.

MENTAL STATUS EXAMINATION

Mr. Blackwell is a 51-year-old Caucasian male who appeared older than his stated age. He was dressed in an orange jumpsuit, his hair was combed, and he had good hygiene. He had a scruffy white beard. There were no visible tattoos. His rate of speech was increased but he was redirectable. His speech volume and tone were normal. He did not display abnormal body movements. He described his mood as "great" and his affect, or range of facial expressions, was congruent with his mood. His thought process was coherent, goal-directed, and circumstantial, as the defendant would get off topic and then eventually come around to answering the question. He denied suicidal or homicidal ideation. He denied psychotic symptoms, including hallucinations and delusions.

Mr. Blackwell was alert and oriented to person, place, date, and time. He was able to register three words and was able to recall two of the three words after a period of about five minutes. When given a clue, he was able to recall the third item. We did not find

significant impairment of either recent or remote memory when collecting information about Mr. Blackwell's past. His fund of knowledge was estimated to be adequate based on his knowledge of current and past presidents. His concentration and attention was adequate, although he did struggle to spell the word *world* backward. He was able to correctly complete a simple calculation. He demonstrated the capacity for abstract reasoning as evidenced by his ability to place similar objects into abstract categories. He was able to adequately interpret a proverb. His judgment was estimated to be poor based on his inability to stop using illicit drugs despite ongoing legal problems.

DIAGNOSTIC FORMULATION

Mr. Blackwell has a long history of heavy alcohol use and has developed tolerance, cravings, and withdrawal symptoms. He has had numerous arrests related to drinking alcohol. He has used alcohol in hazardous situations such driving. He reported family and employment problems related to drinking. He has failed to quit drinking in the past and has given up activities in pursuit of alcohol. He has also continued to drink despite persistent psychological problems. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria as outlined in the Diagnostic Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) for Alcohol Use Disorder.

Mr. Blackwell also has a long history of heavy methamphetamine use which has led to legal, relationship, and employment problems. He has a history of cravings, tolerance, withdrawal symptoms with methamphetamine. He has used methamphetamines in hazardous situations (driving) and continued to use despite chronic psychological problems (insomnia, anxiety, depression, and paranoia). Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Stimulant Use Disorder, Amphetamine-type Substance.

We believe the defendant would also meet the diagnostic criteria for Stimulant Use Disorder, Cocaine. Evidence for this diagnosis is based on his history of heavy cocaine use along with the following: development of tolerance, withdrawal symptoms, and cravings for cocaine. In addition, he reported legal, relationship, and employment problems related to his use of cocaine.

The defendant has a long history of marijuana use which has led to the development of tolerance and cravings. He has also used marijuana in hazardous situations (driving) and has legal charges related to marijuana. In addition, he reported a previous relationship problem as a consequence of his marijuana use. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Cannabis Use Disorder.

Mr. Blackwell has a history of addiction to opioids in the form of pain pills. He developed tolerance and cravings for the pain pills. He had failed to quit on several occasions in the past and would use in combination with other drugs such as cocaine. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Opioid Use Disorder.

He also reported a history of abusing benzodiazepines. He reported a history of withdrawal symptoms and job loss related to benzodiazepine use. He would also use benzodiazepines in hazardous situations such as drinking and driving. Therefore, we believe Mr. Blackwell would meet the diagnostic criteria for Alcohol Use Disorder.

Mr. Blackwell reported a history of a traumatic event of a gun being put in his face by his estranged wife's boyfriend. As a consequence of this event, he has experienced symptoms which are consistent with a trauma and stress related disorder. He was more irritable, isolated himself from others, and experienced more memory problems. He has also engaged in self-destructive behavior as evidenced by an increase in drug and alcohol use. However, his increased irritability and self-isolation may also be a result of his drug and alcohol use. Although we do not believe that Mr. Blackwell meets the full diagnostic criteria for Posttraumatic Stress Disorder, we are assigning a diagnosis of Other Specified Trauma and Stressor-Related Disorder.

COLLATERAL ACCOUNTS OF THE ALLEGED OFFENSE:

The following is a paraphrase of collateral accounts.

On January 9, 2016 the police reports indicated that Darrel Eugene Blackwell entered the Shop Rite store with a firearm and a knife. Mr. Blackwell then allegedly threatened to shoot the clerk if he did not give him money and then attempted to jump over the counter. The police report stated that Mr. Blackwell took \$2500 in cash, a laptop computer, and approximately \$500 in cigarettes. From the surveillance video the officers noted that Mr. Blackwell was wearing gloves and had parked his vehicle behind the Shop Rite. On January 16, 2016 Corporal Carroll responded to 211 Marion Ave. in Anderson in reference to a tip about Darrell Blackwell. When the officers arrived they initially made contact with Blackwell at the front door. Mr. Blackwell then walked to the back of the house. The officers reported that family members eventually convinced Mr. Blackwell to peacefully surrender to law enforcement and he was arrested. After his arrest Mr. Blackwell told officers that he parked his vehicle in the back of the store to get water for his vehicle. He also told officers that he went into the store because he thought he could sell the gun.

On October 9, 2016 Deputy Stipe observed a yellow Ford Focus leaving a Power Trac gas station at a high rate of speed. After briefly losing visual on the vehicle, he then spotted the car driving recklessly behind the Sun Rise Motel. Deputy Stipe then activated his blue lights and siren. He said the car disregarded a stop sign in an attempt to flee. After the driver of the Ford Focus went through the yard at ■3 Martin Road and quickly turned onto Zula Circle and Joseph Drive, Deputy Stipe terminated pursuit. On October 12, 2016 Deputy Stipe said that while on patrol he observed Mr. Blackwell in the yard at ■0 Masters Drive. He then pulled into the driveway and reported that Mr. Blackwell ran inside. As the officer went around behind the house Mr. Blackwell was seen attempting to come out a back window. The officer added, "Without questioning him he stated that he knew why he was going to jail. I asked him why and

he said that he didn't pull over because he knew he was out of jail on bond and couldn't take another charge."

DEFENDANT'S PARAPHRASED ACCOUNT OF THE ALLEGED OFFENSE:

In regards to January 9, 2016, Mr. Blackwell reported that he had consumed three King Cobras (each is a 32 oz. container of alcohol), two 2 mg of Klonopin® (4 mg total), a "blunt" of marijuana, and methamphetamine. He further stated that prior to the date of the alleged offense he was "shooting dope" (methamphetamine), at least one gram per day. He stated that he had not slept in 30 days because he kept thinking of the gun that his estranged wife's boyfriend had pointed in his face. On the evening of the alleged offense Mr. Blackwell stated that he stopped at the Shop Rite but was "not sure why." He reported that he knew the girl behind the store and observed her leaving the store. He said she was crying and told him that they (store clerks) had accused her of stealing and that they were "being mean." He initially told us that after hearing this he thought "I'll show them mean." He reported that he "was going to scare them," meaning scare the store clerks. During this evaluation, he later reported that God wanted him to go into the store because "I had a vision I did [sic] kill the guy [store clerk]." He believed that God used him to go into the store to prevent this from happening. (We realize that this does not make sense.) He added, "I don't know if that's true or what happened, but that's what I think happened." He stated again that he was not there to rob the store but believes that the gun being pointed at him a month ago was a direct effect of what happened on the night of the alleged offense.

On or about October 9, 2016 Mr. Blackwell reported that a cop recognized him at the gas station and proceeded to follow him. He added, "I ran" and was worried that if he was caught he would go straight to prison since he was on bond. He thought there was no way out and so he went to his girlfriend's house and then hid in the woods outside of his mom's house. He reported that he was arrested a few days later at his girlfriend's house.

OPINION REGARDING CRIMINAL RESPONSIBILITY

In regards to the charges of Armed Robbery, Possession of a Weapon during the Commission of a Violent Crime, and Grand Larceny, the police reported that the defendant was wearing gloves and stole \$2500 in cash, a laptop, and approximately \$500 in cigarettes. Stealing large amounts of cash and other valuables while wearing gloves would suggest that the defendant was aware of the wrongfulness of his behavior. Additionally the items that were stolen suggest a monetary motive and not a motive based in delusion or mental illness. Mr. Blackwell parked his vehicle behind the store before entering. Parking a vehicle behind the store so that his license tag would not be easily identified would also suggest that he had preplanned his escape and would also suggest knowledge of wrongfulness. Although the defendant claims that the traumatic event that occurred 30 days prior to the alleged offense had a direct effect on what happened, the defendant did not report a symptom of mental illness that would have

impaired his ability to distinguish legal and moral right from legal and moral wrong. Therefore, it is our opinion that he would have been criminally responsible on or about January 9, 2016 for Armed Robbery, Possession of a Weapon during the Commission of a Violent Crime, and Grand Larceny pursuant to S.C. Code Ann. §17-24-10 (1976).

In regards to the charge of Failure to Stop for a Blue Light, Mr. Blackwell reported that he "ran" from the officer to avoid being incarcerated because he was out on bond. When Deputy Stipe attempted to arrest Mr. Blackwell for a second time on October 12, 2016 he observed Mr. Blackwell attempting to escape out the back of the house. Mr. Blackwell's attempts to avoid capture by the police would suggest knowledge of wrongfulness. Furthermore, Deputy Stipe documented that the defendant informed him that he knew he was going to jail and that he couldn't "take another charge." Again, these statements would indicate that Mr. Blackwell had knowledge of wrongfulness. Regardless, the defendant did not report a symptom of mental illness that would have impaired his ability to distinguish legal and moral right from legal and moral wrong. Therefore, it is our opinion that he would have been criminally responsible on or about October 9, 2016 for Failure to Stop for a Blue Light pursuant to S.C. Code Ann. §17-24-10 (1976).

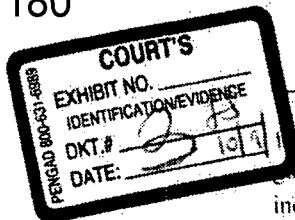
OPINION REGARDING CAPACITY TO CONFORM

Mr. Blackwell did not report a compulsion or command hallucination related to the alleged offense on January 9, 2016. Furthermore, other than his heavy use of alcohol and methamphetamine, along with marijuana and benzodiazepine use (Klonopin®) on the day of the alleged offense, we find no evidence of a symptom of mental illness that would have potentially impaired his ability to control his behavior. Therefore, it is our opinion that he would have had sufficient capacity to conform his conduct to the requirement of the law for the charges of Armed Robbery, Possession of a Weapon during the Commission of a Violent Crime, and Grand Larceny.

Mr. Blackwell did not report a compulsion, command hallucination, or another symptom of mental illness related to the alleged offense. We found no evidence of a symptom of mental illness that would have potentially impaired his ability to control his behavior. Therefore, it is our opinion that he would have had sufficient capacity to conform his conduct to the requirement of the law for the charge of Failure to Stop for a Blue Light on October 9, 2016.

 A handwritten signature in dark ink, appearing to read 'Seth Judd', followed by the initials 'D.O.'.

Seth Judd, D.O.
Fellow in Forensic Psychiatry
University of South Carolina School of Medicine



Offenses

gun, such instrument is considered deadly weapon regardless of its inoperability; "We agree with the trial judge that a BB gun is capable of producing great bodily harm. Therefore, the question of whether or not the instrument used in commission of the robbery qualified the incident as armed robbery was properly submitted as a factual determination for the jury under the evidence in this case."); *Everhart v. State*, 358 So. 2d 1058 (Ala. Crim. App. 1978) (announcing that fire bomb or "Molotov cocktail" is a deadly weapon); *but see State v. Muldrow*, 348 S.C. 264, 559 S.E.2d 847 (2002) (declaring that the words "I'll shoot" alone are not sufficient to support a conviction for armed robbery).

State v. Tasco, 292 S.C. 270, 356 S.E.2d 117 (1987) (observing the Supreme Court of North Carolina in *State v. Thompson*, 254 S.E.2d 526 (N.C. 1979); concluded that when a person perpetrates a robbery by brandishing an instrument which appears to be a firearm, in the absence of any evidence to the contrary, the law will presume the instrument to be what his conduct represents it to be, a firearm; under the evidence in this case, question of whether or not the instrument used in commission of the robbery qualified the incident as armed robbery was a factual determination for the jury; holding that evidence was sufficient to support finding that defendant, armed with toy gun at time of robbery, was guilty of armed robbery).

§ 2-12 Common Law Robbery/Strong Arm Robbery

Robbery is defined as the unlawful taking of money, goods or other personal property of any value from the person of another or in his presence by violence or by putting such person in fear. Robbery is larceny from the person or immediate presence of another by violence, intimidation, or by putting such person in fear. A thing is in the presence of a person, in respect to robbery, which is so within his reach, inspection, observation or control, that he could, if not overcome by violence or prevented by fear, retain his possession of it. Robbery is basically larceny compounded or aggravated by intimidation or force used in the taking of property from the person or in the presence of another.

Larceny is the felonious taking and carrying away of the goods of another against the owner's will or without his consent with the intent to appropriate them to one's own use and to permanently deprive the owner of possession of his property. There are five elements the State must establish beyond a reasonable crime of robbery. The elements of larceny are:

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Offenses

- (1) a taking;
- (2) the act of carrying the property away—this is called asportation in the law—asportation is the act of carrying away;
- (3) of the personal property of another;
- (4) without the consent or against the will of the owner; and
- (5) with the intent to steal.

The asportation of stolen property is an indispensable element of larceny and can be established by the slightest removal of the property with felonious intent. The defendant must intend to permanently deprive the owner of possession by converting the property to his own use.

In addition to the elements of larceny, the crime of robbery requires two additional elements. These are:

- (1) the property must be taken from the person or immediate presence of another;

AND

- (2) the taking must be accomplished by violence, intimidation, or by putting the person in fear.

This violence must be actual personal violence or the threat of it. Further, the violence or intimidation must either precede or be contemporaneous with the taking.

Generally, the element of force in the offense of robbery may be actual or constructive. Actual force implies physical violence. Constructive force includes all demonstrations of force, menaces, and other means by which the person robbed is put in fear sufficient to overcome the free exercise of the person's will or prevent resistance to the taking. No matter how slight the force creating the fear is or by what other circumstances the taking is accomplished, if the transaction is accompanied by circumstances of terror, such as threatening by word or gesture, as in common experience are likely to create an apprehension of fear and induce a person to give up the property, the person is placed in fear.

WITNESSES

Anderson Co. Sheriff's Office
Jeremy A. Garrett

ARREST WARRANT NUMBER

2016A0410100033

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 22 2016

Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2016-04-

00433

**The State of South Carolina
County of Anderson**

COURT OF GENERAL SESSIONS

MAR 22 2016

TERM

THE STATE

VS.

DARRELL EUGENE BLACKWELL

INDICTMENT FOR

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

RECEIVED
OCT 22 2018
SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

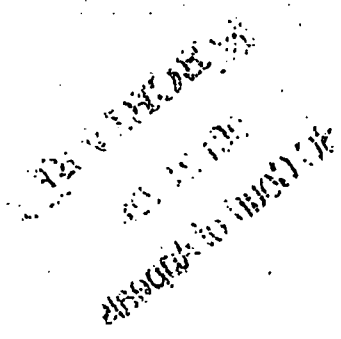
At a Court of General Sessions, convened on MAR 22 2016, the
Grand Jurors of Anderson County present upon their oath:

ARMED ROBBERY

The defendant, Darrell Eugene Blackwell, did on or about January 9, 2016 in Anderson County, South Carolina, while armed with a deadly weapon or while displaying what a person present during the robbery would reasonably believe to be a deadly weapon, take by means of force, threats, or intimidation, goods or monies described as \$2500.00 in cash, a laptop computer and cigarettes from the person or presence of Roshan Patel of Shop Rite. All in violation of 16-11-0330(A) of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

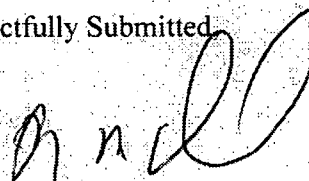




Rame L. Campbell
RAME L. CAMPBELL
DEPUTY SOLICITOR

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,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

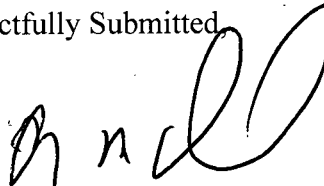
ATTORNEY FOR APPELLANT

This 3rd day of February, 2020.

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



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of February, 2020.

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SC Court of Appeals