

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lexington County

Honorable J. Derham Cole, Circuit Court Judge

RODERQUIZ R. COOK,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2020-000972

APPENDIX

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S.C. SUPREME COURT

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ORIGINAL

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) COURT OF GENERAL SESSIONS
 COUNTY OF LEXINGTON)

State of South Carolina,)
)
 PLAINTIFF,) Trial Transcript
) 2012-GS-32-6042
) 2012-GS-32-6044
 -VS-) 2011-GS-32-1505
)
 Roderquiz Rozelle Cook,)
)
 DEFENDANT.)
 _____)

BEFORE THE HONORABLE LEE ALFORD, JUDGE

APRIL 8, 9, 10, 11, 12, 2013

LEXINGTON, SOUTH CAROLINA

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

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 Heather Weiss, Esq.
 For the Plaintiff

Deon O'Neill, Esq.
 For the Defendant

REMA K. GANTT THOMAS
 CIRCUIT COURT REPORTER

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Miller

1 Monday, April 8, 2013

2 (The defendant, together
3 with counsel, was personally present in the
4 courtroom.)

5 THE COURT: Now, again, our purpose this
6 morning is to determine your general qualifications
7 to serve as jurors in this Court. We do that in a
8 couple of stages. The first stage is what we call
9 the roll call.

10 The Clerk will call the roll of all who
11 have been summoned for jury duty today. When your
12 name is called, I would ask that you please stand,
13 and in a clear, audible voice please give us your
14 occupation. Also, please tell us if you are married
15 or single. And if you are married, please give us
16 the occupation of your spouse.

17 Now, if you're retired or disabled, please
18 give us your occupation before you became retired or
19 disabled. If you are self-employed, please tell us
20 what the nature of your business is, that is, what
21 you do in your business.

22 In other words, if you're self-employed in
23 the carpentry business, please tell us what it is
24 that you do in your business. Now, ladies and
25 gentlemen, all of the information that you provide

13

1 today has to be under oath, and it has to be record.

2 The Court Reporter is down front. She is
3 recording everything I say, and she is going to
4 record all the information you provide the Court
5 today. And that information has to be under oath.
6 So I'm going to ask you if you will at this time to
7 all please stand and raise your right hands.

8 (Whereupon, the petit jury
9 panel was sworn.)

10 THE COURT: Thank you, please be seated.
11 The Clerk will please call the roll.

12 CLERK OF COURT: Yes, sir, Your Honor.

13 As I call your name, please stand and give
14 me the information that we've gone over with you.

15 (Whereupon, the roll of the
16 petit jury panel was called.)

17 (Whereupon, the petit jury
18 panel was qualified.)

19 THE COURT: Ladies and gentlemen, if
20 you'll give me your attention again, please. Those
21 of you that are still with us are qualified to serve
22 on the jury this week. Most of the people who left
23 are being transferred to another week because of
24 conflicts this week. We're trying to work with them
25 on that, those conflicts. I want to share some

1 additional information with you at this time.

2 As we go through the week, you're not
3 allowed to have beepers or cell phones, any kind of
4 electronic device for that matter, here in the
5 courtroom, and that's by Supreme Court order.

6 So if you have any kind of electronic
7 device, including cell phones -- they've got so many
8 things now I can't enumerate them all -- let me just
9 say some electronic devices, you're not allowed to
10 have those here in the courtroom.

11 So please make arrangements to secure
12 those elsewhere or give to them the Bailiffs or
13 staff here. They'll hold them for you till we take
14 a break in court and give them back to you at that
15 point.

16 That's particularly important if you get
17 selected on a jury. You absolutely cannot have any
18 kind of electronic device while you're serving on
19 the jury. As we go through the week, please avoid
20 having any kind of interaction with anybody who may
21 be involved in a case this week, whether it be the
22 litigants themselves, attorneys, family members,
23 witnesses.

24 If you see somebody standing around
25 talking about a case this week, please avoid having

1 any kind of interaction with them. You may talk to
2 them about the weather outside. But if the other
3 side of that case sees you talking to them, they'll
4 assume that you're talking to them about the case.
5 And then that will cause us a problem in that case.
6 So please avoid those kind of interactions.

7 Please try to be on time. If you're asked
8 to be here at a certain time, please try to be on
9 time. Those of you that are selected on a jury
10 today, that's particularly important if you're
11 serving on a jury, because if we get started with
12 the trial and we take a break or a recess from
13 court, we cannot start that case back till every
14 single juror is present. So, say, if only one juror
15 is 30 minutes late, we have to delay the trial until
16 that juror arrives. So please try to be on time.

17 If an emergency should occur at home,
18 work, or otherwise with you, please let the Clerk's
19 Office know as soon as you're aware of that
20 emergency. I think we can avoid the rest of this
21 information because we're just going to select one
22 jury for the week or for a case this week, so the
23 others will be dismissed. So I don't need to go
24 through a call-in system or anything like that with
25 you today.

1 All right, Madam Attorney General, you're
2 ready to call the next case.

3 MS. WEISS: Thank you, Your Honor. May it
4 please the Court, the State calls Docket Number
5 2011-GS-32-01505, 2012-GS-32-6042, and
6 2012-GS-32-6044, the State versus Roderquiz Rozelle
7 Cook.

8 THE COURT: Is the defense ready for
9 trial, counsel?

10 MR. O'NEILL: Yes, sir.

11 THE COURT: Ladies and gentlemen of the
12 jury panel, if you'll give me your attention again,
13 please. We are about to go into a trial in the
14 matter of the State of South Carolina versus Rod R.
15 Cook. The State charges Mr. Cook with three
16 offenses.

17 They charge him with the offense of
18 murder, conspiracy, and attempted armed robbery. To
19 these charges, the defendant has pled not guilty,
20 and we're about to start a trial on these charges.

21 The State is represented in this case by
22 Assistant Attorney Generals Heather Weiss and Nancy
23 Cote. If you'd please stand. Thank you. You may
24 be seated.

25 Is anyone on the jury panel related by

17

1 blood or marriage or have any other type social or
2 business connection with either Attorneys Heather
3 Weiss or Nancy Cote. If so, please stand.

4 Yes, sir. Please give us your name and
5 number, sir.

6 MR. MOORE: Your Honor, Jake Moore, 145.

7 THE COURT: Yes, sir.

8 MR. MOORE: I've got a case pending right
9 now with this case tried today. That's my
10 relationship.

11 THE COURT: All right. Sir, is there
12 anything about that relationship that would
13 interfere in any way with your ability to give both
14 sides a fair and impartial trial in this case?

15 MR. MOORE: No, sir, Your Honor.

16 THE COURT: Thank you. You may be seated.

17 Anyone else? Is anyone on the jury panel
18 related by blood or marriage, friends with, or any
19 other type social, business or professional
20 relationship with anyone who works in the South
21 Carolina Attorney General's Office? If so, please
22 stand.

23 The defendant, Rod R. Cook, is represented
24 in this case by Attorney Deon O'Neill, spelled
25 O'-N-E-I-L-L. Mr. O'Neill, please stand and also

1 ask Mr. Cook to stand so the jury can see who he is
2 in person. Thank you. You may be seated.

3 Is anyone on the jury panel related by
4 blood or marriage, friends with, or have any other
5 type social, business, or professional relationship
6 with Rod R. Cook? If so, please stand.

7 Is anyone on the jury panel related by
8 blood or marriage, friends with, or have any other
9 type social, business, or professional relationship
10 with -- that is to say, currently or formerly
11 represented by or any other relationship to Attorney
12 Deon O'Neill? If so, please stand.

13 Ladies and gentlemen of the jury panel,
14 I'm going to go through a list of potential
15 witnesses in this case. All of these witnesses may
16 not be called, but they might be called. What I'm
17 going to ask you to do is when the potential
18 witness' name, if you're related by blood or
19 marriage, friends with, or have any other type
20 social, business, or professional relationship with
21 any of these named potential witnesses, when I call
22 their names, I would ask that you please stand.

23 All right, here are the potential
24 witnesses' names: Tasha Matthews; Meon Mikeal
25 Deanglius Miller; Angelo Tucker; Sgt. Phillip E.

1 Turner, formerly with Batesburg-Leesville Police
2 Department; Capt. William Goss -- G-O-S-S -- with
3 the Batesburg-Leesville Police Department; L. A.
4 Wellons, spelled W-E-L-L-O-N-S -- formerly with the
5 Batesburg-Leesville Police Department.

6 Oh, I'm sorry, sir. I didn't see you
7 standing. Give me your name and number, sir.

8 MR. OWEN: I'm Billy Owen, 160.

9 THE COURT: Your number?

10 MR. OWEN: One sixty.

11 THE COURT: Sixty?

12 COURT REPORTER: One sixty, yes, sir. Who
13 do you know on the potential witness list?

14 MR. OWEN: I used to work with William
15 Goss.

16 THE COURT: You worked for
17 Batesburg-Leesville Police Department?

18 MR. OWEN: Yes, sir.

19 THE COURT: I'm going to call a number of
20 them out. Do you know all of them?

21 MR. OWEN: I know all of them.

22 THE COURT: All right. Sir, is there
23 anything about your relationship with anyone who
24 works there or has worked at the Batesburg-Leesville
25 Police Department that would interfere in any way

1 with your ability to give both the State and the
2 defendant in this case a fair and impartial trial?

3 MR. OWEN: We're just friends. I'm just
4 friends with them.

5 THE COURT: Okay. Would that interfere
6 with your ability to give both sides a fair and
7 impartial trial if they were to be called as
8 witnesses in this case?

9 MR. OWEN: No, sir.

10 THE COURT: Thank you, sir. You may be
11 seated.

12 Anyone else? All right, Chief Wallace
13 Oswald, spelled O-S-W-A-L-D, of Batesburg-Leesville
14 Police Department; Lieutenant Stephen Clare, C-L-A-
15 R-E, with the Batesburg-Leesville Police Department;
16 Michael Steven Durrell, spelled D-U-R-R-E-L-L,
17 formerly with the Batesburg-Leesville Police
18 Department; Kelly Jumpp, spelled J-U-M-P-P, with the
19 Batesburg-Leesville Police Department; Ron Felder,
20 formerly with the Batesburg-Leesville Police
21 Department; Gerry Grenier, spelled G-E-R-R-Y --
22 second name G-R-E-N-I-E-R -- with the Saluda County
23 Sheriff's Department; Officer Blake Hill with the
24 Batesburg-Leesville Police Department; Officer Jay
25 Patel, spelled P-A-T-E-L, with the Batesburg-

1 Leesville Police Department; Officer Juli Stowe,
2 spelled S-T-O-W-E, with the Batesburg-Leesville
3 Police Department.

4 Yes, ma'am. Please give us your name and
5 number.

6 MS. LAWLER: Angela Lawler, number 117.

7 THE COURT: Yes, ma'am.

8 MS. LAWLER: Officer Stowe is my former
9 roommate, and I'm friends with her.

10 THE COURT: Officer Hill?

11 MS. LAWLER: Stowe.

12 THE COURT: I'm sorry, Stowe. Ma'am,
13 you're a former roommate. If she were to be called
14 as a witness in this case, would that relationship
15 interfere in any way with your ability to give both
16 sides a fair and impartial trial in this case?

17 MS. LAWLER: I don't believe so.

18 THE COURT: Thank you, ma'am.

19 Anyone else? Officer Roland Hill with the
20 Batesburg-Leesville Police Department; Officer
21 Cynthia Crow, spelled C-R-O-W, with the Batesburg-
22 Leesville Police Department; Detective Shawn Grant
23 with the Lexington County Sheriff's Department;
24 Chief Troy Crump with the Chapin Police Department;
25 Detective Terry Govan, spelled G-O-V-A-N, with the

1 Lexington County Sheriff's Department.

2 THE COURT: Yes, ma'am. Please give us
3 your name and number, ma'am.

4 MS. HAYES: Vickie Hayes.. I'm number 93.
5 I am familiar with Officer Terry Govan.

6 THE COURT: Okay. And how do you know
7 Officer Govan?

8 MS. HAYES: He attends a lay ministry that
9 I do.

10 THE COURT: Okay. And, ma'am, is there
11 anything about that relationship that would
12 interfere if he were to be called as a witness by
13 either side in this case? Would that interfere in
14 any way with your ability to give both sides a fair
15 and impartial trial in this case?

16 MS. HAYES: No, sir.

17 THE COURT: Thank you, ma'am. You may be
18 seated.

19 Anyone else? Detective Ed Prestiacomo --
20 I hope I'm pronouncing that correctly, I'll spell it
21 for you -- P-R-E-S-T-I-A-C-O-M-O -- with the
22 Lexington County Sheriff's Department; Agent Rick
23 Hazewinkel with the Lexington Police Department,
24 last name is spelled H-A-Z-E-W-I-N-K-E-L.

25 Oh, yes, ma'am. Please give us your name

1 and number, ma'am.

2 MS. CORLEY: Heather Corley. I'm number
3 40. I just went to school with him and graduated.

4 THE COURT: Ma'am, if he were to be called
5 as a witness by either side in this case, would that
6 interfere in any way with your ability to give both
7 sides a fair and impartial trial in this case?

8 MS. CORLEY: No, sir.

9 THE COURT: Thank you, ma'am. You may be
10 seated.

11 Anyone else? John Roberts with the South
12 Carolina Law Enforcement Division; Kenneth Whitler,
13 spelled W-H-I-T-L-E-R, with the South Carolina Law
14 Enforcement Division, also called SLED; Sandra Webb;
15 Patricia Lee, spelled L-E-E; Andrea Poole; CeCe
16 McClain, first name spelled C-E-C-E, McClain -- M-C-
17 C-L-A-I-N; Renee Reid; Lt. Ronald Williams with the
18 Lexington County Emergency Medical Service, EMS.

19 Yes, sir. Please give us your name and
20 number, sir.

21 MR. PROUSE: Nathan Prouse, 168.

22 THE COURT: Yes, sir.

23 MR. PROUSE: I know him professionally
24 through Lexington County Public Safety. I've worked
25 with him on multiple scenes.

1 THE COURT: Sir, is there anything about
2 that relationship that would interfere in any way
3 with your ability to give both the State and the
4 defendant a fair and impartial trial if he were to
5 be called as a witness in this case?

6 MR. PROUSE: I don't believe so.

7 THE COURT: I have to have a more
8 definitive answer, yes or no.

9 MR. PROUSE: No, sir.

10 THE COURT: Thank you. You may be seated.

11 Susan Johnson, who is with T-Mobile; Jay
12 Dobbins, who is with AT&T; Joi Ashley, spelled J-O-
13 I, first name -- Joi Ashley; Robert S. Johnson, Jr.,
14 the Lexington County Deputy Coroner; Janice Ross,
15 medical doctor; Michael Phipps with the Lexington
16 County Sheriff's Department, last name is spelled P-
17 H-I-P-P-S; Michael Snyder; Louise Garnett, who works
18 for Wal-Mart; Robert Brooks; Billie Gwyn, first name
19 spelled B-I-L-L-I-E, Gwyn is spelled G-W-Y-N;
20 Vantouris Hanna, first name spelled V-A-N-T-O-U-R-I-
21 S -- Hanna, H-A-N-N-A; Danikwa Trapp, first name
22 spelled D-A-N-I-K-W-A, last name spelled T-R-A-P-P;
23 Eric Seal, spelled S-E-A-L; Will Herring; Genesis
24 Pearson, first name spelled G-E-N-E-S-I-S, last name
25 P-E-A-R-S-O-N; Jearlyn Cook, first name spelled J-E-

1 A-R-L-Y-N, Cook; Bobby Watkins, W-A-T-K-I-N-S;
2 Marvin Dawson, D-A-W-S-O-N.

3 MR. O'NEILL: Your Honor, may it please
4 the Court?

5 THE COURT: Yes, sir.

6 MR. O'NEILL: Just out of an abundance of
7 caution, on the State's list, number 28, I think her
8 proper first name is Constance instead of CeCe.

9 THE COURT: Which number was that?

10 MR. O'NEILL: Number 28 on the State's
11 list.

12 THE COURT: Twenty?

13 MR. O'NEILL: I think her proper first
14 name is Constance instead of CeCe. CeCe is her
15 nickname, I believe.

16 THE COURT: Constance?

17 MR. O'NEILL: Yes, Your Honor. CeCe is a
18 nickname. I think her proper first name is
19 Constance.

20 THE COURT: All right. Ladies and
21 gentlemen of the jury panel, I asked you about CeCe
22 McClain. The first name, CeCe, is a nickname. Her
23 first name is Constance, C-O-N-S-T-A-N-C-E, McClain.
24 Again, is anyone related by blood or marriage,
25 friends with, or have any other type social,

1 business, or professional relationship with
2 Constance "CeCe" McClain? If so, please stand.

3 Is any member of the jury panel employed
4 by any city, county, state, or federal law
5 enforcement agency, either at the present time or in
6 the past? If so, please stand.

7 Yes, sir. Please give us your name and
8 number, sir.

9 MR. PROUSE: Nathan Prouse, number 168,
10 with Lexington County.

11 THE COURT: Sir, is there anything about
12 that employment that would interfere in any way with
13 your ability to give both the State and the
14 defendant a fair and impartial trial in this case?

15 MR. PROUSE: No, sir.

16 THE COURT: What is your position there,
17 sir?

18 MR. PROUSE: I'm a firefighter.

19 THE COURT: Firefighter, okay. All right,
20 thank you. You may be seated.

21 Now I'm going to go to my back. Yes, sir.

22 MR. OWEN: Billy Owen, 160.

23 THE COURT: One sixty, yes, sir. Sir, is
24 there anything about that former employment that
25 would interfere in any way with your ability to give

1 both the State and the defendant a fair and
2 impartial trial in this case?

3 MR. OWEN: No, sir.

4 THE COURT: Thank you.

5 Yes, ma'am. Please give us your name and
6 number again.

7 MS. HAYES: Vickie Hayes, number 93. I
8 worked for the Lexington County Detention Center as
9 a nurse.

10 THE COURT: Do you work there now or
11 formerly?

12 MS. HAYES: No, formerly.

13 THE COURT: Formerly. Ma'am, is there
14 anything about that employment and your experience
15 that would interfere in any way with your ability to
16 give both the State and the defendant a fair and
17 impartial trial in this case?

18 MS. HAYES: No, sir.

19 THE COURT: Thank you, ma'am.

20 Anyone else?

21 Oh, I'm sorry, yes, sir.

22 MR. MOORE: Your Honor, I'm Jay Moore,
23 145. My law firm prosecutes people in this county.

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

25 Anyone else? Is any member of the jury

1 panel related by blood or marriage or a close friend
2 to any person employed by any city, county, state,
3 or federal law enforcement agency, either at the
4 present time or in the past? If so, please stand.

5 Yes, ma'am. Okay, let me start at the
6 front and go back, ma'am. Yes, ma'am.

7 MS. SMITH: Carol Smith, 189. My brother
8 is a police officer for Chester.

9 THE COURT: Ma'am, is there anything about
10 that relationship that would interfere in any way
11 with your ability to give both sides a fair and
12 impartial trial in this case?

13 MS. SMITH: No.

14 THE COURT: Thank you.

15 Yes, sir.

16 MR. LINDLER: One twenty-four. My brother
17 is a dispatch with the Lexington County 911.

18 THE COURT: He is where, sir?

19 MR. LINDLER: Dispatch, Lexington County
20 911.

21 THE COURT: Okay. And give us your name,
22 if you will, for the record.

23 MR. LINDLER: Marc Lindler.

24 THE COURT: Sir, is there anything about
25 that relationship that would interfere in any way

1 with your ability to give both sides a fair and
2 impartial trial in this case?

3 MR. LINDLER: No, sir.

4 THE COURT: Thank you. You may be seated.

5 Yes, ma'am, I'll go back to my front --
6 yes, ma'am.

7 MS. CRIM: Forty-five. My nephew is a
8 police officer for the City of Columbia.

9 THE COURT: I'm sorry, give us your name
10 and number again?

11 MS. CRIM: Elizabeth Crim, number 45.

12 THE COURT: Ma'am, is there anything about
13 that relationship that would interfere in any way
14 with your ability to give both sides a fair and
15 impartial trial in this case?

16 MS. CRIM: No, Your Honor.

17 THE COURT: Thank you, ma'am. You may be
18 seated.

19 Yes, ma'am, right in the middle.

20 MS. ADKINS: Kathryn Adkins, number one.
21 My nephew is a police officer in Columbia.

22 THE COURT: Ma'am, is there anything about
23 that relationship that would interfere in any way
24 with your ability to give both sides a fair and
25 impartial trial in this case?

1 MS. ADKINS: No, sir.

2 THE COURT: Thank you, ma'am. You may be
3 seated.

4 I'm going to go out to the front row.

5 Yes, ma'am.

6 MS. MOONEYHAM: Kathryn Mooneyham. My
7 uncle is a retired City of Columbia police officer.

8 THE COURT: Ma'am, is there anything about
9 that relationship that would interfere in any way
10 with your ability to give both sides a fair and
11 impartial trial in this case?

12 MS. MOONEYHAM: No, sir.

13 THE COURT: Thank you, ma'am.

14 Yes, sir.

15 MR. WILLIAMS: Donny Williams, 221. I'm
16 related to Paige McGraw, a detective with the police
17 department.

18 THE COURT: Sir, is there anything about
19 that relationship that would interfere in any way
20 with your ability to give both sides a fair and
21 impartial trial in this case?

22 MR. WILLIAMS: No, sir.

23 THE COURT: Thank you, sir.

24 Yes, sir.

25 MR. NESBITT: Michael Nesbitt, 153.

1 THE COURT: Yes, sir.

2 MR. NESBITT: My former neighbor was a
3 Lexington County detective, and we are also friends
4 with a USC police officer.

5 THE COURT: Sir, is there anything about
6 those relationships that would interfere in any way
7 with your ability to give both the State and the
8 defendant a fair and impartial trial in this case?

9 MR. NESBITT: No, sir.

10 THE COURT: Thank you, sir.

11 Yes, ma'am.

12 MS. LAWLER: Angela Lawler, number 117.
13 My ex-husband is a corporal on the Lexington County.

14 THE COURT: Ma'am, did you discuss this
15 case at all with him?

16 MS. LAWLER: No, sir.

17 THE COURT: Is there anything about that
18 relationship that would interfere in any way with
19 your ability to give both the State and the
20 defendant a fair and impartial trial in this case?

21 MS. LAWLER: No, sir.

22 THE COURT: Thank you.

23 Yes, ma'am.

24 MS. McGRADY: Dawn McGrady, 134. My uncle
25 is retired from SLED.

1 THE COURT: Ma'am, is there anything about
2 that relationship that would interfere in any way
3 with your ability to give both sides a fair and
4 impartial trial in this case?

5 MS. McGRADY: No, sir.

6 THE COURT: Thank you.

7 All the way to the back to my left, yes,
8 ma'am.

9 MS. STEADMAN: One ninety-seven, Nicole
10 Steadman. [Inaudible]

11 THE COURT: I'm sorry, ma'am. I'm having
12 a hard time picking up your voice.

13 MS. STEADMAN: My sister is a corrections
14 officer at DJJ.

15 THE COURT: Ma'am, is there anything about
16 that relationship that would interfere in any way
17 with your ability to give both sides a fair and
18 impartial trial in this case?

19 MS. STEADMAN: No, sir.

20 THE COURT: Thank you, ma'am.

21 Yes, ma'am.

22 MS. CORLEY: My name is Heather Corley,
23 and my number is 40. My ex-husband is a police
24 officer with different departments, and works for an
25 international company. And then I also have a

1 cousin that works for the Lexington County Sheriff's
2 Department.

3 THE COURT: Have you discussed this case
4 at all with your cousin?

5 MS. CORLEY: No, sir.

6 THE COURT: Ma'am, is there anything about
7 those relationships that would interfere in any way
8 with your ability to give both sides a fair and
9 impartial trial in this case?

10 MS. CORLEY: No, sir.

11 THE COURT: Thank you.

12 Yes, ma'am.

13 MS. HAILE: Number 83.

14 THE COURT: Give us your name, please,
15 ma'am.

16 MS. HAILE: Judith Haile.

17 THE COURT: Yes, ma'am.

18 MS. HAILE: My husband is a former
19 Lexington County Sheriff's Deputy many years ago
20 when he started his law enforcement career. And
21 then after he left Lexington County, he worked with
22 the Department of Natural Resources, a game warden,
23 for 29 years. And he's retired now.

24 THE COURT: Ma'am, is there anything that
25 relationship that would interfere in any way with

1 your ability to give both sides a fair and impartial
2 trial in this case?

3 MS. HAILE: No, sir.

4 THE COURT: Thank you, ma'am.

5 All right, yes, ma'am.

6 MS. NORMAN: Karen Norman, number 156.

7 THE COURT: One fifty what?

8 MS. NORMAN: 156.

9 THE COURT: Yes, ma'am.

10 MS. NORMAN: My daughters dance with
11 Sheriff Metts' granddaughters. We've known them for
12 I think it's been about 10 years.

13 THE COURT: I'm sorry, I didn't hear you.

14 MS. NORMAN: My daughters dance with
15 Sheriff Metts' granddaughters.

16 THE COURT: Oh, okay.

17 MS. NORMAN: So we've known them for about
18 10 years.

19 THE COURT: All right, ma'am, is there
20 anything about that relationship that would
21 interfere in any way with your ability to give both
22 the State and the defendant a fair and impartial
23 trial in this case?

24 MS. NORMAN: No, sir.

25 THE COURT: Thank you, ma'am.

1 Yes, ma'am.

2 MS. KEANE: Katherine Keane, I'm 110.
3 Thirty-something years ago, my first marriage, he
4 was a police officer with West Columbia for about
5 five years.

6 THE COURT: Ma'am, is there anything about
7 that relationship that would interfere in any way
8 with your ability to give both sides a fair and
9 impartial trial in this case?

10 MS. KEANE: No, sir.

11 THE COURT: Thank you.

12 Yes, sir.

13 MR. WILLIAMS: William Humbert, juror
14 number 100. I have several friends that work for
15 the Solicitor's Office in Richland County.

16 THE COURT: All right, sir, is there
17 anything about those relationships that would
18 interfere in any way with your ability to give both
19 the State and the defendant a fair and impartial
20 trial in this case?

21 MR. WILLIAMS: No, sir.

22 THE COURT: Thank you.

23 Anyone else? Is any member of the jury
24 panel employed by any city, county, state, or
25 federal prosecutor's office, either at the present

1 time or in the past? If so, please stand.

2 Yes, sir.

3 MR. MOORE: I suppose it would be the same
4 thing, Your Honor.

5 THE COURT: Okay, give us your number
6 again, since we're on the record.

7 MR. MOORE: Jay Moore, 145 -- I'm sorry.

8 THE COURT: Again, sir, would that
9 interfere in any way with your ability to give both
10 sides a fair and impartial trial in this case?

11 MR. MOORE: No, sir.

12 THE COURT: Thank you.

13 Anyone else? Ladies and gentlemen of the
14 jury panel, I have two questions to ask you now, and
15 responses to these two questions may be rather
16 personal. And for that reason, it's my policy not
17 to require you to stand up in open assembly and
18 respond. What I will do instead is listen carefully
19 to these two questions.

20 If one or both of them apply to you,
21 please come forward at the appropriate time when
22 I've concluded the two questions, and we'll take
23 your responses down front. Here are the two
24 questions. Has any member of the jury panel or any
25 member of your family ever been the victim of a

1 crime of violence? Second question, has any member
2 of the jury panel or any member of your family ever
3 been charged with or convicted of a crime of
4 violence?

5 If you need to respond to either of these
6 two questions, I'll ask you to come to the center
7 aisle at this time.

8 BAILIFF: 67, Your Honor.

9 THE COURT: Let me get you to give your
10 name for the record.

11 MS. FIRESTONE: Tammy Firestone, number
12 67.

13 BAILIFF: 14, Your Honor.

14 THE COURT: Please state your name for the
15 record, ma'am.

16 MS. BERRY: Daqueeta Berry.

17 BAILIFF: 76, Your Honor.

18 THE COURT: Please gave us your name for
19 the record, ma'am.

20 MS. GARZA: Amanda Garza.

21 BAILIFF: Number 11, Your Honor.

22 THE COURT: Give us your name for the
23 record.

24 MR. BENNETT: Shaun Bennett.

25 BAILIFF: 112, Your Honor.

1 THE COURT: Please give us your name for
2 the record.

3 MS. KELLY: Laura Kelly.

4 THE COURT: I'm not going to require you
5 to serve on this jury.

6 BAILIFF: 187, Your Honor.

7 THE COURT: Give us your name, please.

8 MS. SIZEMORE-JONES: Juror 187, Marilyn
9 Sizemore-Jones.

10 BAILIFF: 198, Your Honor.

11 THE COURT: I'm sorry, what was your
12 number?

13 MS. STEELE: 198.

14 THE COURT: And your name is?

15 MS. STEELE: Suzanne Steele.

16 BAILIFF: 96, Your Honor.

17 THE COURT: Give us your name and your
18 number, please.

19 MS. HOOK: Sheila Hook.

20 BAILIFF: 170, Your Honor.

21 THE COURT: Give us your name for the
22 record, please.

23 MS. RANKIN: Bonnie Rankin.

24 BAILIFF: 25, Your Honor.

25 THE COURT: Give us your name again.

1 MR. BURKE: It's Richard Burke.

2 BAILIFF: 105, Your Honor.

3 THE COURT: Give us your name for the
4 record.

5 MS. JOHNSON: Bridget Johnson.

6 BAILIFF: 155, Your Honor.

7 THE COURT: Give us your name, please,
8 ma'am, for the record.

9 MS. NOE: Austin Noe.

10 BAILIFF: 188, Your Honor.

11 THE COURT: Give us your name for the
12 record.

13 MS. SMITH: Amanda Smith.

14 BAILIFF: 111, Your Honor.

15 THE COURT: Give us your name for the
16 record.

17 MS. KEENEY: Katherine Keeney.

18 BAILIFF: 120, Your Honor.

19 THE COURT: Give us your name for the
20 record.

21 MR. LEAPHART: Michael Leaphart.

22 THE COURT: Has any member of the jury
23 panel had any prior knowledge about this case from
24 any source before coming here to court today? If
25 so, please stand.

1 Has any member of the jury panel formed or
2 expressed an opinion as to the guilt or innocence of
3 the defendant, Rod R. Cook? If so, please stand.

4 Is any member of the jury panel conscious
5 of any interest, bias, or prejudice for or against
6 the defendant, Rod R. Cook? If so, please stand.

7 Can each member of the jury panel give
8 both the State and the defendant, Rod R. Cook, a
9 fair and impartial trial in this case? If not,
10 please stand.

11 Does any member of the jury panel know of
12 any reason whatsoever why he or she should not serve
13 as a juror in this particular case? If so, please
14 stand.

15 Any additional questions you request of
16 this jury panel from the State?

17 MS. WEISS: No, Your Honor.

18 THE COURT: From the defense?

19 MR. O'NEILL: No, Your Honor.

20 THE COURT: Madam Clerk, if you would
21 please give us the jury, and we will draw two
22 alternates in this case.

23 CLERK OF COURT: Yes, sir, Your Honor.

24 In just a moment, I'll be calling your
25 name. As I do, please be sure to bring your personal

1 belongings with you. And where the Bailiff is
2 standing right here, this is where you need to come
3 and turn and face just like he is doing and remain
4 there until I give you instructions whether to have
5 a seat in the jury box or to return to your seat in
6 the audience.

7 MS. WEISS: Your Honor, may we approach?

8 THE COURT: Yes, ma'am.

9 CLERK OF COURT: One additional question I
10 wanted to ask you, ladies and gentlemen. I want to
11 first tell you about the allegation where this
12 occurred and when it occurred and then ask you one
13 additional question.

14 These offenses allegedly occurred on or
15 about October 13, 2010, at the McDonald's restaurant
16 in Batesburg-Leesville. Now, with that information,
17 I'll ask you again whether any member of the jury
18 panel has any prior knowledge about this case from
19 any source including the media, newspapers,
20 television, radio -- had any prior knowledge about
21 this case previously before coming to court.

22 We've got two jurors standing up. I'm
23 going to get you to come down front so we can get
24 your responses down here, please.

25 If there are any others, you can come to

1 the center aisle, as well.

2 BAILIFF: 168, Your Honor.

3 THE COURT: Give us your name again for
4 the record.

5 MR. PROUSE: Nathan Prouse.

6 THE COURT: Yes, sir.

7 MR. PROUSE: Working in Public Safety, we
8 do converse with EMS quite a bit. Also, I resided
9 near the town of Batesburg when the event occurred.
10 I was very aware of what happened.

11 THE COURT: You heard about it?

12 MR. PROUSE: Yes, sir.

13 THE COURT: All right let me ask you, with
14 the information you received, would that interfere
15 in any way with your ability to give both the State
16 and the defendant a fair and impartial trial in this
17 case? In other words, could you listen to the
18 testimony and evidence presented during the course
19 of the trial and the law as instructed by the Court
20 and render a decision that would be impartial as to
21 both the State and the defendant?

22 MR. PROUSE: Yes, sir.

23 BAILIFF: 160, Your Honor.

24 THE COURT: Yes, sir. Give us your name
25 again for the record.

1 MR. OWEN: Billy Owen.

2 THE COURT: Yes, sir.

3 MR. OWEN: I live in the Batesburg-
4 Leesville area.

5 THE COURT: Okay. Do you remember what
6 was in the newspaper or anything like that?

7 MR. OWEN: I know I believe he was taking
8 the trash out to the dumpster and that he was
9 killed.

10 THE COURT: Let me ask you whether you
11 could put aside any information you might have read
12 about in the paper in relation to it and put that
13 aside and render a decision solely on the sworn
14 testimony and the evidence presented during the
15 course of this trial and instructions by the Court
16 as to the law that applies and render a decision
17 which would be fair and impartial?

18 MR. OWEN: I don't know, Your Honor. I
19 don't think so.

20 THE COURT: All right, I'll excuse you.
21 You're free to go, thank you. Go back and have a
22 seat.

23 BAILIFF: Number eight, Your Honor.

24 THE COURT: Give us your name for the
25 record.

1 MS. BAUM: Donna Baum.

2 THE COURT: What is your jury number?

3 MS. BAUM: Number eight, Your Honor. I I
4 think she was a former client.

5 THE COURT: First, let me ask you whether
6 you know her and if she were to be called as a
7 witness in this case, would that interfere in any
8 way with your ability to be fair and impartial to
9 both the State and the defendant --

10 MS. BAUM: No, sir.

11 THE COURT: Well, do you know specifically
12 what you heard?

13 MS. BAUM: Not a lot. It was just it was
14 in the newspaper about it.

15 THE COURT: But you don't remember
16 specifically what?

17 MS. BAUM: No, sir.

18 THE COURT: Let me ask you whether you
19 could put aside anything you may have read in the
20 paper or heard about this case and render a decision
21 solely on the sworn testimony and the evidence that
22 is presented during the course of the trial and the
23 Court's instruction and render a decision that would
24 be fair and impartial to both the State and the
25 defendant? Could you do that?

1 MS. BAUM: Yes, sir.

2 THE COURT: Thank you. You may return to
3 your seat.

4 BAILIFF: 209, Your Honor.

5 THE COURT: Give us your name for the
6 record.

7 MR. TROUTMAN: Thomas Troutman.

8 THE COURT: Yes, sir.

9 MR. TROUTMAN: I know nothing about the
10 case. My only concern is that I live in the city of
11 Batesburg-Leesville. That's my only issue.

12 THE COURT: Okay, let me ask you whether -
13 - you don't recall reading anything about this?

14 MR. TROUTMAN: No, sir.

15 THE COURT: Let me you whether the fact
16 that you live in Batesburg-Leesville, would that
17 interfere in any way with your ability to give both
18 the State and the defendant a fair and impartial
19 trial? That is to say, could you listen to the
20 sworn testimony and evidence during the course of
21 the trial and the Court's instructions on the law
22 and render a decision which would be fair and
23 impartial to the State and the defendant in this
24 case?

25 MR. TROUTMAN: Yes, sir.

1 THE COURT: All right, thank you.

2 BAILIFF: 183, Your Honor.

3 THE COURT: Give us your name for the
4 record, please.

5 MS. SHAW: My name is Barbara K. Shaw.

6 THE COURT: Yes, ma'am.

7 MS. SHAW: I live in Batesburg-Leesville
8 area. My husband had just passed away, and I was
9 home and I just heard all the information on the
10 television. That's my only issue.

11 THE COURT: All right, let me ask you if
12 you recall hearing anything about it in
13 conversations?

14 MS. SHAW: I do recall just a little of
15 the people's conversations.

16 THE COURT: Let me ask you this. Could
17 you put aside anything you may have heard,
18 allegations or anything that was said to you about
19 this case -- put that aside and render a decision
20 solely on the sworn testimony and the evidence
21 presented during the course of this trial --

22 MS. SHAW: Yes, sir.

23 THE COURT: -- and the Court's
24 instructions on the law that applies to the issues
25 in this case and render a decision which would be

1 fair and impartial to both the State and the
2 defendant? Could you do that?

3 MS. SHAW: Yes, sir.

4 THE COURT: All right, thank you.

5 All right, let me ask you again. Any
6 additional questions requested of the jury panel
7 from the State?

8 MS. WEISS: No, Your Honor.

9 THE COURT: From the defense?

10 MR. O'NEILL: No, Your Honor.

11 THE COURT: I think we're ready, Madam
12 Clerk, to select the jury.

13 CLERK OF COURT: Five and ten, Your Honor?

14 THE COURT: Pardon me?

15 CLERK OF COURT: Five and ten?

16 THE COURT: Yes, ma'am, ten and five.

17 CLERK OF COURT: As I call your name,
18 please come forward. Number 104, Patricia Jeffers.

19 What say you for the State?

20 MS. WEISS: Please present Ms. Jeffers.

21 CLERK OF COURT: What say you for the
22 defense?

23 MR. O'NEILL: Please seat this juror.

24 CLERK OF COURT: Have a seat in the jury
25 box, ma'am.

1 96, Sheila Hook. What say you for the
2 State?

3 MS. WEISS: Please excuse Ms. Hook.

4 CLERK OF COURT: Return to your seat,
5 please, ma'am.

6 130, Teresa McWhorter. What say you for
7 the State?

8 MS. WEISS: Please present Ms. McWhorter.

9 CLERK OF COURT: What say you for the
10 defense?

11 MR. O'NEILL: Please excuse the juror.

12 CLERK OF COURT: Return to your seat,
13 please, ma'am.

14 153, Michael Nesbitt. What say you for
15 the State?

16 MS. WEISS: Please present Mr. Nesbitt.

17 CLERK OF COURT: What say you for the
18 defense?

19 MR. O'NEILL: Please excuse the juror.

20 CLERK OF COURT: Return to your seat,
21 please, sir.

22 Number seven, Ashleigh Battles. What say
23 you for the State?

24 MS. WEISS: Please present Ms. Battles.

25 CLERK OF COURT: What say you for the

1 defense?

2 MR. O'NEILL: Please seat Ms. Battles.

3 CLERK OF COURT: Have a seat in the jury
4 box, ma'am.

5 81, Cheryl Griggs. What say you for the
6 State?

7 MS. WEISS: Please excuse Ms. Griggs.

8 CLERK OF COURT: Return to your seat,
9 please, ma'am.

10 105, Bridget Johnson. What say you for
11 the State?

12 MS. WEISS: Please present Ms. Johnson.

13 CLERK OF COURT: What say you for the
14 defense?

15 MR. O'NEILL: Please seat Ms. Johnson.

16 CLERK OF COURT: Have a seat in the jury
17 box, ma'am.

18 195, Amy Starita. What say you for the
19 State?

20 MS. WEISS: Please present Ms. Starita.

21 CLERK OF COURT: What say you for the
22 defense?

23 MR. O'NEILL: Please excuse the juror.

24 CLERK OF COURT: Return to your seat,
25 please, ma'am.

1 98, Zachary Huffines. What say you for
2 the State?

3 MS. WEISS: Please present Mr. Huffines.

4 CLERK OF COURT: What say you for the
5 defense?

6 MR. O'NEILL: Please seat this juror.

7 CLERK OF COURT: Have a seat in the jury
8 box, sir.

9 Number 40, Heather Corley. What say you
10 for the State?

11 MS. WEISS: Please present Ms. Corley.

12 CLERK OF COURT: What say you for the
13 defense?

14 MR. O'NEILL: Please excuse Ms. Corley.

15 CLERK OF COURT: Return to your seat,
16 please, ma'am.

17 62, Annette Eads.

18 MR. O'NEILL: I'm sorry, ma'am, what
19 number is that?

20 CLERK OF COURT: That's number 62.

21 What say you for the State?

22 MS. WEISS: Please present Ms. Eads.

23 CLERK OF COURT: What say you for the
24 defense?

25 MR. O'NEILL: Please seat Ms. Eads.

1 CLERK OF COURT: Have a seat in the jury
2 box, ma'am.

3 150, Jill Murry. What say you for the
4 State?

5 MS. WEISS: Please present Ms. Murry.

6 CLERK OF COURT: What say you for the
7 defense?

8 MR. O'NEILL: Please excuse the juror.

9 CLERK OF COURT: Return to your seat,
10 please, ma'am.

11 Number one, Kathryn Adkins. What say you
12 for the State?

13 MS. WEISS: Please present Ms. Adkins.

14 CLERK OF COURT: What say you for the
15 defense?

16 MR. O'NEILL: Please excuse Ms. Adkins.

17 CLERK OF COURT: Return to your seat,
18 please, ma'am.

19 124, Marc Lindler. What say you for the
20 State?

21 MS. WEISS: Please present Mr. Lindler.

22 CLERK OF COURT: What say you for the
23 defense?

24 MR. O'NEILL: Please seat Mr. Lindler.

25 CLERK OF COURT: Have a seat in the jury

1 box, sir.

2 126, Louis Livingston. What say you for
3 the State?

4 MS. WEISS: Please present Mr. Livingston.

5 CLERK OF COURT: What say you for the
6 defense?

7 MR. O'NEILL: Please seat Mr. Livingston.

8 CLERK OF COURT: Have a seat in the jury
9 box, sir.

10 82, Zachary Guidotti. What say you for
11 the State?

12 MS. WEISS: Please present Mr. Guidotti.

13 CLERK OF COURT: What say you for the
14 defense?

15 MR. O'NEILL: Please seat this juror.

16 CLERK OF COURT: Have a seat in the jury
17 box, sir.

18 168, Nathan Prouse. What say you for the
19 State?

20 MS. WEISS: Please present Mr. Prouse.

21 CLERK OF COURT: What say you for the
22 defense?

23 MR. O'NEILL: Please excuse this juror.

24 CLERK OF COURT: Return to your seat,
25 please, sir.

1 140, Ida Miller. What say you for the
2 State?

3 MS. WEISS: Please present Ms. Miller.

4 CLERK OF COURT: What say you for the
5 defense?

6 MR. O'NEILL: Please excuse the juror.

7 CLERK OF COURT: Return to your seat,
8 please, ma'am.

9 53, Amelia Douglass. What say you for the
10 State?

11 MS. WEISS: Please present Ms. Douglass.

12 CLERK OF COURT: What say you for the
13 defense?

14 MR. O'NEILL: Please seat the juror.

15 CLERK OF COURT: Have a seat in the jury
16 box, ma'am.

17 Number 70, Eddie Forrest. What say you
18 for the State?

19 MS. WEISS: Please excuse Mr. Forrest.

20 CLERK OF COURT: Return to your seat,
21 please, sir.

22 156, Karen Norman. What say you for the
23 State?

24 MS. WEISS: Please present Ms. Norman.

25 CLERK OF COURT: What say you for the

1 defense?

2 MR. O'NEILL: Please excuse Ms. Norman.

3 CLERK OF COURT: Return to your seat,
4 please, ma'am.

5 Number 19, Rae Bradwell. What say you for
6 the State?

7 MS. WEISS: Please present Ms. Bradwell.

8 CLERK OF COURT: What say you for the
9 defense?

10 MR. O'NEILL: Please seat this juror.

11 CLERK OF COURT: Have a seat in the jury
12 box, ma'am.

13 184, Stephanie Shuler. What say you for
14 the State?

15 MS. WEISS: Please present Ms. Shuler.

16 CLERK OF COURT: What say you for the
17 defense?

18 MR. O'NEILL: Please excuse the juror.

19 CLERK OF COURT: Return to your seat,
20 please, ma'am.

21 188, Amanda Smith. What say you for the
22 State?

23 MS. WEISS: Please present the juror.

24 CLERK OF COURT: What say you for the
25 defense?

1 MR. O'NEILL: Please seat Ms. Smith.

2 CLERK OF COURT: Have a seat in the jury
3 box, ma'am.

4 Number 200, Dale St. Germain. What say
5 you for the State?

6 MS. WEISS: Please excuse Mr. St. Germain.

7 CLERK OF COURT: Return to your seat,
8 please, sir.

9 158, Susan Norris. What say you for the
10 State?

11 MS. WEISS: Please present Ms. Norris.

12 CLERK OF COURT: What say you for the
13 defense?

14 MR. O'NEILL: Please seat this juror.

15 CLERK OF COURT: Have a seat in the jury
16 box, ma'am.

17 The jury, Your Honor. Proceed with
18 alternates?

19 THE COURT: Please.

20 CLERK OF COURT: Number 35, Michael
21 Cochcroft. What say you for the State?

22 MS. WEISS: Please excuse Mr. Cochcroft.

23 CLERK OF COURT: Return to your seat,
24 please, sir.

25 56, Jennifer Drozd. What say you for the

1 State?

2 MS. WEISS: Please present Ms. Drozd.

3 CLERK OF COURT: What say you for the
4 defense?

5 MR. O'NEILL: Please seat the juror.

6 CLERK OF COURT: Have a seat in the jury
7 box.

8 That's alternate number one, Your Honor.

9 Number 67, Tammy Firestone. What say you
10 for the State?

11 MS. WEISS: Please present Ms. Firestone.

12 CLERK OF COURT: What say you for the
13 defense?

14 MR. O'NEILL: Please excuse Ms. Firestone.

15 CLERK OF COURT: Return to your seat,
16 please, ma'am.

17 26, Dennis Carey. What say you for the
18 State?

19 MS. WEISS: Please present Mr. Carey.

20 CLERK OF COURT: What say you for the
21 State?

22 MR. O'NEILL: Please excuse Mr. Carey.

23 CLERK OF COURT: Return to your seat,
24 please, sir.

25 110, Katherine Keane. What say you for

1 the State?

2 MS. WEISS: Please present Ms. Keane.

3 CLERK OF COURT: What say you for the
4 defense?

5 MR. O'NEILL: Please seat the juror.

6 CLERK OF COURT: Have a seat in the jury
7 box, ma'am.

8 That's alternate number two, Your Honor.

9 THE COURT: Any questions concerning the
10 selection process from the State?

11 MS. WEISS: Nothing from the State, Your
12 Honor.

13 THE COURT: Would there be anything from
14 the defense?

15 MR. O'NEILL: No, Your Honor.

16 THE COURT: Ladies and gentlemen of the
17 jury panel who were not picked for this particular
18 case, we are going to excuse you at this time. This
19 will complete your service for the week. You are
20 finished for this week of court.

21 If you need to take anything to your
22 employer showing that you were required to be here
23 today, if you need anything, please go by the
24 Clerk's Office and they will issue you something
25 there to take with you showing you were required to

1 be here.

2 Again, thank you for your patience. Thank
3 you for being here. You're free to go, and this
4 would conclude your service for the week. Thank
5 you.

6 (Petit jurors not chosen
7 for this case were excused at 11:50 a.m.)

8 THE COURT: Counsel, approach just a
9 minute.

10 All right, ladies and gentlemen of the
11 jury panel, we're not actually going to get started
12 with this case at this time. We have some pre-trial
13 matters that we need to get into, and get some
14 lunch. And so what we're going to do now is to
15 excuse you.

16 We'll give you a little longer than usual
17 lunch hour. I'm going to ask you to be back to
18 court at 2:30. It's a little before 12 now, right
19 at 12, so that will give everybody plenty of time to
20 get lunch and get back.

21 I need to give you this instruction before
22 you leave, please. On the recess from court -- and
23 I'll give you a little longer instruction when you
24 come back from lunch before we get started. But
25 suffice it to say that you should not discuss this

1 case among yourselves during this break.

2 You really don't know anything about it
3 yet. But please do not discuss it among yourselves.
4 Please do not discuss the case with anybody you
5 might see during the lunch break, including family,
6 friends, or anyone else. And you might say, "Well,
7 what's wrong with our talking to each other or
8 somebody else about this case?"

9 The problem with doing that is once you
10 start discussing the case, you start forming
11 opinions. And you wouldn't be fair to both sides of
12 this case if you didn't wait till you've heard all
13 the testimony and evidence and I have instructed
14 about the law that applies to the issues in this
15 case before you start forming opinions.

16 Until then, you should keep an open mind,
17 wait till you have all the information you need,
18 before you start forming opinions. Also, I don't
19 want anybody else to try to discuss the case with
20 you during the break that may know something about
21 it.

22 If you should see the attorneys or
23 witnesses, somebody standing around talking about
24 the case, outside of the courtroom, you should not
25 listen to them, to those discussions -- it's

1 important that you not do that -- and go the other
2 way.

3 If anyone should deliberately try to
4 discuss the case with you, please do not discuss it
5 with them but make note of that person. Let the
6 Bailiff or the Clerk's Office know upon your return,
7 give them the best description you can. They'll let
8 me know, and I'll deal appropriately with that
9 person.

10 No one should try to discuss the case with
11 you. If they do, I certainly wish to be made aware
12 of it. Please enjoy your lunch and be back ready to
13 go at 2:30.

14 (Jury panel dismissed for
15 lunch from 11:55 a.m. to 2:30 p.m.)

16 THE COURT: Counsel, do you want to go
17 ahead and get started with pre-trial, or do you want
18 to take a short break first?

19 MS. WEISS: Can we take a break, Your
20 Honor?

21 THE COURT: Yes, you may.

22 All right, let's take about 10 minutes or
23 so, and then we'll come back and try to do the pre-
24 trial before we break for lunch. Thank you.

25 (Court in recess.)

1 THE COURT: Counsel, we're ready to
2 proceed with any pre-trial at this time. Any on
3 behalf of the State?

4 MS. WEISS: No, Your Honor. No pre-trial
5 on behalf of the State, other than there is going to
6 be one stipulation we talked about with the defense.
7 That stipulation is that the victim, Willie
8 Jennings, died as a result of the gunshot wound
9 suffered on this night.

10 THE COURT: I'm sorry -- and the victim's
11 name was?

12 MS. WEISS: Willie Jennings.

13 THE COURT: Okay.

14 MS. WEISS: Your Honor, as there are is no
15 question with identification because of the
16 relationships between the witnesses and the
17 defendant, and the defendant gave no statement while
18 in custody, there's no need for any other hearing --
19 any other pre-trial hearing on behalf of the State,
20 Your Honor.

21 THE COURT: All right. No Jackson v.
22 Denno, etc.

23 MS. WEISS: No, sir, Your Honor.

24 THE COURT: And anybody who is ID'ing the
25 defendant you say knows him personally -- or is that

1 what you're saying?

2 MS. WEISS: Yes, sir, Your Honor.

3 THE COURT: Okay.

4 Counsel?

5 MR. O'NEILL: Your Honor, there's no
6 question of ID. Mr. Cook did give a statement,
7 though. This incident allegedly occurred on October
8 13th. Mr. Cook wasn't arrested until November 17th
9 of that same year. So in that little over four-week
10 period, he was questioned by law enforcement and
11 gave he statement.

12 But he wasn't formally charged at that
13 time. Out of an abundance of caution, we may need
14 to just put on the record kind of the circumstances
15 as to which that statement was made.

16 MS. WEISS: Your Honor, at this point we
17 have no intention of introducing that statement.

18 THE COURT: Does that satisfy you?

19 MR. O'NEILL: Yes, Your Honor.

20 THE COURT: Okay.

21 MS. WEISS: If we change our mind,
22 certainly we can decide then.

23 THE COURT: If you change your mind, we
24 may have to have a Jackson v. Denno before it's
25 introduced, all right?

1 MS. WEISS: Yes, Your Honor.

2 THE COURT: All right, anything else from
3 the State?

4 MS. WEISS: No, Your Honor.

5 THE COURT: All right.

6 MR. O'NEILL: I do have some papers that I
7 will pass up to the Court, sir.

8 THE COURT: All right.

9 MR. O'NEILL: I already gave the State a
10 copy.

11 THE COURT: All right. Mercy, I thought
12 you all didn't have any pre-trial motions much.
13 This is a whole stack of them here.

14 MR. O'NEILL: Your Honor, I think we've
15 resolved some of them, Your Honor.

16 THE COURT: Okay.

17 MR. O'NEILL: I think we resolved the
18 biggest one. Your Honor, just first I would like to
19 renew my Rule 5 motion to make sure there's no
20 discovery out there that we still not have been
21 afforded.

22 MS. WEISS: And, Your Honor, for the
23 record, Mr. O'Neill is well aware we received some
24 information yesterday, which I provided to Mr.
25 O'Neill contemporaneously with my receiving it.

1 Some of that is cell tower site info from the cell
2 phones.

3 We are now trying to get that map. That
4 should be, as Mr. O'Neill knows, exculpatory and
5 culpatory. We're working on that. He has the cell
6 sites. He's had the phone records, just as we have,
7 for a long time.

8 We just didn't realize there was a
9 separate file somewhere with the site information.
10 So we are trying to get that now, and we will
11 provide that as soon as we get it, if we get it.

12 But he has the cell site information, and
13 so we're just working on that. That was something
14 that came up as recently as yesterday. But there's
15 nothing new -- that's pretty new, but there's
16 nothing beyond that we have at this time.

17 THE COURT: Mr. O'Neill?

18 MR. O'NEILL: Yes, sir. And certainly I
19 have a motion for discovery on Riddle here.
20 Specifically, Riddle -- if Your Honor is familiar
21 with Riddle, specifically what I'm requesting is
22 that there are several co-defendants in this case
23 here, Ms. Tasha Matthews, Mr. Angelo Tucker, and Mr.
24 Meon Miller.

25 And there are several other witnesses I

1 think Mr. Miller has provided, former cellmates of
2 his maybe, Your Honor. I would at this point give
3 you sort of notes or give you as to those lay
4 witnesses here any sort of formal statements those
5 lay witnesses have made here, anything that's
6 additional to what I have not been provided on any
7 sort of verbal statements anyone of these lay
8 witnesses have made that may be useful for the
9 defense in relation to impeachment or anything of
10 that nature, Your Honor.

11 So anything that I'm entitled to on
12 Riddle, any type of change in statements from lay
13 witnesses here, any sort of scene re-creations done
14 by the State that would place any lay witnesses
15 here, I think I'm entitled to that under Riddle as
16 well. So I would just like to renew my discovery on
17 Riddle.

18 MS. WEISS: Your Honor, we turned over
19 everything as it has come into our possession. As
20 recently as last night, I provided a couple more
21 notes that had been turned over from attorneys
22 representing other co-defendants.

23 So we think it's Brady -- providing that
24 through e-mails, phone calls. We provided
25 everything that we've gotten along the way. There's

1 nothing in my knowledge at this point that we have
2 done or anyone we have talked to that we have not
3 provided to Mr. O'Neill.

4 THE COURT: All right, I think he's
5 specifically talking about any notes that might have
6 been made by an investigator or somebody talking to
7 witnesses. Has that been turned over --

8 MS. WEISS: Yes, Your Honor.

9 THE COURT: -- to your knowledge?

10 MS. WEISS: You did receive the Eric
11 Seales notes from the investigator?

12 Yes, then that's everything, Your Honor.

13 THE COURT: All right.

14 MS. WEISS: We had our investigator write
15 up anything he had done, and we turned that over to
16 Mr. O'Neill.

17 MR. O'NEILL: I just wanted to make sure,
18 especially with the co-defendants. Have they spoken
19 to any co-defendants, Tasha Matthews, Meon Miller,
20 Angelo Tucker, since the last statement I had from
21 those individuals that either written or verbally
22 contradicts anything they said previously?

23 MS. WEISS: There's nothing -- I am not
24 aware of anything that's contradictory to anything
25 they said before.

1 MR. O'NEILL: Anything contradictory or
2 additional to what they had mentioned?

3 MS. WEISS: Nothing, not that we've talked
4 to you about. I think we've provided everything.

5 MR. O'NEILL: I just want to make sure
6 it's clear for the record.

7 THE COURT: All right.

8 MR. O'NEILL: And I have a separate
9 motion, but it's also kind of encompassing Riddle,
10 as well. It's a motion to reveal any sort of deals
11 or made by co-defendants Meon Miller, Angelo Tucker,
12 and Tasha Matthews. All three are charged with the
13 same exact charge. Mr. Cook is the only one on
14 trial today. I anticipate all three of those
15 individuals to be witnesses against Mr. Cook here,
16 and all three of those individuals did have a murder
17 charge, attempted armed robbery, conspiracy charge
18 that's still pending here in Lexington County. I
19 want to make sure that there's been no grants of
20 immunity, no prospective deals, or plea bargains
21 made to either one of those individuals.

22 MS. WEISS: There has not. Each one is
23 facing to the charges that they are charged with,
24 the same charges that Mr. Cook is charged with.
25 There have been no deals, no offers, no hinted

1 offers. We have explicitly said each one has given
2 information as to their part in this, and there have
3 been no offers or deals made. The only offer made
4 was to this defendant.

5 MR. O'NEILL: I just wanted to make sure
6 there also have been no e-mails concerning potential
7 future offers, as well. I just want to make sure
8 the record is clear for that.

9 THE COURT: Say again?

10 MR. O'NEILL: There have no e-mails
11 transmitted to any one of these three co-defendants'
12 attorneys here that hint at future offers for their
13 defendants in conjunction with them testifying
14 against Mr. Cook.

15 MS. WEISS: As the defense, of course,
16 knows, I guess they should have asked for offers,
17 and we would have said, "No, your client is charged
18 with murder. Your client has indicated him or
19 herself in this case. There are no offers." The
20 only offer has been made to Mr. Cook.

21 MR. O'NEILL: Thank you, Your Honor. Your
22 Honor, I do have a motion to dismiss all three
23 indictments against Mr. Cook here. That motion is
24 lodged jointly in South Carolina Criminal Rules 310.
25 The Federal Constitution and the State Constitution

1 guarantee the right to a speedy trial here.

2 Just factually, Your Honor, Mr. Cook was
3 arrested on these charges here on November 15, 2010.
4 And Ms. Weiss kind of explained to you a little
5 about why we had different years on the indictments
6 here. But Mr. Cook was originally indicted on June
7 6, 2011, by the Lexington County Grand Jury, Your
8 Honor.

9 I think at that point it was 194 days
10 after his arrest. I think Rule 3 of the criminal
11 rules, Your Honor, does require, in my opinion,
12 action on that warrant within 90 days of it being
13 filed with a charge. Those warrants were filed with
14 the Lexington County Clerk's Office on November 24,
15 2010.

16 There was no action made on those warrants
17 until 194 days later. It would be obvious, Your
18 Honor, that just based solely on South Carolina
19 Criminal Rules rule number three that Mr. Cook is
20 entitled to a dismissal of this warrant because
21 there was no action on those charges that were
22 pending the proscribed 90-day period.

23 We are aware of the current case law.
24 There's only one case that's kind of on point in
25 South Carolina with relation to that Criminal Rule

1 3, Your Honor. But I think that case was not
2 decided before -- recently, the Leitner (PH) case
3 came out about the Solicitor controls the docket
4 here.

5 That's been kind a speedy trial motion in
6 conjunction with the Rule 3 motion, as well. I
7 think the delay since November 15, 2010, up until
8 today, Your Honor, is a constitutional violation of
9 Mr. Cook's federal and state Sixth Amendment rights
10 to a speedy trial.

11 I think he is entitled to a speedy trial
12 here. He has not received a speedy trial here. We
13 did move for a bond in Mr. Cook's case on September
14 15, 2011, Your Honor. I think that in and of itself
15 Mr. Cook's intention to have this case resolved in a
16 speedy fashion. It kind of essentially to Mr.
17 Cook's Sixth Amendment right at that point, Your
18 Honor.

19 THE COURT: Did he get a bond?

20 MR. O'NEILL: He got the bond denied.

21 THE COURT: He never got a bond?

22 MR. O'NEILL: No, Your Honor.

23 THE COURT: Still in jail?

24 MR. O'NEILL: He waived one initially on
25 the murder charge here. And then on September 15th,

1 the Honorable Judge Keesley denied Mr. Cook's bond
2 for the murder charge.

3 THE COURT: So he's been in jail the whole
4 time since he's been arrested?

5 MR. O'NEILL: Yes, sir. He's been in jail
6 since November 15, 2010. I think that's over a two-
7 year delay, Your Honor. I think at that point it
8 becomes inherent on the State to justify the reason
9 for that two, two and a half year -- close to two
10 and a half year delay in relationship to Mr. Cook
11 being charged.

12 I laid out in my motion that the Court can
13 consider when it come to the delay in the speedy
14 trial motion. I think, Your Honor, the State cannot
15 justify the two and a half year -- close to two and
16 a half year delay when awaiting his trial. So
17 therefore I would ask for dismissal on Mr. Cook's
18 warrants based on South Carolina Criminal Rule 3 and
19 the Sixth Amendment of the U.S. Constitution and the
20 State Constitution relating to a speedy trial.

21 THE COURT: Okay.

22 MR. O'NEILL: My argument is spelled out
23 actually in my written motion that I've provided for
24 the Court.

25 THE COURT: Counsel?

1 MS. WEISS: Thank you, Your Honor, may it
2 please. First of all, a Rule 3 motion, that has
3 been settled in State v. Culbreath. The Supreme
4 Court stated or said in that case that it's merely a
5 procedural recommendation for the State to require
6 Solicitors to act on a warrant within 90 days of its
7 issue agreed and affirmed the trial court's holding
8 that the rule was administrative and not
9 jurisdictional.

10 So it does not within itself validate a
11 warrant and will prevent subsequent prosecution.
12 The case was indicted, and as to Rule 3, it's
13 clearly been settled by State v. Culbreath, which
14 was directly on point that issue.

15 Secondly, is the speedy trial portion of
16 his motion. Your Honor, the defense never made a
17 speedy trial motion in this case, which I think is
18 first and foremost the most important aspect.
19 Secondly, I just want to give you a brief background
20 into what happened with this case.

21 The offense did occur on October 13, 2010,
22 and the arrest was November 15, 2010. And the first
23 set of indictments was done on June 6, 2011. This
24 case was originally sent to the Attorney General's
25 Office on February 7, 2011, and accepted on February

1 10, 2011, as a conflict from the Lexington County
2 Solicitor's Office.

3 THE COURT: What was that conflict?

4 MS. WEISS: The conflict had to do with an
5 Assistant Solicitor who's no longer employed here
6 had had a run-in with an officer who is with the
7 Batesburg-Leesville Police Department.

8 And they felt that there were two sides to
9 that story, but they felt that the Assistant
10 Solicitor felt that he had been -- that the officer
11 had been untruthful and was not comfortable
12 prosecuting the case having to do with that officer.
13 There were actually two officers involved.

14 THE COURT: Is that this case or a
15 different case?

16 MS. WEISS: Totally different case.

17 THE COURT: All right.

18 MS. WEISS: Totally unrelated. It's an
19 officer/former Assistant Solicitor issue.

20 THE COURT: Okay.

21 MS. WEISS: Former officer and former
22 Assistant Solicitor issue.

23 THE COURT: So the Attorney General's
24 Office accepted it on the conflict basis?

25 MS. WEISS: Yes, Your Honor, on February

1 10, 2011. At that time, it was assigned to David
2 Stumbo, who is the Assistant Deputy Attorney
3 General. He resigned to run for office in December
4 of 2011, which he was subsequently elected
5 Solicitor.

6 And at that point, it was assigned to me
7 in early 2012. Of course, that was after it had
8 already been indicted. I was not aware that it had
9 already been indicted due to some glitches. So
10 that's why you have two different dates. It was
11 subsequently indicted as well another time.

12 However, once I got the case in early
13 2012, I began speaking to Mr. O'Neill about this
14 case. We spoke off and on about the case, the
15 possibility of resolution, from the time I got the
16 case in early 2012 through the fall of 2012, at
17 which time negotiations fell apart, and it became
18 obvious that this was going to be a trial.

19 Late in 2012, we started putting our
20 schedules together to come up with a date that was
21 mutually agreeable with the Twelfth Circuit
22 Solicitor's Office where they could put us in the
23 Court's schedule. This was originally set for
24 trial, which was approximately six weeks ago, where
25 the defense requested a continuance.

75

1 And at that time, Judge Keesley set it for
2 a date certain for today. And so, Your Honor, based
3 on that procedural history, I believe there's been
4 no unfair prejudice, there's been no speedy trial
5 motion.

6 This case has come to trial fairly quickly
7 concerning the changes of prosecutors in the case,
8 although it was stalled for a brief while we were
9 trying to negotiate the case. But there were no
10 lengthy delays, no undue delays as they apply to
11 this case, Your Honor.

12 THE COURT: All right. No speedy trial
13 motion was filed or heard by the Court previous to
14 today, is that correct?

15 MR. O'NEILL: I think that the bond motion
16 -- in my recollection of the case law, a bond motion
17 was it, not a speedy trial motion.

18 THE COURT: I don't agree with that at
19 all. I think -- if you're going to argue a speedy
20 trial motion and have it dismissed for failure to
21 grant a speedy trial motion, I think you've got to
22 file one. Then the State's going to have to show
23 why they can't go forward with it, try to get a
24 continuance on it.

25 But if you've never filed a speedy trial

1 motion, just said "We want a bond," and you don't
2 get a bond. Typically when I deny a bond, I will
3 say, "Well, give this some priority. We need to
4 move forward with it," and then set it for trial
5 within 90 days or so and give it priority with other
6 cases that are out there if the person is going to
7 be held without bond.

8 But sometimes there are problems with
9 getting the case ready and it's not ready to go.
10 But at least they're entitled to come back into
11 court and be heard again. And I usually give them
12 an opportunity to come back in within 90 days and be
13 heard again if the case is not set for trial or not
14 been able to make bond.

15 If there's no bond, obviously they can't
16 make it, then to come back in again and seek bond.
17 That's the way I work my court. But if you don't
18 file a speedy trial motion, you haven't requested a
19 speedy trial motion.

20 And then if you had requested, then a
21 reason would have to be given why you haven't done
22 it. It's not jurisdictional, it's not dismissive.
23 You haven't shown any prejudice by that. Matter of
24 fact, you most recently requested a continuance six
25 weeks ago, and that was on behalf of the defendant.

1 And the Court granted that motion and set
2 this case for day certain trial this week. It had
3 to go this week and giving it priority over
4 everything else. But the last continuance was on a
5 motion by the defendant.

6 And so if the defendant was ready to go to
7 trial six weeks ago, it could have been at least
8 heard then. It was based on a continuance by the
9 defense. I'll look at this over lunch. I'll look
10 at your case you cited. But my inclination is if
11 you haven't filed and had ruled on a motion for a
12 speedy trial, then you really haven't given the
13 Court an opportunity, then, to move the case up.

14 It looks like to me the Court has tried to
15 do that, because it was up for trial six weeks ago.
16 It was only continued at the request of the
17 defendant, not the State. There was a conflict
18 situation in which the State where the Solicitor's
19 Office basically recused themselves or asked that
20 another prosecuting agency prosecute.

21 And that would go to the Attorney General
22 or some other Solicitor if they can get someone else
23 to prosecute it from another circuit. But in any
24 event, there is some conflict there. And then
25 they're the Assistant Attorney General who was

1 originally assigned it resigned and ran for office.

2 And therefore, this Assistant Attorney
3 General got the case. She went back through back
4 and started working on it and went through and
5 reindicted it without I guess realizing that they
6 had gotten an indictment in the case and started
7 working on it.

8 And she says you all have been
9 communicating during 2012 about the case, even some
10 negotiations and that sort of thing. So it's been
11 ongoing, it appears to me. But if no motion for a
12 speedy trial was filed and denied by the Court or
13 heard by the Court, and there are reasons the State
14 has given why the case hadn't been ready for trial,
15 part of which is a continuance request by the
16 defense, the Court would not be inclined to grant a
17 dismissal motion.

18 As I say, it's not jurisdictional, and
19 I've seen no prejudice to the defendant as a result,
20 other than sitting in jail, of course. I've seen no
21 prejudice to him shown as to how he'd be prejudiced
22 in the outcome of a trial. I'll look at it, and
23 I'll make a ruling before we get started back this
24 afternoon. My inclination is that I'm going to deny
25 your motion.

1 MR. O'NEILL: Your Honor, I'm almost
2 certain -- if I have that case, I will provide it to
3 the Court.

4 THE COURT: You'd better show that me,
5 because I've never seen it. I think if you want a
6 motion for a speedy trial, I think you've got to
7 make a motion for a speedy trial.

8 Just because you make a motion for bond
9 that isn't granted or you get a bond that's too high
10 for the defendant to make, it's not a speedy trial
11 motion. You can argue that -- and there may be a
12 case that says this -- the person was denied a bond,
13 was not able to make a bond, that they obviously
14 want a speedy trial rather than sitting in jail.

15 There may be a case that says that. I'm
16 not sure. But I'm saying you need to make your
17 motion for a speedy trial or a motion again to
18 reconsider the bond issue if he's been in jail a
19 certain amount of time.

20 I don't know if that was done or not. You
21 could again ask the Court either for a speedy trial,
22 a motion reducing or granting him a bond. If you
23 didn't do that, if it hasn't been done -- I won't
24 say "you" necessarily.

25 I don't know if you've represented him the

1 whole time. But if it hasn't been done, the Court
2 wasn't given an opportunity, then, to force it to
3 trial. If you've got a case that says that, please
4 hand it up.

5 MR. O'NEILL: Thank you, Judge.

6 THE COURT: All right, what else?

7 MR. O'NEILL: I guess the last one, Your
8 Honor, we have is we have a motion to suppress any
9 sort of jail phone calls either made by Mr. Cook
10 while he was incarcerated in the Lexington County
11 Jail or in addition to that phone calls that Mr.
12 Cook received prior to being incarcerated in the
13 Lexington County Jail from two of the co-defendants
14 in this case, Mr. Meon Miller and Ms. Tasha
15 Matthews.

16 I think they were seized by the Lexington
17 County Sheriff's Department in violation of Mr.
18 Cook's Fourth Amendment rights under both the U.S.
19 and the State Constitution. I think it might be
20 beneficial if the State would actually play the
21 beginning snippets of the calls that they intend to
22 introduce here, some of the calls and their
23 contents.

24 MS. WEISS: And, Your Honor, before we
25 address this, Mr. O'Neill is using the parts of 17-

1 30, which is the Homeland Security Act, the wiretap
2 act, in order to base his motion that these were
3 improperly intercepted phone calls.

4 Your Honor, pursuant to 17-30-110, section
5 (a)(1), is the pre-trial motion to suppress grounds
6 appealed by the State -- exclusive remedy, it states
7 that "Prior to any trial, hearing, or proceeding
8 before any court, department, officer, agency,
9 regulatory body, or other authority, any aggrieved
10 person may move to suppress the contents of any
11 intercepted wire, oral, electronic communication or
12 evidence derived therefrom on the grounds the
13 communication was unlawfully intercepted.

14 "However, the motion must be made before
15 the trial, hearing, or proceeding unless there was
16 no opportunity to make the motion or the person is
17 not aware of the grounds of the motion. The motion
18 must be made before the reviewing authority and must
19 be decided on an expedited basis."

20 Your Honor, pursuant to 17-30-15, number
21 nine states that "The reviewing authority is a panel
22 of three judges of the South Carolina Court of
23 Appeals designated by the Chief Judge of the South
24 Carolina Court of Appeals."

25 Your Honor, recently this has been talked

1 about in two cases decided by the South Carolina
2 Supreme Court. First is State v. Whitener, which is
3 732 Southeast Second 861. And in that case, Your
4 Honor, the Court stated that the Court of Appeals
5 correctly granted the State's motion to vacate,
6 finding that the trial court lacked subject matter
7 jurisdiction because the wiretap act required that a
8 motion to suppress be made before a panel of judges
9 of the Court of Appeals.

10 And following that is an order from the
11 Court of Appeals, State of South Carolina versus
12 Francisco Rivera Flores, where the Court also found
13 that the reviewing authority is a panel of three
14 judges of the South Carolina Court of Appeals and
15 the arguments for suppression were appropriately
16 handled in the South Carolina Court of Appeals in
17 front of the reviewing authority.

18 So, Your Honor, based on those two, I
19 would argue that this is the improper place for this
20 motion to be brought since it was not brought prior
21 to trial. This case has been called, that the
22 defendant no longer lacks -- no longer has standing
23 to object to these phone calls on that basis.

24 MR. O'NEILL: Your Honor, I think that's
25 only part of my basis. My motion the Court has, we

1 filed a motion based on the Fourteenth Amendment of
2 the U.S. Constitution and the Fourth Amendment of
3 the State Constitution.

4 We have Fourth Amendment issues regardless
5 of the statutory provisions of 17-30-10, Your Honor.
6 In the U.S. Constitution and the State
7 Constitution's Fourth Amendment guarantees this can
8 be heard and should properly be heard by this Court,
9 Your Honor.

10 THE COURT: Is an inmate made aware that
11 the proceeding is being recorded, or no?

12 MS. WEISS: Absolutely, Your Honor.

13 MR. O'NEILL: That's why I think you need
14 actually to hear it, so you can see what my argument
15 is based on. Part of the time, Mr. Cook was not the
16 inmate. Part of the time, Mr. Cook was the
17 individual on the opposite side receiving a phone
18 from the inmates here.

19 MS. WEISS: And he has been given the
20 option to not even receive the phone call.

21 MR. O'NEILL: Your Honor, I want you to
22 hear this. One of the phone calls from somebody in
23 particular, Mr. Cook did not answer the phone when
24 the collect call came in to the jail. There is a
25 notation at that point that these calls may be

1 recorded.

2 Mr. Cook is not the individual who
3 answered the phone. If you hear the tape, you can
4 actually ascertain that. Mr. Miller calls Mr.
5 Cook's residence. Somebody at Mr. Cook's residence
6 answers the phone, that second call.

7 I guess presumably hears this warning here
8 but then gives the phone to Mr. Cook here. So
9 therefore, on that particular call, Mr. Cook himself
10 heard no warning about these calls being recorded
11 here.

12 THE COURT: Before he was ever jailed --

13 MS. WEISS: Yes, sir, Your Honor.

14 THE COURT: -- and he had not yet been put
15 in jail or made aware of the policies of the jail to
16 record conversations of inmates, is that the
17 situation here? Now, where he's in jail and he's
18 carrying on a conversation while he's in jail, and
19 if there's a warning, basically an admonition, that
20 these calls are being recorded, then that's one
21 thing.

22 If there is no such -- well, I think what
23 he's saying -- defense counsel is saying -- is that
24 some of these calls were made before he was ever
25 incarcerated and were made to somebody who picked up

1 the phone and maybe the warnings were given, and
2 that was before he got on the phone. That's what
3 they're saying.

4 MS. WEISS: Yes, sir.

5 THE COURT: So he would not have been
6 aware that the phone calls were being monitored.
7 And he's saying that's a violation of the Fourth
8 Amendment and also the State Constitution.

9 MS. WEISS: Yes, sir, Your Honor. South
10 Carolina, of course, is a one-party consent state,
11 and both the people that were calling were
12 consenting to that phone conversation. Therefore,
13 there's no violation of the recording of that
14 conversation from the consent side.

15 But, secondly, the very first phone call
16 that came in was from Tasha Matthews to Rod Cook
17 where he answered the phone. Not only did he
18 consent and accept the phone call and hear the
19 warning, but he also makes comments during the phone
20 call about how it's definitely being recorded, and
21 that's a good thing. So I can play that for you if
22 you'd like to hear it.

23 THE COURT: Was that the first call?

24 MS. WEISS: Yes, sir, Your Honor.

25 THE COURT: How about that, counsel? If

1 he was forewarned, he didn't have to carry on any
2 conversation. He certainly didn't have to make any
3 incriminating statements, if in fact he made any.

4 MR. O'NEILL: And that's not my
5 understanding that that was the first call. My
6 first call I had was from Meon Miller that came to
7 Mr. Cook's residence here when he did not answer the
8 phone.

9 MS. WEISS: That would be the fourth call,
10 would be the call from Meon Miller.

11 THE COURT: If I have to, I guess I can
12 listen to them and see.

13 MS. WEISS: I can show it to the defense -
14 -

15 THE COURT: Okay.

16 Ms. COTE: -- the times and dates, if that
17 will help.

18 THE COURT: Here's the thing. If he was
19 put on notice that these calls were being recorded,
20 and he knew they were being recorded and the other
21 side knew they were being recorded, because they had
22 been told that -- and he knew they were being
23 recorded -- then they're talking consensually with
24 full knowledge that the State is recording them.

25 If that's the case, they waived any Fourth

1 Amendment right. You don't have a right to privacy,
2 I don't believe, in telephone conversations with one
3 party being in the jail and with the information
4 that they're going to be recorded.

5 MR. O'NEILL: That's why I say, Your
6 Honor, I want you to listen to the admonition on the
7 calls here. The admonition says the calls may be
8 recorded, and it doesn't specifically --

9 THE COURT: That's enough. That's enough.
10 If they may be recorded, they may be recorded.

11 MR. O'NEILL: Yes, Your Honor.

12 THE COURT: So you're put on notice
13 whatever you say could be produced against you.

14 MR. O'NEILL: And, Your Honor, one thing I
15 want to point out that's kind of based more on my
16 Brady motion here, that any sort of -- regardless if
17 there's been consent here, there is no consent for
18 that phone call to be turned over to the prosecution
19 agency, Your Honor.

20 Those phone calls are recorded for jail
21 security purposes and jail security purposes only.
22 Once the jail turns those over to law enforcement --
23 we argue, Your Honor, at that point that they have
24 exceeded any sort of consent that the Court will
25 find that either party gave. There was never any

1 consent for these jail phone calls to be turned over
2 to the prosecution agency to be used against Mr.
3 Cook in court.

4 And there's no mention that these calls
5 would be used against him in court. The only thing
6 it says is that these calls may be recorded. So I
7 think any sort of consent that may have granted by
8 either party, I think even if it was consent granted
9 I think they exceed the scope of that consent once
10 the jail turns those over to law enforcement to use
11 by the prosecution against Mr. Cook.

12 MR. COTE: Your Honor, if I may, Lexington
13 County Sheriff's Department runs the jail. They are
14 the jailer. They are law enforcement. We are law
15 enforcement.

16 MR. O'NEILL: Your Honor, the phone
17 service is recorded by essentially a hired agreement
18 that Lexington County uses. So they record phone
19 calls, and then they were turned over to the
20 Lexington County Sheriff's Department and then
21 turned over to the prosecution agency. I think that
22 turning over to the prosecution agency would exceed
23 the scope of any consent the Court may find.

24 THE COURT: Well, why would a jail have a
25 policy like that if they couldn't hear the tapes?

1 MR. O'NEILL: The jail --

2 THE COURT: If they're running the jail
3 and they're made and they have somebody record for
4 them what the conversations are, what would be the
5 point of that if they weren't going to listen to
6 them?

7 MR. O'NEILL: Jailhouse security. I think
8 those phone calls are recorded for jailhouse
9 security, not for use in prosecution in criminal
10 trials. I think they should never have turned those
11 tapes over to the Attorney General's Office for
12 prosecution here. I think it exceeds any sort of
13 scope given by anybody.

14 THE COURT: Well, I'll look at what you've
15 got. I've had them introduced many times. They've
16 been introduced into evidence in many cases, many
17 times. I can tell you that.

18 Whether it's the defendant himself in jail
19 making the calls or outside the jail somebody making
20 a call to him, they've been admitted into evidence
21 time and time and time again when they were put on
22 notice. If they didn't know they were being
23 recorded, that's different.

24 But if they're put on notice they're being
25 recorded, I think they waived their right to no

1 longer have any expectation of privacy. When
2 they've been notified that they're being recorded
3 and the jail people are going to have them, i.e. the
4 Sheriff's Department is going to have the
5 information, I think they've waived their right to
6 privacy, or they don't have any right or expectation
7 of privacy from that point.

8 And whatever conversations they make,
9 they're put on notice. Again, I'll look at that.
10 If you all have got any cases on it either way, hand
11 it up, and I'll be glad to look at them.

12 MR. O'NEILL: My case is already
13 encompassed in my brief.

14 THE COURT: All right, I'll look at it.

15 MR. O'NEILL: I just want to make sure if
16 the State is proposing to call -- I'm concerned
17 about the Meon Miller call to Mr. Cook, which is the
18 fourth call. I want to make sure that that
19 information is documented on the record, that it
20 actually is in the record that there were previous
21 calls made to the residence before the call was made
22 by Mr. Miller.

23 THE COURT: Okay. Can you show that to
24 the defense?

25 MS. WEISS: Yes, sir, Your Honor.

1 MR. O'NEILL: I don't know whether or not
2 you want to hear another motion on suppressing the
3 same tapes.

4 THE COURT: Let me point out one thing to
5 you, a case I heard that went up to the Supreme
6 Court, and the Supreme Court ruled on it. Two co-
7 defendants who had been arrested sitting in the back
8 seat of a police car talking to each other, and they
9 left the camera on with the audio in the camera,
10 which picked up their conversation.

11 And there was no warning given to them or
12 anything else in that case. And I ruled they didn't
13 have any expectation of privacy in a police vehicle,
14 and the Supreme Court upheld that decision and said,
15 "That's right. They don't have any expectation of
16 privacy in a police vehicle." It wasn't their
17 vehicle.

18 If you're sitting in a jail and you're
19 warned that it's going to be recorded, then what
20 expectation of privacy do you have from that point
21 on? You've been warned that the law enforcement
22 agency is recording the conversation you're going to
23 have.

24 You still haven't got it ready?

25 MS. WEISS: I've got it.

1 THE COURT: You've got it? All right, go
2 ahead.

3 MS. WEISS: Yes, Your Honor. The first
4 phone was at 9:44:48 on 10/15/2010. That was -- I
5 know these because I've listened to them. But the
6 first one is a 10:00 call and a 10:15 call were all
7 from Tasha Matthews to Rod Cook.

8 THE COURT: What's the date on those?

9 MS. WEISS: October 10, 2010. And then
10 10:44:20 on 10/15 is the call from Meon Miller also
11 to Rod Cook at the house. Ms. Matthews' oldest
12 daughter was at the house, so she's talking on the
13 phone during that. Mr. Cook puts her on a couple of
14 times.

15 So I believe Mr. O'Neill is right. She is
16 the one that answers the phone on that fourth call
17 and then hands it to Mr. Cook. So that's the fourth
18 call that's come in. He answers the phone on the
19 first one.

20 THE COURT: My question is, the previous
21 three calls, if they came from the jail?

22 MS. WEISS: They did.

23 THE COURT: Is there an admonition or a
24 warning on the call coming into the person?

25 MS. WEISS: Would you like to listen to

1 it?

2 THE COURT: Yes, let me hear what they
3 say. If he heard it three times on three previous
4 calls, he certainly was aware of it by the fourth
5 one.

6 (Whereupon, the phone call
7 audio was played for the Court.)

8 THE COURT: That's what I wanted to hear.
9 I don't need to hear the substance of it at this
10 point. And you're saying there was three of these
11 calls before the one that counsel wants to suppress,
12 right?

13 MS. WEISS: Yes, sir, Your Honor.

14 THE COURT: He was put on notice that they
15 were probably going to be recorded.

16 MR. O'NEILL: I think it's different
17 whether it says you're going to recorded or could be
18 recorded?

19 THE COURT: I don't agree. If they say it
20 can recorded, may be recorded, will be recorded or
21 may be recorded, may be recorded means speak at your
22 detriment. If it's going to be recorded, it's going
23 to be recorded, it's going to be available to the
24 police department.

25 MR. O'NEILL: Right. Well, I think that's

1 kind of why -- well, when they turned it over to law
2 enforcement, I think that exceeds any sort of --

3 THE COURT: Well, I understand your
4 argument on that. But it's ridiculous to say it may
5 be recorded, and then say, "Well, it didn't say it
6 definitely was going to be recorded." May be
7 recorded is sufficient. It's kind of a like a case
8 I heard one time when I was on a cruise, and I went
9 into the Netherlands Antilles, and they were holding
10 court that day when I got off the ship.

11 And I said, "Man, I want to see what's
12 going on." So I went up there, and they had this
13 guy, a judge from the Netherlands. He came in
14 there, and he serves at the pleasure of the Queen.
15 So her picture, Queen Juliana, is behind him. And
16 they had a trial going on.

17 And he asked this guy, he said -- so this
18 guy was making a statement in court, and he was
19 accused of firing a shotgun, sawed-off shotgun,
20 three times at an individual. And so they sit
21 without a jury in those courts. And the judge said,
22 "Well, did you fire a sawed-off shotgun three times
23 at this individual?"

24 He said, "No, Your Honor." He said, "What
25 did you do?" "I shot at him once." And the judge

1 said, "Well, once is quite enough." If you were
2 warned that this may be recorded, that's your
3 warning. You speak at your peril.

4 You know that it's going to be recorded
5 and will be used whatever you say against you. It's
6 semantics. But "may be recorded" and "will be
7 recorded" doesn't matter. You're on notice that it
8 may and probably will be recorded.

9 MR. O'NEILL: I understand the Court's
10 ruling. I just wanted to make my argument on the
11 record.

12 THE COURT: All right. I'm going to look
13 at whether the Sheriff's Department, what they can
14 do with it. But if this agency is working for them
15 collecting information, you know they're going to
16 hear it, whether it's for security purposes or not.

17 Then you know they're going to hear it,
18 that they're going to give it to them, and they're
19 going to hear whatever the conversation is, whether
20 you say it was for security or whatever reason it
21 is.

22 If you know that they're collecting the
23 information and just providing a service to the
24 Sheriff's Department or police department and it's
25 going to be turned over to them and they're going to

1 see it, then you have knowledge of that.

2 MR. O'NEILL: I think that's what the
3 State's arguments are. I think there's no knowledge
4 of any of the inmates that they're going to do that,
5 this information is going to be turned over to law
6 enforcement. There's nothing in the warning that
7 advises them of that.

8 THE COURT: If they say it's going to be
9 recorded, how can you have an expectation of privacy
10 after you're warned that it's being recorded at the
11 jail and they're going to have access to it. There
12 would be no reason to do it if the law enforcement
13 agency who supervises the jail is not going to have
14 access to it and get the information. How are you
15 going to provide for security and it's used for
16 security purposes if you don't hear it?

17 MR. O'NEILL: Well, Your Honor, I think
18 the consent is consent for security purposes, not
19 consent granted for use in prosecution.

20 THE COURT: Well, that's a clever
21 argument. But the fact of the matter is you're told
22 that it's going to be recorded and the police agency
23 is going to have it. The question is whether you've
24 waived your right to privacy in any conversation you
25 have there. You don't have to say anything, or you

1 can control what you say.

2 But if you're put on notice that they're
3 going to have access to it, it doesn't matter for
4 what purpose. If they're going to have access to
5 it, they're going to hear what the conversation is.
6 They'll know what he said and what they said,
7 correct?

8 MR. O'NEILL: Yes. But, Your Honor, I do
9 think sometimes they recognize why citizens
10 can limit the scope of the consent that they give.
11 I think it's contingent on the State --

12 THE COURT: They didn't give a limited
13 consent.

14 MR. O'NEILL: Yes, Your Honor.

15 THE COURT: They didn't give limited
16 consent. He didn't give limited consent. He spoke
17 when he had no expectation of privacy. It's not an
18 invalid search and seizure if the person does not
19 have an expectation of privacy.

20 MR. O'NEILL: But I would argue that he
21 does have expectations of privacy too, maybe a
22 limited expectation of privacy but an expectation of
23 privacy, nonetheless, Your Honor.

24 THE COURT: Counsel, I think you're going
25 to lose that argument unless you can show me

1 something. I think once he's warned and put on
2 notice whatever conversation he has at that point,
3 he's waived his right or expectation of privacy in a
4 conversation he's had on the phone where he's told
5 the police agency, this agency is recording this for
6 the police department.

7 I think he's put on notice they're going
8 to have that information. Then he speaks at his own
9 peril or he speaks with full knowledge that what
10 he's saying is going to be recorded and heard by a
11 police agency. Once he's done that, I don't think
12 he has any expectation of privacy.

13 MR. O'NEILL: I understand the Court's
14 ruling, Your Honor. I just want to make that the
15 record is clear on my position. I think the
16 warning, Your Honor, not that they don't give a
17 warning. I don't think the warning actually states
18 that it's going to be recorded by a police agency,
19 Your Honor. I think the inmate does not have any
20 knowledge that it's going to be recorded by police,
21 a law enforcement agency. Your Honor, you don't
22 hear the warning but once in the record, so there's
23 no real reason for our argument.

24 THE COURT: I understand that. But to
25 follow your argument there on the record, if it's

1 being recorded by a Sheriff's Department that's
2 running the jail, it's going to be recorded and
3 they're going to have access to it. I don't know
4 how you can expect to have a right of privacy in
5 something you've already been told they're going to
6 record and have access to. I don't know how you
7 can.

8 MR. O'NEILL: My argument I guess in the
9 most simple term would be that you're consenting for
10 them to then use it for the purposes to which it's
11 gotten for them to use, whether you're consenting
12 for it to be used for jail security purposes and not
13 to be used against you in any sort of criminal
14 prosecution. And when they use it against you in an
15 extended manner beyond the scope of the consent that
16 you had knowledge of giving, then I think it exceeds
17 the requirements of the Fourth Amendment at that
18 point.

19 THE COURT: The fallacy of your argument,
20 counsel, is that once you don't have an expectation
21 of privacy in that call, you don't have an
22 expectation of privacy, okay? It's sort of like the
23 police car.

24 These two guys are sitting back there
25 whispering to each other in jail, but they've got

1 the audio on and it's picking up their conversation,
2 or most of it. And they're admitting to each other,
3 getting on each other about what they did with the
4 drug transaction. And, of course, they didn't give
5 any consent. They didn't even know they were being
6 recorded.

7 MR. O'NEILL: Yes, sir.

8 THE COURT: You understand? They don't
9 even know they're being recorded. They don't give
10 consent to record it and use it against them in
11 jail. So it's a search in a sense. Nobody says
12 anything to them, doesn't even tell them it's being
13 recorded, don't say it's going to be used against
14 them.

15 So they would have more than expectation
16 of privacy in that than if somebody said, "Look,
17 we've got these video cameras on. It's basically
18 for your security really and the officers' security.
19 But we've got it on and recording the conversation
20 that you're having," okay?

21 They don't even do that. There's no
22 warning whatsoever. And the Supreme Court affirmed
23 my ruling they had no expectation of privacy
24 whispering in the back seat of a police car, because
25 you don't have any expectation in a police car.

1 MR. O'NEILL: Yes, sir. My only argument
2 would -- and I understand the Court's ruling -- is
3 that once the jail says it's going to be used for
4 security purposes, then they're limited to only use
5 it for security purposes and not to be used in
6 court.

7 THE COURT: Well, like I say, that's a
8 point without distinction, because once he gives up
9 any expectation -- if he has no expectation of
10 privacy, then he can't complain when they've told
11 him that they're going to record it and somebody
12 overhears it.

13 MR. O'NEILL: Yes, Your Honor.

14 THE COURT: Okay. The police agency
15 overhears it. And that would be my viewpoint about
16 it. I'll look at it a little bit more and make my
17 final ruling before we go to trial.

18 MR. O'NEILL: Yes, sir.

19 MS. WEISS: And also just for
20 clarification, I don't believe it's ever said it's
21 just for security purposes. That seems to be the
22 defense's argument. But that would be going into
23 the minds of each and every inmate that were to
24 receive a phone call from the jail as to what each
25 person thought.

1 THE COURT: Well, yes.

2 MS. WEISS: What their opinion would be.

3 THE COURT: The recording says whatever it
4 says, but you're informed that this --

5 MS. WEISS: Yes, sir.

6 THE COURT: -- conversation may be
7 recorded and a record made of it or whatever. So
8 they're put on notice of that. And I don't know
9 what expectation of privacy you would have after
10 that. You tell him it's going to be recorded and
11 he's in jail under the jurisdiction or auspices.

12 What expectation of privacy do you have
13 when you start a conversation knowing it's probably
14 being recorded by an agency that's doing it for the
15 Sheriff's Department. That's the question. I don't
16 believe it says just used for security purposes. It
17 says it may be recorded, doesn't it?

18 MS. WEISS: Yes, Your Honor.

19 THE COURT: Okay. Like I say, I don't
20 know how you expect to have any right of privacy
21 when you're told your conversation is being recorded
22 by someone on behalf of a police agency. Let's make
23 sure the record on that point, that he received
24 three prior calls from somebody that was in the
25 jail?

1 MS. WEISS: Yes, Your Honor.

2 THE COURT: Before he received the one
3 that was made by -- what's his name?

4 MS. WEISS: Meon Miller, which is the one
5 he's seeking to suppress. Before he got that call,
6 that was the fourth call he got, he says, "I didn't
7 pick up initially. Somebody else picked it up. And
8 I didn't hear the warning that it may be recorded."

9 But he already heard three before that,
10 that says it may be recorded. So that's the
11 standard greeting before you would get a call, you
12 would have to accept it, reject it, say you don't
13 want any more calls, all of that. But you're put on
14 notice that it may be recorded.

15 And so he had already been warned about
16 that three times. It doesn't matter that he picked
17 it up after somebody else got that warning in his
18 household when the call was made to him. He's
19 already gotten that call on three prior ones, and
20 that's the same one you get on every one.

21 Before somebody in the jail can call you,
22 you have to accept the call, etc. He knew the
23 substance of it. So I just want be sure the record
24 is clear on that. It's not the first call. It's
25 the fourth call. In three previous calls, he

1 answered and had already gotten the admonition of
2 warning that the call may be recorded.

3 MS. WEISS: Yes, sir. And in one of the
4 previous calls, he actually discusses the fact that
5 it's being recorded.

6 THE COURT: Right. He could have declined
7 the call obviously, and he could have declined to
8 say anything or carry on any conversation, but he
9 didn't do that. Anyway, I'll look at it. What else
10 have we got?

11 MR. O'NEILL: Mr. Cook worked at a
12 different McDonald's previously from this. That
13 McDonald's was robbed as well, and Mr. Cook was not
14 charged with that robbery. I think that there were
15 police reports provided to me in discovery
16 concerning that robbery, videos of that robbery
17 here. I've spoken with the Attorney General who's
18 watching this case here, and she can tell the Court
19 exactly what her intentions are.

20 It was my understanding from our
21 conversation that her intention was not try to
22 impeach any Lyle individuals, certainly those in
23 that previous incident, Your Honor. I think
24 Assistant Weiss can kind of clear up what her
25 intentions are about that particular case.

1 THE COURT: Do you intend to offer any
2 prior bad act evidence?

3 MS. WEISS: Your Honor, I do not believe
4 this meets this test for Lyle evidence or 404(b)
5 evidence as to the burglary of the prior McDonald's
6 on Garners Ferry Road. That's why I told O'Neill I
7 had no intention of bringing it in for that reason.

8 Although I will state my belief that he
9 was involved in that, I don't believe I have any
10 evidence to present to this Court. However, when he
11 was the night manager, he was the closing manager at
12 the Garners Ferry McDonald's and left the safe
13 unlocked, which did allow the burglars to take a
14 large sum of money from that McDonald's.

15 And if Mr. Cook were to take the stand, I
16 may wish to cross-examine him on the fact that he
17 did fail to follow procedure and left the safe
18 unopened, which allowed the burglars to be able to
19 take a large sum of money. So I think that flows
20 into the facts of this case, Your Honor.

21 MR. O'NEILL: I don't know what evidence
22 the State has that Mr. Cook failed to leave that
23 safe open. That's not my understanding from
24 watching the video of how the burglars got into the
25 safe.

1 I don't think it's appropriate for her to
2 ask that question on cross without any sort of
3 foundation as to the fact that he left the safe
4 open. I don't think there's any evidence of that.
5 I think that's just the State's supposition, Your
6 Honor. I don't think there's any evidence of that.

7 MS. WEISS: Your Honor, the video clearly
8 shows Mr. Cook was the closing manager. He was the
9 last person closing out. He's the one responsible
10 for the safe when they close out at night as part
11 his job responsibilities. It was the same job
12 responsibilities he had at this McDonald's. And
13 when the burglars come in, they walk over and open
14 the safe.

15 THE COURT: What proof do you have of
16 that?

17 MS. WEISS: Because I have a video of them
18 walking over and opening the safe without having to
19 go through a locking mechanism or any sort of lock.
20 They literally walk over and open it.

21 MR. O'NEILL: The video speaks for itself,
22 Your Honor. My review of the video is -- well, the
23 video speaks for itself, either way. I don't think
24 she can form a question in cross without any sort of
25 evidence or without there being a prior admission in

1 evidence that he left the safe open intentionally
2 for it to be burglarized.

3 THE COURT: Well, let me ask you this.
4 Assume that they've got this evidence that they
5 could produce. If she asks him if he previously
6 left a safe unlocked when he left the place, the
7 McDonald's, at night and the burglars were able to
8 get in without opening the safe or doing anything
9 other than just opening the handle on the safe, can
10 they not ask him that, as long as they can back it
11 up with the video?

12 MR. O'NEILL: I would first argue that
13 it's not relevant. But if the Court finds that it's
14 relevant, I don't think that the video proves that
15 it's not locked. I don't think the video would
16 suffice as convicting evidence.

17 I think the video proves that it's not
18 locked. And I think at that point it's getting into
19 these areas at that point, trying to prove that,
20 well, he's at the McDonald's, they get robbed;
21 therefore, he set up this robbery in this case. I
22 just want to make sure Your Honor can understand
23 what's going on in this case.

24 They're not claiming Mr. Cook actually was
25 the gunman in this case. The State's position is

1 Mr. Cook conspired with these other co-defendants to
2 have the McDonald's in Batesburg in this case
3 robbed, is my understanding of the State's position
4 on the facts of this case.

5 THE COURT: Essentially, wouldn't you be
6 getting into Lyle evidence there?

7 MS. WEISS: Well, no, Your Honor. I'm not
8 presenting it for that purpose. To tell you a
9 little bit more how I see it as cross-examination
10 information, is in this case the specific
11 information given to Rod Cook as the night manager
12 not to send anybody to take the trash out, along
13 with I think Lawrence Berry (PH), he is to lock up
14 the safe. These are precautionary measures for the
15 store.

16 He is told to lock up the safe. He is
17 told not to send anybody out after dark to take out
18 the trash as of that day. That night, in violation
19 of that rule, he sends Willie Jennings out to take
20 out the trash, which, yes, we do believe further
21 ends up in a conspiracy. But he violates the rule,
22 sends Willie Jennings, and Willie Jennings is shot
23 and killed.

24 Back at Garners Ferry Road, he's told to
25 lock the safe. He doesn't lock the safe. He

1 doesn't follow procedure, which then allows people
2 to steal money. We're not saying -- I believe -- I
3 personally believe, based on what I've seen, that he
4 probably did set that up. But that is not what
5 we're asking to present to this jury.

6 What I'm saying is that he did not lock
7 the safe, which is a procedural requirement for the
8 night manager, once again violating policies which
9 then allow a large sum of money to be taken from the
10 McDonald's on Garners Ferry Road.

11 So he's choosing not to follow procedure.
12 Then it goes one step further, prior to that when he
13 worked at Wendy's, he failed to follow a store
14 procedure which was properly working the cash
15 register, cancelled out \$148 worth of transactions,
16 essentially stealing \$148.

17 But, once again, that could not be proven
18 clear and convincing as to whether he actually stole
19 it. But he ended up essentially stealing \$148 by
20 failing to follow store procedure in the way he was
21 working the cash register. So he was then
22 terminated from that job.

23 So he has a history of not following
24 procedures in a store. And I think that's important
25 that he knows that there are consequences when he

1 failed to follow procedures. And that night, he was
2 specifically instructed at 4:00 that afternoon, 9:00
3 that evening, not to send anybody out the door.
4 Yet, he chose to make his own decision and sent him
5 out the door anyway, and there were consequences to
6 that, as well.

7 MR. O'NEILL: I don't follow that
8 argument. First of all, that's clearly deficient
9 evidence and law clearly, Your Honor. But him
10 allegedly -- we don't need to get into that. But
11 him allegedly not locking the safe has no bearing on
12 this case at all other than saying that he's doing
13 these things to allow the restaurants to be
14 burglarized or robbed, which is exactly what
15 basically 404(b) evidence is, Your Honor.

16 There's nothing about -- the only way that
17 would be relevant is if Mr. Cook got up on the stand
18 and said, "I always follow procedures. I've never
19 violated procedures." Then that would be opening
20 the door for the State where "You violated
21 procedures back here in Garners Ferry."

22 But until he does that, him allegedly not
23 locking the safe -- again, we don't agree with that.
24 But him allegedly not locking the safe at Garners
25 Ferry years earlier has no relevance on this case at

1 all.

2 THE COURT: I don't think you can get into
3 it unless he takes the stand and opens the door.

4 MS. WEISS: Yes, Your Honor.

5 THE COURT: If he takes the stand and says
6 anything that opens the door, then essentially you
7 can impeach him with that or show inconsistencies or
8 attack his veracity.

9 MS. WEISS: And that was my intention all
10 along.

11 THE COURT: So that would be a way it
12 could come into your case in chief. And it couldn't
13 come into it with him on the stand, unless he gets
14 on there and testifies to something that's
15 inconsistent with that. Obviously, once he's on the
16 stand and puts his character at issue, and you can
17 ask him about any inconsistencies about that.

18 So I think that's where you're limited.
19 If he gets on the stand, takes the stand, and
20 testifies to something inconsistent with that, then
21 I think you can impeach him with it or ask him about
22 it.

23 MS. WEISS: Thank you, Your Honor.

24 THE COURT: You're limited to that. If he
25 gets on the stand and doesn't testify to anything,

1 any inconsistencies or anything like that or open
2 the door to it, you're not going to be able to ask
3 him that --

4 MS. WEISS: Yes, sir.

5 THE COURT: -- to open the door yourself.
6 He's going to have to open the door first; all
7 right?

8 MS. WEISS: Yes, sir.

9 THE COURT: What else?

10 MR. O'NEILL: Your Honor, one final thing.
11 There were some pictures in discovery of Mr. Cook's
12 alleged gang activity. I have a motion to suppress
13 the mention of any sort of gang activity.

14 I think the State's intending to use that
15 information based on our prior discussion. I want
16 to make sure that's on the record that we move to
17 suppress any sort of mention of Mr. Cook's alleged
18 gang activity.

19 MS. WEISS: Your Honor, there is a photo
20 from Facebook of Mr. Cook and Mr. Miller in the same
21 photo where they are giving hand signs. I don't
22 personally know what those hand signs mean, and we
23 do not have any intention of saying that those are
24 gang signs.

25 I think at one point somebody said they

1 represented Highway 21, which is the area of
2 Ridgeway that they're from. So that picture would
3 be the only thing that we may want to put in just to
4 show the connection between Meon Miller and Rod Cook
5 but not with any mention of gang activities of Rod
6 Cook.

7 MR. O'NEILL: Your Honor, first of all, I
8 don't think Mr. Miller is in that picture.
9 Secondly, I think it's Mr. Miller and his cousin,
10 first cousin actually. So I don't think we need the
11 picture to illustrate the connection between the
12 first cousins here.

13 MS. WEISS: If I'm mistaken about that and
14 he's not in that picture, we won't seek to introduce
15 that.

16 THE COURT: You do not have a picture
17 you've introduced, is that what you said?

18 MS. WEISS: If he's not in that picture,
19 we would not even seek to introduce that. And we
20 won't introduce that picture. I was under the
21 impression they were both in that picture.

22 THE COURT: Okay. All right, what else?

23 MR. O'NEILL: Your Honor, I ask that the
24 lay witnesses be sequestered in this case here to
25 make sure there's no conversation before their

1 testimony as it relates to witnesses sharing
2 testimony, things of that nature here, Your Honor.

3 THE COURT: When you say "lay witness,"
4 are you talking about everybody except the
5 designated case agent for the State and the
6 defendant himself?

7 MR. O'NEILL: Yes, Your Honor.

8 THE COURT: Everybody else?

9 MR. O'NEILL: Yes, sir.

10 THE COURT: What's the position of the
11 State on that?

12 MS. WEISS: As far as?

13 MR. O'NEILL: And the victim's family,
14 Your Honor. I don't know if the victim's family is
15 here.

16 MS. WEISS: The victim's family and then
17 we may have one evidence custodian that may be in
18 and out, Lt. Clare, just checking on his evidence.
19 I don't want him to get in any trouble if he were to
20 come in for any reason. Do you have a problem with
21 that?

22 MR. O'NEILL: No.

23 THE COURT: Okay.

24 MS. WEISS: That's fine, Your Honor.

25 THE COURT: Victims are allowed to be in

1 here by the Constitution. I don't think that
2 extends to extended family. But I think perhaps if
3 he has a spouse or his mother or somebody, I think
4 they would probably be entitled to be in here. But
5 your concept is to keep out a whole group of them
6 who can go to school on each other's testimony,
7 correct?

8 MR. O'NEILL: Yes, Your Honor.

9 MS. WEISS: Your Honor, he's going to have
10 the defendant's mother, is on the witness list, is
11 my understanding. So I would ask that she be kept
12 out as well, if we're going to be keeping out lay
13 witnesses.

14 THE COURT: All right. So I will grant
15 the motion, then, to sequester. And I'll leave it
16 up to counsel as an officer of the Court, make sure
17 your witnesses understand that they can't be in the
18 courtroom until after they testify. And they
19 cannot, after they testify, discuss their testimony
20 with anybody who has not yet testified, tell them
21 what went on, what questions were asked, or anything
22 like that.

23 That would apply equally to the State and
24 the defense. Therefore, if you fail to observe a
25 witness when you're coming in and they sit here

1 through other witnesses' testimony, then you may not
2 be and probably will not be allowed to put that
3 witness up and testify. You understand?

4 MR. O'NEILL: Yes, Your Honor.

5 MS. WEISS: Yes, Your Honor.

6 THE COURT: You understand?

7 MR. O'NEILL: Yes, Your Honor.

8 THE COURT: And it's your responsibility.

9 I'm not going to sit here and try to figure out
10 whether somebody's on the witness list or not,
11 because I don't have any idea who they are. But
12 it's going to be up to you to either watch out for
13 those persons yourself or have somebody else do it.
14 But you do it at your risk. If we're going to
15 sequester them, then we're going to enforce the
16 sequestration rule, okay?

17 MS. WEISS: Yes, Your Honor.

18 THE COURT: Anything else?

19 MR. O'NEILL: That's all I have.

20 THE COURT: All right.

21 Anything else?

22 MS. WEISS: No, Your Honor.

23 THE COURT: All right. If you've got any
24 cases that you want to hand me that you've cited or
25 anything on the question, I'll look at them. I'm

1 going to look at these and make a final ruling
2 before we get started at 2:30.

3 MR. O'NEILL: Yes, sir.

4 (Court in recess.)

5 THE COURT: Counsel, a couple of things.
6 Of course, the jury hasn't been sworn. I'll get the
7 Clerk to do that when we bring the jury back. I
8 wrote the information I had on the jurors, and I
9 don't have any that stand out to me as particularly
10 qualified to be foreperson. So I'm going to let
11 them elect their own foreperson, when they go back
12 in, out of the first 12 jurors chosen when they go.

13 I do have a preliminary charge I give to
14 the jury about the format of the trial, and how
15 we'll proceed, and their responsibilities. And I
16 always give them that before asking you to start
17 with opening statements, so we'll do that.

18 And we've got to go back now and rule on a
19 couple of motions here. And I think we're pretty
20 clear on Lyle evidence, the type evidence that the
21 State can't put that in with cross-examination of
22 the defendant if he takes the stand unless he opens
23 the door somehow, he creates an issue and puts his
24 character or his credibility at issue.

25 Then the door may be opened by him, but it

1 can't be opened by the State initially. As to the
2 motion for a speedy trial and dismiss based on lack
3 of a speedy trial, the Court, as I iterated or
4 indicated really before we broke for lunch, my
5 inclination to decline to grant that motion, and I
6 affirm that.

7 I decline to grant the motion to dismiss
8 for lack of a speedy trial for several reasons.
9 There are a number of reasons the Court can give.
10 And some of the cases handed up even by the defense
11 highlight some of those that you look at. And some
12 of the cases in the motion itself, the written
13 motion, says the main goal right is to prevent undue
14 pre-trial incarceration, minimize anxiety, stem
15 public accusation where there is a possibility of
16 being long delays and impairing an accused his
17 defense.

18 But it goes on to say here, "Accordingly,
19 the right to a speedy trial is necessarily relative.
20 It is consistent with delays and depends upon the
21 circumstances," citing Beavers versus Hubert -- H-U-
22 B-E-R-T. "Stated differently, a speedy trial does
23 not mean an immediate one. It does not imply undue
24 haste, for the State too is entitled to a reasonable
25 time in which to prepare its case. It simply means

1 a trial without unreasonable and unnecessary delay,"
2 citing Wheeler versus State, 247 South Carolina 393.

3 "Because of the vagaries of this
4 unavoidably ad hoc increase, the Supreme Court has
5 acknowledged that it can do little more than
6 identify some of the factors for the trial" -- and
7 it says "trial courts"
8 -- "to examine" -- this is in Barker, 92 Supreme
9 Court 2182. "These factors include the length of
10 delay, the reason for it, the defendant's assertion
11 of his right to a speedy trial, and any prejudice he
12 suffered."

13 Recognizing the same factors under South
14 Carolina law is State versus Langford. Here, what
15 we've got here -- and, of course, it's not
16 jurisdictional, it's administrative. The question
17 is the defendant was denied a bond fairly on after
18 he was arrested. Of course, it was a while after
19 the warrant was issued before he actually got served
20 with the indictment.

21 I think part of that reason may be a
22 question of whether the Solicitor's Office was going
23 to hear and this circuit was going to prosecute the
24 case or whether there was going to be a recusal or
25 at least a request by the Solicitor's Office here to

1 get the Attorney General's Office to take the case
2 and prosecute it.

3 And that was part of it. And part of that
4 is exhibited by the fact that there was some
5 confusion in handling the case by the Attorney
6 General's Office because the Assistant Attorney
7 General who was originally assigned the case decided
8 to run for public office and resigned from the
9 Attorney General's Office, and which the current
10 Assistant Attorney General that's handling the case
11 was appointed to it.

12 They themselves reindicted the case when
13 he had already been indicted, and so there was some
14 confusion there. So this was not intentional, the
15 Court finds, and is just some misunderstanding there
16 about the status of the case. Nevertheless, the
17 current Assistant Attorney General is assigned the
18 case, and they have been working on the case, and
19 they've been discussing it with defense counsel back
20 and forth, even trying negotiations and that, trying
21 to get the case ready for trial.

22 There are a number of witnesses here.
23 There is a full page of witnesses on behalf of the
24 State and probably a third of a page of witnesses
25 listed by the defense. And there are a lot of

1 witnesses involved, some technical evidence, etc.
2 So there are reasons why the case has been drawn out
3 to some extent, and the Court finds that there are
4 some circumstances in looking at it from the
5 totality of the circumstances to explain why the
6 State has not proceeded faster than it did.

7 Looking at it from the other side, the
8 defense, number one, the defense says that simply
9 making a motion for a bond is also a motion for a
10 speedy trial. It may intimate that the defendant
11 would like to be released on bond or go to trial.

12 It may intimate that, but cases can't
13 always go to trial immediately. Even the State has
14 a right to prepare its case, etc. But once a motion
15 was made for bond and the Court denied the bond,
16 that's been some, what, almost two years ago. And
17 the defense never made another motion for a bond.

18 When a person is not able to get out of
19 jail on bond within some reasonable period of time,
20 the defense has a right then to move the Court again
21 to consider the issue of bond because the defendant
22 has been in jail as long as he has without getting a
23 bond, and the Court could consider it.

24 I usually make that provision, that you
25 come back anytime after 90 days if the case has not

1 been set for trial. I at least hear the motion. I
2 might not grant it, but I might, depending on the
3 circumstances. But that was not done. So there was
4 no subsequent motion, again, for a bond, to
5 reconsider the bond issue, on behalf of the Court.
6 That was not done.

7 Number two, there was no motion for speedy
8 trial filed. And to imply that just asking for a
9 bond is a motion for speedy trial, I don't see that.
10 I don't see any cases to that effect. But it's easy
11 enough to file a motion for speedy trial if that's
12 what the defense wants to do. But that's never been
13 done.

14 And so obviously the defense could have
15 done it. Even in State versus Langford, the Court
16 points out in a recent case by the Supreme Court,
17 points out that the defense does have a right to
18 make a motion for a speedy trial and a motion for
19 bond -- has that right. And that's not been done in
20 this case. Either until the trial or the day of the
21 trial when we're selecting a jury is that motion
22 being made for a speedy trial or dismissal.

23 But I think it's incumbent upon the
24 defense if they want to insist on a speedy trial
25 that they do it before the day of trial, that a

1 motion be filed before then to give the Court an
2 opportunity to hear it and rule on it. So that
3 mitigates against the defense asking for a speedy
4 trial if they don't ever file a motion for a speedy
5 trial.

6 So I find that there are valid reasons why
7 the State did not come for trial. I'll point out
8 one other thing that the defense did not do. When
9 the case was ready to be called for trial six weeks
10 ago, the defense asked for a continuance.

11 Obviously, the last six weeks the delay
12 was called at the request of the defendant for a
13 continuance. And if they weren't ready six weeks
14 ago, the Court might assume that they weren't ready
15 before six weeks ago either. So six weeks ago, it
16 was set for day certain trial, and here we are. So
17 that last six weeks was at the request of the
18 defense.

19 If the defense was ready, like I say, if
20 they weren't ready six weeks ago, I don't know why
21 we would assume they were ready before the would six
22 weeks.

23 For all those reason given, I find that
24 the delay is reasonable other than the fact the
25 the defendant has been in jail during this period of

1 time. I haven't been shown any other way in which
2 he was prejudiced in his preparation for trial or
3 going to trial in this case. Apparently, he was
4 helped by that since he requested a continuance some
5 six weeks ago to additionally prepare for the case.
6 So, again, I deny that motion to dismiss because of
7 the speedy trial issue.

8 As to the motion to suppress the admission
9 of jail calls where the defendant was a party and
10 calls made by the defendant, the defendant has moved
11 to suppress the seizure and use of that information
12 here at trial to being able to introduce it as
13 evidence in the trial. And the only recordings that
14 the written motion indicates he wished to have
15 suppressed would be recorded phone calls made by the
16 defendant, Mr. Cook, and co-defendant, Meon -- M-E-
17 O-N -- Miller where the defendant was a party.

18 Those are the only ones sought to be
19 suppressed. The defense cites 1730-10 of the South
20 Carolina code, the sequence relating to homeland
21 security, ability to search and seizure pursuant to
22 the Homeland Security Act and cites certain
23 procedures to be followed. Again, as the Attorney
24 General's Office has stated, the motion to suppress
25 would have to be made before a three-judge panel of

1 the Court of
2 Appeals prior to trial, and that's not been done.

3 So the defendant had the option of filing
4 a motion to have those recordings suppressed under
5 the statute to be heard by the Court of Appeals
6 three-judge panel. So no motion has been made prior
7 to the case called for trial.

8 Furthermore, insofar as the Fourth
9 Amendment and Fourteenth Amendment, the South
10 Carolina Constitution, Article 1, Section 10, making
11 the motion under those grounds as well, the Court
12 simply finds that essentially consent was given by
13 both of the parties in this case. And one of the
14 parties knowledgeable of it can give consent to it,
15 to the conversation intercept.

16 But in this case, essentially both of them
17 consented to it. I know the defense doesn't agree
18 with this, but the fact of the matter is, number
19 one, there's no Miranda warnings that have to be
20 given in this because the State wasn't interrogating
21 anybody.

22 One defendant was in jail, held in
23 custody, and obviously he was in custody. But the
24 State wasn't trying to elicit any information out of
25 it. There was no custodial interrogation of either

1 party. This defendant was not even in jail. He was
2 not in custody, and he was not being interrogated.

3 The defendant making the call from the
4 jail or even receiving a call in jail, whatever, he
5 was in custody, but there was no custodial
6 interrogation because no questions were asked of him
7 by the State. Now, the recording, I want to get the
8 wording of that just right for the record.

9 I've been thinking about it over the break
10 when I was working on this. The exact warning
11 that's given is what?

12 MS. WEISS: Your Honor, if I may just play
13 it.

14 THE COURT: Yes, ma'am, please. I want to
15 get the exact wording so I can get this right.

16 (Whereupon, the recording
17 was played before the Court.)

18 THE COURT: All right, the exact language
19 of that recording doesn't say anything "This is
20 being done for security reasons." It doesn't say
21 that. It doesn't mention security at all.

22 All it says is that "This call is subject
23 to recording and monitoring" -- subject to recording
24 and monitoring -- clear warning that whatever is
25 said over this phone call may very well be and

1 probably will be recorded and monitored by the
2 agency there.

3 And so there was full warning given. So
4 both parties were aware that the conversation was
5 subject to recording and monitoring. And based on
6 that, you should assume that it will be recorded and
7 monitored. Therefore, with that warning, the
8 defendant in this case had to agree to accept the
9 call, number one. He could have rejected the call.
10 He accepted the call.

11 The person making the call heard the same
12 information. And they both knew that whatever they
13 said on there could be -- they should have well been
14 aware they shouldn't make incriminating statements
15 or anything that could be incriminating in those
16 statements, they being subject to recording and
17 monitoring by a police agency.

18 So with that warning, with that
19 understanding, there was no expectation or reason to
20 believe that the conversation would be private and
21 not monitored by somebody else. Essentially, they
22 gave consent to whatever conversation that was made,
23 whatever incriminating statements might be made.
24 They essentially gave their tacit consent to it,
25 because they were aware of it.

1 In this case, Mr. Cook could have refused
2 the call, not taken the call -- "I don't want to
3 talk to this person. I'm not taking this call."
4 They could have got on there and if that person
5 started to say something incriminating, they could
6 have terminated the call. He didn't have to talk to
7 them at all.

8 If he talked to them, he didn't have to
9 say anything that would be incriminating to him -- I
10 don't know if he did or not, I haven't heard it --
11 and didn't have to take the call from this other
12 person if they were attempting to incriminate him.
13 So, number one, to me there's tacit consent that the
14 conversation could be recorded and monitored --
15 number one.

16 Number two, there's absolutely no
17 expectation of privacy in a call between somebody in
18 the jail and somebody outside the jail when they're
19 both put on notice that that conversation is subject
20 to recording and monitoring. They certainly should
21 assume that it would be for purposes of whether
22 they're making an incriminating statement or
23 something that could be used against them.

24 So I think it's tacit consent by both
25 parties to it. I think there's absolutely no

1 expectation of privacy in such a conversation. And
2 therefore I don't find that it's violative of the
3 Fourth and Fourteen Amendments nor Article 1,
4 Section 10, of the South Carolina Constitution,
5 because there's no expectation of privacy.

6 Part of the argument by the defense is
7 that the person who was in jail was coerced.
8 Because they're being held there in the jail, they
9 essentially are coerced. Nobody is making them make
10 a statement. They don't have to talk to anybody,
11 don't have to call anybody, don't have to receive
12 any calls.

13 They don't have to do anything that might
14 tend to incriminate them. So they're not being
15 forced or coerced into anything. If they want to
16 call and talk to somebody about getting out of jail
17 or getting a bond or something, they can do that.

18 Talking to their attorney is privileged.
19 But if you choose to make the call knowing that it's
20 being recorded and monitored, then you give tacit
21 consent to that. You can say you're forced to do
22 that, but nobody makes them make a phone call. They
23 have an alternative. They don't have to make the
24 call.

25 So, in any event and for all those

1 reasons, I'm going to deny the motion to suppress
2 whatever might have been said in that conversation
3 and point out once again on the record that Mr.
4 Cook, the defendant in this case, had three prior
5 calls before the one he's trying to suppress that
6 gave this warning.

7 So even if he didn't get the warning that
8 it was going to be recorded and monitored in this
9 particular conversation with this co-defendant, Meon
10 Miller, he had it in three prior occasions shortly
11 before that with another co-defendant. So he was
12 aware of what the policy is.

13 And even if somebody else answered the
14 phone that Mr. Meon Miller made and that warning had
15 already been given before he got on the phone, he
16 had already been made aware on at least three prior
17 occasions with somebody trying to call him from the
18 jail. So he cannot say he didn't understand and
19 know what the policy with regard to monitoring and
20 recording was. He's already been put on notice as
21 to that.

22 All right, having said all that, I deny
23 the motion, again, to suppress that evidence.
24 Anything else that we need to address before we get
25 started?

1 MS. COTE: Your Honor, in reviewing all of
2 our notes during the lunch break, we have a couple
3 of things that the defendant asked for in their
4 motion, if there any notes or anything that were
5 different, that I just wanted to share with the
6 defense. I don't think it's anything major, but I
7 just want it to be complete.

8 MR. O'NEILL: Your Honor, one thing in
9 particular, I think the State has a laundry list of
10 things that -- counsel has given me I think three
11 things in particular here that she says now that
12 applies I guess under Riddle.

13 One of the ones is that she stated just I
14 guess disclosed to me that the co-defendant, Meon
15 Miller, in this case admitted that he did the
16 shooting, that he was actually the one that did the
17 shooting. I have his note. I have close to 600 to
18 700 pages of discovery. It's nowhere in that
19 discovery where Meon Miller mentioned being the
20 shooter.

21 The one statement I have from Meon Miller
22 dated September 2011 expressly says he did not do
23 the shooting, and he blamed the shooting on Angelo
24 Tucker. I prepared my case, because I had this case
25 with that understanding here. And now five minutes

1 before we're about to do opening statements, I get
2 this statement that says now that Meon Miller admits
3 to doing the shooting where I have been provided
4 nothing in discovery to that effect for these last
5 two and a half years.

6 So I would object to that. I think that
7 should be suppressed under Rule 5 in the U.S.
8 Constitution on due process here, because at this
9 point, I think it's impossible for Mr. Cook to get a
10 fair trial because this changes my whole strategy
11 when it comes to how we prepared Mr. Cook's defense
12 here.

13 Secondly, Tasha Matthews here in this
14 discovery I just received now, the statement I
15 received from Tasha Matthews said that she thought
16 that they were going -- this is what I have here.
17 She thought they were going to do a drug deal, that
18 Ron and Mr. Miller had did drug deals together in
19 Batesburg-Leesville and had robbed --

20 MS. COTE: No, I didn't say that. That's
21 what I told you earlier today. Tasha said that Ron
22 and Meon had done drug deals and that Ron had done
23 drug deals in Batesburg-Leesville.

24 MR. O'NEILL: Okay, I apologize -- that
25 Ron had done drug deals in Batesburg-Leesville, and

1 Rod wanted to go back to hustling. This is the
2 first time I've become aware of this here as well,
3 Your Honor. I think at that point, Your Honor, I
4 think that testimony should be excluded because I
5 prepared my defense in the last two and a half years
6 with none of this information. And now I get this
7 information five minutes before I'm about to do
8 opening statements as to what these witnesses have
9 changed really their testimony.

10 I mean, Meon Miller is now admitting to
11 being the shooting here. He's changing his whole
12 entire testimony, the premise of his whole entire
13 testimony that I've had the last two and a half
14 years almost.

15 THE COURT: Counsel?

16 MR. WEISS: Your Honor, we believe that
17 Meon was the shooter the entire time. Meon has just
18 said in the last week that he did do the shooting.
19 He still says that they both were involved in the
20 struggle over the gun but that he was the last one
21 to have the gun or actually do the shooting.

22 We just talked to him, and I don't think
23 he ever quite got that. Originally, they were kind
24 of pointing fingers at each other. Under hand of
25 one, hand of all, it never really mattered to us,

1 because Angelo and Meon were there, Angelo and Meon
2 that had the gun, and Angelo and Meon that were
3 there when he was shot. To us, it never really
4 mattered which one. It's just he happened to say in
5 the last week, "Okay, I was the last one to have the
6 gun that actually fired the shot. But I didn't mean
7 to kill him," and that's the crux of it. That was
8 within the last --

9 MR. O'NEILL: Your Honor, I was --

10 MS. WEISS: There was no -- but, Your
11 Honor, this doesn't change the defense. This is a
12 hand of one, hand of all case, felony murder case.
13 This doesn't change anything for the defendant.
14 He's still wasn't out there. There was no carrying
15 out his plan that he set into motion, the same thing
16 that the entire discovery is about, is setting Rod
17 Cook's plan into motion.

18 MR. O'NEILL: Your Honor, I would speak on
19 behalf of my own strategy, because it changes
20 everything about my strategy. The strategy in this
21 case would have been Meon Miller was not being
22 truthful in any of his statements. The evidence
23 pointed to him being the shooter, but he clearly
24 denied being the shooter.

25 I was led to believe that he was still

1 denying to be the shooter up until two minutes ago.
2 Now, that change adds on his credibility. If the
3 only statement I had from him was that he's not the
4 shooter and all of the evidence points to him being
5 the shooter, that diminishes his credibility.

6 Now I find out two minutes before opening
7 that he's admitting to being the shooter here. That
8 changes everything that I was going to cross-examine
9 him and base formation of my case on is that the
10 State is relying on somebody who has no credibility.
11 Now I get the statement where he's admitting to
12 being the shooter here apparently some time week,
13 and I've never even known he's being reinterviewed.

14 The last statement I had for him is
15 September 2011, where he clearly not only says he's
16 not the shooter but says he never touched the gun
17 that day, that he only touched the gun after the
18 fact, never walked out there with the gun at all.

19 And now I'm given information that he had
20 the gun and he admits to being the shooter. That
21 clearly changes everything I would do about this
22 case, Your Honor. And I think it's not fair to have
23 trial by ambush at this point.

24 MS. WEISS: Your Honor, this is not trial
25 by ambush. It's the exact same factual scenario.

1 It's still somebody who's giving inconsistent
2 statements. It's still the same cross-examination.
3 It's just now he has said this. I can't change the
4 fact that he said it.

5 So he's just added this. He has said he
6 was the one that fired the shot, and he still says
7 that Angelo had the gun first and that he had it
8 second after it dropped, that he picked it up, and
9 he's the one who fired the shot.

10 THE COURT: How long have you had that
11 information?

12 MS. WEISS: This week. I was out of town
13 Wednesday through Friday, so it was -- or was it
14 last -- okay, I'm sorry, my weeks are screwed. It
15 was within the last week and a half.

16 MR. O'NEILL: Your Honor, I get it two
17 minutes before we do opening statements.

18 THE COURT: Well, I agree with you that it
19 should have been given to you before now. But be
20 that as it may, it changes slightly the way you'll
21 have to approach the case. But I don't think it
22 changes it enough to require us to continue the
23 case.

24 What I will do is I will do this. From
25 what I'm hearing about the facts of the case, he was

1 inside the building, was not out there when the
2 shooting took place.

3 MR. O'NEILL: Your Honor, I want to make
4 sure I clear up one thing, too. Meon Miller is the
5 only person in this case that indicates that Mr.
6 Cook had anything to do with setting up this
7 robbery. He's the sole witness that states Mr. Cook
8 set up this robbery.

9 He's the only person the State can use
10 who has personal knowledge that Mr. Cook set up this
11 robbery. And his credibility is an essential issue
12 to this case. And that change in statement
13 rehabilitates his credibility and changes the level
14 of credibility that he has, Your Honor. I think it
15 does tremendous damage to the way that I prepared
16 this case, Your Honor.

17 MS. WEISS: Your Honor, the evidence
18 clearly showed and I think Mr. O'Neill agrees that
19 the evidence clearly showed that he was the one we
20 believed all along he was the one who fired the
21 shot. He just didn't say it. And I think they've
22 believed all along he's the one who fired the shot.

23 MR. O'NEILL: That's exactly my point,
24 Your Honor. And that's the way -- the way I
25 prepared the case was that the evidence was showing

1 he was the shooter, and he was clearly not admitting
2 to that. But yet they wait a week and a half to go
3 talk to him again, and now he suddenly wants to --
4 he suddenly at this point confesses to being the
5 shooter, which changes -- which rehabilitates his
6 credibility and makes him more credible now. He's
7 finally admitting to being the shooter when he
8 clearly was the shooter the whole time.

9 THE COURT: Well, does it, because he's
10 given two or three different accounts? He refused
11 it, and now he says that he did. At first, he
12 denied having anything to do with it. So
13 credibility is still an issue. If he's given
14 inconsistent statements about it, his credibility is
15 still an issue.

16 Now, this is what I will do. I realize
17 this is a little bit of a surprise to you today.
18 What I would be willing to do is bring the jury back
19 in, swear them, give them a preliminary instruction,
20 send them on home, and give you till in the morning
21 to work on your defense.

22 I don't think it makes that much
23 difference in your defense at all. And so I'd be
24 willing to give you overnight to address that issue,
25 if you want that. And I agree with you, it should

1 have been provided to you earlier. But it has been
2 provided to you now before we actually even get
3 started with opening statements, and you can deal
4 with it.

5 I still think Mr. Miller's credibility is
6 an issue. If he's now giving two or three different
7 accounts or statements as to what his involvement
8 was, it's still an issue insofar as his testimony
9 against your client.

10 And so you may think he's being
11 rehabilitated to some extent, but now he's given
12 more than one statement about what happened and what
13 his involvement was. So I think his credibility is
14 still an issue. That doesn't change, although,
15 again, I think you should have had that information.

16 What I will do is -- and I'll be willing
17 to just give a preliminary instruction to the jury
18 about the format of the trial -- we'll swear them,
19 give them a format instruction, let them go back to
20 the jury room and elect a foreperson and go home.
21 And we'll wait to get started in the morning. We
22 can start at 9:30 or 10:00 in the morning with
23 opening statements and give you the time overnight
24 to address that in your defense.

25 MR. O'NEILL: Your Honor, can -- one more

1 thing, Your Honor?

2 THE COURT: Yes.

3 MR. O'NEILL: Can we throw in who and
4 where that statement was given to by Meon Miller so
5 that it's clear who was with him --

6 THE COURT: Where does the statement come
7 from?

8 MR. O'NEILL: -- when it was taken.

9 MS. WEISS: When I took it, it was in
10 trial prep up here in the Grand Jury room.

11 Which day did we do it -- April 1st.

12 THE COURT: Yes.

13 MS. WEISS: And I'll specifically get a
14 date for you about that. Okay, thank you, Your
15 Honor. Our meeting was at 9:30 a.m. on March 29th -
16 - Friday, March 29th. And it was Ms. Cote, myself,
17 Investigator Ellis, and Amy Zimmertrack, who is Meon
18 Miller's attorney.

19 THE COURT: And the question is, what he's
20 asking is who it was made in front of. Is that the
21 first time the statement was made, or was it made
22 before that, is what he's asking?

23 MS. WEISS: The first time I heard it.

24 THE COURT: Did anybody else have any
25 prior knowledge of that statement?

1 MS. COTE: No, Your Honor. That was the
2 first time I heard that, as well. I can't speak to
3 what he's told his attorney, but that was the first
4 time the State heard that.

5 THE COURT: And so his attorney was
6 present for this, and you all had no prior knowledge
7 before that meeting that he was taking
8 responsibility for handling the gun?

9 MS. WEISS: No, Your Honor, and that was
10 the whole thing, because we had been talking to both
11 attorneys back and forth, saying, you know, we
12 believed the whole time that it was Meon Miller,
13 because you'll hear in the facts that he pulls the
14 gun out of his waistband, puts it in the glove
15 compartment, GSR is on.

16 I mean, it just -- it made sense that he
17 was the one. He's the one that was instructed to go
18 there by Rod. He's the one that's instructed to go
19 -- you know, it just makes sense that he'd be the
20 one that had the gun. But I had told both
21 attorneys, "Listen, you're going to have to point
22 fingers at each other.

23 "At this point, I don't really care,
24 because both of them showed up there with a gun
25 intentionally to commit a felony. You know, at the

1 end of the day, you're both just as guilty as the
2 other. So if both of you want to point fingers at
3 each other, fine. But, you know, it comes down to
4 credibility. Somebody shot that gun, and you two
5 are the ones who know."

6 And so when we were doing our pre-trial
7 meeting, Angelo maintained, "I was not the one who
8 fired the gun." And when Meon came in, he said, "I
9 just didn't mean to. I didn't mean to." So it went
10 down that fast. I mean, that's just a pre-trial
11 preparation.

12 MR. O'NEILL: Your Honor, that's why I'm
13 at a loss, because if they didn't make any deals
14 here -- and the Attorney General just said that "It
15 didn't matter which one of y'all shot him" -- I
16 don't understand why out of the kindness of his
17 heart nine days before trial he decides, "Okay, I'm
18 going to fess up to shooting this individual," when
19 for the last two-plus years he's never admitted to
20 shooting this guy.

21 But now, nine days before the trial, he
22 all of a sudden out of the kindness of his heart
23 wants to admit to being the shooter for -- I don't
24 see any apparent reason, unless there's some sort of
25 deal out there, some sort of incentive for him to

1 now all of a sudden confess to being the killer.

2 I'm at a loss here as to why.

3 MS. WEISS: Your Honor, I can't tell you.

4 I'm his attorney. I'm not the defendant. I have

5 four defendants that I've been dealing with this

6 entire time. So they were all there.

7 THE COURT: They're saying they offered

8 him nothing. It may be he's always held out a hope

9 that maybe by cooperating and being truthful that

10 that might be presented to the Court in the way of

11 mitigation at sentencing.

12 But if they say they made no deals and are

13 not making any recommendation, haven't even got any

14 negotiation, with regard to him, that's what they

15 say. I have to accept what they say on that point.

16 The fact of the matter is why he decided to go ahead

17 and say, "Well, I was the person that had the gun,

18 but I didn't mean to shoot him," and that's what

19 they're saying he said at that time, "I didn't mean

20 to shoot him," not didn't intend to shoot him.

21 But in any event, I think his credibility

22 is very still much an issue. You certainly can

23 explore all of that. But it's still very much an

24 issue, because if he's changing his statements,

25 obviously those are inconsistent statements that can

1 be attacked.

2 His credibility can be attacked if he
3 takes the stand and why he's changing his story.
4 And at the same time while he's changing his story
5 on that, he might be telling something that's not
6 true about your client. I assume that's what we
7 mean by credibility. And I think that's still an
8 issue. I don't think that's been really taken away.

9 Now, the jury hasn't been sworn. We
10 haven't had opening statements. Nobody has suffered
11 any prejudice at this point. Meon Miller's
12 credibility is always going to be an issue, still an
13 issue. If you want me to give you till sometime
14 tomorrow to take another look at your defense and
15 talk to your client, I'm perfectly willing to do
16 that.

17 But I don't think it's going to make any
18 difference really whether it's tomorrow we go
19 forward or if it's two weeks from now that we go
20 forward. I think it's going to be all the same.
21 Nothing is going in the meantime. So you still are
22 going to have the same issue on his credibility.

23 MR. O'NEILL: I guess just out of an
24 abundance of caution, Your Honor, I just want to
25 make sure I'm clear that now -- I say this, Your

1 Honor, because Meon Miller gave a statement
2 September -- let me get the exact date for Your
3 Honor -- September 15, 2011, that would warrant
4 other changes.

5 If he now admits to being the shooter,
6 then that can't be the one different out of his
7 statements. There are several in which he gives a
8 statement where he essentially talks about what he
9 did when he got in the car and how he stood back and
10 Angelo Tucker did things.

11 So there are few other things that are in
12 the different in the statement as well that don't
13 coincide with him being the shooter, because he
14 doesn't admit to having the gun in his possession,
15 he doesn't admit to going around the corner in his
16 statement. So that's another thing that he told
17 y'all on March 29th that was different than what his
18 statement says.

19 MS. WEISS: And, Your Honor, we can go
20 through this right now, detail by detail. The point
21 is that these are human beings that are telling the
22 story. So I did not -- you know, they've given
23 different versions. This has been the story --
24 these four co-defendants, this has been the story
25 all along.

1 THE COURT: Well, that happens in a lot of
2 cases --

3 MS. WEISS: And so I'm not --

4 THE COURT: -- where you've got more than
5 one defendant or three or four defendants. The
6 issue is, I think, that once he changed his
7 statement, though, it was incumbent upon you to
8 notify the defense of that.

9 MS. WEISS: Yes, sir, Your Honor.

10 THE COURT: And you all didn't do that,
11 and in the future, you should make sure you do that.
12 What I'm trying to do now is remedy that to the best
13 I can. And I think we can do that simply by
14 postponing any --

15 MS. WEISS: Yes, sir.

16 THE COURT: -- testimony and evidence or
17 opening statements to the jury till tomorrow and
18 give defense counsel a chance to do something with
19 that, whatever changes he wants to make in the way
20 he approaches it.

21 MS. WEISS: Yes, sir.

22 THE COURT: But that's not going to change
23 a month now. So it's going to be the same tomorrow
24 as it is a month from now.

25 MR. O'NEILL: Yes, Your Honor.

1 THE COURT: And I'm willing to give you
2 tonight to go back over it and plan your strategy.

3 MR. O'NEILL: Yes, Your Honor.

4 THE COURT: It changes a little bit, but
5 the issue really might be more -- credibility might
6 be more an issue, I don't know. You can judge that
7 for yourself. It might be more an issue than it was
8 before, if he's given another statement that's
9 different than what he gave before.

10 MR. O'NEILL: Well, Your Honor, in all
11 candor I'll share with the Court my theory of this
12 case was that Meon Miller was essentially blaming
13 everybody but himself. I think this changes --
14 there were not changes then. Now he's accepting
15 responsibility.

16 The statement he gave on September 15,
17 2011, blamed everybody in the world but him. He
18 said Mr. Cook planned, Ms. Matthews drove, Mr.
19 Tucker shot him, "I just stood there." And now we
20 have him saying -- him admitting to being the
21 shooter kind of changes that perspective. Now he's
22 saying, "Okay, I take responsibility on my own,"
23 where in the September 15, 2011, statement he blamed
24 everybody but him.

25 THE COURT: Well, I don't disagree with

1 you. He's taking a contrary position now. When
2 he's got to get on the stand and tell the truth
3 under oath, he's taking a different position now.
4 There's no question about that.

5 But I'm just saying that that's not going
6 to change now that you're aware of it. You should
7 have been made aware of it sooner, but I'm giving
8 you an opportunity and will work with you on giving
9 you enough time to go back over it and set your
10 strategy. Nothing has been said to the jury yet.

11 MR. O'NEILL: Yes, Your Honor.

12 THE COURT: They haven't even been sworn.
13 And so I'm willing to give you some time overnight.
14 If you need a little more time in the morning, I can
15 do that, as well.

16 MR. O'NEILL: Yes, Your Honor.

17 THE COURT: But I don't think we need to
18 continue the trial again, simply because I don't
19 think it's going to change. Whatever strategy
20 you're going to have on tomorrow, the same strategy
21 you'd have a month from now. So I just don't think
22 it makes that big a difference.

23 MR. O'NEILL: Yes, Your Honor. I just
24 wanted to make sure that I got all the changes that
25 we got. That's why I gave the State the Riddle

1 motion yesterday so they would know --

2 THE COURT: Well, I think --

3 MR. O'NEILL: -- I was specifically asking
4 for any change in statements so I wouldn't be
5 supplied with anything tomorrow.

6 THE COURT: I think that was a very astute
7 motion and certainly was a fruitful motion to get
8 that motion. At the same time, I would caution the
9 Attorney General's Office that once you've got
10 information that's different, if he changes his
11 statement, you have to let the defense know.

12 Any of the witnesses that you interview or
13 you plan to call or are going to call or not call,
14 but anybody you talk to who changes their statement
15 -- well, change it, period, because it then becomes
16 a credibility issue.

17 And I think you have a duty and obligation
18 -- all of the cases in Rule 5 and Brady have an
19 obligation to let the defense know, and you really
20 should let them know as soon as you're aware of it.
21 And so keep that in mind in the future. You have
22 that obligation to do that.

23 MS. WEISS: Your Honor, I appreciate that.
24 I appreciate the Court's indulgence with us, and I
25 do know that, and I apologize. I just am glad that

1 we addressed it, because I wouldn't have a chance to
2 go back and look.

3 THE COURT: It would have been a much
4 bigger problem if it developed during the trial.

5 MS. WEISS: Yes, sir, Your Honor. And
6 I'll go over with Mr. O'Neill the statement. It is
7 difficult because, like I stated, it's a retelling
8 of the statements as some of the players switch
9 around, but it's not a totally different statement.
10 So it's confusing, so I think --

11 THE COURT: Has he got the complete
12 statement now?

13 MR. O'NEILL: Your Honor, the problem is
14 that when they -- I have a written statement on
15 September 15, 2011.

16 THE COURT: I'm talking about from this
17 meeting they've just had to prep for trial.

18 MR. O'NEILL: I never get anything written
19 on that. I get oral statements from the Attorney
20 General as to what was said. But they're going to
21 talk to him nine days ago but never write anything
22 down. So all I get is what he said through them.
23 So there's no any written version of what happened.

24 MS. WEISS: Okay.

25 MR. O'NEILL: So at that point --

1 THE COURT: They don't have to give you
2 their trial preparation, but they do have to give
3 you --

4 MS. WEISS: Correct.

5 THE COURT: If they change their story,
6 they have to give you that. And what I'm asking you
7 is, have you given him all the change?

8 MS. WEISS: And as I was going to say, if
9 I can just meet with him for a minute, I can go
10 through this, because there's a little bit of -- not
11 exactly because they sort of switched roles in the
12 new version of what Mr. O'Neill is saying, there had
13 to be a couple of changes.

14 So in reviewing this, obviously there are
15 a couple of changes because now he's the one
16 shooter. So I can go over with him line by line.

17 THE COURT: What I want you to do is just
18 sit down and go through every possible change.

19 MS. WEISS: That's what I want to cover,
20 Your Honor.

21 THE COURT: So he'll be aware of it before
22 we get started with opening statements. Maybe I
23 just better wait to swear the jury as well --

24 MS. WEISS: Okay.

25 THE COURT: -- till tomorrow when we're

1 going to get started, whatever time we agree to
2 start. And you go over it with him, and then I want
3 him to be aware of any changes any witness made to a
4 pre-existing statement.

5 MS. WEISS: And we'll sit down -- the
6 three of us were in all of these meetings, so we can
7 sit down, we'll look at our notes, look at these
8 statements, and go over them with Mr. O'Neill to
9 make sure any nuance that we find is covered so
10 there's no doubt.

11 THE COURT: Any changes.

12 MS. WEISS: Yes, sir.

13 THE COURT: It might seem harmless, but it
14 might not be harmless to the defense.

15 MS. WEISS: And that's what I think.
16 That's why I think it would be better if we just go
17 through and every nuance of a statement get covered.

18 THE COURT: Okay, all right. What do you
19 want to do about starting tomorrow, then? I'm going
20 to give you some time. What time do you want to try
21 to get started tomorrow, Mr. O'Neill.

22 MR. O'NEILL: Ten o'clock is fine with me.

23 THE COURT: Is that all right with you?

24 All right, let's do this, then. I think
25 what I'll do is I'll bring the jury in. I don't

1 even think I'm going to swear them because I don't
2 know what else is going to come up.

3 I'm glad I didn't swear them before lunch.
4 I'll bring them in. I'll go ahead and give them
5 this preliminary instruction, let them go out and
6 elect a foreperson. And we'll reserve the oath
7 until tomorrow if we actually get started with
8 opening statements.

9 That way, we'll use part of the afternoon,
10 and let's get that done as quickly as we can, then
11 you all spend whatever time is necessary. If it's
12 okay to start at 10 tomorrow. I can give you a
13 little more time than that if you need it. I'd like
14 to get started at 10, but I can give you a little
15 more time than that if you need it.

16 MR. O'NEILL: I'm fine with 10.

17 THE COURT: All right.

18 MS. WEISS: Thank you, Your Honor.

19 THE COURT: Anything else we need to
20 address?

21 MS. WEISS: No, Your Honor.

22 MR. O'NEILL: No, Your Honor.

23 THE COURT: Just make sure you go over
24 everything with him --

25 MS. WEISS: Absolutely.

1 THE COURT: -- from the Attorney General,
2 everything you have, any changes.

3 All right, if we could bring the jury in.
4 I have a preliminary charge I'm going to give them.

5 (Jury in at 3:23 p.m.)

6 THE COURT: Good afternoon, ladies and
7 gentlemen of the jury panel. I apologize for
8 keeping you back in the jury room this long. Some
9 matters have come up that we had to address here
10 before we got started that we didn't anticipate.

11 And as a matter of fact, there are a
12 couple of things I'm going to do, including give you
13 a preliminary instruction about the format of the
14 trial and what to expect as we go through the trial.
15 I'm going to do that.

16 And then I'm going to let you go back into
17 the jury room and elect a foreperson for yourselves,
18 and then go home for the evening because there's
19 other matters that we're going to need to take up.
20 And we're actually going to get started trying the
21 case in the morning about 10:00.

22 But for now, let me give this kind of a
23 preliminary instruction about the format of the
24 trial and what to expect. I suspect that most of
25 you have not served on a General Sessions trial

1 before in Circuit Court.

2 And hopefully giving this instruction
3 about what to expect and how we're going to proceed
4 during the trial will make you feel a little more
5 comfortable in these unfamiliar surroundings. The
6 first thing that will happen when we get started
7 tomorrow is that an attorney for the State, who is
8 an Assistant Attorney General, will make an opening
9 statement to you.

10 And then the attorney for the defendant
11 will have the same opportunity to address you in
12 opening statement. Now, these opening statements by
13 the attorneys are not evidence, but you should pay
14 close attention because they're in essence going to
15 identify to you what they perceive or say the issues
16 in the case are.

17 After they've made their opening
18 statements to you, then the State will proceed by
19 presenting the testimony and evidence that they want
20 you to consider. The reason the State goes first is
21 that the State has the burden of proof in this case.
22 There is no burden of proof upon the defendant to
23 prove his innocence.

24 The burden of proof is upon the State of
25 South Carolina to prove the charges against this

1 defendant by evidence that satisfies you, the jury,
2 beyond a reasonable doubt before you can return a
3 verdict of guilty. If the State fails to meet that
4 burden of proof, then your verdict must be not
5 guilty.

6 After the Assistant Attorney Generals have
7 presented to you the evidence they want you to
8 consider on behalf of the State, then the same
9 opportunity will be afforded to the defense. The
10 defendant may but is not required to present any
11 testimony or evidence, because the State has the
12 burden of proving the defendant guilty beyond a
13 reasonable doubt.

14 The defendant does not have to prove he is
15 innocent. He is presumed innocent, and that
16 presumption stays with him throughout the trial and
17 may only be removed if the State meets its burden of
18 proving the guilt of the defendant beyond a
19 reasonable doubt.

20 Now, what is evidence in the case?
21 Evidence is the sworn testimony you will hear from
22 the witness stand, exhibits admitted into the record
23 for your consideration by me, the presiding judge,
24 and any stipulation of counsel. Now, exhibits may
25 take many forms, such as documents, pictures,

1 videotape, maps, diagrams, and so forth.

2 Stipulations are agreements of facts by
3 the attorneys. If the attorneys enter into a
4 stipulation or agreement of fact, that will be made
5 known to you, and you can consider that stipulation
6 of fact along with all of the other testimony and
7 evidence, give it such weight as you deem
8 appropriate once you begin your deliberations.

9 Sworn testimony, exhibits, and
10 stipulations are the only evidence you may consider
11 in your deliberation of the innocence or guilt of
12 the defendant. You may not consider anything you
13 heard from any other source about this case in
14 making your decision because that is not evidence.

15 After you have heard all the evidence,
16 then the attorneys for the State and the defendant
17 will once again appear before you and make what we
18 call closing arguments. We call them arguments
19 because the attorneys are allowed at that time to
20 argue their positions to attempt to persuade you as
21 to their view or position as to the facts.

22 When you have heard final arguments from
23 counsel, I will then charge you, which simply means
24 to instruct you, as to the law that applies to the
25 issues in this case. You will then retire to the

1 jury room to deliberate and reach your verdict.
2 That's how a case is tried in General Sessions
3 Court, whether it be this case or some other case.

4 Some cases take a half a day or a day.
5 Some cases take weeks. But the same format applies
6 in every case. As the trial judge, I have three
7 functions to perform during the trial. I am the
8 presiding officer and therefore see that the trial
9 is run in an orderly manner.

10 I decide based on rules of civil and
11 criminal procedure whether testimony and exhibits
12 are admissible into evidence for your consideration.
13 And at the conclusion of the trial, I instruct you
14 as to the law you must apply to the facts in this
15 case in reaching your verdict.

16 You, ladies and gentlemen, are also judges
17 in this case. You are the judges of the facts. In
18 other words, you determine the truth of the facts in
19 this case. Under our Constitution, I am not
20 permitted as the judge of the law to have an opinion
21 about the facts. So I do not get into whether I
22 believe a witness or not.

23 That is not my function. I'm not even
24 permitted to express an opinion, if I had one, as to
25 the facts in this case. So you, the jury, determine

1 what is the truth of the facts. Now, I do not
2 permit jurors to take notes during the trial because
3 it is my experience that while writing notes, you
4 may miss something very important for you to hear,
5 and you may fail to observe a witness when
6 testifying.

7 It is important that you pay careful
8 attention to all testimony and the introduction of
9 evidence since you must judge the credibility or
10 believability of the witnesses and the weight to
11 give all evidence introduced in this case in
12 determining the truth of the facts.

13 Now, during the trial, the attorneys may
14 object to the admissibility of certain testimony or
15 other evidence. I'll either sustain the objection,
16 which means I agree and the testimony or evidence
17 may not be made part of the record for your
18 consideration; or I will overrule the objection,
19 which means as the judge of the law I have
20 determined that it is admissible as part of the
21 record for your consideration.

22 The mere fact that I have admitted it does
23 not mean that you must believe it or disbelieve it.
24 I have simply determined that it is admissible under
25 our rules. It is up to you, then, to believe it or

1 disbelieve it and to assign such weight to it as you
2 determine to be appropriate evidence will be sent to
3 the jury room for you to examine further and to
4 consider.

5 I remind you that one of the most
6 important aspects of your duty as a jury lies
7 essentially in the oath that you will take in the
8 morning -- we'll do that in the morning -- to well
9 and truly try this case and to determine the truth
10 of the facts in this case.

11 That oath, again, in a very essential ways
12 says that you are the sole judges of the facts in
13 this case. As jurors in this case, it will be your
14 exclusive duty to determine the facts in this matter
15 through your evaluation of the evidence that was
16 received during the course of the trial and to give
17 such evidence whatever value, weight, or effect as
18 you deem appropriate with the goal of reaching the
19 truth in this matter.

20 In doing so, you will have fulfilled your
21 obligations as jurors, and that is to give both the
22 State and the defendant a fair and impartial trial
23 in this case. Ladies and gentlemen, whatever your
24 verdict in this case, it must be your unanimous
25 verdict. All 12 jurors must agree on the verdict,

1 which the foreperson will be authorized to write on
2 behalf of the jury.

3 Ladies and gentlemen, you are not to
4 discuss this case at any time during the trial until
5 I tell you, and that will not occur until you have
6 received all of the evidence and I have instructed
7 you upon the law. You should not discuss the case
8 among yourselves. You should not discuss it with
9 your family, friends, or anyone else you might see
10 on recess from court.

11 You might say, again, "What's wrong with
12 our discussing the case as we go along?" or "If
13 somebody finds out I'm on a jury, they want to know
14 something about the case. What's wrong with
15 discussing it with them?"

16 The problem with discussing it is once you
17 begin discussing it, you start forming opinions.
18 And you wouldn't be fair to both sides of this case
19 if you didn't wait till you've heard all the
20 testimony in evidence and I have instructed you upon
21 the law that applies before you start forming
22 opinions.

23 Until then, you should wait till you have
24 all the information you need before you start
25 forming opinions in this case. Now, if you should

1 overhear the parties, their attorneys, or witnesses
2 talking about the case outside of the courtroom,
3 please do not listen to any such conversations.
4 Please do not talk with them.

5 If anyone should deliberately try to
6 discuss the case with you, you should not discuss it
7 with them but leave and report that attempt to me
8 through the Bailiff or the Clerk of Court, and I'll
9 deal appropriately with that person. If there
10 should be any media coverage of this trial -- I do
11 not know of any at this time, but we never know
12 about that.

13 If there should be any media coverage of
14 this trial, please do not read, listen to, or watch
15 any media account of this trial until after the
16 trial is over and the verdict is in. If there
17 should be any media coverage, if someone wants to
18 save it for until after the trial and the verdict is
19 in, you're welcome to read, listen to, or watch any
20 media account of the trial once the verdict is in
21 and the trial is over.

22 But when I talk about media, reading any
23 media coverage, I'm also including in that getting
24 on any kind of electronic device like cell phones.
25 Pretty soon, they tell us we'll be looking at a

1 wrist watch and getting all the information we need,
2 like Dick Tracy of old.

3 But while you're serving on this jury, you
4 cannot try to find out any information about this
5 case from any source. And that includes going on an
6 I-Pad or getting on an I-Phone or any other kind of
7 smart phone or computer or anything else to try to
8 get any information about this case.

9 Now, again, once the trial is over and the
10 verdict is in, then you can do anything you'd like
11 to do in that regard. But in the meantime, please
12 do not do that. It's very important that you make
13 your decision solely on the sworn testimony and the
14 evidence that comes in during the course of this
15 trial.

16 There's no way we can guarantee the
17 accuracy of any other account of this trial or
18 anything about this trial. You need to base your
19 information on the sworn testimony and evidence that
20 comes in during the trial and not from any other
21 source.

22 I'm concerned about your comfort and the
23 ability to see and hear the testimony in evidence so
24 you can properly do your job. I try to take a break
25 about every hour and a half. If you need a break

1 before the time a break is taken, just raise your
2 right hand and let me know, and I'll take a break as
3 quickly after that as I can do so.

4 If you cannot hear or see something -- you
5 need to hear or see as we go through the trial --
6 I'll try to anticipate that. But if I fail to
7 anticipate it, please do not hesitate to raise your
8 right hand and let me know you cannot see or hear.
9 And I'll make sure that you're able to see or hear
10 so you can properly do your job.

11 If you wish to communicate with the Court
12 other than needing a break or the inability to see
13 or hear, please write the message down on the tablet
14 that will be provided for you back in the jury room,
15 give that to the Bailiff, the Bailiff will bring it
16 to me, and I'll correspond in like manner or I'll
17 bring you back out in the courtroom and respond as
18 the case need be. That's how we should communicate,
19 you know having been sworn as jurors in this case.

20 I'm going to ask you, as your first
21 official act -- and once you've done that, then
22 you're free to go for this afternoon, and I'm going
23 to ask you to be back in the jury room in the
24 morning at 10:00, at 10:00 in the morning and ready
25 to go. So please try to be on time and ready to go

1 at 10:00.

2 I'm going to ask you from the first 12
3 jurors chosen -- not the two alternates, the last
4 chosen -- but from the first 12, I want you to elect
5 from that group a foreperson. And let me explain
6 the role of the foreperson of the jury.

7 The foreperson is asked to serve as
8 spokesperson for the jury back to the Court. So if
9 there's a matter that needs to come to the attention
10 of the Court from the jury, I ask that the
11 foreperson write the message down on a tablet
12 provided, give it to the Bailiff, the Bailiff will
13 bring it to me, and I'll correspond appropriately.

14 We also ask that the foreperson serve as
15 moderator once we reach the deliberative stage of
16 the trial to make sure to maintain some order in the
17 deliberations, make sure everyone who wishes to
18 participate and be heard in those deliberations be
19 allowed to do so.

20 We also ask that the foreperson, once a
21 unanimous verdict is reached by the jury, to record
22 that verdict on verdict forms which will be provided
23 to you and explained to you at the appropriate time
24 at the conclusion of the trial.

25 The primary role of the foreperson is the

1 same as every other juror, and that's to listen
2 carefully to the testimony in evidence so you'll be
3 in a position to deliberate and help the jury reach
4 a verdict in this case.

5 All right, ladies and gentlemen, I'm going
6 to excuse you at this time. As I say, if you'll go
7 back into the jury room and from the first 12 jurors
8 chosen elect a foreperson. And that person will
9 write their name and juror number down on a tablet
10 provided and give it to the Bailiff. Once you've
11 done that, you're free to go, and I'll ask that you
12 be back in the jury room at 10 in the morning, 10
13 a.m. Thank you.

14 (Jury out at for the day at
15 3:38 p.m.)

16 THE COURT: All right, counsel, anything
17 else we need to take up? We're not losing much time
18 this afternoon. You will need to be out of here by
19 five anyway, so we're not going to lose much time
20 today.

21 MR. O'NEILL: Yes, tomorrow, too.

22 THE COURT: Oh, it's tomorrow, too?

23 MR. O'NEILL: Yes, sir.

24 THE COURT: All right, okay.

25 Anything else?

1 MS. WEISS: No, sir, Your Honor.

2 THE COURT: All right, you all have your
3 little meeting there, then, and I'll see you in the
4 morning at 10:00.

5 MR. O'NEILL: Yes, sir.

6 MS. WEISS: Thank you, Your Honor.

7 (Court in recess for the day.)

8 - End of Day -

1 Tuesday, April 9, 2013

2 (The defendant, together
3 with counsel, was personally present in the
4 courtroom.)

THE COURT: Good morning, counsel. We're still waiting on one juror, but I thought we'd see if we need to take up anything. For your information, the jury selected juror number 98, Zachary Huffines -- H-U-F-F-I-N-E-S -- as the foreperson.

11 Is there any matter we need to take up out
12 of the presence of the jury at this time before we
13 get started?

14 MR. O'NEILL: I think there's one matter,
15 Your Honor.

16 THE COURT: Okay.

17 MR. O'NEILL: At the meeting with the
18 Attorney General, we discussed the matter that we
19 ended on yesterday here that relates to any sort of
20 updates as it relates to any of the co-defendants'
21 statements. Assistant Attorney General Weiss here,
22 she verbally went through the statements here and
23 indicated what adjustments she thought that were
24 made.

25 I did note while we discussing it that I

1 think Assistant Attorney General Gunter here took
2 notes during that meeting with these co-defendants
3 here. And it is my position under Riddle that I'm
4 entitled to the notes that were taken of that
5 conversation, not entitled, of course, to any sort
6 of personal impressions on their part, but any sort
7 of notes that say, "Meon Miller said this."

8 THE COURT: Counsel, you're not entitled
9 to trial prep any more than they're entitled to
10 yours. And if they made notes in there in
11 preparation for the trial, you're not entitled to
12 get that. You're entitled to get anything that is
13 exculpatory or there's been change that would be
14 helpful to your case.

15 You're entitled to any of that or any new
16 matter really
17 for that matter that came out in their prep that
18 you're entitled to know. You're not entitled to get
19 their trial prep notes any more than they're
20 entitled to get yours. So if there's something
21 specific you want to refer to, that's fine.

22 I'm not going to require them to turn over
23 their trial prep notes, present impressions, and
24 things like that on trial strategies. I'm not going
25 to require them to turn that over to you. But I

1 have already instructed them to turn over to you
2 anything that might be exculpatory or beneficial to
3 you in your defense, that you need to know in your
4 defense and that sort of thing.

5 I've asked them to do that. But I'm not
6 going to ask them to turn over their trial prep
7 notes with their trial impressions and their trial
8 strategy and that -- that's the demarcation line --
9 any more than I'm going to require you to turn over
10 yours.

11 MR. O'NEILL: Your Honor, I want to make
12 sure I'm precisely clear now. I'm not asking for
13 any sort of impressions or any sort of == any of
14 their internal thoughts about what was said. What
15 I'm asking for, if there is a notation that Meon
16 Miller -- my understanding is that the Assistant
17 Solicitor, while Meon Miller was relaying his
18 version of the events, took notes of what he was
19 saying.

20 I'm not asking for their impressions about
21 what he's saying, their thoughts about what he's
22 saying. I'm not asking for any of that. And I'm
23 not entitled to their impressions. What I'm asking
24 for is if they have notes that say Meon Miller -- if
25 they're contemporaneously writing down what Meon

1 Miller said to them, because when I talked with the
2 Assistant Attorney General, they also related he did
3 some sort of reenactment of how the victim was shot.

4 If there are notes as to how that was
5 done, if there are notes as to what he said, that's
6 what I'm asking for. I'm not asking for their
7 impressions about his character or his ability.

8 I'm not asking for any of that. What I'm
9 asking for is if they have notes that say, "Meon
10 Miller said this," one, I think those notes could be
11 used as impeachment if he gets up on the stand and
12 says something different than what was said in that
13 interview.

14 And that's what I think I'm entitled to.
15 I'm not asking for their impressions about him as a
16 witness, any sort of their internal thoughts. If
17 they have essentially dictations of what he said,
18 that's what I'm asking for.

19 THE COURT: All right, counsel?

20 MS. WEISS: Your Honor, Ms. Cote can
21 address her notes if you wish separately. But, Your
22 Honor, these meetings were specifically for pre-
23 trial prep. We went through -- I mean, as far as
24 the reenactment, it was, yes, a reenactment which
25 was done, again, with the investigator who was in

1 there wish us for Mr. O'Neill.

2 We went through those notes, and he orally
3 got our notes, everything that -- we went through
4 our notes as we were meeting with him. So he orally
5 got our notes. But I, you know, agree with the
6 Court and ask the Court to maintain the secretness
7 of our pre-trial notes.

8 I mean, that's exactly what they were. We
9 took down what we thought was important pre-trial
10 for our strategy for trial, and we gave him -- you
11 know, at the time, we went through our notes for
12 each of the witnesses and gave him detail by detail
13 through the statements anything that we perceived
14 may have changed, even if -- because there was some
15 question about whether it was an actual change or a
16 perceived change.

17 We went through that with each of our
18 notes. And so I would just argue that, you know,
19 we're attorneys for the State. We're taking notes.
20 It's attorney work product. It's pre-trial prep.
21 And we shouldn't have to turn that over to the
22 defense. But we did sit down and go detail by
23 detail through each of the statements and go through
24 any change or any perceived change.

25 THE COURT: All right. And I'm going to

1 clarify just one little bit. Defense counsel is
2 saying anything he said that you wrote down insofar
3 as what happened. And if that's included in your
4 pre-trial notes and you can't just blank it and give
5 it to him, then the question is, have you given him
6 everything that he said happened out there,
7 particularly at the scene, particularly if it's
8 anything different than what he said before.

9 MS. WEISS: I can speak specifically to my
10 notes because I know I went page by page through
11 mine and tell you absolutely I didn't. I'll let Ms.
12 Cote speak to hers.

13 THE COURT: Okay.

14 MS. COTE: Your Honor, as we went through
15 the statement that Mr. Miller made and we noted any
16 inconsistencies in his most recent discussion with
17 us in pre-trial preparation, again, it's work
18 product. I did make notes with my impressions of
19 what the testimony was like when we were speaking
20 with -- and what their demeanor was like, things
21 like that, trial preparation strategy, when we were
22 meeting with these witnesses.

23 Those are in my notes. And I've reviewed
24 Riddle, 369 South Carolina 39, and unless I am
25 missing something, there's nowhere in here that says

1 that the State is required to turn over our notes
2 that we make in meeting with witnesses.

3 It discussed Brady with giving over
4 information favorable to the accused and anything
5 that is inconsistent with an original statement was
6 made, and that's what we have done here, Your Honor.
7 So it's our position that we have.

8 And also, Riddle is a PCR. I wanted to
9 state that for the record. So it is a little bit
10 different than what we're dealing with here. But
11 it's our position that we have -- we are in
12 accord with Brady and have turned over
13 everything to Mr. O'Neill.

14 MR. O'NEILL: Your Honor, they keep
15 referring to their impressions. When we discussed
16 this yesterday, I told them that it's fine that -- I
17 did not want their impressions. They can black out
18 their impressions. They take the position that
19 they've given me everything that's in their notes.
20 I don't want their impressions. I don't see why
21 they can't give me their notes with their
22 impressions redacted.

23 THE COURT: Counsel, in preparation for
24 trial and talking to the witnesses, they're required
25 to give you anything that might be exculpatory or

1 beneficial or helpful to you in your defense. In
2 particular, you have the same statements previously
3 that the witnesses had, I assume that they had.

4 Any changes in their statement, changes in
5 position, they're required to give you those. And
6 they say they've done that. And I'm not going to
7 make them give you their trial preparation notes,
8 they say is trial strategy, how they evaluate a
9 witness, maybe the strength of witnesses, etc., how
10 they evaluate the witnesses.

11 I'm not going to require them to give you
12 that. There are some things that are trial prep,
13 and they are work product in preparation for trial.
14 And neither side could ever make any notes like that
15 if they had to turn over and give it to the other
16 side. You wouldn't do it either.

17 And so I'm saying if they say they've
18 given you everything that's exculpatory or required
19 under Brady and the discovery rules -- criminal
20 discovery rules -- they say they've given you
21 everything, any changes that were made in their
22 statements. They've given you anything that might
23 be exculpatory, including from this meeting, any
24 changes made by a witness or that might be helpful
25 to you in your defense.

1 They say they've given you that. And so
2 I'm not going to require them to turn over their
3 trial prep notes. Have you got something specific
4 that you think is there, I'll be glad to take a look
5 at the notes myself and see if there's anything
6 there. But if you don't have anything specific, a
7 shot in the dark out there somewhere is not very
8 helpful to the Court.

9 MR. O'NEILL: And, Your Honor, I guess I'm
10 in a position where I can't relay it to the Court
11 whether I have anything specific or not because I
12 haven't seen the notes. But I would ask that the
13 Court review them just to make sure that there's not
14 anything in there that I haven't been given.

15 Of course, I don't know whether or not
16 there's anything that I haven't been given because I
17 haven't seen. I was just relying that they told me
18 that they had given me everything. And all of a
19 sudden --

20 THE COURT: Are you going to give me yours
21 and let me look at yours too and see if there's
22 anything that's helpful to the State that you didn't
23 turn over to them? Are you going to give me those?

24 MR. O'NEILL: Well, Your Honor, I would
25 turn over anything that's required of me under

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1 reciprocal Rule 5. I don't have any Rule 5 that I'm
2 going to use in my case in chief here.

3 THE COURT: Are you going to bring me your
4 trial prep notes and your evaluation of your
5 witnesses and let me look over them? You see where
6 you're going with this? You're going with the Court
7 is going to have to review everybody's trial prep
8 notes to see if there's anything they didn't turn
9 over.

10 If there's something you say they didn't
11 turn over, I'll be glad to look at them. But just
12 to make me review all their notes and everything and
13 do that in every case, I don't think we need to do
14 that. They say they've turned over everything to
15 you and went over everything with you that's
16 exculpatory or required to be turned over to you.

17 MR. O'NEILL: Yes, Your Honor.

18 THE COURT: And you can't tell me anything
19 that you think they might have that haven't been
20 turned over. You're just telling me "I want you to
21 review everything and see if there's anything in
22 there that they haven't turned over," right?

23 MR. O'NEILL: Well, actually, Your Honor,
24 what I'm saying is that -- precisely my point is
25 that I think I'm entitled to essentially dictations

1 of the interview. I don't want any sort of
2 impressions. I agree I'm not entitled to their
3 impressions and thoughts of the witnesses.

4 I'm not asking for that. I want to make
5 sure that the Court is clear on that. I'm not
6 asking for any sort of trial prep when it relates to
7 their internal characterization of the strength of a
8 particular witness.

9 That's not what I'm asking for. All I'm
10 asking for is if they said -- if they essentially
11 dictated what the witness interview was, that's what
12 I think I'm entitled to.

13 THE COURT: I don't see how you're going
14 to separate it out if they're making notes in
15 preparation for the trial. If you're saying a
16 witness made a statement and they wrote down what
17 the witness said in a statement and you're entitled
18 to that.

19 MR. O'NEILL: Yes, that's what I meant.

20 THE COURT: I think you are if it's
21 inconsistent with anything they said before or
22 anything exculpatory or helpful to you in your
23 defense. I think you're entitled to it.

24 MR. O'NEILL: Yes, sir. And that's --

25 THE COURT: But I don't think you're

1 entitled to go through their whole notes and
2 everything to see if you can find something that
3 might be --

4 MR. O'NEILL: Your Honor, I'm in a
5 position where there's no way I can tell what I'm
6 entitled to because I can't see what they have. So
7 there's no way for me to know what I'm entitled to,
8 if Your Honor understands me.

9 THE COURT: Well, I understand what you're
10 saying, but I also say the Court is not going to
11 review everybody's notes before everybody's trial
12 just because you want to see what's over there.
13 That's not the way it works.

14 MR. O'NEILL: I just want --

15 THE COURT: They're required to comply
16 with the rules -- they say they've done that -- in
17 Brady and the rules. They say they've done that.

18 MR. O'NEILL: Yes, Your Honor.

19 THE COURT: Okay. And so if you tell me
20 there's something you think they've got over there
21 that you need, I'll be glad to review their notes
22 and see if that's the case. But just to come up
23 with a blanket want the Court to review all their
24 notes and everything to see if there's anything, I'm
25 not going to do that in every trial I have.

1 They're officers of the Court, and I have
2 to assume that they along with you are being honest
3 with the Court. And if you say you've turned over
4 everything, you've turned over everything. I have
5 to assume that.

6 MR. O'NEILL: Yes, Your Honor.

7 THE COURT: If you can point to something
8 specific that you think might be there, I'll be glad
9 to look and see if it's there.

10 MR. O'NEILL: Your Honor, I just want to
11 make clear I'm not implying dishonesty on the part
12 of the State. Sometimes there's a difference of
13 opinion as to what constitutes a change in a story
14 or a variation in the statement here. That's the
15 only thing I'm concerned about, Your Honor.

16 THE COURT: Well, then I've got to go back
17 and review everybody's statements and everything to
18 see if there's a possible inconsistency in there.
19 And the Court can't do that in every trial.

20 MR. O'NEILL: Yes, sir.

21 THE COURT: That's like saying "Can't
22 trust you guys. You're not going to turn over
23 everything. The Court's going to have to review
24 your trial prep notes every time to see if there's
25 anything that might be helpful to me." I don't

1 think that's where we're going with discovery.

2 MR. O'NEILL: I understand the Court's
3 ruling. But I just want to make sure that my client
4 gets everything that we're entitled to, Your Honor.
5 And I understand the Court's ruling.

6 THE COURT: They say they've turned it all
7 over, counsel. They say they've turned it all over,
8 and they've complied with Brady and the rules and
9 the case law. I don't know what more I can do. I
10 don't think I should get in the habit of reviewing
11 everybody's notes, theirs and yours, to see if you
12 all are in compliance with the discovery.

13 MR. O'NEILL: Yes, Your Honor.

14 THE COURT: You're an officer of the
15 Court, and I assume you're telling me that okay.
16 Even today or if we're in a post-conviction relief
17 proceeding, and you say, "I think they've got this
18 over there. I found out that they may have this
19 there and included in their notes or their case
20 file," I'll go look for it. I'll make them turn it
21 over and let me look at it. I don't mind doing
22 that.

23 But if you just tell me blanket, "I want
24 you to look at everything they've got and see if I
25 can find anything that's helpful to me," I don't

1 think that's where we need to go with discovery. If
2 that's the case, we can't trust anybody, including
3 you, and you're going to have to turn your notes
4 over as well and let me review those.

5 I don't want to do that in every case,
6 because then I've got to go back and review
7 everybody's statements in the case. I've got to try
8 the case insofar as the discovery is concerned.
9 I've got to look at everybody's notes and check
10 everybody's notes and see if there's anything that's
11 beneficial to the other side or see if they're in
12 compliance with discovery rules and Brady. I don't
13 want to get in that position.

14 MR. O'NEILL: Yes, sir.

15 THE COURT: I don't think you want me to
16 get in that position, because I'm going to have to
17 review all your stuff too if they say, "We want to
18 make sure he's turned over everything. We want you
19 to look at his work product, his interviews, and his
20 impressions, and any witnesses maybe he hasn't
21 called that he got that's given him bad information
22 that's not favorable to him." You want to get in
23 that position?

24 MR. O'NEILL: I understand the Court's
25 ruling, Your Honor.

1 THE COURT: Well, I'm trying to make it
2 clear to you. I want to make sure everybody is fair
3 and you've got what you're supposed to get under the
4 rules.

5 MR. O'NEILL: Yes, sir.

6 THE COURT: But I don't want to come into
7 court with this blanket "Look at everything they've
8 got and see if you can find something for me."
9 That's not far how discovery goes, I don't believe.
10 If they don't turn over something they're supposed
11 to turn over to you, then we'll take that up --

12 MR. O'NEILL: Yes, sir.

13 THE COURT: -- if it turns out to be the
14 case.

15 MR. O'NEILL: Yes, sir.

16 THE COURT: All right?

17 MR. O'NEILL: Thank you, sir.

18 THE COURT: We'll take it up and deal with
19 it.

20 MR. O'NEILL: Yes, sir.

21 THE COURT: All right?

22 MR. O'NEILL: Thank you.

23 MS. WEISS: Your Honor, may it please the
24 Court, Mr. O'Neill had asked if we had any other
25 information related to the cell tower. He just

1 asked if there's any more cell tower information.
2 And we just got a list of the addresses that go with
3 the numbers, the same thing that was on the cell
4 site but this is a list we just got. It doesn't
5 specifically relate to anything. It's just all of
6 the cell tower sites and the numbers.

7 MR. O'NEILL: This is for all three cell
8 phones?

9 MS. WEISS : This is for the entire
10 country, I believe.

11 MR. O'NEILL: So this is a list of all the
12 cell --

13 MS. WEISS: Yes.

14 MR. O'NEILL: -- phone towers?

15 MS. WEISS: Yes. It was something that
16 Mr. O'Neill had asked for, and so I just want to let
17 you know we turned that over. Also, just to be
18 clear, we had talked to Mr. O'Neill yesterday about
19 -- when I was giving him all the information, one of
20 the things that we mentioned was that Tasha Matthews
21 had told us that Rod Cook and Meon Miller had dealt
22 drugs together and that Rod Cook had dealt drugs in
23 Batesburg-Leesville, that she had taken him when he
24 had done that.

25 And he said he was fine with that. I

1 don't want to be in any sort of mistrial situation
2 if she testifies to that, because I wanted to make
3 sure the Court is aware that this has been brought
4 up ahead of time.

5 MR. O'NEILL: I'm fine with them telling
6 me that. I don't think I was -- I won't admit that
7 I was fine with that coming into evidence, Your
8 Honor. I want to make sure I'm with that. I wasn't
9 saying I was fine with that coming into evidence. I
10 was saying I was fine with that disclosure.

11 MS. WEISS: Okay. Well, Your Honor, that
12 is information that explains Tasha Matthews'
13 testimony -- her state of mind, her testimony as to
14 what she was doing, why she was doing it at the time
15 that the murder took place.

16 Part of the testimony would be that she
17 dropped off the two co-defendants and then drove to
18 a separate place to park, that she had done that in
19 the past when she had dropped Rod off to do a drug
20 trial. She would go to a separate place to park.

21 So that's she thought that -- she knew
22 something illegal was going on. She thought it was
23 a drug deal because she had a history of this. It
24 doesn't go to the robbery. It doesn't go to whether or
25 not it was a drug deal. It's just her state of

1 mine, her reasoning for doing what she did.

2 I think it helps explain why Tasha
3 Matthews did what she did and explains her
4 testimony. I think it would make the testimony
5 incomplete to not be able to explain that she had
6 done this in the past and that there was a reason in
7 her mind for doing what she did.

8 MR. O'NEILL: If they want it for that
9 limited purpose, okay.

10 THE COURT: Sir?

11 MR. O'NEILL: If they want it for that
12 limited purpose, then I won't object to it.

13 MS. WEISS: Okay.

14 THE COURT: All right.

15 MR. O'NEILL: Your Honor, one thing that I
16 just thought about that yesterday came up. We've
17 got a previous stipulation as it relates to the
18 cause of death. Based on our conversation yesterday
19 as to Meon Miller's change as to how the shooting
20 occurred, I'm in no position that I could stipulate
21 to the cause of death, because the story that they
22 related to me that Meon Miller related to them as to
23 how Mr. Jennings died is not consistent with -- in
24 my opinion is not consistent with the pathologist's
25 report as to the gunshot wound that the victim

1 received.

2 MS. WEISS: I can't make him stipulate.
3 And we were just asking that he stipulate that he
4 died as a result of a gunshot wound, and we weren't
5 talking about the direction of it. Obviously, if he
6 feels that way --

7 THE COURT: Let me ask you that. What
8 they're saying, they're asking you to stipulate that
9 he died as a result of a gunshot wound. Does that
10 make a difference? It's not who shot or was even a
11 gunshot wound. What are you trying to do -- keep
12 from having to call the pathologist?

13 MS. WEISS: Yes, sir, Your Honor.

14 MR. O'NEILL: Yes, Your Honor. And I
15 think I need to ask --

16 THE COURT: But you may need to.

17 MR. O'NEILL: -- questions of the
18 pathologist, Your Honor.

19 THE COURT: Yes. They may need the
20 pathologist to show the difference as to maybe where
21 -- the angle of the bullet, how close, those kinds
22 of things, right?

23 MR. O'NEILL: Yes, Your Honor.

24 THE COURT: Okay, all right. I'm sorry.

25 MS. WEISS: Okay.

1 THE COURT: All right, anything else?

2 MR. O'NEILL: I think that's what they
3 need to settle the record, especially with the co-
4 defendants, at the appropriate time.

5 MS. WEISS: I know --

6 THE COURT: Pardon me?

7 MR. O'NEILL: We need to settle the
8 records of the co-defendants I guess at the
9 appropriate time
10 -- settle the records of Angelo Tucker --

11 THE COURT: Oh, records.

12 MS. WEISS: Okay. As far as this morning,
13 the only person I plan to put up who's not law
14 enforcement is Tasha Matthews, and we talked about
15 that yesterday. There's no record that would come
16 in. She has a prior conviction for a fraudulent
17 check back in 2000. The defense has agreed we're
18 not going to address the fraudulent check charge.

19 THE COURT: Okay.

20 MS. WEISS: So as far as her record, there
21 would not be anything to bring in. I did plan to
22 re-run the others at lunch just to make sure, and
23 they've all been in jail since this case. So if we
24 want to try to do that now, we can do that right
25 after lunch, either way.

1 THE COURT: Well, before they're called.

2 MS. WEISS: Before they're called --

3 absolutely before they're called.

4 MR. O'NEILL: That's fine.

5 THE COURT: Okay.

6 MS. WEISS: Is that okay? And we'll run
7 clean ones, new ones.

8 THE COURT: Okay. All right, anything
9 else?

10 MR. O'NEILL: That's all I have, Your
11 Honor.

12 THE COURT: All right. I think maybe
13 we're ready to get started finally. We've got all
14 the jurors. So what we'll do is bring the jury in,
15 and we'll have the oath administered to them and get
16 started with opening statements.

17 Please bring the jury in.

18 (Jury in at 10:26 a.m.)

19 THE COURT: Good morning, ladies and
20 gentlemen of the jury panel. I hope you had a
21 pleasant night last night. We're ready to get
22 started with the trial this morning. I have your
23 note indicating that you have selected juror number
24 98, Zachary Huffines, as your foreperson.

25 Sir, that's you right there in the front?

1 MR. HUFFINES: Yes, Your Honor.

2 THE COURT: Thank you. And we're ready to
3 start with the trial now at this time. We're to
4 that part of the trial where counsel will make their
5 opening statements to you. I ask that you listen
6 attentively now as counsel address you in opening
7 statement.

8 Counsel, we're ready to proceed.

9 MS. WEISS: Thank you, Your Honor, may it
10 please the Court?

11 THE COURT: Oh, I'm sorry, let me back up.
12 I'm getting a little ahead of myself. We need to
13 swear the jury panel.

14 Madam Clerk, please swear the jury panel.

15 CLERK OF COURT: Yes, sir.

16 THE COURT: Thank you.

17 (Whereupon, the jury panel
18 was sworn.)

19 CLERK OF COURT: Be seated.

20 THE COURT: Counsel?

21 OPENING STATEMENT

22 BY THE STATE

23 MS. COTE: Thank you, Your Honor. We
24 wouldn't be here today if it wasn't for this
25 defendant, Rod Cook, because if it wasn't for him,

Opening Statement by the State

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1 the victim in this case, Willie Jennings would not
2 have died on October 13, 2010.

3 You see, back in October of 2010, Rod Cook
4 needed money. So he decided to use the McDonald's
5 in Batesburg-Leesville where he was a manager as his
6 own personal piggy bank. He cooked up a plan to rob
7 the McDonald's and recruited his younger cousin,
8 Meon Miller, and his friend, Angelo Tucker, to do
9 his dirty work.

10 Meon and Angelo were instructed to wait
11 out by the dumpsters outside that McDonald's late
12 night until the victim, Willie Jennings, came out
13 with the trash. He was sent out with the trash by
14 his manager, this defendant.

15 When Willie Jennings came out with the
16 trash, Meon and Angelo were supposed to take him
17 hostage, force him inside the McDonald's, and rob
18 the McDonald's at gunpoint. That was the plan
19 anyway.

20 There was one problem that Rod Cook didn't
21 think about when he made up this plan, and that
22 happened. Willie Jennings fought back. Willie
23 Jennings fought back, he got shot, and he died as a
24 result of that gunshot wound. He died as a result
25 of Rod Cook's plan.

Opening Statement by the State

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1 Now, that's a very brief -- very brief --
2 overview of the facts in this case, but I do that on
3 purpose. I don't want you to hear what happened
4 from me. I want you to hear it from the witnesses
5 that are going to talk to you from this witness
6 stand. They were there. They were the people that
7 were involved.

8 And I want you to hear it from them and
9 not from me. You're going to hear from a lot of
10 witnesses over the next few days. And I want you to
11 think of each one as pieces to a puzzle -- pieces to
12 a puzzle that by the end of this trial will reveal a
13 clear picture of what happened on the night of
14 October 13, 2010.

15 You'll hear from members of law
16 enforcement, both Batesburg-Leesville and Lexington
17 County. There were actually two crime scenes or
18 what was considered two crime scenes. We had the
19 McDonald's where the shooting actually occurred, and
20 then there was a car stop that wasn't far from the
21 McDonald's. And officers were at both locations.

22 The car stop was where the defendant's
23 girlfriend was driving the getaway car, and Meon and
24 Angelo were located in that car. You will get to
25 see phone records, and you'll hear testimony from

Opening Statement by the State

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1 people with T-Mobile and AT&T, and you'll see phone
2 records from the people that were involved, who was
3 calling who. You'll get to see that.

4 You'll hear recordings of phone calls that
5 the defendant has made. Some of them are long.
6 I'll go ahead and warn y'all about that. But it's a
7 piece to a puzzle, so we want you to hear it.

8 You'll get to hear also from the three
9 people that were in the getaway car that night.
10 You'll hear from the defendant's girlfriend, Tasha
11 Matthews. You'll hear from Meon Miller. And you'll
12 hear from Angelo Tucker.

13 My name is Nancy Cote, and sitting with me
14 at the State's table is Heather Weiss. And we're
15 both lawyers for the Attorney General's Office.
16 We're representing the State of South Carolina in
17 this case.

18 I want to take a little bit of right now
19 to go over the law in this case with you, just
20 briefly. Judge Alford, as he told you, he's the
21 judge of the law in this case, and y'all are the
22 judge of the facts. But I want you to have an idea
23 of the law as you're listening to this testimony
24 from these witnesses.

25 Judge Alford will talk to you, and we'll

1 be able to talk to you again at length, about the
2 law at the end. But I just want to give you an idea
3 of what to look for. The defendant is here charged
4 with three crimes -- murder, attempted armed
5 robbery, and criminal conspiracy.

6 Now first would be murder, and it's the
7 killing of any person with malice aforethought.
8 There are several different ways to show malice.
9 One can be an intent to kill, and one is something
10 that's known as the felony murder rule. And that is
11 if two or more people combined together to commit an
12 unlawful, and in the execution of that common
13 purpose a homicide is committed by one of the actors
14 as a probable or natural consequence of the act done
15 in pursuant of the common design.

16 All present participating in the unlawful
17 common design are as guilty as the one committing
18 the homicide. The next charge is attempted armed
19 robbery. It's an attempted armed robbery because
20 they didn't actually get into the store to rob it
21 that night because of Willie.

22 An attempt is an effort to accomplish a
23 crime which does not succeed, and the defendant
24 attempted to commit a robbery while armed with a
25 pistol, dirk, slingshot -- these are all types of

Opening Statement by the State

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1 deadly weapons. Here it's a deadly weapon with a
2 handgun.

3 Next is criminal conspiracy. It's a
4 combination between two or more persons for the
5 purpose of committing an unlawful act or a lawful
6 act by unlawful means. Now, those are the charges.
7 There's one other principle that's important in this
8 case. It's called the hand of one is the hand of
9 all.

10 A person who joins with another to commit
11 an unlawful act is criminally responsible for
12 everything done by the other person which happens as
13 a natural consequence of the acts done in carrying
14 out the common plan and purpose. So just because
15 this defendant may not have been the one that
16 actually fired the handgun, he's just as guilty as
17 the person who actually fired the handgun because he
18 was part of that common purpose.

19 Now, the State -- we as the State, as the
20 prosecution, we have the burden of proof in this
21 case. We have to prove to you all of these elements
22 of these crimes that I just showed you beyond a
23 reasonable doubt. The defense is going to get up
24 and make a big deal about reasonable doubt, and he
25 should. It is a big deal.

Opening Statement by the State

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1 But I don't want you to think that it's
2 something that's unusual or different about this
3 case in particular. In every criminal case all over
4 the country, the State has the burden. We have to
5 prove these elements beyond a reasonable doubt.

6 Reasonable doubt isn't proof any doubt or
7 proof beyond all doubt. It's just proof that leaves
8 you firmly convinced of the defendant's guilt. And
9 it's a burden that we welcome in this case. And
10 after you hear all the testimony in this case and
11 see these witnesses, we'll get to talk to you again.

12 And at that point, we're going to ask you
13 to come back with three guilty verdicts -- one for
14 attempted armed robbery, one for criminal
15 conspiracy, and one for the murder of Willie
16 Jennings. Thank you.

17 MR. O'NEILL: May it please the Court?

18 THE COURT: Yes, sir.

19 OPENING STATEMENT

20 BY THE DEFENSE

21 MR. O'NEILL: In the seventh chapter of
22 Matthew, one of Jesus's parables is recorded. It
23 talks about a foolish man. This foolish man built
24 his house upon the sand. And when the rain came and
25 the streams rose and the wind blew, that house fell.

Opening Statement by the Defense

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1 The house fell because it wasn't built on
2 a firm foundation. The State's case against Rod
3 Cook is built on the foundation of a lie. Their
4 whole entire case rests on the testimony of Meon
5 Miller -- Meon Miller, a man that the evidence will
6 show is two things, a liar and a killer -- a liar
7 and a killer.

8 Meon Miller is the individual who the
9 evidence will show used a firearm to kill Willie
10 Jennings on the night of October 13, 2010, outside
11 the Batesburg McDonald's. I don't know much about
12 Meon Miller. I think the evidence is going to show
13 two things about him through this trial -- he's a
14 liar, and he's a killer.

15 He got in contact -- law enforcement got
16 in contact with him that night. They caught him
17 minutes away from the McDonald's here. On October
18 13, 2010, Meon Miller never breathed a word about
19 Rod Cook setting up some sort of robbery, never told
20 the police that.

21 When this incident occurred, when he was
22 caught redhanded, he never told the police that Rod
23 Cook had anything to do with this. The first time
24 there's a statement -- a written statement -- from
25 Meon Miller that says anything about Rod Cook being

1 involved with the murder he committed was in
2 September of 2011, almost a year later, a year after
3 Meon Miller had reviewed all the evidence in this
4 case, gone over all the police reports, gone over
5 all the witness statements.

6 And finally forensics came back from SLED
7 that placed Meon Miller's back against the wall.
8 And when his back was against the wall and he only
9 had one way out, he chose the one way out he thought
10 he had. That's when he wrote a statement and said
11 Rod Cook had something to do with this.

12 And what's key about this case is that
13 you're going to hear from Angelo Tucker and Tasha
14 Matthews, two other people that the State has also
15 charged with attempted armed robbery, conspiracy,
16 and murder. Listen to Angelo Tucker and Tasha
17 Matthews.

18 See if they back up anything Meon Miller
19 is saying about Rod Cook being involved in
20 orchestrating a murder or attempted robbery. You're
21 not going to hear anything from Tasha Matthews or
22 Angelo Tucker saying they talked to Rod Cook, and he
23 set up a robbery. You're not going to hear that.

24 None of them are going to back up what
25 Meon Miller is going to tell you from that stand

Opening Statement by the Defense

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1 today. Don't just take their word for it. Look at
2 the physical evidence. Look at the cell phone
3 records, the cell tower information that the police
4 investigated here.

5 See if that backs up anything Meon Miller
6 is saying. Look at the independent witnesses here -
7 - Van Harris [sic], Danikwa Trapp. You're going to
8 hear from them. They came in contact with Meon
9 Miller on that day. See if they back up anything
10 that Meon Miller is saying.

11 Look at the physical evidence around the
12 McDonald's. Listen for the last words of Willie
13 Jennings himself and see if that backs up anything
14 Meon Miller says. And it doesn't. Meon Miller, the
15 evidence will show, is that foundation built on
16 sand. And during this trial, the rains are going to
17 come, the streams are going to rise, and the winds
18 are going to blow in the form of questions and
19 testimony in evidence.

20 And when it does, the State's case is
21 going to fall. Now, everybody has a job in this
22 particular case. Judge Alford, he's the referee.
23 He makes sure that everybody plays by the rules.
24 You're going to hear from law enforcement. Their
25 job is to go out there and investigate these

Opening Statement by the Defense

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1 incidents here, to bring the facts to the Attorney
2 General's Office.

3 My job is to protect Rod Cook's rights and
4 make sure nobody infringes on his rights. But the
5 State's job, their job is to prove to you 14 their
6 case, all of the elements, beyond a reasonable
7 doubt. Beyond a reasonable doubt is the highest
8 burden we have in our judicial system.

9 It's the reason why our system is the best
10 system in the world. Beyond a reasonable doubt
11 means you have to be firmly convinced of Rod Cook's
12 guilt in order to find him guilty. You can't just
13 think he did it. You can't just think he did it.

14 You've got to be firmly convinced by the
15 evidence the State provides for you. And that's
16 where you 14 people come in. Your job is to be
17 supervisors. At the end of this case, your verdict
18 is going to express whether or not you feel as
19 though the State of South Carolina has done their
20 job in proving you their case beyond a reasonable
21 doubt.

22 You 14's job is not to figure out and
23 investigate what happened. We have police that do
24 that. That's not your job. If the State of South
25 Carolina has not done their job, they haven't proved

Opening Statement by the Defense

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1 their case beyond a reasonable doubt, your job is
2 simple. You return a verdict of not guilty, because
3 there's no way you can be convinced beyond a
4 reasonable doubt, there's no way you can be firmly
5 convinced on the word, on the foundation, of Meon
6 Miller.

7 Two things you know about Meon Miller by
8 the time this case is over here. One, he's a liar.
9 Two, he's a killer. I want you to pay close
10 attention to the activities of Rod Cook on that day.
11 I want you to look at all the things he did that's
12 not consistent for being part of this robbery.

13 He talked to 911 that day, you're going to
14 hear. He talked to law enforcement that day, you're
15 going to hear. He gave his statement before he was
16 arrested. All these things are not consistent with
17 him being a part of this robbery.

18 The State alludes to the fact that he has
19 some financial motive for this robbery. Pay close
20 attention to the information you receive about his
21 financial situation during that time. Pay close
22 attention to what you hear about his situation at
23 the apartment during that particular time.

24 The State will claim that he was going to
25 get evicted, so that's why he did this robbery. Pay

Opening Statement by the Defense

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1 close attention to his history there at that
2 apartment. See if that inference, does that make
3 sense. I guarantee you when you hear the evidence
4 here, it won't make sense.

5 Now, as I was prepping for this trial
6 here, one of my friends sent me an e-mail here. And
7 he's always one of those guys who send me e-mails,
8 kind of random e-mails. He sent me this e-mail that
9 said it was a one-question IQ test to see if you're
10 a genius or not. One question determines whether or
11 not you're a genius.

12 So I open up the e-mail. I needed a
13 little break, so I opened up the e-mail. And it
14 said this one question will determine whether or not
15 you're a genius or not. It said, "How many months
16 have 28 days?"

17 I'm like, "Yes. My Marlboro County public
18 school education is finally coming in handy here.
19 I'm a genius. I know this. I know the answer --
20 one. February has 28 days. I'm a genius." So I
21 scrolled down the e-mail a little bit further, and
22 it says, "If you picked February, one month, you're
23 absolutely, undeniably wrong."

24 It said, "All months have 28 days. Some
25 just have more." I learned two things that

Opening Statement by the Defense

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1 afternoon here. One, I'm not a genius. And, two, a
2 lot of times the easy answer isn't always the right
3 answer. The easy answer in this case would be to
4 say Rod Cook had something going on with this
5 robbery because he was the manager at the
6 McDonald's.

7 That's not the right answer. The right
8 answer is that Rod Cook had nothing to do with the
9 death of Willie Jennings on that night. And the
10 evidence is going to show that. So at the end of
11 this case, I'm going to ask you to just do your job
12 here and bring forth the only proper verdict, not
13 guilty. Thank you.

14 THE COURT: The State will call its first
15 witness, please.

16 MS. WEISS: Thank you, Your Honor. The
17 State calls Officer Lauren Wellons.

18 (The witness was sworn.)

19 CLERK OF COURT: Have a seat, please,
20 ma'am. Once you're seated, speak up loud and clear.
21 State your full name, spelling your last for the
22 record, please.

23 MS. WELLONS: Lauren Wellons, last name W-
24 E-L-L-O-N-S.

25 LAUREN WELLONS, having first been duly

1 sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. COTE:

4 Q Officer Wellons, where are you currently
5 employed?

6 A Claremont Police Department, Claremont,
7 Florida.

8 Q How long have you been there?

9 A August 2011.

10 Q What's your position there?

11 A Patrol.

12 Q At some point were you employed with
13 Batesburg-Leesville Police Department?

14 A Yes, ma'am.

15 Q When were you employed there?

16 A From February 2009 to February 2010.

17 Q Will you discuss your training in law
18 enforcement for the jury?

19 A Sure. I graduated the police academy in
20 St. Augustine, Florida, June 2009. At that time, I
21 applied for a job with Batesburg. I went up there,
22 crossed over, got my certification in South
23 Carolina, at which time I began working for
24 Batesburg.

25 Q Were you on patrol the night of October

Lauren Wellons - Direct

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1 13, 2010?

2 A Yes, ma'am.

3 Q Did you get a call to respond to 210 West
4 Columbia Avenue in Batesburg-Leesville that night?

5 A Yes, ma'am.

6 Q What's at that location?

7 A That's the McDonald's.

8 Q And is that McDonald's located in
9 Lexington County?

10 A Yes, ma'am.

11 Q Where were you when you received the call?

12 A I had just sat down at Waffle House to
13 have a cup of coffee.

14 Q Did you know what kind of call it was that
15 you were responding to?

16 A Initially, as I recall, it would be a
17 shots fired call.

18 Q When you were -- what happened after you
19 received the call?

20 A We received the call. I got up obviously
21 at a quick pace, got to my car, drove to the scene
22 of the incident. It took me maybe one minute to get
23 there from where I was.

24 Q Did you see anything on the way to the
25 scene?

1 A No, ma'am.

2 Q Did you see anything that you noticed
3 outside the Waffle House?

4 A Yes, ma'am. When I pulled up to the
5 Waffle House, I noticed a vehicle sitting on the
6 side road which connects -- Waffle House has two
7 roads, and there was a vehicle sitting there with
8 its lights on.

9 Q I'm going to show you what's been pre-
10 marked as State's Exhibit Two and ask you if you
11 recognize this.

12 A Yes, ma'am.

13 Q Is this an accurate depiction of the area
14 that we're speaking about?

15 A Yes, ma'am.

16 Q Is it how it appeared except for it being
17 daytime that night?

18 A Correct.

19 MS. COTE: Your Honor, I've showed this to
20 Mr. O'Neill previously. The State would seek to
21 introduce State's Exhibit Two into evidence.

22 MR. O'NEILL: No objection, Your Honor.

23 THE COURT: Admitted without objection.

24 (State's Exhibit Number
25 Two, Chart of Incident Scene, was entered in evidence.)

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1 MS. WEISS: Your Honor, may we publish
2 this to the jury?

3 THE COURT: You may publish.

4 MS. WEISS: Thank you.

5 Q Ms. Wellons, there are some tabs on the
6 back. Would you mind marking for the jury the
7 location you're speaking of, the Waffle House, the
8 McDonald's that you responded to, and the car that
9 you observed.

10 A Okay.

11 Q I'll hold it while you mark it.

12 A This would be where the car was. This
13 would be the McDonald's. And this is the Waffle
14 House.

15 Q So when you left the Waffle House, will
16 you show the jury which direction you drove, how you
17 got there?

18 A I left the Waffle House, and I came this
19 road right here, straight to McDonald's.

20 Q And how long did it take you to get there?

21 A Thirty to 45 seconds.

22 Q Okay. And is there -- what's located on
23 that road where that car was located?

24 A This road goes back. I believe there's a
25 storage facility back here. But it connects out to

1 this road right here.

2 Q Is it a main thoroughfare in Batesburg?
3 Is there a lot going on on that street?

4 A No, ma'am.

5 Q And was the car in any kind of parking
6 spot in a parking lot?

7 A No, ma'am, it was just parked on the road.

8 Q Did it catch your attention --

9 A Yes, it did.

10 Q -- that it was parked there?

11 A It did.

12 Q Okay, thank you. Now, when you were going
13 to the Waffle House, was that car's lights on or
14 off?

15 A When I was going to the Waffle House, the
16 car's lights, if I recall correctly, they were on.
17 When I left the Waffle House, the same car was
18 there, and they were off.

19 Q Okay. And did you observe any activity in
20 the car?

21 A No, it was -- I couldn't see in the car.
22 It was very dark. And it was like I said, they were
23 on the road, so it wasn't a lit area.

24 Q Okay. Did you ever see that car move?

25 A When I left the Waffle House, I could see

Lauren Wellons - Direct

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1 the lights turned on, so it caught my attention.

2 Q Then as you're leaving, did you -- what
3 happened when you arrived at the McDonald's?

4 A When I arrived to McDonald's, I pulled up.
5 The defendant was in the area where the trash --
6 where you would leave the side door --

7 Q Okay.

8 A -- waving in me, because that's where the
9 victim was. So that's where I pulled up, was the
10 side door. At that time, I exited my vehicle, ran
11 into McDonald's, located the victim. At that time,
12 I located the victim.

13 Q Where was he in the McDonald's?

14 A He was in a little break room area,
15 sitting up in a chair.

16 Q Did you see him when you first walked into
17 McDonald's?

18 A I actually ran right by him. Nobody's
19 with him. I ran right by him because he was sitting
20 straight up, and I was expecting, you know, the
21 victim to be accompanied by somebody. So initially,
22 no, I ran right by him.

23 Q When you ran back -- did you run back and
24 actually tend to him?

25 A I did. I did.

1 Q Was Mr. Jennings alert at that time?

2 A He was somewhat. He was able to speak.
3 He was sweating profusely, obviously in some sort of
4 shock. But he was able to speak to me, yes.

5 Q What did he say to you?

6 A At first, obviously my first question was
7 how he was hanging in there -- you know, how he's
8 doing. And he said, "Not well." He had one gunshot
9 wound to the stomach that I could see.

10 He then -- I then asked him what happened,
11 and the only thing he could really say to me was
12 "two young boys," I want to say was exactly his word
13 -- two young boys. And I asked him what happened,
14 and he said he didn't know. And that's really, you
15 know, all I could get from him at that time.

16 Q At that point after you spoke to him, what
17 happened next?

18 A I held his hand a little bit, just, you
19 know, to try to keep him calm. But within a minute,
20 I would say EMS arrived. At that time, I moved out
21 of the way so they could tend to him, and I exited
22 the McDonald's.

23 Q Where was the defendant, Rod Cook, when
24 you were tending to Mr. Jennings?

25 A As I recall, he may have been standing

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1 behind me in alley at the McDonald's. I really do
2 not recall where he was when I was talking to the
3 victim.

4 Q Y'all were kind of in like the back --
5 were you in the back area behind the kitchen?

6 A Yes, I do recall.

7 Q As far as office areas?

8 A Yes, ma'am -- yes, ma'am.

9 Q Okay. So when you left to get out of the
10 way of EMS, where did you go?

11 A I exited the McDonald's out the same door.

12 Q What did you do when you exited?

13 A As soon as I exited out the side door, I
14 was approached by I believe a woman and a man,
15 witnesses. And they were very, you know, excited.
16 They wanted to talk to me. You know, they were
17 saying "We saw two boys. We saw them. We saw
18 them."

19 And so immediately in my mind I'm thinking
20 this could be our suspects. So I get a description
21 of what they were wearing, and I put it out on the
22 radio, a BOLO.

23 Q What was the description that you
24 received?

25 A As I recall, it was two young men, two

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1 black men, possibly in their early twenties. And
2 they gave a clothing description. I believe one of
3 the clothing descriptions was a white long-sleeved
4 shirt with a black -- both wearing dark black and
5 then a backpack. One of them had a backpack, from
6 what I recall.

7 Q And you mentioned you put out a BOLO.
8 What's that?

9 A Be on the lookout for.

10 Q And what did you do after you issued that?

11 A After I issued the BOLO, I went and got in
12 my vehicle, and I began looking for these suspects,
13 as well.

14 Q And when you issue a BOLO, are you asking
15 other officers --

16 A Yes, yes.

17 Q -- also to be on the lookout for them?

18 A Yes, ma'am.

19 Q And where did you go?

20 A I believe from my recollection I went
21 behind the McDonald's. There's an apartment
22 complex, so that's where I started my search, was
23 behind the apartment complex.

24 But by that time, I believe I got word
25 from Sgt. Turner that they may have possibly located

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1 them. So I went immediately to them.

2 Q After you went to them, where were they?

3 A After I put the BOLO out, he asked me to
4 repeat the BOLO, repeat the descriptions of the
5 clothes that they were wearing. And after I did
6 that, he said that he had them on the highway where
7 the Waffle House is, the road that runs where the
8 Waffle House was. So at that time, I immediately
9 went to his location to assist him in anything he
10 needed.

11 Q What did you do there? How did you assist
12 him?

13 A When I arrived on scene, I believe they
14 were already handcuffed and everything was -- two of
15 them at least were already handcuffed, and I just
16 assisted at that time in taking them to the police
17 department.

18 Q After you transported and provided any
19 assistance that you could, where did you go after
20 that?

21 A I believe I went back to the McDonald's.
22 The same witnesses were there, and I believe two
23 more actually. And I got statements from everybody.

24 Q Were you able to speak to the defendant,
25 Rod Cook, at that point?

1 A Yes, ma'am.

2 Q What did he say to you?

3 A He kept asking where his wife was. That
4 stuck out in my mind a lot. It was kind of odd. He
5 kept asking where his wife was and where his ride
6 was and that she was supposed to be there, and why
7 wasn't she there.

8 And, you know, the questions didn't make
9 sense to me at the time. I didn't have any answer
10 for him. I didn't know where his wife was.

11 Q Was he asking you about Willie Jennings?

12 A No, ma'am.

13 Q What was his demeanor like?

14 A His demeanor was -- it was strange. It
15 was weird. It was odd because he kept asking -- he
16 was a little dramatic with his actions. It's like
17 the longer I was there and the longer his wife
18 didn't show up, you know, he seemed to get his
19 nerves, started pacing, a lot of pacing back and
20 forth. You know, he'd sit down, stand back up. But
21 it was about his wife. He was worried about his
22 wife. He was concerned about his wife.

23 Q Did he actually lay down at some point?

24 A He did. He did. He sat down. Then he
25 laid down, and he sat back up. He wasn't in one

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1 place very long.

2 Q Did you speak with other McDonald's
3 employees that night?

4 A Yes, I did.

5 Q What did their concern seem to be?

6 MR. O'NEILL: Objection, Your Honor,
7 hearsay.

8 MS. COTE: I'll withdraw the question,
9 Your Honor.

10 THE COURT: All right.

11 Q Do you see Rod Cook that you spoke to in
12 the courtroom today?

13 A Yes, I do.

14 Q Can you identify him for the jury?

15 A He's right there, in the red shirt.

16 MS. COTE: Your Honor, beg the Court's
17 indulgence. Your Honor, if you'll give me a little
18 leeway, I'd like to revisit the employees, if I can
19 ask her a few preliminary questions --

20 THE COURT: You may.

21 MS. COTE: -- and see if I can lay a
22 foundation.

23 THE COURT: You may.

24 Q When you were speaking with the employees,
25 did they appear to still be in the heat of the

1 moment? What was their demeanor like?

2 MR. O'NEILL: Objection, Your Honor,
3 leading.

4 THE COURT: Overruled. Go ahead.

5 MS. COTE: Thank you.

6 Q What was their demeanor like when you were
7 speaking to other employees from the McDonald's?

8 A Very upset -- very upset, very concerned,
9 very confused. Their reaction was obviously just
10 the nerves, just the stress of what just happened, I
11 think shock.

12 Q And what were they saying to you?

13 MR. O'NEILL: Objection, Your Honor.

14 MS. COTE: Your Honor, excited utterance
15 or present sense impression. They were still under
16 the heat of the moment. They were clearly excited
17 about what had just happened.

18 MR. O'NEILL: Your Honor, in addition to
19 that, in order for it to be an excited utterance,
20 the utterance has to describe the event that they're
21 startled by. There's been no foundation laid. That
22 testimony she's about to relate as to --

23 THE COURT: Counsel, you're speaking too
24 fast because I'm not understanding you.

25 MR. O'NEILL: I apologize, Your Honor.

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1 THE COURT: Repeat.

2 MR. O'NEILL: What I'm saying is that in
3 order for it to be an excited utterance, the
4 utterance must be describing the event that caused
5 the excitement. I don't think that foundation has
6 been laid. What the officer is about to testify to
7 actually that the workers stated actually is
8 describing the event that actually occurred here.

9 MS. COTE: Your Honor, I think that it's
10 clear that -- I mean, I can ask that question. But
11 she was responding to a shooting, so that was what
12 was on their mind at that point. And they were
13 responding to what had just happened at the
14 McDonald's. And I'm asking for what their reaction
15 was or who their concern was for at that time.

16 MR. O'NEILL: I guess, Your Honor, in
17 order for it to be an excited utterance, the witness
18 can testify to what was said concerning the actual
19 shooting. That's the exciting event. The testimony
20 has to be describing the exciting event
21 specifically, which is the shooting, not anything
22 else.

23 THE COURT: Well, counsel, I'm going to
24 overrule your objection. Rule 803(1), present sense
25 impression, a statement describing and explaining an

1 event or condition made while the declarant was
2 perceiving the event or condition, or immediately
3 thereafter -- immediately thereafter.

4 And it can't describe it until after it's
5 occurred. And there an excited utterance is a
6 statement relating to a startling event or condition
7 made while the declarant was under the stress and
8 excitement caused by the event or condition.

9 The police officer has testified that she
10 arrived in seconds, less than a minute, she was so
11 close. She got in there. She observed things, and
12 witnesses she said were still in an excited state,
13 and it had to be a very short time after she got the
14 call and arrived at the scene.

15 And so I think it falls within an
16 exception to the hearsay rule under 803(1) and (2),
17 and I will allow it. Go ahead.

18 MS. COTE: Thank you, Your Honor.

19 MR. O'NEILL: Your Honor, I'm sorry, just
20 one point to clarify. I think the witness testified
21 that she left and came back. And by that time, the
22 witnesses --

23 THE COURT: Okay, all right, let me back
24 up. Maybe I missed that point. You need to clarify
25 that.

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1 MS. COTE: Your Honor, I asked her
2 specifically when she arrived the first time.

3 Q Did you speak with or encounter people
4 from McDonald's when you first arrived that night?

5 A When I first arrived, when I walked in the
6 door, the defendant was at the door and let me in.
7 I went straight to the victim. I spoke with the
8 victim approximately 30 seconds to a minute. EMS
9 came right behind me.

10 At that time, I went back outside. And,
11 of course, by that time -- I didn't see anybody else
12 when I got there originally, because my main focus
13 was the victim. There were people there, but all I
14 was looking for was a way to get into the
15 McDonald's, and that's how I got in. But there were
16 people there, and I was back out in less than a
17 minute. Less a minute or so, I was back out the
18 door.

19 THE COURT: Clarify when the witnesses
20 made the statement to her.

21 Q When did you actually speak to the --

22 A As soon as I walked back out, I moved out
23 of the way for EMS. And they were at the door when
24 I walked out.

25 Q And those were the witnesses that were lay

1 witnesses, not necessarily McDonald's witnesses --

2 A Yes.

3 Q -- is that correct?

4 A Correct.

5 Q When did you actually speak to witnesses
6 from McDonald's?

7 A That was not until after I spoke to the
8 witnesses that actually gave me the description of
9 the suspects.

10 Q How much time had passed, would you
11 estimate?

12 A From the time of the shooting or from the
13 time that I arrived?

14 Q From the time that you arrived.

15 A Oh, less than two minutes.

16 MS. COTE: Your Honor, it's our position
17 that they were still under the heat of the moment
18 and still under the excited state. And she didn't -
19 - if I may ask.

20 Q Did you question them, or were they coming
21 to you with these impressions?

22 A No, ma'am, I questioned nobody. They came
23 to me.

24 MS. COTE: Your Honor, it's our position
25 that those would be excited utterances.

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1 THE COURT: Let me get you to clarify one
2 thing with her, and that is whether she spoke to
3 them when she was first on the scene or came back
4 and spoke to them.

5 Q Did you speak to them later when you
6 returned to the scene -- is that correct -- the
7 McDonald's employees?

8 A The McDonald's employees, correct.

9 THE COURT: And how much time passed
10 between them? You're not clarifying that, counsel.

11 MS. COTE: I'm sorry.

12 Q How much time had passed from when you
13 left after EMS came when you were doing the BOLO --

14 A Okay.

15 Q -- and then when you came back?

16 A I'm sorry, I don't recall that.

17 Q Okay. Do you think it was --

18 MR. O'NEILL: Objection, Your Honor, to
19 leading.

20 THE COURT: She can get a time reference
21 and a frame. Go ahead.

22 Q Was it around 15 minutes? Can you give us
23 a range, do you think?

24 A From the initial time I spoke to the
25 witnesses? Are we talking about the initial

1 witnesses who gave me the description of the
2 suspects?

3 Q Now we're talking from when you initially
4 respond or when you left to go do the BOLO and then
5 you transported to the jail and then you responded
6 back.

7 A I really don't recall. I couldn't tell
8 you a time. It couldn't have been more, I would
9 have to say, more than an hour, but that would be me
10 just --

11 MS. COTE: Your Honor, may I ask one more
12 question?

13 THE COURT: You may.

14 Q These witnesses that you spoke to later
15 from McDonald's, had they all been on the scene
16 initially, or had some of them come to the scene in
17 response to phone calls? Were all of them working
18 that night?

19 A No, ma'am. Some of them had came as a
20 result of hearing the news.

21 THE COURT: Counsel, approach just a
22 minute.

23 Q Officer Wellons, I don't have any further
24 questions for you right now. Please answer any
25 questions Mr. O'Neill has for you.

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1 MR. O'NEILL: May it please the Court,
2 Your Honor?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 Q Lt. Wellons?

6 A No, Officer.

7 Q Officer, okay, I apologize. How long did
8 you work at Batesburg?

9 A One year.

10 Q One year. It was from 2010 -- all of 2010
11 essentially?

12 A No, February 2009 to February 2010.

13 Q I'm asking because this happened in
14 October of 2010.

15 A Okay.

16 Q I just want to make sure we're clear on
17 everything here.

18 A Okay, hold on a second. Yes, I was there
19 in 2010.

20 Q Okay. So you worked from February 2010
21 till February 2011?

22 A Sure.

23 Q Okay. I just want to make sure we're
24 tracking here.

25 A Sorry.

1 Q Okay. Did you write a report in this
2 case?

3 A I did not. I did a supplement.

4 Q Okay. So no written report here that
5 would jog your memory as to what happened?

6 A Supplement.

7 Q And it's been about two and a half years
8 at this point almost at this point since this
9 occurred.

10 A I wrote a supplemental report.

11 Q Okay. Do you have that with you?

12 A No.

13 Q Okay. Have you reviewed that before the
14 trial?

15 A Yes.

16 Q Now, you said Mr. Cook was acting a little
17 bit nervous when you got there? That was your
18 testimony?

19 A Yes.

20 Q Okay. And you specifically said he was
21 acting nervous at it relates to his wife --

22 A Yes.

23 Q -- his girlfriend, Tasha Matthews?

24 A Correct.

25 Q But there had been a shooting in the area,

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1 correct?

2 A Yes.

3 Q Were you aware that his wife was coming
4 there to pick him up from work?

5 A Oh, he made that very clear.

6 Q He did?

7 A He made that very clear.

8 Q So there's a shooting in the area. His
9 wife is supposed to be there to pick him up. She's
10 not there, correct?

11 A Huh-huh.

12 Q There are two suspects at large at least
13 here that we know about?

14 A Correct.

15 Q At least one armed suspect here?

16 A Uh-huh.

17 Q One of which probably had just shot Mr.
18 Jennings here?

19 A Correct.

20 Q Okay. And she's not there?

21 A Uh-huh.

22 THE COURT: Ma'am, instead of "uh-huh,"
23 I'm going to get you to answer yes or no so the
24 Court Reporter can record you.

25 Q Were you aware that Mr. Cook actually was

1 the one who went outside and got Mr. Jennings and
2 brought him back into the McDonald's?

3 A Yes.

4 Q Okay. And was Renee one of the workers
5 from McDonald's in the break room with Mr. Jennings
6 when you got in there?

7 A No.

8 Q Okay. Who else was there at the
9 McDonald's besides Mr. Cook and Renee when you got
10 there initially?

11 A When I initially got there, actually I saw
12 was Mr. Cook.

13 Q Okay. And do you remember getting a
14 description of the suspects from Mr. Cook?

15 A No.

16 Q You don't remember when he gave you a
17 description of the suspects?

18 A No, sir, I do not.

19 Q You got a description for the suspects?

20 A From a witness, correct.

21 Q Okay. And your job at that point,
22 essentially you were the responding officer, for
23 lack of a better word here?

24 A Correct.

25 Q Okay. Your job was to try to gather all

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1 the information you possibly can to give to the
2 inspectors to kind of move the investigation kind of
3 further forward here?

4 A My job is to get the information as
5 quickly as possible to apprehend the suspects.

6 Q Okay. And Mr. Cook was actually the one
7 waving you inside the McDonald's when you got there?

8 A He let me in the door, correct.

9 Q Was he outside waving you in, telling you
10 where you need to come at?

11 A Yes.

12 Q He was still on the scene, hadn't fled the
13 scene or anything like that?

14 A No -- no, sir.

15 Q Okay. Did you -- were you the one who
16 actually ascertained like the video recordings there
17 at the McDonald's there?

18 A No, sir.

19 Q Okay. Were you aware that they had video
20 recordings?

21 A Yes, sir.

22 Q Okay. But that was someone else's job to
23 get those videotapes here?

24 A Yes, sir.

25 Q Okay.

1 That's all I have for this witness, Your
2 Honor.

3 MS. COTE: Your Honor, I have nothing
4 further for this witness. Thank you.

5 THE COURT: Thank you, ma'am. You may
6 stand down, ma'am.

7 MS. COTE: Your Honor, may she be released
8 from her subpoena?

9 MR. O'NEILL: No objection.

10 THE COURT: Thank you for coming in. You
11 may be excused at this time.

12 MS. COTE: Your Honor, the State calls
13 Kelly Jumpp.

14 (The witness was sworn.)

15 CLERK OF COURT: Once you're seated, speak
16 up loud and clear. State your full name, spelling
17 your last, please.

18 MS. JUMPP: Kelly Jumpp -- J-U-M-P-P.

19 KELLY JUMPP, having first been duly sworn,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MS. COTE:

23 Q Ms. Jumpp, where are you employed?

24 A Now?

25 Q Yes.

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1 A Nowhere.

2 Q Did you used to work at the Batesburg-
3 Leesville Police Department?

4 A I did.

5 Q Were you working there in October of 2010?

6 A I was.

7 Q What was your job title then?

8 A I was a jailer, dispatcher, 911 operator.

9 Q Were you working the night of October 13,
10 2010?

11 A I was.

12 Q Do you recall a call coming in regarding
13 shots fired?

14 A I do.

15 Q I'm going to show you what has been pre-
16 marked as State's Exhibit One and ask you if you
17 recognize this.

18 A I do.

19 Q Did you listen that prior to coming to
20 court today?

21 A I did.

22 Q Was your voice on that recording?

23 A It is.

24 Q Was it an accurate representation of what
25 you remember that call sounding like on October 13,

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1 2010?

2 A It is.

3 Q Had it been altered in any way?

4 A No.

5 MS. COTE: Your Honor, at this time the
6 State seeks to introduce Exhibit One into evidence.

7 MR. O'NEILL: No objection.

8 THE COURT: Admitted without objection.

9 (State's Exhibit Number
10 One, CD, 911, was entered in evidence.)

11 MS. COTE: Your Honor, may we publish this
12 to the jury?

13 THE COURT: You may publish.

14 MS. COTE: Thank you.

15 (Whereupon, the 911 call CD
16 was played before the jury.)

17 Q Ms. Jumpp, we hear you transferring a call
18 in the middle of that. What is that for?

19 A We don't dispatch EMS. It has to go
20 through Lexington County.

21 Q So if a call requires EMS, then you send
22 the call to Lexington County, is that right?

23 A Yes, ma'am.

24 Q Okay.

25 Your Honor, I have no further questions

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1 for Ms. Jumpp.

2 CROSS-EXAMINATION

3 BY MR. O'NEILL:

4 Q Ms. Jumpp, at the very beginning of that
5 call, I think you kept referring to the caller as
6 "ma'am." You realize that was a male voice now?

7 A Yes, sir, after the call.

8 Q Okay. Do you realize the actual voice
9 calling was Mr. Cook? Did you know that?

10 A Not at the time.

11 Q Do you realize that now?

12 A Yes.

13 Q So that was Mr. Cook calling 911. And
14 what did he tell you?

15 A That his employee was shot by the trash
16 dump, taking the trash out.

17 Q Okay. But it was Mr. Cook who was calling
18 911?

19 A Yes.

20 Q Okay. And you would have reported this
21 case?

22 A I did.

23 Q Okay. By supplementary report -- a
24 supplementary report?

25 A I believe it was.

1 Q And you indicated I think in your
2 supplemental report that the three occupants of the
3 vehicle were interviewed that night?

4 MS. COTE: Objection, Your Honor. He's
5 testifying.

6 MR. O'NEILL: I'm on cross.

7 THE COURT: Ask the question. Don't tell
8 her what is. Ask her a question.

9 Q Did you dictate in your report whether or
10 not the three suspects were being interviewed that
11 night?

12 A I haven't looked at my report since that
13 night. If you have a copy of it, I would --

14 Q Would it refresh your memory?

15 A Yes, sir.

16 MR. O'NEILL: May I approach the witness,
17 Your Honor?

18 THE COURT: Yes, sir.

19 MR. O'NEILL: And for the record, I'm
20 showing her the incident -- I can mark it if Your
21 Honor wants me to mark it.

22 THE COURT: Not if you're not introducing
23 it, you don't have to mark it.

24 MS. COTE: If I may see it before he shows
25 it to her, please.

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1 Q I'll let you review that for a second,
2 okay?

3 A All right.

4 MS. COTE: Your Honor, may we approach
5 while she's reviewing that?

6 THE COURT: You may.

7 Q Are you finished, Ms. Jumpp?

8 A I am.

9 Q Okay. I just want to ask you, Ms. Jumpp,
10 do you have any personal knowledge yourself as to
11 whether or not the three occupants of the car were
12 being cooperative with law enforcement?

13 A To my knowledge, they were. But, you
14 know, I was inside the police department. I wasn't
15 actually on the scene.

16 Q They were or were not being cooperative?

17 A They were being cooperative.

18 Q Is that what's in your report?

19 MS. COTE: Objection.

20 MR. O'NEILL: I'm asking her what her
21 personal knowledge is.

22 THE COURT: Well --

23 MS. COTE: She answered his question
24 twice.

25 THE COURT: Counsel, she said she was

1 inside the police station, not where the witnesses
2 were being questioned. If you want to rephrase your
3 question, you can. And based on her own personal
4 knowledge, you can ask her, not on somebody else's.

5 Q Okay. I just want to make sure I'm clear
6 of your testimony, Ms. Jumpp. Your testimony is
7 that according to your personal knowledge, the three
8 occupants of the car were being cooperative?

9 A I wasn't on the scene. I was in the
10 police department.

11 Q I'm asking you what your previous
12 testimony was. Did you just testify that according
13 to your personal knowledge, the three occupants were
14 being cooperative?

15 A To my knowledge.

16 Q Okay.

17 A Like I said, I was in the police
18 department. I was not on the scene.

19 Q But that's not what your report reflects?

20 MS. COTE: Objection, Your Honor.

21 THE COURT: I'm going to sustain the
22 objection, counsel. You've already indicated you
23 wouldn't go into hearsay statements made by some
24 other people to her in her report but what she's
25 based on her own personal knowledge.

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1 MR. O'NEILL: At this point, I just want
2 to impeach her with what her report says. There's a
3 specific line in the report that addresses what she
4 just said.

5 THE COUNSEL: Counsel approach and bring
6 me the statement.

7 Q All right, I want to make we're entirely
8 clear. Isn't it correct that the three occupants at
9 the car at the Batesburg-Leesville Police Department
10 -- when they were detained at the Batesburg-
11 Leesville Police Department, they were not being
12 cooperative at that time?

13 A Not with law enforcement officers, no,
14 sir.

15 Q So not at that time?

16 A I mean, they wasn't like being unruly.
17 They were, you know, not giving any information as
18 meaning uncooperative.

19 Q Weren't giving any information?

20 A That's right.

21 Q But you got information from Mr. Cook when
22 he called 911?

23 A He --

24 Q He called 911?

25 A Yes, he called 911 and said an --

1 Q And he gave information?

2 A -- employee had been shot by the dumpster.

3 THE COURT: Counsel, don't talk over her
4 because nobody is going to record anything. We'll
5 let her finish her answer and then ask another
6 question. Go ahead.

7 MR. O'NEILL: I apologize.

8 Q Mr. Cook called 911?

9 A That's the only thing that I know that Mr.
10 Cook told us is an employee had been shot by the
11 dumpster.

12 Q And he gave you information?

13 A The only information he gave was what he
14 heard.

15 Q Okay.

16 That's all I have, Your Honor.

17 MS. COTE: Your Honor, I have nothing
18 further of Ms. Jumpp.

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

21 MS. WEISS: The State calls Susan Johnson.

22 (The witness was sworn.)

23 CLERK OF COURT: Have a seat, please,
24 ma'am. Once you're seated, speak up loud and clear.
25 State your full name, spelling your last for the

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1 record, please.

2 MS. JOHNSON: Susan Johnson -- J-O-H-N-S-
3 O-N.

4 SUSAN JOHNSON, having first been duly
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. COTE:

8 Q Ms. Johnson, where are you employed?

9 A By T-Mobile.

10 Q And what's your position there?

11 A I am the custodian of records.

12 Q How long have you worked at T-Mobile?

13 A Sixteen years.

14 Q As the custodian of records, will you give
15 us an idea of what your job duties are?

16 A Sure. Basically, we respond to subpoenas
17 from various law enforcement agencies across the
18 United States, which means that we comply with what
19 they're requesting in the subpoena, such as
20 subscriber information and call detail records.

21 Q Are any records that you maintain kept in
22 the ordinary course of business?

23 A Yes, they are.

24 Q Were you served with a subpoena to come to
25 testify here today regarding some cell phone

1 records?

2 A Yes, I was.

3 Q Were those mobile numbers 803-269-9028,
4 803-404-2860, and 803-629-3036?

5 A Yes.

6 Q I'm going to show you some exhibits. I'm
7 showing you now what's been marked for
8 identification as State's Four, Five, and Six, and
9 I'm going to ask you if you recognize those.

10 A Yes, I do.

11 Q Did you review those prior to coming to
12 court today?

13 A Yes, I did.

14 Q Are those records maintained by T-Mobile?

15 A Yes, they are.

16 Q And are those for the three numbers that I
17 mentioned earlier that you were asked to come
18 testify to?

19 A Yes.

20 MS. COTE: Your Honor, at this time the
21 State would seek to introduce Exhibits Four, Five,
22 and Six into evidence.

23 MR. O'NEILL: Can I see them, Your Honor?

24 THE COURT: Yes, sir.

25 MR. O'NEILL: No objection.

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1 THE COURT: Admitted without objection,
2 counsel.

3 MS. COTE: Thank you, Your Honor.

4 (State's Exhibits Four,
5 Five, and Six, were entered in evidence.)

6 Q Can you tell from looking at those whose
7 name each of those phone numbers is registered to?

8 A Yes.

9 Q Will you please give us that information?

10 A Tasha Matthews is listed on two of them,
11 and then Joyce Miller is listed on the last one.

12 Q Can you give us the numbers that are
13 associated with Ms. Matthews and which one is
14 associated with Ms. Miller.

15 A Sure. 803-404-2860 is associated with
16 Tasha Matthews; 803-629-3036 is associated with
17 Tasha Matthews. And then 803-269-9028 is associated
18 with Joyce Miller.

19 Q There's a notation on those records for
20 the time of the call. What time zone are those
21 reported in?

22 A These are reported in Eastern time zone.

23 Q When it says number of minutes, how does
24 T-Mobile record the number of minutes?

25 A We bill in one-minute increments. So if a

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1 call is 52 seconds, we're going to round it up and
2 bill it at one minute. If the call is one minute,
3 five seconds, we'll round it up and bill it at two
4 minutes.

5 Q If a call is only 15 seconds, would that
6 be rounded up to one minute?

7 A Yes.

8 Q Are you able to tell from looking at the
9 records if a call is just -- if a call is answered
10 or if it goes to voice mail? Can you tell that just
11 from looking at the records?

12 A Yes.

13 Q And how is that noted?

14 A The records are only going to reflect
15 calls that actually took place, so an actual
16 physical connection. If a call came in and was not
17 answered, on our records you will not see that call
18 reflected.

19 Q Okay. Are text messages noted on your
20 account notes?

21 A Text messages are noted. They're denoted
22 with the letter "D." However, text messages are
23 going to be in Pacific time.

24 Q On those records as well, there's a note
25 for originating cell site. Can you explain what

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1 that means?

2 A Originating cell site is the cell site
3 number listed in the records, which is the tower
4 that the call occurred on when the call was placed
5 or received.

6 Q So if we see a location on the cell site
7 on a particular person's records, it's where the
8 record
9 -- it's where the call is received, is that correct?
10 Can you explain that better? I'm sorry, I'm not
11 doing a good job of explaining it. But does it
12 matter where the caller was?

13 A No, these records actually pertain to the
14 actual individual. So these records are only going
15 to reflect where the person of T-Mobile was when
16 they made or received a phone call.

17 MS. COTE: May I approach the witness,
18 Your Honor?

19 THE COURT: You may.

20 MS. COTE: Thank you.

21 Q For example, here we have a number that is
22 incoming this 404-2860, which is the record that we
23 have here, and we show that it's a Columbia
24 originating cell site. So that means that the
25 person who these records belong to was in Columbia -

1 -

2 A Correct.

3 Q -- at that time?

4 A Correct.

5 Q I'm going to show you now what's been
6 marked for identification as State's Exhibit Three.
7 Let me show this to Mr. O'Neill first. Do you
8 recognize State's Three for identification?

9 A Yes, I do.

10 Q Did you review it prior to coming to court
11 today?

12 A Yes, I did.

13 Q How can you tell that that's the same disk
14 that you reviewed?

15 A I put the date and my initials on the
16 disk.

17 Q What was on that disk?

18 A Our cell site tower listings, which is the
19 address where our towers are located.

20 MS. COTE: Your Honor, at this time the
21 State would seek to move Exhibit Three into
22 evidence.

23 MR. O'NEILL: No objection.

24 THE COURT: Admitted without objection.

25 (State's Exhibit Number

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1 Three, CD, was entered in evidence.)

2 Q And on this disk, as you were saying, is
3 that a complete listing for the towers where -- is
4 it an address where the towers are located?

5 A Yes, it's the address, the cell tower
6 number, as well as the city and state as to where
7 the towers are located.

8 Q So on the individual records, if we see a
9 cell site location, we could reference that disk and
10 see where the actual tower is located, is that
11 correct?

12 A Correct.

13 MS. COTE: Your Honor, beg the Court's
14 indulgence for one moment. Your Honor, I have no
15 further questions for Ms. Johnson.

16 CROSS-EXAMINATION

17 BY MR. O'NEILL:

18 Q Good morning, Ms. Johnson.

19 A Good morning.

20 Q I just want to ask you a few things. Do
21 you have the phone records in front of you?

22 A Yes, I do.

23 Q You have the phone records associated with
24 Joyce Miller?

25 A Yes, I do.

1 Q That's State's exhibit what number? I'm
2 sorry.

3 A State's Exhibit Six.

4 Q And you say these records contain various
5 call type information?

6 A Correct.

7 Q One of the kind of pertinent call type
8 information that's on these records is cell phone
9 towers?

10 A Correct.

11 Q That's basically the tower that the cell
12 phone call, I guess for lack of a better word, pings
13 off of when it's made?

14 A Correct.

15 Q Okay. Take a look at the cell phone
16 records that are correlated with Mr. Miller, okay?
17 Can you go to page 16 of 18 of that one?

18 A I'm there.

19 Q Okay. Can you look halfway down the page?
20 These are Eastern Standard time, correct?

21 A Correct -- except for the text.

22 Q Except for the text, okay. Because texts
23 are in what time?

24 A Pacific time.

25 Q Okay. Why is there some particular

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1 records that don't indicate what call type they are?

2 A If there's no call type there, that means
3 it's a regular phone call.

4 Q Okay. What does that mean?

5 A It means it's a call, an incoming or an
6 outgoing phone call.

7 Q Not a T-Mobile mobile to mobile, a
8 different land line? What do you mean by a regular
9 phone call?

10 A It means it's just a call, whether it's
11 with another cell phone carrier or land line
12 carrier. It's just an actual telephone call. It's
13 not a call waiting. It's not a text message. It's
14 just a phone call.

15 Q You said that texts are denoted by "D"?

16 A Correct.

17 Q And what's denoted by "T"?

18 A "T" is on the front, which I believe is T-
19 Mobile to T-Mobile.

20 Q Okay. So at -- let's see for one second
21 here. Let's flip over to page 17 on that record,
22 okay?

23 A I'm there.

24 Q All right. Look at incoming calls at 1:10
25 p.m., okay? Are you there for me?

- 1 A Yes.
- 2 Q That was a T-Mobile to T-Mobile call?
- 3 A Correct.
- 4 Q All right. And that was incoming at 1:10
- 5 Eastern Standard time?
- 6 A Correct.
- 7 Q Where -- what cell tower did the person
- 8 who had this number call ping off of?
- 9 A Cell tower number 52461 in Ridgeway, South
- 10 Carolina.
- 11 Q Okay. So at 1:10, the person who was
- 12 receiving a call, an incoming call, that incoming
- 13 call pinged off a tower in Ridgeway, South Carolina?
- 14 A Correct.
- 15 Q All right. That was 1:10 on October 13,
- 16 2010?
- 17 A Correct.
- 18 Q All right. And the next three calls that
- 19 individual received at 1:11 and 1:15 also pinged off
- 20 towers in Ridgeway, South Carolina?
- 21 A Yes.
- 22 Q Okay. And if we fast-forward here to I
- 23 think 1:52 on October 13th, the person who had this
- 24 cell phone call also pinged off Ridgeway -- a tower
- 25 in Ridgeway, South Carolina?

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1 A Correct.

2 Q All right. And that person received
3 approximately one, two, three, four, five, six other
4 calls between 1:52 and 2:23, correct?

5 A Correct.

6 Q And they all pinged off of cell phone
7 towers in Ridgeway, South Carolina?

8 A Correct.

9 Q Okay. So just to be clear, from 1:10 to
10 2:23 on October 13, 2010, the person who had cell
11 phone number 269-9028, their incoming and outgoing
12 calls all pinged off cell phone towers in Ridgeway,
13 South Carolina?

14 A Correct.

15 Q The first time that this individual's cell
16 phone pinged off a tower in Columbia on October 13,
17 2010, would have been at 2:44 p.m., correct?

18 A Correct.

19 Q And do you know what cell phone tower that
20 was?

21 A The cell ID number is 55161.

22 Q Do you have any idea where that's at?

23 A No, it would be on the list.

24 Q Okay, all right. One other question here
25 for you. If this number, which is 269-9028, if it

1 called another T-Mobile number, would that call
2 always be reflected on that other T-Mobile phone
3 number's records?

4 A If who called who?

5 Q Let's say if 269-9028 called another T-
6 Mobile subscriber.

7 A Yes. If 9028 called another T-Mobile
8 subscriber and received either a live person or a
9 voice mail, that call would reflect in these
10 records.

11 Q But if that other subscriber's phone
12 number was off, the phone was off -- when I say
13 "off," the phone wasn't actively on -- it wouldn't
14 be recorded on their phone records, correct?

15 A It wouldn't be recorded on the other
16 person's phone records, correct.

17 Q Okay. There's a possibility that some
18 records would show up on -- some phone calls would
19 show up on one subscriber's records and not on the
20 other subscriber's records?

21 A Right. The best way to remember that is
22 somebody has to be billed for the air time. So as
23 long as there's a physical connection with either
24 voice mail or a live person, somebody's going to get
25 billed for it.

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1 Q Okay. So, for instance, if you turn over
2 to page 18 of the same record that you're on here
3 and go down to 9:19, which is 2219 hours, that was a
4 T-Mobile to T-Mobile call?

5 A Correct.

6 Q And it was from phone number 269-9028,
7 which is associated with Ms. Joyce Miller?

8 A Correct.

9 Q Okay. And it was to phone number 803-629-
10 3036, which is, according to your records,
11 associated with Tasha Matthews?

12 Q Yes.

13 Q Okay. But if Tasha Matthews' phone was
14 not on, that call wouldn't be reflected on her cell
15 phone records, correct?

16 A Correct.

17 Q Do you have Tasha Matthews' cell phone
18 records --

19 A I do.

20 Q -- for that particular number? And can
21 you go to the corresponding time on her records,
22 which would have been about 9:19?

23 A I'm here.

24 Q And receiving a call from the number
25 associated with Joyce Miller is not reflected on the

1 records you have for Tasha Matthews, correct?

2 A No, it's not.

3 Q So the phone number that is 629-3036
4 apparently was not on at the time that call was
5 attempted to made to that number?

6 A I don't know if it was on or not. I can
7 just tell you that the call wasn't answered.

8 Q Wasn't answered?

9 A Correct.

10 Q What if it was sent to voice mail? Would
11 it be recorded on Ms. Matthews' record here if it
12 was sent to voice mail?

13 A No.

14 Q Okay. Would not be recorded if it was
15 sent to voice mail?

16 A It would not be recorded. It bypasses the
17 billing system.

18 Q Okay. I want to ask you about the cell
19 towers of phone numbers 629-3036. And you only have
20 -- all you have is the subscriber information. You
21 don't actually have physical possession of that
22 phone, do you?

23 A Correct.

24 Q All you have is the subscriber's
25 information. Okay, let's look at October 13, 2010,

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1 okay? Around 12:48 in the afternoon.

2 A 12:48?

3 Q Yes, ma'am.

4 Q There is a series of calls. I think
5 there's eight calls from 12:48 until 1:10.

6 A Is this for the 3036 number?

7 Q Yes, ma'am.

8 A I'm there.

9 Q Okay. What city's cell phone towers are
10 those pinging off of?

11 A Columbia.

12 Q Okay. So from 12:48 to 1:10, all Columbia
13 towers?

14 A Correct.

15 Q Okay. Then from 1:26 and at 1:52, what
16 towers are they pinging off of?

17 A Columbia, South Carolina.

18 Q Okay. Not Ridgeway, but Columbia?

19 A Correct.

20 Q And then at -- is there any more cell
21 phone activity -- the next cell phone tower that's
22 pinged off of would have been at 3:20 that day,
23 correct?

24 A Correct.

25 Q All right. And there's one call at 3:20

1 and one call at 3:23, and those are pingging off a
2 different cell phone tower but still in Columbia?

3 A Correct.

4 Q What's that cell phone tower that it's
5 pingging off of at 3:20?

6 A Cell tower number 2202.

7 Q And the phone calls that were at 12:48,
8 what cell phone tower were they pingging off of --
9 the majority of them, I guess?

10 A I'm sorry, can you repeat that?

11 Q The first phone call at 12:48, what cell
12 phone tower in Columbia was it pingging off of?

13 A Cell tower number 55161.

14 Q What significance do those numbers have,
15 the order of those numbers?

16 A The only significance is basically the
17 last digit. The last digit tells us what sector of
18 the tower that person was hitting off of on that
19 particular cell site.

20 Q Okay. And let me ask you this here.
21 Would cell tower 55161 and cell tower 2202 be in
22 close proximity to each other?

23 A I wouldn't know that.

24 Q But it would be on the list?

25 A Correct.

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1 Q Okay. And the list would have the address
2 of where those particular ones were?

3 A Correct.

4 Q Have you been able to look at the address
5 for those particular towers yet, or you haven't been
6 able to do that yet?

7 A No, I have not looked at it.

8 Q Okay. Can you tell us why when text
9 messages are sent you can't locate what tower they
10 ping off? Do you know they can't?

11 A Because it goes through a different
12 server. It goes through a data server.

13 Q Okay. What happens on your record here
14 when it has the 11-digit numerical sequence here?
15 What do those numerical sequences indicate on the
16 phone records here?

17 A Like the 216 dot?

18 Q Yes.

19 A That means that the person was accessing
20 the Internet.

21 Q Okay.

22 A That's an IP address.

23 Q So that's data usage essentially?

24 A Correct.

25 Q Okay.

1 Beg the Court's indulgence, Your Honor.

2 THE COURT: Yes, sir.

3 MR. O'NEILL: No further questions, Your
4 Honor.

5 MS. COTE: Your Honor, I have no further
6 questions for Ms. Johnson. May she be excused from
7 her subpoena?

8 THE COURT: No objection to excusing this
9 witness, counsel?

10 MR. O'NEILL: No objection, Your Honor.

11 THE COURT: Thank you for coming, ma'am.
12 You may be excused.

13 MS. JOHNSON: Thank you.

14 THE COURT: Counsel, it's probably a good
15 time to take a recess. We've been at it a little
16 over an hour and a half or about that.

17 Mr. Foreman, ladies and gentlemen of the
18 jury panel, we'll take a short recess at this time.
19 You may refresh yourselves during the break. We're
20 going to take about 10 minutes or so.

21 (Jury out at 11 a.m.)

22 THE COURT: Counsel, I may be a little
23 different than some judges. But I like for
24 everybody to remain seated --

25 MS. WEISS: Okay.

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1 MS. COTE: I'm sorry.

2 THE COURT: -- and not carry on any
3 conversation while the jury is going out or coming
4 in. Some judges might like for you to stand. But I
5 would appreciate your doing that. Because the
6 attorney tables are pretty close to the jury
7 sometimes, I just prefer you to do that. Thank you.
8 Let's take a recess.

9 MS. WEISS: Thank you, Your Honor.

10 (Court in recess.)

11 THE COURT: Please bring the jury in.

12 (Jury in at 12:14 p.m.)

13 THE COURT: Please proceed, counsel.

14 MS. WEISS: Thank you, Your Honor, may it
15 please the Court. The State calls Tasha Matthews.

16 (The witness was sworn.)

17 CLERK OF COURT: Have a seat up there,
18 ma'am. Once you're seated, I'm going to need you to
19 speak up loud and clear, stating your full name,
20 spelling your last on the record.

21 MS. MATTHEWS: Tasha Matthews -- M-A-T-T-
22 H-E-W-S.

23 TASHA MATTHEWS, having first been duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. WEISS:

2 Q Good morning, Ms. Matthews. How are you?

3 A Good morning. I'm okay.

4 Q May I call you Tasha?

5 A Yes.

6 Q Tasha, did you want to be here today?

7 A Yes -- yes and no.

8 Q I'm going to start out and just ask you a
9 little bit about yourself.

10 A Okay.

11 Q How old are you?

12 A I'm 40.

13 Q Where are you from? Where did you grow
14 up?

15 A In Columbia.

16 Q Where did you go to high school?

17 A Spring Valley.

18 Q What year did you graduate from Spring
19 Valley?

20 A 1990.

21 Q Did you attend school after Spring Valley?

22 A Not immediately. But eventually I went to
23 Midlands Tech and graduated from there in 1995.

24 Q What degree did you have from Midlands
25 Tech in '95?

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1 A An associate's degree in accounting.

2 Q After Midlands Tech, did you continue on
3 with your accounting?

4 A At first, I got a job. I was a manager at
5 Burger King, and then I started working for a temp
6 service and got a job at Blue Cross/Blue Shield.

7 Q So you worked at Blue Cross/Blue Shield
8 for a while, and at some point did you leave there
9 to continue on with your education?

10 A Yes, I started --

11 Q What year was that?

12 A I started back at Columbia College in
13 2002.

14 Q Did you graduate from Columbia College?

15 A Yes.

16 Q And what was your degree there?

17 A A B.A. in Accounting.

18 Q Did you work while you were in college at
19 Columbia College?

20 A I worked at Wendy's at first, and then I
21 went through a temp service and got a job with
22 Medical Services of America.

23 Q What year did you get the job with them?

24 A In April of 2005.

25 Q Do you have any children?

- 1 A I have four.
- 2 Q How old is your oldest?
- 3 A She's 22.
- 4 Q And your second child?
- 5 A A son, he's 17. I have an 11-year-old
- 6 daughter and a 7-year-old daughter.
- 7 Q And were you married at one point?
- 8 A Yes.
- 9 Q And who was your husband?
- 10 A Clifton Matthews.
- 11 Q Did you ever actually get divorced from
- 12 Mr. Matthews?
- 13 A No.
- 14 Q Have y'all separated?
- 15 A Yes.
- 16 Q How long ago was that?
- 17 A In 2004.
- 18 Q That's about the same time that you --
- 19 before you graduated from -- it was about a year
- 20 before you graduated from Columbia College?
- 21 A I graduated from Columbia College in 2006.
- 22 Q Okay. So in 2004, you separated from Mr.
- 23 Matthews?
- 24 A Uh-huh.
- 25 Q And he's the father of --

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1 A My middle two children.

2 Q -- your middle two children. And who had
3 custody of your middle two children?

4 A They were back and forth between both of
5 us.

6 Q And your oldest daughter?

7 A She was back and forth.

8 Q So you had joint custody --

9 A Uh-huh.

10 Q -- with all three of those kids?

11 A Yes.

12 Q With all three of your children?

13 A Yes.

14 Q Okay. And you started at Wendy's while
15 attending school at Columbia College?

16 A Yes.

17 Q What was your job at Wendy's?

18 A Just a regular crew person.

19 Q And what was your reason for working at
20 Wendy's?

21 A I was working there and going to school
22 part-time.

23 Q Trying to make money?

24 A Yes.

25 Q Okay. Did you have the opportunity to

1 meet someone while you were working at Wendy's,
2 someone that you started seeing?

3 A Yes.

4 Q Who was that?

5 A Roderquiz Cook.

6 Q Roderquiz Cook. And do you see him in the
7 courtroom today?

8 A Yes.

9 Q Can you point him out for the record?

10 A He's sitting over there in the burgundy
11 shirt.

12 Q And when you met him at Wendy's, did you
13 start a relationship at that time?

14 A After a few months.

15 Q And at some point, did y'all move in
16 together?

17 A Yes.

18 Q And what about your three children?

19 A They were back and forth with us and their
20 father.

21 Q And since 2004, have you been with
22 Roderquiz Cook?

23 A Yes.

24 Q And do you and Rod Cook have a child
25 together?

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1 A Yes.

2 Q And what's her name?

3 A P.C.

4 Q And how old is she now?

5 A She's seven.

6 Q You said that you got a job with Medical
7 Services of America in 2005?

8 A Yes.

9 Q And that was before you even graduated
10 with your accounting degree?

11 A Yes.

12 Q And what was job with Medical Services of
13 America?

14 A I was working in the Accounts Payable
15 Department.

16 Q And did you keep that job for several
17 years?

18 A Yes, I did.

19 Q And up until October 13, 2010, were you
20 still working at Medical Services of America?

21 A Yes.

22 Q And were you working full-time there?

23 A Yes.

24 Q Please tell the jury, what was your
25 typical day around in the fall of 2010 involving

1 your work schedule? You would get up and go to work
2 about what time?

3 A I had to be at work at 7:30. So I would
4 get up probably about 5:30, get the kids up and get
5 them ready for school. And I'd leave the house
6 about seven, go to work. If Rod had to work, on my
7 lunch hour I'd take the car home to him, and he'd
8 take me back to work.

9 Q About what time did you leave for your
10 lunch hour?

11 A Between twelve and one.

12 Q You'd leave sometime around then and bring
13 the car home?

14 A Uh-huh -- yes.

15 Q And what would you do after you got home
16 at lunch?

17 A He'd take me back to work. And then I got
18 off at 4:30, so he'd pick me up, and then I'd take
19 him on to work. And then I would go back home.

20 Q To your personal knowledge, did Rod have a
21 driver's license at that time?

22 A No.

23 Q Okay. So you would leave him your car to
24 drive?

25 A Yes.

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1 Q Where was Rod working in the fall of 2010?

2 A At the McDonald's in Batesburg.

3 Q Now, when y'all met in 2004 -- was that
4 2004 when y'all met?

5 A Yes.

6 Q When y'all met, where was he working?

7 A At Wendy's.

8 Q And after he left Wendy's, where did he go
9 to work?

10 A He went to the McDonald's in Blythewood.

11 Q And how long did he work there?

12 A Probably about a year.

13 Q And then where did he go?

14 A He stopped working for a while. Then he -

15 -

16 Q You said he stopped working for a while?

17 A Yes. And then he went to the McDonald's
18 on Forest Drive. And then after that, he went to
19 the McDonald's on Parklane. And then after that, it
20 was the McDonald's in Batesburg.

21 Q Was there --

22 A Well, it was the McDonald's in Garners
23 Ferry, I'm sorry.

24 Q I understand.

25 A And then the McDonald's in Batesburg.

1 Q And was there a break between the Garners
2 Ferry and the Batesburg McDonald's?

3 A Yes.

4 Q Do you remember about how long that break
5 was?

6 A Probably three or four months.

7 Q So it's fair to say that Rod was moving
8 around from job to job during the span that you were
9 working at Medical Services of America?

10 A Yes.

11 Q And did you have to clock in and out each
12 day?

13 A Yes.

14 Q And when you left for lunch, did you have
15 to clock out?

16 A Yes.

17 Q I'm going to show you what's been marked
18 as State's Exhibit Eleven for identification. Do
19 you recognize this?

20 A It's my time card.

21 Q It's your time card -- from where?

22 A Medical Services of America.

23 Q Okay.

24 Your Honor, at this time I would like to
25 enter State's Exhibit Eleven into evidence.

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1 MR. O'NEILL: Omitted without objection.

2 (State's Exhibit Number
3 Eleven, Tasha Matthews Time Card, was entered in
4 evidence.)

5 Q So that's your time card. When was your
6 pay ending for that time card?

7 A October looks like 27, 2010.

8 Q Okay. And looking at that week, you said
9 you had to clock in and out every time you came and
10 went during the week?

11 A Yes.

12 Q So on Monday of that week, what time did
13 you get to work?

14 A Seven thirty.

15 Q And what time did you leave for lunch?

16 A Twelve twenty-four.

17 Q And so what time did you clock back in
18 after lunch?

19 A One thirty-seven.

20 Q And what time did you leave that day?

21 A Four thirty-two.

22 Q And that was for a total hours of?

23 A Seven point eight-two.

24 Q And on Tuesday of that week, you clocked
25 in at 7:30 and left for an hour for lunch, and then

1 finished out the day at 4:30 again?

2 A Yes.

3 Q Okay. And on Wednesday, October 13, what
4 time did you come to work that morning?

5 A Seven thirty-three.

6 Q And what time did you leave for lunch?

7 A Twelve forty-six.

8 Q And did you ever return to work after you
9 clocked out at 12:46 that day?

10 A No.

11 Q And do you have a policy at your office
12 about if you leave and don't call in -- if you don't
13 show up for work or leave and don't call in? Did
14 you have a policy in your office about how that
15 would work?

16 A Yes.

17 Q And what was that?

18 A If you didn't notify them within 24 hours,
19 then you were terminated.

20 Q You were terminated?

21 A Uh-huh -- yes.

22 Q So on October 13, 2010, you left work
23 according to your time sheet at 12:46. And where
24 did you go?

25 A I went home.

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1 Q And who was home when you got there?

2 A Rod and my oldest daughter.

3 Q And what's your oldest daughter's name?

4 A Danikwa Trapp.

5 Q And when you left work at 12:46, was it

6 your intention to return back to work that

7 afternoon?

8 A Yes.

9 Q And what about the rest of the week?

10 A Yes.

11 Q Because you had been going to work there

12 since 2005?

13 A Yes.

14 Q I'm going to show you what's already been

15 entered as State's Exhibit Four. Do you recognize

16 these?

17 A It looks like a copy of one of my cell

18 phone bills.

19 Q Okay. Do you recognize the number over

20 here, 404-2860?

21 A That was my cell phone number.

22 Q Could you speak up so they can hear you?

23 A That was my cell phone number.

24 Q So you said the number on the far left,

25 404-2860, was your cell phone number?

1 A Yes.

2 Q All right. You see the dates that go down
3 the column that say October 13th. I'm going to ask
4 you to go to -- you checked out of work at 12:46 --
5 the very last column on that page. Do you see what
6 phone number that's from?

7 A Yes.

8 Q Do you recognize that phone number?

9 A Yes.

10 Q Whose phone number was that on October 13,
11 2010?

12 A That's Rod's cell phone.

13 Q And that is an incoming phone call to
14 yourself?

15 A Yes.

16 Q Was it typical for Rod to call you when
17 you were on your way home for lunch?

18 A Yes.

19 Q And y'all talked on the phone
20 approximately three minutes?

21 A Yes.

22 Q Approximately how long did it take you to
23 get home from work?

24 A Between 20 and 25 minutes.

25 Q I'm going to show you this call. Who is

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1 that call from?

2 A Rod.

3 Q Okay. And he's calling you again?

4 A Yes.

5 Q And this call at 1:01, who is that from?

6 A Rod.

7 Q And then this call, another four-minute

8 call, that's from Columbia. So that would be you

9 calling, Whose number were you calling?

10 A Rod.

11 Q And one more call, who's calling you then?

12 A Rod.

13 Q When you say Rod, that's Rod Cook?

14 A Yes.

15 Q Now, was it typical for you to talk five

16 times --

17 A No.

18 Q -- in the 20-minute ride from your work to

19 home?

20 A No.

21 Q Did something happen that day just before

22 you left work that Rod was concerned about, that he

23 was calling you about?

24 A Yes, we got an eviction notice.

25 Q You got an eviction notice?

1 A Uh-huh.

2 Q Now, was it unusual for you to get an
3 eviction notice?

4 A We had gotten them before.

5 Q And fairly regularly?

6 A Yes.

7 Q Typically, who paid the rent?

8 A I did.

9 Q And how did you pay the rent?

10 A With my check from my job.

11 Q Okay. And how often did you get paid?

12 A Every two weeks.

13 Q Now, sometimes Rod was working; sometimes
14 he wasn't.

15 A Correct.

16 Q And at this point Rod was working. Did
17 that change your spending habits or your ability to
18 pay?

19 A Yes.

20 Q But you were still behind on the rent?

21 A Yes.

22 Q Okay. Now, this time, do you remember
23 whether you had paid the rent the month before?

24 A No, it was late.

25 Q The month before was late --

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1 A Uh-huh.

2 Q -- and then this month, and it was due on
3 the first of the month?

4 A Yes.

5 Q And this is October 13th?

6 A Yes.

7 Q So you had already gotten a notice from
8 the month before?

9 A Uh-huh.

10 Q And now you had a notice for two months in
11 October?

12 A Uh-huh.

13 Q So do you recall how much your rent was at
14 the time?

15 A It was \$600 a month, but I don't remember
16 how much the late fees and stuff were.

17 Q Okay, so it's \$600 a month.

18 Beg the Court's indulgence one moment.

19 Q It's \$600 a month, and you had trouble
20 making \$600 a month, right?

21 A Yes.

22 Q Okay. At this point, there was another
23 \$600 a month that you hadn't paid for two months?

24 A Right.

25 Q Now, was it typical for you to be two

1 months behind in rent?

2 A No.

3 Q So if \$600 was a lot of money, was \$1,200
4 a lot of money to you and Rod?

5 A Yes.

6 Q Okay. And you said this was plus late
7 fees?

8 A Yes.

9 Q And did you also have to pay for the
10 eviction notice when they were trying to put you
11 out?

12 A Yes.

13 Q So you had \$1,200 plus more. Did Rod have
14 any other source of income?

15 A He would sell marijuana.

16 Q Okay. When he was working at McDonald's,
17 did he do that as often?

18 A Yes.

19 Q And what was Rod's position -- well, let
20 me put it this way. What was your position on that
21 \$1,200 plus that you owed to your apartment complex
22 that you had gotten an eviction notice for on
23 October 13, 2010? What was your position on that?

24 A I wasn't concerned about it because I had
25 already sent him a check, and my deposit was coming

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1 through. And I had worked a bunch of overtime, so
2 it was going to cover everything.

3 Q So your deposit was coming through. That
4 was, of course, contingent that you stayed at work?

5 A Well, no, that time period had already
6 ended.

7 Q Okay. So you said the check was going to
8 clear?

9 A Uh-huh.

10 Q And did you tell Rod that?

11 A Yes.

12 Q Was he okay with that?

13 A No.

14 Q What did Rod say?

15 A He started yelling and fussing about
16 paying it late, and he was getting tired of paying
17 bills late. And he got an eviction notice, and they
18 woke him up out of his sleep.

19 Q Okay. They woke him out of his sleep
20 because he had an eviction notice?

21 A Yes.

22 Q Did he come -- did he tell you of any way
23 that he was going to pay this?

24 A No.

25 Q Okay. Did he tell you that -- did he seem

1 okay with the fact that you had said, "I've already
2 mailed the check. It'll all go through the bank
3 okay, and it'll clear eventually"?

4 A No, he was still fussing.

5 Q Okay. And so at that point, did you and
6 Rod try to make a phone call to talk to anybody else
7 about it?

8 A He called me and then called the office on
9 three-way because he wanted me to tell them that I
10 had already sent the check and the check number, how
11 much it was for.

12 Q So you said he called. And then at some
13 point, did the two of you get on the phone?

14 A Yes.

15 Q And did you tell them that?

16 A Yes.

17 Q And what did they say?

18 A She told me okay, that she'd have to wait
19 a few days to call their main office in Charleston
20 to make sure that they got it.

21 Q Okay. So at that point she said, "Okay,
22 but it doesn't count until it clears"?

23 A Right.

24 Q So as far as you were concerned, it was
25 going to all cover -- it was all going to be okay?

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1 A Yes.

2 Q Okay. What about Rod? What did he say
3 after that?

4 A He was still fussing at me that I should
5 have paid it on time. And then he said we'll just
6 talk about it when I got home.

7 Q Okay. So that was the five different
8 conversations between when you left and when you got
9 home?

10 A Yes.

11 Q When you got home, you said that your
12 daughter was there and Rod was there?

13 A Yes.

14 Q And what kind of mood was Rod in?

15 A He was upset.

16 Q And when you say "upset," how do you
17 describe upset?

18 A Yelling, fussing.

19 Q Fussing, just not in a good mood, or was
20 it more than that?

21 A He wasn't in a good mood, and he was
22 fussing and yelling at me about the money, and the
23 rent being paid late, and the eviction notice.

24 Q Okay. And did he tell you at that point
25 that he'd like to do something else to make money

1 faster?

2 A No.

3 Q You said that he did sell marijuana some?

4 A Yes.

5 Q You had intended to turn around and go
6 right back to work, correct?

7 A Correct.

8 Q Why didn't you go back to work?

9 A Because he said he had to go to the Social
10 Security office. He couldn't find his Social
11 Security card.

12 Q "He" would be who?

13 A Rod.

14 Q So Rod Cook, knowing that you need money
15 because y'all are always behind in your rent, you
16 have four children at this point to support, and
17 he's complaining that you don't have money, but he
18 wants you to take off the afternoon from work and
19 drive him to the Social Security office?

20 MR. O'NEILL: Objection, Your Honor,
21 leading.

22 THE COURT: Please avoid leading, counsel.

23 MS. WEISS: Thank you, Your Honor.

24 Q So --

25 A I have to answer?

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1 Q -- what did he want you to do?

2 A Take him to the Social Security office.

3 Q And what did that require you to do?

4 A Not go back to work.

5 Q What did it mean if you didn't go back to
6 work?

7 A Well, I had leave time that would have
8 covered that half a day, so I would have still got
9 paid for it.

10 Q You would have to take leave?

11 A Yes.

12 Q Okay. And so what did you tell him?

13 A I told him that, you know, "Why do you
14 need a Social Security card?" I didn't understand.
15 And he just said he couldn't find it. He needed it.
16 He needed to go get another one.

17 Q Okay. And why didn't you just give him
18 the car and say, "Take me back to work"?

19 A Because he doesn't like to drive in
20 downtown Columbia.

21 Q Why doesn't he like to drive in downtown
22 Columbia?

23 A Because he didn't have a license.

24 Q But every other day, you would leave him
25 the car to drive?

1 A Yes.

2 Q So what did you tell him then when he said
3 he wanted you to take him?

4 A We started arguing about it, because I
5 told him I needed to go back to work. I had a lot
6 of stuff to do. And he said I really needed to take
7 him down there, that I take off work to do stuff
8 with the kids, so why can't I take off and take him
9 to do what he needs to do.

10 Q Take off work to do stuff with the kids.
11 So what did you say to that?

12 A I told him I didn't understand. We could
13 do it another day. I could take the day off and
14 take him down there. And he said he had to go. He
15 needed his Social Security card.

16 Q And were y'all getting ready to go on any
17 trips out of the country?

18 A We had a cruise scheduled in December, but
19 we had already been on a cruise the year before.

20 Q Okay. So the cruise was scheduled in
21 December?

22 A Yes.

23 Q And this is October?

24 A Yes.

25 Q And how much was the cruise? How much did

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1 you pay for the cruise?

2 A It was like four-something a person. It
3 was just the two of us going.

4 Q So about \$800?

5 A Yes.

6 Q And who was the cruise for?

7 A It's a cruise that his dad's family does
8 every year. They go on a cruise.

9 Q His family goes on a cruise, and who pays
10 for it?

11 A Everybody pays for their own way.

12 Q So you and Rod are paying \$800 to go on a
13 cruise?

14 A Yes.

15 Q And this was just two months away?

16 A Yes.

17 Q So you argued. And then what ended up
18 happening as far as the Social Security card?

19 A I ended up taking him to the Social
20 Security office.

21 Q So you took him. So you did not go back
22 to work?

23 A No, I didn't go back to work.

24 Q And how far is the Social Security office
25 from your house?

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1 A Probably 20, 25 minutes.

2 Q Do you recognize the number 957-0500?

3 A Yes, that was my job.

4 Q Okay. And so you called that number three
5 times?

6 A Yes, I was trying to get in touch with my
7 supervisor.

8 Q And what were you going to tell your
9 supervisor?

10 A That I needed to take the rest of the day
11 off. I wasn't coming back.

12 Q So where did you go when you left your
13 house?

14 A We went to the Social Security office.

15 Q And where is that?

16 A Downtown Columbia.

17 Q And what did you do at the Social Security
18 office?

19 A We went in, and he filled out the
20 paperwork telling them that he needed to get another
21 card. And we waited till they called him up, and
22 they him a printout.

23 Q So what time was Rod supposed to be at
24 work that day?

25 A He was supposed to be there at four for a

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1 meeting.

2 Q And you knew that?

3 A Yes.

4 Q Okay. And how was he supposed to get to
5 work that day, do you know?

6 A I think Van was going to take him.

7 Q But you don't know exactly?

8 A No.

9 Q But you were not planning to take him that
10 day?

11 A No.

12 Q So 4:00 he's supposed to be at work. Did
13 y'all -- you took him to the Social Security office,
14 and he got a Social Security card?

15 A Yes.

16 Q What time did you get to Batesburg-
17 Leesville?

18 A Maybe like 4:15, 4:20, somewhere around
19 there.

20 Q So he didn't get to work at four --

21 A No.

22 Q -- his job at four?

23

24 A No, he was late.

25 Q He was late?

1 A Yes.

2 Q So you missed the afternoon of work, and
3 he was late?

4 A Yes.

5 Q You got there sometime after four, but he
6 still -- did you go in with him when you got him
7 there?

8 A No.

9 Q Okay, what happened next? What did you do
10 with him when you got there?

11 A I just dropped him off.

12 Q Okay. And did you see anybody or talk to
13 anybody when you dropped him off?

14 A No.

15 Q And what did you do next?

16 A I went home.

17 Q You went home. So you drove back to
18 Columbia?

19 A Yes.

20 Q Okay. What was your address in Columbia
21 at the time?

22 A [REDACTED] Pineland Road.

23 Q I'm going to show you what's been marked
24 as State's Exhibit Twelve for identification. Do
25 you recognize this? Do you recognize what it is?

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1 A Yes.

2 Q What is it?

3 A A map with directions.

4 Q And what are the directions from?

5 A From my house to Batesburg.

6 Q Okay.

7 Your Honor, at this time I'd like to enter
8 State's Exhibit Twelve into evidence.

9 MR. O'NEILL: I would object because I
10 don't think that's relevant at this point. If we
11 can approach, I can --

12 THE COURT: All right, approach just a
13 minute.

14 MS. WEISS: Your Honor, at this time I'd
15 like to enter State's Exhibit Twelve into evidence.

16 THE COURT: Admitted over objection.

17 MS. WEISS: Thank you, Your Honor.

18 (State's Exhibit Number Twelve, Mapquest
19 re [REDACTED] Pineland Road, was entered in evidence.)

20 Q All right, Tasha, looking at this chart,
21 what does this -- you said it from the stand a
22 minute ago -- what does this show -- [REDACTED] Pineland
23 is where?

24 A That was our address.

25 Q Okay. And West Columbia Avenue,

1 Batesburg?

2 A That's the McDonald's in Batesburg.

3 Q Okay. And approximately how long did it
4 normally take you to get from your house to
5 Batesburg to the McDonald's?

6 A About 45 minutes.

7 Q Okay. According to this, about 50
8 minutes?

9 A Yes.

10 Q So it's about --

11 A Depending on the traffic.

12 Q And so this is basically the way you would
13 go, from your house straight out, get off in
14 Batesburg, to the McDonald's?

15 A Yes.

16 Q And so at that point, you drove 45 to 50
17 minutes back to your house -- from the Batesburg
18 McDonald's back to your house --

19 A Correct.

20 Q -- to your apartment? Was it an
21 apartment?

22 A Yes.

23 Q On Pineland Road. When you got there, who
24 was there when you got back?

25 A My children were there.

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1 Q All four of them?

2 A Yes.

3 Q Okay. Was anybody else there?

4 A Not when I first got home.

5 Q And at any point did somebody else come
6 in?

7 A Yes.

8 Q And who was that?

9 A Meon Miller.

10 Q And do you have any idea where he came
11 from?

12 A No, I didn't know where he was. My
13 daughter had told me that he had been over earlier.

14 Q And was it commonplace for him to come
15 over to your house?

16 A Yes.

17 Q And did he sort of -- was he able to come
18 and go as he pleased?

19 A Yes.

20 Q And what is the relationship between Meon
21 Miller and Rod Cook?

22 A They're cousins.

23 Q And when you say cousins, are they first
24 cousins?

25 A Yes, their mothers are sisters.

1 Q Back on October 13, 2010 -- I know you're
2 a numbers person, so I'm asking a little bit of math
3 here -- do you know, how old were you at that time?

4 A Thirty-eight.

5 Q How old was Rod Cook?

6 A Twenty-nine.

7 Q And how old was Meon Miller?

8 A I think Meon was 18.

9 Q So Meon was a younger first cousin?

10 A Yes.

11 Q And did he sometimes spend the night at
12 your house?

13 A Yes.

14 Q And he was actually younger than your
15 daughter or around the same age as your daughter?

16 A Yes.

17 Q So on this day, you get back. Were you
18 expecting Meon to come over?

19 A Rod had mentioned before he got out of the
20 car that Meon might be coming over and that to bring
21 him when I picked him up from work, and that if he
22 needed to go somewhere to take him.

23 Q Okay. So Rod said Meon might come over.
24 Take him where he wants to go and bring him with you
25 when you come to pick him up?

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1 A Yes.

2 Q Did he give you any other specifics about
3 what to do with Meon?

4 A No.

5 Q Was there any -- we haven't exactly
6 covered this. On every other day, you would take
7 Rod to work. He'd pick you up at work, and then
8 you'd take him to work in Batesburg-Leesville.
9 Typically, his shift started at what time?

10 A Five o'clock.

11 Q And what was his position at the
12 McDonald's?

13 A He was the manager.

14 Q So you'd take him there at 5:00, and then
15 what would you do at 5:00?

16 A I'd go home.

17 Q Okay. And what was your routine in the
18 evening?

19 A Cook, help my kids with their homework,
20 and get ready for the next day.

21 Q And who would pick Rod up and bring him
22 home from work?

23 A I would.

24 Q And what time on a typical Wednesday would
25 you pick up Rod from work?

1 A I'd leave the house like maybe a little
2 after 11.

3 Q And what time would he finish at
4 McDonald's usually?

5 A Between 12 and 12:30.

6 Q And then what would happen when he left?
7 Where would you wait for him?

8 A In the parking lot.

9 Q Did you ever go inside?

10 A Sometimes.

11 Q And what would you do when you went
12 inside?

13 A Help him clean up, help him count his
14 deposit.

15 Q And typically was it the same people that
16 were working that night shift with him or that late-
17 night shift with him?

18 A Yes, typically.

19 Q And who were those two people?

20 A It's the guy, a man, Mr. Jennings, and it
21 was a female. I can't remember her name.

22 Q Was it Renee?

23 A She's short. I can't remember her name.

24 Q So Willie Jennings would often work that
25 evening shift with Rod?

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1 A Yes.

2 Q So you had met Willie Jennings?

3 A Okay. And do you remember if he was an
4 older guy, at least older than y'all were at the
5 time?

6 A Yes.

7 Q Okay. And what was his job, if you know?

8 A I think he was just a regular crew person.

9 Q Okay. And had he been working with Rod
10 there for a while?

11 A I had seen him there since Rod started
12 working there.

13 Q And how long had Rod been working there at
14 that time?

15 A Probably nine months.

16 Q Okay. So you had seen Mr. Jennings there
17 with Rod on a regular basis?

18 A Yes.

19 Q But Rod was the manager?

20 A Yes.

21 Q So typically did you ever rest or do
22 anything before you would leave at 11:00 to get him?

23 A Yes. When my youngest two went to bed at
24 8:30, I would go lay down and take me a nap until it
25 was time to get up and go get him.

1 Q Okay. Because if you picked him up
2 between 12 and 12:30, about what time would you
3 typically get home in the morning?

4 A About 1:30.

5 Q And then you had to get up again at 5:30?

6 A Yes.

7 Q So on October 13, 2010, you let Rod off,
8 and he told you this information. "Meon might come
9 over. Take him where he wants to go, and then bring
10 him back with you to Batesburg-Leesville." Was it
11 unusual for him to say bring him back with you to
12 Batesburg-Leesville?

13 A Yes.

14 Q Was it unusual for him to say, "Take Meon
15 where he wants to go, pick Meon up, drive Meon
16 around"?

17 A No.

18 Q And you did that on a fairly regular
19 basis?

20 A Yes.

21 Q Okay. And you would do that -- would Meon
22 call you directly and ask, or was it typically
23 through Rod?

24 A Typically, it was through Rod.

25 Q Okay. And you did what Rod asked you to

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1 do?

2 A Yes.

3 Q And so if Rod said, "Take him where he
4 wants to go," you would take him where he wants to
5 go?

6 A Yes.

7 Q And if he said to bring him back, you'd
8 bring him back?

9 A Yes.

10 Q Did you ask him why?

11 A Not then.

12 Q Okay. So for some while, you said you
13 didn't see Meon when you first got home. He wasn't
14 there, just your kids were there?

15 A Right.

16 Q And was it a typical night? You were
17 doing homework, that type of stuff?

18 A Yes.

19 Q All right. And do you remember if you
20 tried to call or get in contact with Meon?

21 A Yes, I was trying to find out if I would
22 have to take him somewhere, what time was he going
23 to get there so I can go and do what I need to do so
24 I can lay down.

25 Q And did you know Meon's number?

1 A No.

2 Q And how did you try to get Meon's number -
3 - or how did you get Meon's number?

4 A I called Van and asked him for Meon's
5 number.

6 Q Did you call him?

7 A I called him, and I don't think he
8 answered. But I ended up texting him, and he said
9 he'd call me back.

10 Q Okay. So this has already been testified
11 to that there was a text. So you texted --

12 A I texted Van.

13 Q -- Van. And he gave you Meon's number?

14 A Yes.

15 Q Did you ever end up calling Meon?

16 A No.

17 Q And why not?

18 A Because he ended up coming through the
19 door like five minutes later.

20 Q Okay. So he showed up?

21 A Yes.

22 Q And at that time, did you figure out with
23 Meon when you were going to need to leave?

24 A He said a little while later, and then he
25 was back in and out of our apartment.

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1 Q So at what point -- how did you finally
2 decide, "Okay, it's time to leave"?

3 A Meon had came back, and he said he needed
4 me to take him to go pick up one of his friends. So
5 I said -- asked him where we needed to go, and he
6 told me up by Sandhills. I said, "Well, we'll leave
7 here about 10:00 so I can take you to do what you
8 need to do, and then we'll go on to Batesburg."

9 A Okay. And looking back at these records,
10 at 10:05 whose number is that?

11 A Rod's.

12 Q And that says that was one minute. Then
13 what time is that? That was at 10:15. Whose number
14 is that?

15 A Rod.

16 Q And that's an incoming call from Rod. Do
17 you remember what you talked to Rod about at that
18 point?

19 A He had asked me where I was, and I told
20 him I was taking Meon to pick his friend up. And he
21 had asked about the kids, and then he asked me to
22 talk to Meon.

23 Q Okay. So he talked to Meon on your phone
24 at that point?

25 A Yes.

- 1 Q And then where did you go next?
- 2 A When I left my house?
- 3 Q Uh-huh.
- 4 A We went to pick up Angelo.
- 5 Q And whose car were you in?
- 6 A Mine.
- 7 Q So that's your car?
- 8 A Yes.
- 9 Q And you took Meon, and you went to Meon's
- 10 friend's house?
- 11 A Yes.
- 12 Q Were you familiar with that area?
- 13 A No.
- 14 Q What is it near?
- 15 A It's near Sandhills Mall.
- 16 Q Okay. And did you know the house that you
- 17 went to?
- 18 A No.
- 19 Q Okay. What did you see when you arrived
- 20 at the house?
- 21 A Angelo was standing outside on the porch.
- 22 Q And you say Angelo. Did you know Angelo
- 23 at the time?
- 24 A No.
- 25 Q So a person at that point to you --

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1 A Yes.

2 Q -- was standing outside?

3 A Yes.

4 Q Did that person have anything in his
5 hands?

6 A He had a backpack with him.

7 Q When you say backpack, was it a big
8 backpack or a little backpack?

9 A Like a bookbag.

10 Q It was like a bookbag?

11 A Yes.

12 Q Okay. Do you know what was in that
13 bookbag? Did you at that moment know what was in
14 that bookbag?

15 A No.

16 Q Did you have an opinion? What was in your
17 mind? What did you think was in that bookbag?

18 A Drugs.

19 Q Okay. And why was that?

20 A Because I know that Meon sold drugs
21 sometimes.

22 Q Okay. And this was Meon's friend?

23 A Yes.

24 Q Had you ever, to the best of your
25 knowledge, ever met Angelo Tucker before?

1 A No.

2 Q So what happened next?

3 A Meon got out of the car and talked to him,
4 and Angelo went back inside and came out. And then
5 they got in the car.

6 Q And who got in the front seat?

7 A Meon.

8 Q Who got in the back seat?

9 A Angelo.

10 Q And where did Angelo sit?

11 A He sat behind me.

12 Q He sat behind you, and then Meon is in the
13 passenger seat, you're in the front seat?

14 A Yes.

15 Q Okay. And where did you go next?

16 A We went to Batesburg.

17 Q So you left Northeast Columbia with Angelo
18 and Meon and drove to Batesburg?

19 A Yes.

20 Q Why did you take Meon and Angelo to
21 Batesburg?

22 A Rod told me to bring Meon, and I picked
23 him up.

24 Q Okay. And did you question why Angelo was
25 coming to Batesburg, too?

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1 A Not then. I thought I was taking him to
2 do a drug deal.

3 Q Okay. And on the way to Batesburg, did
4 you talk to Meon and Angelo?

5 A No, they were talking to each other.

6 Q At any point during the ride to Batesburg
7 did you find out any information as to what was in
8 that bookbag?

9 A Yes.

10 Q And how did that happen?

11 A Angelo had opened the bag and showed Meon,
12 and Meon made a comment that he had a lot of ammo.

13 Q Had a lot of ammo. So what did that mean
14 to you?

15 A A gun or two.

16 Q Okay.

17 A And some bullets.

18 Q And what did you think then?

19 A Maybe it's not a drug deal.

20 Q Did you ask them "What's going on?"

21 A No, I started trying to call Rod.

22 Q Do you recognize the number 532-0770?

23 A Yes.

24 Q And what number is that?

25 A The McDonald's in Batesburg.

1 Q So at 10:20, you called that number. Did
2 you talk to anybody?

3 A He told me he was busy, he couldn't talk.

4 Q When you say "he," who is "he"?

5 A I'm sorry -- Rod.

6 Q I'm sorry, keep going. He told you he was
7 busy and?

8 A He was busy. He couldn't talk right then.

9 Q Okay. And 10:22, you called again?

10 A Yes.

11 Q Did he even answer that time?

12 A I think he answered, and when he saw it
13 was me, he hung it up.

14 Q Okay. 629-3036, whose number is that?

15 A That's Rod's cell phone.

16 Q And that's at 10:34?

17 A Yes.

18 Q Okay. And did he answer that?

19 A He answered that he's busy, he couldn't
20 talk.

21 Q 10:59, 532-0770, what was that phone call?

22 A I asked was he still busy, and he said
23 yes, he's still busy. And I started asking him
24 what's going on, and he was like, "Don't worry about
25 it." And I was like, "What you mean don't worry

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1 about it? What's going on? What's going on?" He
2 said, "Just don't worry about it." He said, "I
3 can't talk. I can't talk. I'm busy."

4 Q Okay. And 11:24, a two-minute phone call,
5 do you know -- do you recall what was said in that
6 conversation?

7 A He asked me where I was, and I asked him
8 what was going on. And he was telling me just
9 answer his question, and we got into an argument.

10 Q Okay. Then you called again at -- I'm
11 sorry. Yes, you called again at 11:31, and 11:36 is
12 a two-minute conversation. Did anything else happen
13 in those conversations?

14 A He just -- I kept asking him what's going
15 on, and he kept telling me to stop questioning him,
16 don't worry about it. And he asked did I drop Meon
17 and them off. And I said, "Yes, I dropped them off
18 at the stoplight." And then he kept saying he was
19 busy, he had to go.

20 Q And so those were all fairly quick
21 conversations?

22 A Yes.

23 Q And he didn't tell you anything?

24 A No.

25 Q Where did you go? You said you dropped

1 Meon and them off at the stoplight.

2 A Yes.

3 Q Whose decision was it to drop them off at
4 the stoplight?

5 A Meon said, "Just drop me off at the
6 stoplight."

7 Q I'm going to show you State's Exhibit Two.
8 It's already been entered into evidence. Do you
9 recognize this map?

10 A Yes.

11 Q Okay.

12 Can y'all see?

13 Do you see where McDonald's is on this
14 map?

15 A Yes, right here.

16 Q Right here?

17 A Yes.

18 Q Okay. There's stuff up here so it will be
19 easier for you to reach.

20 Is it okay if I step up here?

21 THE COURT: Yes, but she can stand down
22 close to the jury if it's easier for them to see.

23 MS. WEISS: Yes, I just didn't know if
24 she's able.

25 Q Can you show where the McDonald's is?

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1 Okay. And where is the stoplight? I'm sorry, speak
2 loudly so the Court Reporter can hear you --

3 A I'm sorry.

4 Q -- and the jury.

5 A It's right here at the corner where
6 Walgreen's is.

7 Q Okay. And so Walgreen's --

8 THE COURT: Can everybody see, or do we
9 need to come down a little bit?

10 JUROR: We can see.

11 THE COURT: They can see. Go ahead.

12 Q You can see this, okay. Prior to dropping
13 them off, did you do anything different? Did you
14 just drive straight down the road and drop them off,
15 or did you do anything first?

16 A We rode around the block because I was
17 going to see if the Wal-Mart was open.

18 JUROR: I apologize, I can't hear.

19 THE COURT: Ma'am, you'll have to speak up
20 just a little bit --

21 MS. MATTHEWS: I'm sorry.

22 THE COURT: -- so everybody can hear you.

23 COURT REPORTER: She needs to face this
24 way.

25 Q Let's try this. Let's try walking down

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1 this way, and then you can get right by the Court
2 Reporter so she can hear you, too.

3 A I drove around the block to see if the
4 Wal-Mart was open.

5 MS. WEISS: Did y'all hear her?

6 COURT REPORTER: Yes.

7 Q To see if the Wal-Mart was open. And did
8 you -- at any point did you tell Meon and Angelo
9 anything?

10 A We were in the car talking, and they said
11 --

12 Q Speak up.

13 A We were in the car talking, and they said
14 to drop them off at the stoplight. And I told them,
15 "Well, I'll wait for y'all on the road by the Waffle
16 House."

17 Q And where is that?

18 A Over here.

19 Q Okay. So you waited on this road?

20 A Yes, right there.

21 Q Okay. And then you drove around, and you
22 let them off?

23 A Yes.

24 Q And at that point, in your mind, what did
25 you believe they were doing?

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1 A Going to do a drug deal.

2 Q Believed that they were going to go do a
3 drug deal, and you went over here. So your
4 boyfriend is at the McDonald's, but you didn't go
5 there and wait?

6 A No.

7 Q You went over here?

8 A Yes.

9 Q Okay. And could you see this cut-through
10 here in the woods?

11 A No, I went up here on the road, and I
12 parked like right here.

13 Q Okay.

14 COURT REPORTER: Could you repeat what she
15 said?

16 A I was parked up here at the end of the
17 road. I'm sorry.

18 Q Okay. And I'm just going to go ahead and
19 jump ahead a little bit so we can get the map down
20 and get you back on the microphone. A little bit
21 later, a little bit of time passed by --

22 A Uh-huh.

23 Q -- and what happened -- where were you
24 when you saw the boys again?

25 A I was parked here, and a police car came

1 out of the Waffle House parking lot and went past
2 me. And when I looked up in my rear-view mirror,
3 they were walking up the street.

4 Q Okay. So what did you do?

5 A I cranked up, and I backed up and picked
6 them up.

7 Q And then what did you do?

8 A They were in the car and --

9 Q Who sat in the front seat?

10 A Meon sat in the front, and Angelo got in
11 the back seat.

12 Q Which side?

13 A Back behind me.

14 Q Okay. And I'll get into a little more
15 details. And then where did you go?

16 A They were arguing and --

17 Q Where did you go?

18 A Oh, where did I go? I'm sorry.

19 Q Let's just finish with the map.

20 A I went through the cut-through to the
21 Waffle House parking lot.

22 Q Okay. And at some point, did you have to
23 stop?

24 A Yes, as soon as I got out of the parking
25 lot, ran right out of the parking lot, and the

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1 police pulled up behind me.

2 Q Okay. And you stopped at that time?

3 A Yes.

4 Q You can go back. Okay, now I'm going to
5 back up just a little bit since we were done with
6 the map. So you drove into Batesburg-Leesville, and
7 you dropped them off. You had already told them,
8 "I'm going to wait for you over here on this road"?

9 A Right.

10 Q And you said you thought they were going
11 to go do a drug deal?

12 A Right.

13 Q So why were you waiting on that road?

14 A I didn't know where they were going. I
15 didn't want to be around it.

16 Q But you thought it was something bad?

17 A Yes.

18 Q And you waited on that road in the car?

19 A Yes.

20 Q What happened next? You were sitting in
21 the car, and I know we kind of went over this with
22 the map. And I want to go through it in a little
23 more detail. So what happened next? After you sat
24 in the car, what did you do?

25 A That's when I had the phone calls with

1 Rod.

2 Q Okay.

3 A When I kept trying to call and talk to
4 him.

5 Q You said a police car pulled out and
6 zoomed past you. Were there any other police cars
7 over there by you?

8 A No, it was the car that was at the Waffle
9 House, parked at the Waffle House when I parked.

10 Q Were there any other police cars at the
11 Waffle House that you noticed?

12 A No, just the one.

13 Q And so you were parked there. And what
14 made you move the car?

15 A When the police went past me and he had
16 the lights going, I was going to go be nosy and see
17 what was going on. But when I looked in my rear-
18 view, they were walking up the street.

19 Q You looked in your rear-view mirror on
20 your car, and you see them walking up the street?

21 A Yes.

22 Q Just walking casually?

23 A Yes.

24 Q Okay. And was either one carrying
25 anything?

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1 A Not that I could see.

2 Q Okay. When they got up closer, was either
3 one carrying anything?

4 A Not that I could see.

5 Q So what did you do when you saw them in
6 your rear-view mirror?

7 A I cranked up, and I backed up to pick them
8 up.

9 Q Okay. And what was their demeanor like
10 when they got in the car?

11 A They were arguing, and Meon was sweating.
12 And Angelo kept asking him what happened.

13 MR. O'NEILL: Objection, Your Honor,
14 hearsay.

15 THE COURT: Sustained.

16 Q What did you see? Without saying what
17 they said, what did you see? What was their
18 demeanor? You said Meon was sweating.

19 A Yes.

20 Q And Angelo was talking?

21 A Yes.

22 Q But then did you see anything else in
23 their demeanor and how they were acting?

24 A Meon was shaking.

25 Q And did you see -- what did you see happen

1 next?

2 A He took the gun --

3 Q "He" being who?

4 A I'm sorry. Meon took the gun out of his
5 waistband and put it in my glove box.

6 Q And did -- so you saw the gun?

7 A Yes.

8 Q And what did you think at that point?

9 MR. O'NEILL: Objection, Your Honor, calls
10 for speculation.

11 MS. WEISS: What did she think.

12 THE COURT: She can answer what she
13 thought. If it's speculation, you can object again.

14 Go ahead.

15 Q What was your emotion? What was your
16 thought?

17 A My thought was something bad happened.

18 Q Okay.

19 MR. O'NEILL: Objection, Your Honor,
20 speculation and ask for her to restate it.

21 THE COURT: Overruled.

22 MS. WEISS: Thank you.

23 Q And did you say anything at that point?

24 A No. At that point, they were talking.

25 Q And what happened? After you saw the gun

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1 go into the glove compartment, what happened next?

2 A By this time, the police had pulled up
3 behind me?

4 Q And you were -- you had just pulled
5 through the Waffle House parking lot?

6 A Yes.

7 Q And did you take off running?

8 A No, I pulled over.

9 Q You pulled over, stopped. And what
10 happened next?

11 A The police officer walked up on the
12 passenger side, and he -- Meon let the front window
13 down. And then the police officer started talking
14 on his radio, asking for a description of the
15 suspects. And then when that came over the radio,
16 then he told us all to get out of the car.

17 Q And what did you do?

18 A Got out of the car.

19 Q All right, Tasha. At the point that you
20 were there, did anybody ask you what had happened,
21 what you had just done, where these boys came from?

22 A He did eventually.

23 Q Who is "he"?

24 A The police officer. I can't remember his
25 name.

- 1 Q Okay. So the police officer started
2 asking you questions?
- 3 A Yes.
- 4 Q And what did you tell the police officer
5 then?
- 6 A That I didn't know them.
- 7 Q That you didn't know them?
- 8 A Meon and Angelo.
- 9 Q Okay. Was that true?
- 10 A No.
- 11 Q So that was a lie?
- 12 A Yes.
- 13 Q Why did you lie to the police about
14 knowing Meon and having picked up Angelo?
- 15 A Because I was scared.
- 16 Q What did you tell the police officer about
17 the unknown Meon and Angelo that were in your car?
- 18 A That they were walking down the street,
19 and I asked them if they needed a ride.
- 20 Q And why did you -- according to what you
21 told the officer, why did ask them if they needed a
22 ride?
- 23 A Because I ask people that all the time.
- 24 Q And was that true?
- 25 A Yes, I do do that sometimes.

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1 Q Okay. So you told --

2 A It wasn't true then.

3 Q Huh?

4 A It wasn't true at that point.

5 Q Okay. So it wasn't true. Did you know
6 who Meon was?

7 A Yes.

8 Q And did you know Meon pretty well?

9 A Yes.

10 Q And did you know who Angelo -- without
11 necessarily even knowing his name, did you know who
12 the other guy was or why the guy was there?

13 A Yes.

14 Q And did you intentionally pick them up?

15 A Yes.

16 Q Okay. What else did the officer -- did
17 the officer tell you something about your driver's
18 license?

19 A He came back up. He had ran it and found
20 that it was suspended.

21 Q Did you know that at that time?

22 A No.

23 Q So what happened next? You're sitting on
24 the side of the road, and what happened next?

25 A Two cars came and got Meon and Angelo and

1 took them away. And I was still sitting on the side
2 of the road, and he was searching my car.

3 Q Were you aware that there were some drugs
4 found in your car?

5 A Yes.

6 Q And what was it?

7 A Marijuana.

8 Q Was it a lot?

9 A No, it was a bud. It was the residue of
10 the marijuana.

11 Q Okay. And that was it?

12 A Yes.

13 Q And who did that belong to?

14 A Rod.

15 Q And when was the last time you had seen
16 Rod use it?

17 A On that day, when I took him to work.

18 Q Okay. And there were no other drugs in
19 your car?

20 A No.

21 Q And the backpack you knew was in your car?

22 A Yes.

23 Q And you knew the gun was in your glove
24 compartment?

25 A Yes.

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1 Q Okay. So what happened next? The officer
2 -- you gave the officer that statement?

3 A Yes.

4 Q And what happened next?

5 A He called for a tow truck, and we waited
6 there until the tow truck came.

7 Q Okay. And then what happened? What did
8 you do? Where did you go?

9 A To the Batesburg Police Department.

10 Q And did -- and who else was at the
11 Batesburg Police Department?

12 A Meon and Angelo.

13 Q And once you got there, did you talk to
14 Meon?

15 A No, not at first.

16 Q Did you or Meon -- did you acknowledge you
17 were there --

18 A Yes.

19 Q -- say hello or "I love you"?

20 A Yes, he -- after they had took each of us
21 out individually and brought us back, when they had
22 brought me back, he told me loved me, and I told him
23 I loved him, too.

24 Q When you say "I love you," is that
25 romantic love?

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- 1 A No, it's more like one of my children.
- 2 Q Because he was 18 --
- 3 A Yes.
- 4 Q -- and at the time, you were 38?
- 5 A Yes.
- 6 Q How long was it before you got to
- 7 Lexington Detention Center?
- 8 A It wasn't until that Friday morning.
- 9 Q Were you allowed to make any phone calls
- 10 prior to that?
- 11 A No.
- 12 Q And were you allowed to talk to Rod Cook
- 13 prior to that?
- 14 A No.
- 15 Q And did you have charges at that point?
- 16 A I had one charge.
- 17 Q And what was that charge?
- 18 A The murder charge.
- 19 Q And do you still have that charge?
- 20 A Yes.
- 21 Q Have you been charged with anything else?
- 22 A With attempted armed robbery, conspiracy
- 23 to commit armed robbery, and possession of a firearm
- 24 used in a violent crime, and the driving stuff.
- 25 Q Okay. And have you gotten any deals for

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1 any of those charges?

2 A No.

3 Q So you are still sitting up there today
4 facing every one of those charges?

5 A Yes.

6 Q Has anybody told you that sitting up there
7 today and talking is going to get you a lower
8 charge, reduced charge, things dismissed, anything
9 like that?

10 A No.

11 Q What was the first thing you did when you
12 got to Lexington County Detention Center?

13 A I called home.

14 Q When you called home, who did you talk to?

15 A I talked to Rod.

16 Q Have you had an opportunity to listen to
17 the phone calls that you made to Rod?

18 A Yes.

19 Q And do those accurately depict the phone
20 calls that you made when you first go to Lexington
21 County Detention Center?

22 A Yes.

23 MS. WEISS: Your Honor, at this time I
24 would like to enter State's Exhibit Seven into
25 evidence as those phone calls made by Tasha Matthews

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1 to Rod Cook when she first got to the jail. Your
2 Honor, may we approach briefly?

3 THE COURT: Yes, ma'am.

4 Mr. Foreman, ladies and gentlemen of the
5 jury panel, it's taking a little longer than
6 expected maybe with this witness. And so it's
7 already about 20 after one, and we're still a ways
8 from finishing with this witness.

9 So we decided to go ahead at this time and
10 get some lunch. So I'm going to ask you go ahead
11 and get some lunch at this time. I remind you not
12 to discuss the case with anyone you might see during
13 the lunch break and ask you to be back in the jury
14 room ready to go at 20 after two. It's now about
15 1:20, about an hour for everybody to get lunch.
16 Thank you.

17 (Jury out for lunch from
18 1:20 p.m. to 2:20 p.m.)

19 THE COURT: Ms. Matthews, you're going to
20 be able to stand down during lunch and get some
21 lunch.

22 Hopefully, she can get some lunch in an
23 hour. Is she going to be able to do that?

24 MS. WEISS: Your Honor, we'll get somebody
25 to go get her something and bring it to her, so

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1 that's not a problem.

2 THE COURT: All right, we'll take a break.
3 During the lunch recess, please, ma'am, do not
4 discuss this case with anyone. You can discuss
5 something other than this case, but do not talk to
6 anyone about this case, the same as if you were
7 still on the stand.

8 MS. MATTHEWS: Yes, sir.

9 THE COURT: All right, thank you.

10 MS. WEISS: Thank you, Your Honor.

11 THE COURT: We'll try to start back about
12 20 after.

13 (Court in recess for lunch.)

14 MR. O'NEILL: Your Honor, may I approach?

15 THE COURT: Yes, sir, counsel.

16 MS. WEISS: Your Honor --

17 THE COURT: Yes, ma'am.

18 MS. WEISS: -- we were just trying to
19 settle the record. There are two more witnesses
20 that are potentially today. The two witnesses are
21 Vantouris Hanna and Meon Miller. And Vantouris
22 Hanna only has a conviction for a public disorderly
23 misconduct, which I think we both agree is not
24 admissible. He has pending charges from Richland
25 County, but those have not been disposed of.

1 THE COURT: Can't impeach for those.

2 MS. WEISS: And Meon Miller, the only
3 charges he has are the current pending charges that
4 he has. However, the only one showing up on the
5 draft sheet is the murder charge. I just asked
6 Chief Oswald why the murder charge is the only one
7 showing up.

8 He said that the murder charge he was
9 originally charged at Batesburg-Leesville, as they
10 all four were, and they were transferred over to
11 Lexington County. The warrants were served on them
12 over here. So he can't answer why Lexington County
13 hasn't submitted it.

14 It's not that anything has happened to
15 those charges. All of them are still pending.
16 They're all indicted.

17 THE COURT: All indictments are still
18 pending?

19 MS. WEISS: Yes, sir, Your Honor.

20 MR. O'NEILL: I just wanted to clear the
21 record, Your Honor.

22 THE COURT: Okay. And, of course, pending
23 charges, certainly he can ask about pending charges

24 --

25 MS. WEISS: Absolutely.

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1 THE COURT: -- because it's part of this
2 case. But you can't impeach them with them just
3 because they're pending charges, okay? But if it's
4 part of this case, obviously you can ask --

5 MR. O'NEILL: Yes, sir.

6 THE COURT: -- if they've got those
7 charges pending against them for bias reasons and
8 that reason.

9 MS. WEISS: Yes, Your Honor.

10 THE COURT: Okay.

11 All right, we can bring them on in.

12 (Jury in at 2:37 p.m.)

13 THE COURT: Good afternoon, Mr. Foreman,
14 ladies and gentlemen of the jury. I hope you
15 enjoyed your lunch. We are ready to resume now with
16 the trial. I would remind everyone to please try to
17 be on time, because even if one juror is late, we
18 have to wait until that juror arrives to get
19 started.

20 All right, we're ready to proceed,
21 counsel.

22 MS. WEISS: Thank you, Your Honor, may it
23 please the Court. I believe when we broke, we were
24 at the point that we just introduced the phone calls
25 into evidence, is that correct? Had they already

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1 been admitted?

2 THE COURT: The Court Reporter can tell
3 you for sure.

4 COURT REPORTER: Which one?

5 MS. WEISS: The very last one, State's
6 Exhibit Seven.

7 COURT REPORTER: It's not in evidence.

8 MS. WEISS: Okay.

9 Your Honor, at this time I would like to
10 admit State's Exhibit Seven into evidence, the three
11 phone calls involving Tasha Matthews.

12 MR. O'NEILL: Your Honor, it would be
13 subject to our previous objection. I think there
14 are four calls on that CD, as well.

15 THE COURT: Your objection is as to the CD
16 because it has the other one on it?

17 MR. O'NEILL: Yes, sir.

18 THE COURT: Okay, all right. Your
19 objection is noted for the record and overruled.

20 You may proceed.

21 MS. WEISS: Thank you, Your Honor.

22 (State's Exhibit Number
23 Seven, CD 736-0818, Phone Calls, was entered in
24 evidence.)

25 MS. WEISS: Your Honor, at this time I'd

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1 like to publish these three calls for the jury.

2 THE COURT: You may publish.

3 (Whereupon, the CD of the
4 phone calls was played.)

5 Q So, Tasha, when you got off the phone with
6 Rod, what did you do next?

7 A I told Meon to call him, and then I went
8 and told them I needed to speak to the investigator.

9 Q So when you got off the phone with Rod
10 Cook, you did exactly what he instructed you to do?

11 A Yes.

12 Q You went to -- I'm going to show you
13 what's been marked as State's Exhibit Nine for
14 identification. Do you recognize this?

15 A Yes.

16 Q What is it?

17 A The request I made to speak to the
18 investigator.

19 MS. WEISS: Your Honor, at this time I ask
20 to enter State's Exhibit Nine into evidence.

21 MR. O'NEILL: No objection.

22 THE COURT: Admitted without objection.

23 (State's Exhibit Number
24 Nine, Inmate Request form 10/15/10, was entered in
25 evidence.)

1 Q So what was the first thing you did when
2 you got off the phone?

3 A I told Meon Rod wanted him to call him.

4 Q Okay.

5 A And I went got the request and filled it
6 out to speak to the investigator.

7 Q Where did you get the request?

8 A From the booking desk.

9 Q And what did they say when you asked to
10 speak to the investigator?

11 A She told me I had to fill out the form,
12 that if they wanted to speak to me, they'd come get
13 me.

14 Q Okay. And is the form she gave you?

15 A Yes.

16 Q And what is the date on this form?

17 A October 15, 2010.

18 Q And this is a form you filled out after
19 you got off the phone when you first got to
20 Lexington County?

21 A Yes, when I got to the detention center.

22 Q Did the investigator come and speak to
23 you?

24 A Yes.

25 Q And how long was it before the

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1 investigator came and talked to you?

2 A Probably 30 or 45 minutes.

3 Q Okay. And did you give a statement?

4 A Yes.

5 Q And if you recall, what did you focus on
6 when you were giving that statement?

7 A I just told him -- he wanted to know what
8 happened that night. So I told him what happened
9 from the time I left my house up until.

10 Q Okay. So did you tell him exactly what
11 Rod had told you to tell him?

12 A I told him what happened.

13 Q Was that the same thing you had told Rod
14 on the phone?

15 A Yes. And I told him what was said in the
16 car.

17 Q Okay. And you said you told him from the
18 time you left your house?

19 A Yes.

20 Q Do you recall if you told him anything
21 about talking to Rod that night?

22 A I don't remember. I might have.

23 Q Would it help you to refresh your memory
24 by looking at your statement?

25 A Yes. No, I didn't.

1 Q Do you recall what your home phone number
2 was at that time?

3 A 736-0818.

4 Q Was that the number that you called to
5 reach Rod that night?

6 A Yes.

7 Q You didn't mention anything about talking
8 to Rod Cook when you talked to the investigator?

9 A No.

10 Q Why is that?

11 A I didn't think it was relevant that I
12 called to tell him what was going on.

13 Q So on October 15, 2010, after those three
14 conversations --

15 A Uh-huh.

16 Q -- with Rod, at that point you didn't
17 think it was relevant to tell law enforcement that
18 you had spoken to Rod Cook several times that night
19 between the time -- as you stated, between the time
20 you left your house and the time you ended up at the
21 Lexington County Detention Center?

22 A You're talking about the calls I made on
23 my cell phone, or are you --

24 Q Yes.

25 A -- talking about the phone calls at the

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1 jail?

2 Q I'm talking about the calls you made on
3 your cell phone.

4 A I don't know. That just slipped my mind.

5 Q What information did you have at that
6 point about Willie Jennings?

7 A They told me that he had been -- first,
8 they told me that he had got shot, and then they
9 came back later and told me that he died.

10 Q And who was Willie Jennings' supervisor
11 that night?

12 A Rod.

13 Q But yet at this point you still didn't
14 think it was relevant to tell law enforcement that
15 you had spoken to Rod, right?

16 A No.

17 Q What were you focused on in this
18 statement?

19 A Telling them what had happened since I
20 left my house.

21 Q Who were the people that you included in
22 this statement, that you talked to them?

23 A Me and Meon and Angelo and what happened
24 at the police department.

25 Q After that, did you continue to talk to

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1 Rod Cook on a daily basis or a regular basis while
2 you were in the Lexington County Detention Center?

3 A After I got transferred to a room, after I
4 got housed and got in a room and get rated, yes.

5 Q And were you able to still call him at the
6 736 phone number?

7 A For the first couple of days, I would call
8 his cell phone.

9 Q Why is it that you told Danikwa to pack up
10 the clothes for the younger kids and start packing
11 up the apartment? Why didn't you tell Rod to do
12 that?

13 A Because I wanted him to focus on getting
14 my daddy to get me a lawyer.

15 Q Okay. So you focused on getting him to
16 get with your dad to get you a lawyer?

17 A Yes.

18 Q When you were not able to reach Rod at the
19 736 number, where were you able to reach him?

20 A On his cell phone.

21 Q Okay. And were you able to reach him
22 consistently on his cell phone after that?

23 A For about the next two weeks -- week and a
24 half, two weeks.

25 Q You said that you were setting up the

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1 visitation. You said that he was going to come
2 visit you, and you were setting up the visitation.
3 Did you do that?

4 A I did, yes.

5 Q And did Rod show up for the visitation?

6 A No.

7 Q What did you think when Rod didn't show up
8 for visitation?

9 A I didn't know what was going on, and I
10 called my dad to see if he knew what was going on,
11 and he said he didn't know. And then probably two
12 days later, the investigator came to see me and
13 asked me if I knew anywhere that he can hide,
14 because they were looking for him.

15 Q So at that point, Rod had not been
16 arrested?

17 A No.

18 Q At some point after this, after he didn't
19 show up for visitation and you weren't able to reach
20 him, did you have the opportunity to talk to law
21 enforcement again?

22 A When he came to ask me if I knew where he
23 would be.

24 Q Okay. But after that, did you have the
25 opportunity to give another statement?

1 A I didn't give another statement until
2 2012, last year.

3 Q And why did you give another statement?

4 A Because my lawyer told me I was going to
5 make another statement.

6 Q So the first statement you gave or the
7 first two statements you gave, you did not have a
8 lawyer?

9 A Right.

10 Q And then your dad did go and get you a
11 lawyer?

12 A Yes.

13 Q After talking to your lawyer, you made
14 another statement?

15 A Yes.

16 Q If you recall, what was the difference in
17 the next statement that you made? Would it help you
18 refresh your memory to look at the statement?

19 A Yes. In this statement, I told him about
20 me working half a day and going to the Social
21 Security office. He had asked me what I did that
22 day.

23 Q So in the statement that you gave with
24 your attorney in 2012, what instructions, if
25 anything, when you spoke to the officers were you

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1 given as far as giving another statement?

2 A He just told me to go over everything I
3 did that day.

4 Q Okay. And at that point, did you include
5 information about talking to Rod Cook?

6 A Yes.

7 Q And why in 2012 did you decide to start
8 telling law enforcement about talking to Rod Cook
9 that day?

10 A Because at first, when I made that
11 statement, I was just focusing on that night and
12 what happened. And when I went back and they had me
13 go through the whole day, step by step, a lot of
14 stuff that I didn't think about before I started
15 remembering and I was telling him. And he told me
16 to make sure I wrote everything in my statement.

17 Q Okay. And is that statement the truth?

18 A Yes.

19 Q In this statement, you talked about
20 talking to Rod earlier in the day when he told you
21 about Meon coming over and taking him where he
22 wanted to go and bringing him to Batesburg?

23 A Uh-huh.

24 Q Yet, here today, you told this jury about
25 another phone call, the other phone call that you

1 mentioned before, later in the evening with your
2 cell phone to Rod where you were calling the
3 McDonald's?

4 A Yes.

5 Q Why did you not put that in your last
6 statement?

7 A I told him I had been on my phone trying
8 to call him off and on all night.

9 Q Okay. And you had in fact been on your
10 phone off and on trying to call him all night?

11 A Yes.

12 Q But did he answer every time you called?

13 A Sometimes he would call and answer, see it
14 was me, and he'd hung up, or he'd say he's busy, he
15 can't talk, and he'd hang up.

16 Q Okay. And why didn't you think it was
17 important to put that in this statement?

18 A I didn't write it in the statement, but I
19 did tell him that I had been calling off and on all
20 night.

21 Q And what about the last phone call, the
22 phone call at 11:36? Have you been asked
23 specifically about that one before you're here
24 testifying today?

25 A No.

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1 Q Okay. In that phone call, what was
2 important about -- may not have been important to
3 you, but what was said in that phone call?

4 A We were arguing. I kept asking him what
5 was going on, and he told me don't worry about it.
6 And he asked me why the fuck I keep calling him and
7 asking questions.

8 Q Did he ever tell you what was going on?

9 A No.

10 Q Did he ever explain to you why you were
11 bringing Meon out to Batesburg-Leesville?

12 A No.

13 Q All right, I'm going to ask you just a
14 couple more questions. You mentioned somebody
15 earlier named Van. Who is Van?

16 A It's one of Rod's other first cousins.

17 Q What's his full name?

18 A Vantouris Hanna.

19 Q Okay. And he's another one of Rod's first
20 cousins?

21 A Yes.

22 Q So is he also Meon's first cousin?

23 A Yes.

24 Q And what is his -- do you know about how
25 old he is? Is he closer in age to Meon or closer in

- 1 age to Rod?
- 2 A To Meon.
- 3 Q Did he also come in and out of your house,
- 4 too?
- 5 A Sometimes.
- 6 Q Not as much as Meon?
- 7 A Right.
- 8 Q Who's Vito?
- 9 A That's Vantouris.
- 10 Q Okay, that's his nickname. Who's
- 11 Tremayne? Rod talks about Tremayne on that phone
- 12 call. Who's Tremayne
- 13 A His brother.
- 14 Q His older brother or younger brother?
- 15 A Younger.
- 16 Q And where is Tremayne, or where was
- 17 Tremayne October 15, 2010?
- 18 A At Lee Correctional Facility.
- 19 Q Okay. And is that where he still is
- 20 today?
- 21 A Yes.
- 22 Q And do you know why he's there?
- 23 A He was convicted of murder.
- 24 Q And just briefly, I'm just going to ask
- 25 you -- I'm presenting State's Exhibit Eight for

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1 identification to identify voices. I'm not asking
2 to play it at this point but just for the purpose of
3 identifying voices.

4 (Whereupon, a portion of
5 the CD of two phone calls from the jail was played.)

6 Q Do you recognize whose voice that is?

7 A Rod.

8 Q Is it Rod Cook?

9 A Yes.

10 (Whereupon, a portion of
11 the CD of two phone calls from the jail was played.)

12 Q Do you recognize the two voices there?

13 A It sounds like Vantouris talking to Rod.

14 Q Okay. And the first voice was?

15 A Rod.

16 Q Definitely Rod?

17 A Yes.

18 (Whereupon, a portion of
19 the CD of two phone calls from the jail was played.)

20 Q And do you recognize that voice?

21 A Yes, that's Tremayne.

22 Q Okay. And by Tremayne, you mean Rod's
23 brother Tremayne?

24 A Yes.

25 Q All right. And there's another call.

1 (Whereupon, a portion of
2 the CD of two phone calls from the jail was played.)

3 Q Do you recognize those two voices?

4 A I know that one of them is Rod. I don't
5 know who the other one is.

6 (Whereupon, a portion of
7 the CD of two phone calls from the jail was played.)

8 Q Do you know whose voice that is?

9 A I don't know whose voice that is.

10 (Whereupon, a portion of
11 the CD of two phone calls from the jail was played.)

12 THE COURT: Counsel --,

13 MS. WEISS: I'm sorry.

14 THE COURT: Yes, sir.

15 MR. O'NEILL: The call is not in evidence
16 at this point, and the witness has already said she
17 can't authenticate the voices.

18 MS. WEISS: Now I'm moving to a different
19 voice.

20 THE COURT: It has a different voice or
21 different calls on there. She's asking about
22 different ones that she --

23 MR. O'NEILL: I understand that, Your
24 Honor. I don't think it's appropriate to play it
25 until we get to the point where she's trying to find

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1 the voice. She's putting it into evidence when it's
2 not in evidence here. She's playing it out loud.

3 THE COURT: All right, can you narrow it
4 to where you just identify a voice that you want her
5 to see if she knows, recognizes?

6 MS. WEISS: Yes, sir, let me go to that.
7 I'll turn it down and see if I can just hear.

8 Q The first voice is definitely Rod?

9 A Yes.

10 Q Okay, Tasha, the first statement you gave
11 to law enforcement you've told this jury was a lie,
12 that you didn't know them, that you didn't know why
13 you were picking them up, you were just offering
14 them a ride?

15 A Yes, when I got pulled over.

16 Q Since that statement, have you been
17 telling the truth?

18 A Yes.

19 Q And are you telling the truth today?

20 A Yes.

21 Q And has your opinion changed as to the
22 importance of those phone calls, that you started
23 adding those phone calls back in?

24 A Yes.

25 Q And why is that?

1 A It just makes me think that --

2 MR. O'NEILL: Objection, Your Honor, calls
3 for speculation.

4 THE COURT: Well, I think you need to be
5 more definitive with your question than just that
6 general statement, counsel.

7 MS. WEISS: Thank you, Your Honor.

8 Q When you gave your first statement, your
9 first truthful statement, on October 15th after you
10 had just talked to Rod, did you have any reason to
11 believe that those phone calls were important that
12 night, the phone calls you made to Rod when you were
13 sitting on the side of the road?

14 A No, not then.

15 Q Okay. As you sit here now talking to this
16 jury, you're still telling the truth?

17 A Yes.

18 Q Do you believe those phone calls were
19 important now?

20 A Yes.

21 Q And when you took Meon Miller in your car
22 to Batesburg-Leesville, why were you going out
23 there?

24 A I was going to pick Rod up from work.

25 Q And why did you have Meon in your car?

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1 A He told me to bring him when I came.

2 Q "He" told you?

3 A Rod told me.

4 Q Rod told you to bring Meon?

5 A Yes.

6 Q And what did Rod ask you in those last
7 couple of phone calls concerning Meon?

8 A He asked me if I dropped him off.

9 Q And what did you tell him?

10 A I told him, "Yes, I dropped him off at the
11 stoplight."

12 Q Thank you.

13 Your Honor, I have no further questions at
14 this time.

15 Please answer any questions Mr. O'Neill
16 may have for you.

17 MR. O'NEILL: May it please the Court?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. O'NEILL:

21 Q Good morning, Tasha.

22 A Good morning.

23 Q I just want to clear up a few things here,
24 okay?

25 A Okay.

1 Q It was not unusual for you and Rod to talk
2 when he was at work, correct?

3 A Correct.

4 Q And essentially it's not unusual for him
5 to call you at the end of his shift, correct?

6 A Correct.

7 Q Do you have a copy of your cell phone
8 records in front of you now still?

9 A No.

10 Q Let's see can we find those.

11 MS. WEISS: They should still be on the
12 table. This is the one I was using. Do you want
13 the one I was using?

14 MR. O'NEILL: Beg the Court's indulgence.

15 THE COURT: Yes.

16 Q Tasha, I think Rod had worked the night
17 before, on the 12th?

18 A Yes.

19 Q Okay. And y'all had talked pretty
20 extensively that night as well, correct?

21 A Yes.

22 Q Matter of fact, y'all talked -- I guess
23 from the 12th coming into the 13th, y'all talked at
24 12:08 in the morning on the 13th?

25 A Yes.

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1 Q And then y'all talked two minutes later,
2 at 12:10, on the 13th, correct?

3 A Yes.

4 Q And y'all talked again at 12:39 in the
5 morning on the 13th?

6 A Yes.

7 Q That was all essentially the previous
8 night?

9 A Correct..

10 Q So he had called you three times for 21
11 minutes the night before?

12 A Yes.

13 Q And that wasn't unusual?

14 A Right.

15 Q Okay. When was the last time he had
16 worked previous to the 12th? Had he worked the 11th
17 or the 10th, or you don't know?

18 A I don't remember.

19 Q I guess long story short, it wasn't
20 unusual for him to call you a lot of times in a
21 short period of time when he was at work?

22 A Right.

23 Q That wasn't unusual at all?

24 A No, it wasn't unusual.

25 Q He did it all the time?

1 A Yes.

2 Q And that's one of the reasons why you
3 didn't think it was important to say anything in
4 your first statements about him calling and y'all
5 talking while he was at work?

6 A Yes.

7 Q Because that wasn't out of the ordinary
8 for you?

9 A Right.

10 Q You always talked --

11 A Yes.

12 Q -- while he was at work, okay. Let's talk
13 a little bit about your financial situation. I know
14 you went over some of the jobs Rod had when Ms.
15 Weiss was talking to you earlier this morning,
16 correct?

17 A Yes.

18 Q I think you probably left a few of those
19 jobs off, because the jobs you talked about this
20 morning were all fast-food restaurants, correct?

21 A Yes.

22 Q And he worked at some other places besides
23 those fast-food restaurants, right?

24 A Yes.

25 Q Where else did he work besides those fast-

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1 food restaurants?

2 A He did landscaping for a few months.

3 Q He did landscaping. Where else? He
4 worked at Target?

5 A Yes, he worked at Target.

6 Q And I think after P.C. was born, he
7 worked at Bose as well, too?

8 A Yes, for a couple of months.

9 Q So he worked at some other places besides
10 the ones --

11 A Yes.

12 Q -- that you talked about earlier, okay.
13 Y'all had a joint banking account together, correct?

14 A At this time, yes.

15 Q Back in October 2010, both of your checks
16 were getting direct deposited into your bank
17 account?

18 A Yes.

19 Q And he had been working at McDonald's at
20 that point for like nine months?

21 A Yes.

22 Q Okay. And you talked about your rent.
23 You said that y'all were a couple of months behind
24 on rent?

25 A Yes.

1 Q In October 2010?

2 A Yes.

3 Q Y'all moved into Hunters Mills Apartment
4 looks like in January 2008, correct?

5 A Yes.

6 Q And correct me if I'm wrong Tasha, but
7 literally y'all were late on your rent almost every
8 month since January 2008 until October 2010?

9 A Yes.

10 Q That's a two-and-a-half-year period?

11 A Yes.

12 Q Y'all literally were late every month?

13 A Yes.

14 Q And when you say it's not unusual for
15 y'all to be late, almost every month y'all were
16 late?

17 A Yes.

18 Q And at least --

19 A The majority of them.

20 Q -- the majority of the time when y'all
21 were late, y'all had eviction fees, as well?

22 A Yes.

23 Q How many times did they have to serve
24 eviction notices on y'all?

25 A I don't know. It's more than three or

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1 more.

2 Q At least more than three?

3 A Yes.

4 Q And that was in 2010?

5 A No, it's all within the last year.

6 Q Yes. Within the last year, y'all had been
7 served with eviction notices three times?

8 A Yes, as far as I remember.

9 Q And y'all had been behind more than two
10 months before as well, correct?

11 A Yes.

12 Q Because it looks like in August of 2008
13 and September 2008, y'all were behind two months?

14 A Yes.

15 Q In October 2008 and November 2008, y'all
16 were behind two months, as well?

17 A Yes.

18 Q Looks like in November 2009, y'all were
19 behind two months?

20 A Yes.

21 Q Looks like in March of 2010, y'all were
22 behind two months?

23 A Yes.

24 Q Looks like in September 2010, y'all were
25 behind two months, as well?

1 A Yes.

2 Q So being behind two months wasn't unusual
3 either?

4 A No.

5 Q Y'all had been behind two months a lot of
6 times?

7 A Yes.

8 Q And on this particular month, October 13,
9 2010, you had already made a payment on your rent?

10 A Yes, I had sent them a check.

11 Q You sent the check in?

12 A Uh-huh.

13 Q Not only had you sent the check in, you
14 had already talked to the people at the apartment
15 complex?

16 A Yes.

17 Q Talked to them about the fact that you had
18 already sent a check in?

19 A Yes.

20 Q And was it your understanding that they
21 were going to allow y'all to stay there until that
22 check cleared?

23 A Yes.

24 Q So they weren't coming to kick y'all out
25 that day?

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1 A No.

2 Q They weren't coming to evict y'all that
3 day?

4 A No.

5 Q They were giving y'all a chance to make
6 good on your payment?

7 A Yes.

8 Q They had given y'all chances before?

9 A Yes.

10 Q Because y'all didn't want to be out in the
11 street?

12 A Right.

13 Q If y'all didn't get any money that night,
14 y'all weren't going to be thrown out of your
15 apartment?

16 A Right.

17 Q You were going to be able to stay there
18 until that check cleared?

19 A Yes.

20 MS. WEISS: Objection. He's testifying to
21 this. She's testified as to what -- he's asking her
22 a question she doesn't have an answer to.

23 THE COURT: It's cross-examination,
24 counsel. You need to let her testify instead of
25 you, okay?

- 1 MR. O'NEILL: Yes, sir.
- 2 THE COURT: Avoid the leading, please.
- 3 Q Isn't that correct?
- 4 A Yes.
- 5 Q Okay. Had you already -- you had a cruise
- 6 planned in December 2010, correct?
- 7 A Yes.
- 8 Q How much did that cruise cost, I think you
- 9 said?
- 10 A It was about \$800, somewhere around there.
- 11 Q Who all was going on that cruise?
- 12 A Just me and Rod.
- 13 Q Was any of Rod's family going, as well?
- 14 A His dad's side of the family.
- 15 Q And y'all had already paid for this
- 16 cruise, correct?
- 17 A I think we owed like maybe like \$200 more.
- 18 Q But y'all had already paid at least --
- 19 A The majority of it.
- 20 Q The majority of it you had already paid?
- 21 A Yes.
- 22 Q When did y'all pay that?
- 23 A In September.
- 24 Q So in September, y'all had \$600 to pay on
- 25 the cruise?

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1 A Yes.

2 Q So y'all had money to pay on the cruise
3 the month before?

4 A Yes.

5 Q Okay. Now, I want to make sure we have
6 your timeline down correct that day, okay? You got
7 off work at 12:46?

8 A Yes.

9 Q And it took you about 20, 25 minutes to
10 get home?

11 A Yes.

12 Q When you got home, I guess that would have
13 been around about 1:15, 1:20. Is that about right?

14 A Somewhere around there.

15 Q You said only Rod was home and one of your
16 children was home at that point?

17 A Yes.

18 Q Meon Miller wasn't at your house when you
19 got home --

20 A No.

21 Q -- at 1:15 to 1:20?

22 A No.

23 Q Meon Miller was not there?

24 A No.

25 Q You and Rod then go to the Social Security

1 office?

2 A Yes.

3 Q And according to your phone records here,
4 you called to your job about 1:30 and told them that
5 you weren't coming back in that day?

6 A Yes.

7 Q So at 1:30 y'all leave to go to the Social
8 Security office. At that point, was Meon Miller at
9 your home?

10 A No.

11 Q Y'all go to the Social Security office
12 here. Rod goes with you, just you and Rod?

13 A Yes.

14 Q Did Rod need a Social Security card for
15 the cruise, or do you know?

16 A I know he was going to need it, and he
17 couldn't find his.

18 Q So he needed a new one for the cruise?

19 A Yes.

20 Q That's why y'all were going to the Social
21 Security office?

22 A Yes.

23 Q Okay. What time did Rod have to be at
24 work?

25 A At four.

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1 Q Okay. So y'all leave straight from the
2 Social Security office to go to --

3 A Batesburg.

4 Q -- Batesburg. You don't go back home?

5 A No.

6 Q So once you leave the Social Security
7 office, you go straight to Batesburg?

8 A Yes.

9 Q And Rod gets there about 4:15?

10 A Yes.

11 Q Then you go back to your house?

12 A Yes.

13 Q You get to your house around 5:00, 5:30
14 maybe?

15 A About 5:00.

16 Q Five o'clock. And then how long are you
17 there before Meon Miller gets to your house?

18 A The first time he came in probably between
19 6:30 and 7:00.

20 Q It's 6:30 or 7:00 before Meon Miller gets
21 to your home?

22 A Yes.

23 Q That you're aware of?

24 A Yes.

25 Q Okay. Now, at that time, is Rod at the

1 house?

2 A No.

3 Q Where is Rod at?

4 A He's at work.

5 Q He's at work, not at the house?

6 A No.

7 Q Now, do you ever give Meon Miller any
8 details about how to rob a store when he comes over
9 to your house?

10 A No.

11 Q Did you ever tell Meon Miller a plan to
12 rob a McDonald's while he was at your house?

13 A No.

14 Q Did you ever tell Meon to wait behind the
15 dumpster while he was at your house?

16 A No.

17 Q Did you ever tell Meon that Rod had
18 scheduled a robbery at McDonald's while he was at
19 your house?

20 A No.

21 Q None of those things you said to Meon
22 Miller?

23 A No.

24 Q Okay. Did you ever tell Meon Miller that
25 the plan was for them -- for Meon Miller to walk

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1 some McDonald's employees into a freezer at the
2 McDonald's?

3 A No.

4 Q And I'm talking about specifically while
5 you're at the house, okay? At some point, you and
6 Meon Miller and Angelo Tucker are in your vehicle
7 going towards Batesburg, correct?

8 A Correct.

9 Q While y'all are in the car --

10 A Uh-huh.

11 Q -- do you ever instruct Meon Miller about
12 a robbery at McDonald's?

13 A No.

14 Q Did you ever tell Meon Miller about
15 getting -- telling somebody to put a gun there on
16 that ride to Batesburg?

17 A No.

18 Q Never said either any one of those --

19 A No.

20 Q -- any of those things? In fact, when you
21 got to Batesburg, Meon Miller told you where to park
22 at, correct?

23 A He told me to drop them off -- well, when
24 I went around the corner, I rode around, and then I
25 came back around and dropped them off at the

1 stoplight. I said I'd wait for them at the street
2 by Waffle House.

3 Q But it was Miller who told you where to
4 stop and drop them off at?

5 A Yes.

6 Q You didn't drop them off in the
7 McDonald's, did you?

8 A No.

9 Q Okay. Did you drive through the
10 Ramblewood Apartments before you dropped them off?

11 A No, I didn't.

12 Q Okay. But Meon told you where to stop at?

13 A Yes.

14 Q You thought Meon Miller and Angelo were
15 going there to do a drug deal?

16 MS. WEISS: Objection.

17 MR. O'NEILL: She testified this under
18 direct, Your Honor.

19 THE COURT: It's already been asked.
20 Overruled.

21 Q It was your thought that you thought
22 Angelo Tucker and Meon Miller was coming there to do
23 a drug deal, correct?

24 A Yes.

25 Q You thought they had drugs concealed in

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1 that bag?

2 A Yes.

3 Q Angelo Tucker had a bag, correct --
4 bookbag?

5 A Yes.

6 Q And you thought there were drugs in that
7 bookbag?

8 A Yes.

9 Q You thought they were coming to Batesburg
10 to sell some drugs to somebody?

11 A Yes.

12 Q You didn't have any idea about any sort of
13 robbery or anything like that?

14 A No.

15 Q On these phone calls you had with Rod
16 here, he never mentioned anything about the armed
17 robbery at McDonald's?

18 A No.

19 Q He never told you to tell somebody to
20 bring a gun with them when they came?

21 A No.

22 Q In fact, Rod never specifically told you
23 to bring Meon to the McDonald's, did he?

24 A He told me to bring him with me.

25 Q To Batesburg?

1 A When I picked him up.

2 Q Rod told you to bring Meon to Batesburg?

3 A Yes.

4 Q Not to the McDonald's?

5 A He said, "Bring Meon with you when you

6 come."

7 Q When you come. And where were you coming

8 to?

9 A I was going to Batesburg to pick him up
10 from work.

11 Q When you gave a statement -- those two
12 statements that you gave, one in October 2010 and
13 one in September 2011 -- those were your words?

14 A Yes.

15 Q Nobody was forcing you to say any of those
16 things?

17 A No.

18 Q You said it because it was the truth?

19 A Yes.

20 Q And your testimony today, you said it
21 because it's the truth?

22 A Yes.

23 Q And when you say that Rod never talked
24 about a robbery or set up a robbery with you, you're
25 saying that because that's the truth?

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1 A Yes.

2 Q And when you say you never talked to Meon
3 Miller about a robbery, you're saying that because
4 that's the truth?

5 A Yes.

6 MR. O'NEILL: Beg the Court's indulgence,
7 Your Honor.

8 THE COURT: Yes.

9 MR. O'NEILL: That's all I have, Your
10 Honor.

11 THE COURT: Redirect?

12 MS. WEISS: Thank you, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. WEISS:

15 Q Tasha, Mr. O'Neill was asking you several
16 questions about your rent. And in fact, you were
17 behind several times but not every single month,
18 right?

19 A It was like the majority of the time.

20 Q And the majority of the time, actually,
21 unless there's something that I don't know, you
22 actually -- you would normally pay your rent before
23 the next rent was -- even though it was late, you'd
24 pay it before the next rent was due?

25 A Yes. It was due by the fifth, but they

1 gave you a grace period till the tenth, but you had
2 to add a late fee to it.

3 Q Okay. And even if -- so sometimes you
4 would pay it after the late fee was due, so you'd
5 have to add the late fee?

6 A Yes.

7 Q And then sometimes if you didn't pay it,
8 you would get an eviction notice or eviction fees if
9 you didn't pay it till right at the end of the
10 month?

11 A Yes.

12 Q Okay. But going back to 2008, you
13 actually paid the rent prior to the next month's
14 rent being due on the first?

15 A Right, I tried to make it by the tenth.

16 Q You tried to make it by the tenth, but
17 pretty much you almost always made it by the first
18 or on the first?

19 A Yes.

20 Q Maybe once or twice on the second. But
21 you paid it, you had it paid. And what was the
22 procedure for paying your rent?

23 A We could either send it directly to the
24 office in Charleston, or if it was late and we took
25 it to the rental office, we had to have a money

Tasha Matthews - Redirect

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1 order.

2 Q Okay. And so if you had to send it to
3 Charleston, would it take a couple of days longer?

4 A Yes.

5 Q But then all of a sudden in September of
6 2010, you had your August rent was due. You paid
7 that on September 1st, which was the same day your
8 September rent was due, right?

9 A Yes, about that time.

10 Q Okay. And then you didn't -- then October
11 1st, your October rent was due?

12 A Right, October and September.

13 Q So it was October and September. That was
14 actually the first time you actually owed a check or
15 a money order for two months of rent, a \$1,200
16 check?

17 A I would have to look at it. But if you're
18 looking at it, then that's right.

19 Q Okay. And you just testified you had paid
20 at least, what was it, \$500 or \$600 of this \$800
21 cruise?

22 A Yes.

23 Q And you had just paid that in September,
24 as well?

25 A Yes.

1 Q So you had just paid for the cruise, and
2 you still owed \$1,200. So in fact, October 13th,
3 even though you had mailed the check, things were
4 different on October 13th than they had been since
5 2008?

6 A Yes.

7 Q And to your knowledge, did that check
8 actually clear, the \$1,200-plus check?

9 A No. I think once I got arrested, he put a
10 stop payment on it to take the money and put it
11 towards a lawyer.

12 Q Mr. O'Neill was talking about your phone
13 records. You said that it was typical for you to
14 talk to Rod while he was at work?

15 A Yes.

16 Q On a typical day, Rod would bring you back
17 to work, and you would drive him to work and then
18 come home. When you were at home, what were you
19 doing?

20 A Stuff with the kids, cooking, checking
21 homework, stuff like that.

22 Q Okay. So when you were doing that, was it
23 usual for you to be on the phone the entire time
24 with Rod.

25 A Sometimes we'd be off and on the phone.

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1 Q Okay. However, when you were in the car
2 on your way to pick him up, would you be on the
3 phone then?

4 A Sometimes.

5 Q Was it typical for you to -- what time
6 would Rod get off? What time did the store close?

7 A Midnight.

8 Q So the calls the night before that Mr.
9 O'Neill was talking about were three calls in a
10 short period of time. But actually, if you look at
11 it, these calls are 12:08, 12:10, and 12:29. Those
12 are one incoming call from -- that's Rod's number,
13 right?

14 A Yes.

15 Q And two calls to him. But the duration of
16 those calls is just one minute?

17 A Yes.

18 Q And those would be all after the store had
19 closed?

20 A Yes.

21 Q So where would you have been during that
22 time if the store closed at midnight?

23 A Either on the way there or already in the
24 parking lot.

25 Q On the night that we're talking about, on

1 October 13th, you can look -- you've looked at your
2 phone records, but you actually lived them -- you
3 and Rod did talk a lot on the phone?

4 A Yes.

5 Q Tasha, what was different about the phone
6 calls this night? What was different about the
7 phone calls from 10:05 to 11:36 on October 13, 2010?

8 A I just had a feeling that something wasn't
9 right.

10 Q And normally when you called Rod, what
11 would happen?

12 A If he wasn't busy, he'd talk.

13 Q And what happened on this night?

14 A He kept telling me he was busy.

15 Q And what else?

16 A He couldn't talk except that one time we
17 actually talked.

18 Q Okay. And what did he say when he was
19 talking to you?

20 A He asked me if I dropped Meon off, and I
21 asked him what was going on, and we were arguing.

22 Q You were arguing. Was he saying it just
23 in that tone, "Hey, what's going on?" Is that the
24 type of tone he was talking to you in?

25 A When we were arguing?

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1 Q When you were arguing.

2 A No, he was yelling.

3 Q What was he saying to you?

4 A He was yelling, saying -- I asked him what
5 was going on, and he said, "Don't worry about it."

6 And he asked me why the fuck I keep asking him
7 questions. And I said, "What's going on?"

8 Something's not right." I just had a feeling. He
9 was, "All right, just don't worry about it. Don't
10 worry about it," and to stop calling, he was busy.

11 Q Okay. You called both his cell phone and
12 McDonald's. Why did you call both lines?

13 A Because I was trying to get him to answer,
14 because the feeling just wouldn't leave me that
15 something wasn't right.

16 Q But normally when you called him, did it
17 matter if you called the cell phone or McDonald's?

18 A No.

19 Q Would he answer?

20 A Unless he was busy. He'd answer and say
21 he was busy.

22 Q When he answered and he was busy, would he
23 talk to you? Was he nice to you?

24 A He'd say, "I'm busy. I can't talk," and
25 he'd hang up, but he wouldn't yell about it.

1 Q Did he yell about it on October 13th?

2 A Yes. I kept asking questions.

3 Q And you kept calling. You called one,
4 two, three, four, five, six, seven, eight, nine
5 times. What was his opinion about you calling --
6 what was he saying to you about you calling nine
7 times?

8 A Stop calling, why do I keep calling. He's
9 busy. He can't talk.

10 Q He would say he was busy?

11 A Yes.

12 Q And was that unusual for him to be busy
13 and unable to talk for that period of time at
14 McDonald's?

15 A On a rare occasion.

16 Q But when he was busy before, he wouldn't
17 yell at you?

18 A No.

19 Q This night when you kept calling, what was
20 he doing? What was his demeanor?

21 A He was aggravated because I kept calling.

22 MS. WEISS: No further questions, Your
23 Honor.

24 MR. O'NEILL: Briefly, Your Honor.

25 THE COURT: Yes, sir.

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1 RECROSS EXAMINATION

2 BY MR. O'NEILL:

3 Q Tasha, you said he was aggravated because
4 you kept calling him, correct?

5 A Yes.

6 Q And before you had called, he said he was
7 busy sometimes, too?

8 A Yes.

9 Q Y'all hadn't started arguing that night.
10 Y'all had been arguing earlier that day, correct?

11 A Yes.

12 Q When you got off work and called, y'all
13 had been arguing earlier then?

14 A Yes.

15 Q So did y'all argue while y'all were
16 driving on the way to work here? When you took Rod
17 to McDonald's, were y'all arguing at that point,
18 too?

19 A Yes, I think we did.

20 Q So you were arguing when you took him to
21 work here, had been arguing earlier that day, and
22 then when you called nine times that night, y'all
23 were still arguing again?

24 A Yes.

25 Q Okay. And I hate to do this, because Ms.

1 Weiss asked you about being late, and I just want to
2 make sure we're clear on this. You moved in January
3 2008?

4 A Yes.

5 Q You were late April 2008?

6 A Probably, if that's what it says.

7 Q You were late May 2008? I'll let you see
8 it you want to refresh your memory.

9 A I mean, I believe you. If you're reading
10 it, then, yes.

11 Q You were late June 2008?

12 A Yes.

13 Q You were late July 2008?

14 A Yes.

15 Q You were late August 2008?

16 A Yes.

17 Q Late September 2008?

18 A Yes.

19 Q You were late October 2008?

20 A Yes.

21 Q November 2008?

22 A Yes.

23 Q December 2008?

24 A Yes.

25 Q January 2009?

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- 1 A Yes.
- 2 Q You were late March 2009?
- 3 A Uh-huh.
- 4 Q April 2009?
- 5 A Yes.
- 6 Q May 2009?
- 7 A Yes.
- 8 Q June 2009?
- 9 A Yes.
- 10 Q You were late September 2009?
- 11 A Yes.
- 12 Q October 2009?
- 13 A Yes.
- 14 Q November 2009?
- 15 A Yes.
- 16 Q December 2009?
- 17 A Yes.
- 18 Q January 2010?
- 19 A Yes.
- 20 Q February 2010?
- 21 A Yes.
- 22 Q April 2010?
- 23 A Yes.
- 24 Q June 2010?
- 25 A Yes.

1 Q July 2010?

2 A Yes.

3 Q August 2010?

4 A Yes.

5 Q And September 2010?

6 A Yes.

7 Q And October was not the first time you had
8 more than a \$650 balance, is that correct? I want
9 you to look at it so you can answer on your own.
10 Would this refresh your memory?

11 A Yes.

12 MS. WEISS: Objection, Your Honor. I
13 don't believe she's familiar with this that he was
14 just reading from.

15 MR. O'NEILL: I'm just using it to refresh
16 her memory, Your Honor.

17 MS. WEISS: It's not a document that she's
18 familiar with, Your Honor.

19 THE COURT: Well, it hadn't been offered
20 into evidence; and, two, she has no foundation to
21 lay unless she had knowledge of it, counsel. You
22 can ask her, but --

23 MR. O'NEILL: I'll do it this way, Your
24 Honor.

25 Q Ms. Matthews, do you remember whether or

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1 not you were two months behind in November 2009?

2 A I know we had been before.

3 Q Do you remember specifically about
4 November 2009?

5 A I don't remember.

6 Q Would looking at this document refresh
7 your memory as to whether or not you were behind on
8 --

9 MS. WEISS: Objection, Your Honor.

10 THE COURT: I'm going to sustain the
11 objection, counsel. You can ask her. That's all a
12 statement. Just ask her, okay?

13 Q You were two months behind --

14 MS. WEISS: Objection, Your Honor. He's
15 making a statement at this point.

16 Q Were you two months behind in November
17 2009?

18 A Yes, if that's what it says.

19 Q Were you two months behind in March 2010?

20 A Yes, if that's what it says.

21 Q And were you two months behind in August
22 of 2010?

23 A I guess if that's what it says, yes.

24 MR. O'NEILL: No further questions.

25 THE COURT: Thank you, ma'am. You may

1 stand down.

2 MS. WEISS: Your Honor, may this witness
3 be excused?

4 THE COURT: No objection, counsel?

5 MR. O'NEILL: I think she's on our witness
6 list as well, so she's got to stay with us.

7 THE COURT: She's excused for now, but
8 she's still on their list as a witness.

9 MS. WEISS: Your Honor, at this time the
10 State calls Jay Dobbins.

11 THE COURT: It's time to take a break
12 here. We've been at it over an hour and a half.
13 Let's take a short break.

14 At this point, ladies and gentlemen of the
15 jury panel, we're going to try to wrap up today
16 about 5:00 because of a conflict. But we'll take a
17 short break at this time and come, and we'll take
18 what witnesses we can until we can break about 5:00.
19 Please retire to the jury room.

20 (Jury out at 4:10 p.m.)

21 THE COURT: Let's put a couple of things
22 on the record now that the jury is out. One is this
23 list was never vouched for, so I couldn't allow you
24 to put it into evidence or show it to the witness
25 because it's never been shown to the witness. You

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1 could ask questions from it like the State did,
2 counsel, and maybe put on the record why didn't it.
3 No foundation was laid for it. You could have
4 objected to the State asking as well, I guess.

5 MR. O'NEILL: I couldn't hear you, I
6 apologize.

7 THE COURT: I was just saying for the
8 record, since the jury is out, the reason you
9 couldn't show her the list, no foundation was laid
10 for the list. She had not been shown and vouched
11 for it or didn't prepare it or any of that. So it
12 didn't come into evidence or anything.

13 It wasn't something she prepared, so she
14 couldn't refresh her memory from it. But you could
15 ask her about it, just like the State asked, and you
16 could have objected to the State asking her from
17 that list. But you didn't, and you were allowed to
18 ask from the list, but you weren't allowed to vouch
19 for the list, okay?

20 MR. O'NEILL: Yes, sir.

21 THE COURT: I want to make sure that's
22 clear on the record I treated you on the same on
23 that. All right, the other thing is the record will
24 be clear that you objected to the phone calls from
25 the jail, and that admission into evidence of that

1 video, the recording of a conversation.

2 But your objection was only as to the
3 conversation with Meon Miller, not the other three.
4 Your objection was only as to that one, because that
5 one, I'm assuming, was on the video disk with the
6 others. I want to be clear. You didn't object to
7 the other three. You only objected to the one.

8 You didn't object to the self-serving
9 statements, the prayer, emotional prayer, love you's
10 and all that stuff, and self-serving information
11 that your client spoke or made statements about to
12 Tasha Matthews on the phone, all that self-serving.

13 You didn't object to that. But your
14 objection is only as to Meon Miller. And I haven't
15 heard that yet. I'm assuming that that would not be
16 exculpatory or self-serving exculpatory statements
17 made by your client.

18 I want to be sure on the record that you
19 did not object to those three from Tasha Matthews at
20 pre-trial and did not object to those at the trial.
21 Your objection is only as to that of Meon Miller,
22 okay. I want to be sure that's clear on the record.
23 I don't want it to come back and somebody raise it
24 on appeal if you objected to all four coming in
25 because you didn't object to the three, all right.

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1 Anything else we need to address?

2 MS. WEISS: No, Your Honor.

3 MR. O'NEILL: No, Your Honor.

4 THE COURT: We'll take a very short break.

5 (Court in recess.)

6 THE COURT: Counsel, let's get started so
7 we can get out on time.

8 You can bring the jury in.

9 (Jury in at 4:27 p.m.)

10 THE COURT: Counsel, are you ready to
11 proceed?

12 MS. COTE: Yes, sir, Your Honor. The
13 State calls Jay Dobbins to the stand.

14 (The witness was sworn.)

15 CLERK OF COURT: Once you're seated, sir,
16 please state your full name, spelling your last on
17 the record.

18 MR. DOBBINS: My name is James Dobbins --
19 D-O-B-B-I-N-S.

20 JAMES DOBBINS, having first been duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. COTE:

24 Q Mr. Dobbins, where are you employed?

25 A I'm a private consultant for AT&T.

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1 Q How long have you worked with AT&T?

2 A I worked for AT&T for over 10 years.

3 Q And now you're employed as a consultant
4 and still do work for AT&T?

5 A Yes, I do.

6 Q Okay. With your position with AT&T, are
7 you a custodian of records?

8 A Yes, they've contracted me to provide
9 information to certify their records.

10 Q And their records, are they kept in the
11 ordinary course of business?

12 A Yes, they are.

13 Q How long does AT&T maintain records?

14 A AT&T has a retention policy for various
15 kinds of records. It may range from only a few days
16 for text messages to five years or more for certain
17 toll records.

18 Q Was AT&T served with a subpoena requiring
19 the production of records associated with phone
20 numbers 803-532-0770 and 803-736-0818?

21 A Yes.

22 Q Are those land lines or cell phone
23 numbers?

24 A Those are both land-line numbers.

25 Q What procedure did you follow in obtaining

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1 those records and responding to the subpoena?

2 A AT&T has an electronic means to search
3 records and to comply with the language in the
4 specific legal demand.

5 Q I'm going to show you what's been marked
6 for identification as State's Exhibits Thirteen and
7 Fourteen. Do you recognize both of those?

8 A Yes, I do.

9 Q Do those appear to have been the records
10 that you were subpoenaed for those two numbers, 532-
11 0770 and 736-0818?

12 A Yes.

13 Q Do they appear to have been altered in any
14 way?

15 A No.

16 MS. COTE: Your Honor, at this time the
17 State would seek to introduce both of those items,
18 State's Thirteen and State's Fourteen, into
19 evidence.

20 MR. O'NEILL: No objection.

21 THE COURT: Admitted without objection.

22 (State's Exhibit Number
23 Thirteen, Phone Call
24 Log 2010-10-27-117; and State's Exhibit Number
25 Fourteen, Phone Call Log 2011-05-24-029, were

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1 entered in evidence.)

2 Q Do you have information on what name is
3 associated with the account for 803-532-0770?

4 A Yes, that would be McDonald's Restaurant.

5 Q Okay. We've had previous testimony about
6 911 being called. And in reviewing those records,
7 if you can review them, do you see 911 being called
8 on those records?

9 A No.

10 Q Is there a reason why that might not show
11 up on those particular records?

12 A Yes. AT&T would keep records regarding
13 exchange of communications between telephone
14 companies or exchange of -- or records concerning
15 billings between themselves and any customer,
16 commercial or intercompany. 911 is a call that does
17 not require billing, and 911 typically does not
18 appear on call detail records. There's no billing
19 reason associated with it and no reason to collect a
20 record pertaining to it.

21 Q So just because it's not on that record
22 does not mean that it wasn't called?

23 A Correct.

24 Q Okay. We've also heard testimony about
25 some T-Mobile records, Exhibit Number Four for Tasha

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1 Matthews' number. It's 803-532-0770. Her records
2 show on the highlighted times that she made calls to
3 that McDonald's number, that 532-0770. On the
4 McDonald's records, that same number is not shown.
5 Can you explain -- it actually shows a different
6 number calling at that same time on the McDonald's
7 records. Can you explain why there might be a
8 discrepancy there?

9 A Yes.

10 Q The call numbers are 2220, 2222, 2259,
11 2324, 2331, and 2336.

12 A At each of those instances, there's a
13 corresponding record in the AT&T call detail that
14 shows that the calls were from 803-238-9987. In
15 AT&T's land-line switches, we would record
16 information from where the call came from.

17 That number on the AT&T records
18 corresponds to a connection between AT&T's land-line
19 switch and a company called T-Mobile, connection to
20 T-Mobile. And the switch would have recorded the
21 connection to it from T-Mobile, not the actual
22 originating caller ID number.

23 Q So it records that call was made from a T-
24 Mobile phone, just not specifically necessarily the
25 correct number. Is that right?

1 A Correct.

2 Q All right, thank you.

3 A It transited that trunk, and that trunk
4 would have borne that number.

5 Q Okay. Mr. Dobbins, I don't have any
6 further questions for you right now. Please answer
7 -- let me ask you briefly if you can tell -- can you
8 tell what time zone those phone calls are recorded
9 at?

10 A Meaning they're Eastern time.

11 Q I have no further questions for you.
12 Please answer any questions Mr. O'Neill may have.

13 MR. O'NEILL: I don't have any questions
14 for this witness.

15 THE COURT: Thank you, sir. You may stand
16 down.

17 MR. DOBBINS: Thank you.

18 MS. COTE: Your Honor, may Mr. Dobbins be
19 excused from his subpoena?

20 MR. O'NEILL: No objection.

21 THE COURT: Thank you for coming, sir.
22 You may be excused at this time.

23 MR. DOBBINS: Thank you.

24 MS. COTE: Your Honor, may we approach?

25 THE COURT: Yes, ma'am.

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1 MS. COTE: The State calls Michael
2 Durrell.

3 THE COURT: I would tell the jury that all
4 the witnesses are sequestered outside the courtroom
5 till they testify. That's the reason it's taking us
6 a little bit longer to get them in.

7 (The witness was sworn.)

8 CLERK OF COURT: Have a seat, please, sir.
9 Once you're seated, please state your full name,
10 spelling your last on the record.

11 MR. DURRELL: Thank you. Michael Steven
12 Durrell, spelling of the last name is D-U-R-R-E-L-L.

13 MICHAEL STEVEN DURRELL, having first been
14 duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. COTE:

17 Q Mr. Durrell, where are you currently
18 employed?

19 A I'm currently employed with U.S. Express
20 Trucking Company.

21 Q Were you employed with Batesburg-Leesville
22 Police Department back in October of 2010?

23 A I was.

24 Q How long were you employed there?

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

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1 Q What was your rank there?

2 A Corporal.

3 Q Did you have cause to respond to a call
4 late in the night on October 13, 2010?

5 A I did.

6 Q Where were you when you received that
7 call?

8 A At the Waffle House, just a few blocks
9 away from the incident location.

10 Q Did you have knowledge of the nature of
11 the call you received?

12 A We received a call of a shooting at the
13 McDonald's.

14 Q What did you do once you received that
15 call?

16 A We immediately left the McDonald's. It
17 was myself, Sgt. Turner, as well as Patrol Officer
18 Wellons. We left --

19 Q I'm sorry. Were you and Sgt. Turner in
20 separate vehicles, or were you riding together?

21 A Separate vehicles.

22 Q Okay. What happened? I'm sorry for
23 interrupting.

24 A We left the Waffle House. Sgt. Turner was
25 in front of me. Officer Wellons had gotten there

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1 just before -- the incident location just before we
2 arrived. As we both exited off of Malibu Street
3 right off the back side of the McDonald's, we just
4 happened to notice a strange vehicle sitting off to
5 the right-hand side.

6 Sgt. Turner made it out onto Mitchell
7 Street, which is the street that goes into Marlboro
8 Street -- Malibu Street, my apologies. He at that
9 time asked me to go back and check on the vehicle
10 because we both saw the lights come on at the same
11 time.

12 Q I'm going to stop you for just a second
13 and show you what's marked as State's Exhibit Two.
14 This might help you. Can you show us where you were
15 and where you were going? This is the Waffle House.

16 A Yes, this is the --

17 Q And the McDonald's is --

18 A -- parking lot. We were parked in this
19 area right over here. This is Malibu Street near
20 where the car was parked at. We came out the back
21 side of the Waffle House and came out to Mitchell
22 Street and then turned left onto Mitchell Street.

23 Q And you and Sgt. Turner took that same
24 route?

25 A We did.

1 Q Did you go all the way to McDonald's?

2 A No, I did not. I went as far as the
3 railroad tracks and turned around and came back to
4 try to locate the vehicle.

5 Q What made you turn around and come back?

6 A Sgt. Turner asked me to turn around and go
7 check out the vehicle because it looked suspicious
8 sitting there.

9 Q Why was it suspicious?

10 A Just out of place. Nothing normally sat
11 on that road. We patrolled that area on a regular
12 basis, and we'd just never seen vehicles just
13 sitting there. It just looked out of place.

14 Q After you went back to that car, what
15 happened?

16 A As I started to go back to the car, I
17 noticed the car had backed up and then turned right
18 into the parking lot of the Waffle House at kind of
19 what I consider to be a high rate of speed. It went
20 all the way to the end. It exited and turned right
21 onto Highway 23.

22 Q What happened at that point?

23 A I finally was able to get through back
24 onto Highway 23 to get behind the vehicle. I did
25 get behind the vehicle and did stop the vehicle and

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1 find out what type of vehicle it was.

2 Q Did you initiate your blue lights?

3 A I did.

4 Q And do a traffic stop?

5 A I did.

6 Q At that point, did you have any kind of
7 suspect description or anything, any information
8 coming to you about the shooting at the McDonald's?

9 A I think the only description I had was one
10 of the suspects was wearing dark clothing with some
11 sort of a white type of a shirt.

12 Q What happened when you stopped the
13 vehicle?

14 A When I stopped the vehicle, I exited my
15 vehicle and came around on the back side of my
16 vehicle so I wouldn't be illuminated by my lights
17 going to passenger side of the vehicle. At that
18 time, I noticed somebody come up from out of the
19 back seat area, kind of popped up. And it kind of
20 startled me a little bit, and I was a little
21 concerned about it.

22 So I kept my eyes on that person. And
23 then when I finally went around and asked everybody
24 for identification, that's when the fellow in the
25 back seat was handing me some identification.

1 Q Did you see anything unusual about the
2 person in the back seat?

3 A I did. I actually saw what looked to be
4 like a derringer type of a pistol, which kind of
5 startled me.

6 Q Was it actually a pistol?

7 A It was not. It was a belt buckle.

8 Q I'm going to show you what's been marked -
9 - pre-marked for identification as State's Sixteen.
10 Is this the -- is that what you saw that day?

11 A Yes, it was.

12 MS. COTE: Your Honor, the State seeks to
13 introduce Exhibit Sixteen into evidence.

14 MR. O'NEILL: No objection, Your Honor.

15 THE COURT: Admitted without objection.

16 (State's Exhibit Number
17 Sixteen, Gun Belt, was entered in evidence.)

18 Q Did you receive identification from
19 everybody in the car?

20 A At the time, I received identification
21 from the passenger who in the back was identified as
22 Mr. Tucker. I received identification from the
23 driver, which turned out to be Ms. Matthews. At
24 that time, I didn't receive any identification from
25 the third person in there, who we later identified

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1 as Mr. Miller.

2 Q Okay. So just so I'm clear, Ms. Matthews
3 was the driver?

4 A That's correct.

5 Q Where was Mr. Tucker located? Was he
6 behind the driver?

7 A He was. He was in the back seat.

8 Q And who we later learned to be Mr. Miller
9 was in the front passenger --

10 A That's correct.

11 Q -- is that correct?

12 A Yes, ma'am.

13 Q How was Mr. Miller behaving?

14 A Mr. Miller was behaving kind of -- he was
15 sweating profusely. His heart was beating on to
16 look like it was about ready to pound out of his
17 chest, and he was kind of nervous.

18 Q How were the other two -- the driver and
19 the passenger, how were they behaving?

20 A The driver was acting kind of nervous as
21 well herself, but she was a little more calm than
22 the passenger, Mr. Miller. Mr. Tucker in the back,
23 he alluded to be somewhat nervous himself, but he
24 wasn't near as nervous as Mr. Miller was.

25 Q Did you hear some cell phones ringing?

1 A I did.

2 Q Did you remove them from the vehicle at
3 some point?

4 A I did. They kept on ringing, and we were
5 trying to figure out whose they were. There was
6 three cell phones in the driver's side door panel,
7 and we retrieved them.

8 Q Okay. And did you actually remove the
9 driver and the passengers from the vehicle, as well?

10 A We did.

11 Q And what was the reason for that?

12 A Scene safety, for one, because we were
13 unsure exactly what we had. We basically wanted to
14 get everybody out of the car.

15 Q And at some point, did you receive
16 information regarding a more positive suspect
17 description?

18 A I believe the most positive one we had was
19 the one of the one clothing description that we
20 actually had.

21 Q Did you have information that there were -
22 - did you have information regarding how many
23 suspects there were?

24 A I don't recall being exact. I just knew
25 that we were looking for somebody in the area.

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1 Q Did you -- after you removed them from the
2 car, what did you do next?

3 A We actually put them in investigative
4 detention and put them back there by the rear of the
5 vehicle. At that time, I went to the passenger side
6 door to look for some sort of identification on the
7 car because we were unable to find out who the
8 vehicle belonged to at the time.

9 Q What did you do then?

10 A Actually, there was a glove box, an
11 unlocked, unsecured glove box. As we opened up the
12 glove box at the scene -- or I did -- to see if
13 there was any vehicle registration or insurance
14 information in there.

15 Q And what happened when you looked in
16 there?

17 A By the time I opened up the door, there
18 was a black handgun that actually dropped down.

19 Q Did you notice anything about that
20 handgun?

21 A I could smell it. It smelled like it had
22 been freshly fired.

23 Q How do you know what a freshly fired
24 handgun smells like?

25 A I was a firearms instructor with the

1 department and also with the Criminal Justice
2 Academy.

3 Q I'm going to show you what's been pre-
4 marked as State's Exhibit Seventeen.

5 MR. O'NEILL: Your Honor, if you would ask
6 the corporal about how the gun has to be secured. I
7 want to make sure the gun is secured.

8 MS. COTE: It's been properly secured.
9 Thank you.

10 Q This is State's Seventeen for
11 identification. Will you take a look at that and
12 tell me if you recognize that?

13 A Yes, I recognize this to be the handgun
14 that I retrieved out of the glove box.

15 Q How are you able to identify it as the
16 same handgun?

17 A I actually noted the serial number in my
18 report, and I verified that it is the same serial
19 number that's on this handgun.

20 Q Thank you.

21 Your Honor, at this time the State seeks
22 to introduce seventeen into evidence.

23 MR. O'NEILL: No objection.

24 THE COURT: Admitted without objection.

25 (State's Exhibit Number

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1 Seventeen, Gun, was entered in evidence.)

2 Q Did you remove any other items from the
3 car?

4 A Yes. During the -- to secure the vehicle
5 and make sure there was no other weapons inside the
6 vehicle, we actually -- when I saw in the back seat
7 with my flashlight, I could actually see a black bag
8 that was sitting in the black bag as well as the
9 gloves in the floorboard in the front and in the
10 back.

11 Q This is State's Fifteen for
12 identification. Is that the backpack that you
13 removed from the car?

14 A It is.

15 MS. COTE: Your Honor, the State seeks to
16 introduce 15 into evidence at this time.

17 THE COURT: Let him see it.

18 MR. O'NEILL: Solely the backpack?
19 There's no objection.

20 THE COURT: Admitted without objection.

21 (State's Exhibit Number
22 Fifteen, Bookbag, was entered in evidence.)

23 Q You saw you removed a bandanna, as well?

24 A I did. It was in the glove box with the
25 handgun and a clip.

1 Q This is State's Nineteen for
2 identification.

3 A Yes.

4 Q Does that appear to be the bandanna you
5 removed from the car?

6 A It does.

7 MS. COTE: Your Honor, the State seeks to
8 introduce number 19 into evidence.

9 MR. O'NEILL: No objection.

10 THE COURT: Admitted without objection.
11 (State's Exhibit Number
12 Nineteen, Bandanna, was entered in evidence.)

13 Q Did you remove some ammunition from the
14 car, as well?

15 A I did.

16 Q This is State's Twenty-Two. I guess I can
17 do this all at once. Twenty-two, do you recognize
18 that?

19 A Yes, I recognize this as being inside the
20 backpack, a little bag thing filled with 9-
21 millimeter rounds.

22 MS. COTE: Your Honor, at this time the
23 State seeks to introduce number 22 into evidence, a
24 bag of ammunition.

25 MR. O'NEILL: No objection.

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1 THE COURT: Admitted without objection.

2 (State's Exhibit Number

3 Twenty-Two, Bag/Ammo, was entered in evidence.)

4 Q This is State's Twenty-Seven. Do you
5 recognize this?

6 A Yes, I recognize this as being the
7 magazine that was with the weapon.

8 MS. COTE: The State seeks to introduce
9 number 27 into evidence, Your Honor, at this time.

10 MR. O'NEILL: No objection.

11 THE COURT: Admitted without objection.

12 (State's Exhibit Number

13 Twenty-Seven, 9mm Clip, was entered in evidence.)

14 Q Do you recognize this, State's Exhibit
15 Number Twenty-Three?

16 A Yes, I recognize these as being other
17 magazine clips that were in the backpack along with
18 the other items you showed me.

19 Q Thank you. This is State's Twenty. It
20 appears to be a bullet. Do you recognize that?

21 A Yes, I do.

22 Q And was that taken along with all the
23 other evidence you removed from the car?

24 A It was.

25 MS. COTE: This is State's Number Twenty.

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1 The State seeks to introduce that into evidence at
2 this time.

3 MR. O'NEILL: No objection.

4 THE COURT: Admitted without objection.

5 (State's Exhibit Number
6 Twenty, Bullet, was entered in evidence.)

7 MS. COTE: Your Honor, also he identified
8 these magazines, number 23. I did not ask for those
9 to be moved into evidence.

10 THE COURT: No objection?

11 MR. O'NEILL: No objection.

12 MS. COTE: And we would seek to do so.

13 Thank you.

14 THE COURT: Admitted without objection.

15 (State's Exhibit Number
16 Twenty-Three, Two Magazines/Gun, was entered in
17 evidence.)

18 Q You mentioned some cell phones that were
19 removed. I'm showing you State's Eighteen, Twenty-
20 Six, and Twenty-Four. Twenty-four is a silver and
21 black Nokia cell phone.

22 A Yes, I recall this one.

23 Q You removed that from the car?

24 A I did.

25 Q Twenty-six is a white Samsung cell phone?

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1 A Yes, I recall this one, as well.

2 Q And 18 is a red and black Nokia cell
3 phone?

4 A Yes, ma'am, I recognize that one, as well.

5 MS. COTE: Your Honor, at this time the
6 State would seek to introduce 18, 26, and 24 into
7 evidence.

8 MR. O'NEILL: No objection.

9 THE COURT: Admitted without objection.

10 (State's Exhibits Numbers
11 Eighteen, Red and Black Cell phone; Twenty-Four,
12 Silver and Black Cell Phone; and Twenty-Six, White
13 Cell Phone, were entered in evidence.)

14 Q I have more ammunition. These are State's
15 Twenty-One and Twenty-Five. I'm sorry, it's taped
16 up very well. All right, this is 21, if you can
17 tell me if you recognize that.

18 A Yes, these were the rounds taken out of
19 one of the magazines.

20 Q Okay, this is 25. Can you tell me if you
21 can look in there, and I ask you to tell me if you
22 recognize those?

23 A Yes, I recognize these as well being in
24 the other magazine, both found in the black bag.

25 MS. COTE: Your Honor, the State seeks to

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1 introduce 21 and 25 into evidence at this time.

2 MR. O'NEILL: No objection.

3 THE COURT: Admitted without objection.

4 (State's Exhibits Numbers
5 Twenty-One and Twenty-Five, Rounds from Clip, were
6 entered in evidence.)

7 Q Mr. Durrell, after you took all these
8 items into -- after you removed them all from the
9 car, what happened to them?

10 A Basically, waited till Lt. Clare showed
11 up, who was the evidence custodian, and gave
12 everything to Lt. Clare to be logged.

13 Q Okay. He took everything into his custody
14 at that point in time?

15 A He did.

16 MS. COTE: Beg the Court's indulgence,
17 Your Honor.

18 Q Did you hear any of the defendants that
19 you had in the car -- Ms. Matthews, Mr. Miller, and
20 Mr. Tucker -- did you hear any of them talking to
21 each other at some point?

22 A I did, in the booking area or actually
23 from the detention area that was at the police
24 department.

25 Q What did you hear?

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1 A I overheard Mr. Miller holler out Tasha's
2 name. And when she answered, he stated -- and I
3 quote -- that he loved her. She said she loved him
4 back.

5 Q Thank you. I have no further questions.
6 Please answer any questions Mr. O'Neill has for you.

7 MR. O'NEILL: Beg the Court's indulgence,
8 Your Honor.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. O'NEILL:

12 Q Just a few questions for you. You said
13 that the driver and the back passenger were a little
14 bit less nervous than Mr. Miller?

15 A Yes, sir.

16 Q Okay. And Mr. Miller was the most nervous
17 of the three?

18 A Yes, sir. In my opinion, yes, sir.

19 Q Whose patrol car did Mr. Tucker wind up
20 going in that night?

21 A I'm wanting to say that it was Sgt.
22 Turner's, but I can't be a hundred percent for sure.
23 My concentration at that point was mostly to secure
24 the vehicle until Lt. Clare showed up.

25 Q Did Ms. Matthews wind up going in your

1 patrol car?

2 A I'll be honest with you, sir, I really
3 don't remember.

4 Q That's fine. Would the suspects have been
5 checked before they were put in the patrol car,
6 checked for any sort of contraband or anything like
7 that?

8 A Yes, sir, they were patted down to make
9 sure they had no weapons on them.

10 Q Okay. Weapons or contraband, or just
11 weapons particularly?

12 A My interest at that particular time was
13 more weaponry than anything else, because we had
14 found a weapon inside the car.

15 Q But you wouldn't want them to have any
16 contraband with them, would you?

17 A There wasn't any cavity searches, if
18 that's what you're referring to.

19 Q Was it just pockets?

20 A Oh, yes, sir, just pockets -- yes, sir.

21 Q So you would have checked their pockets
22 here before you would have --

23 A We would have patted them down, yes, sir.

24 Q Pat down to make sure they didn't have
25 anything in their pockets?

Michael Durrell - Cross

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1 A Correct.

2 Q Were you aware of whether or not Angelo
3 Tucker had anything in his pockets that was seized?

4 A I'm not sure I'm the one who actually
5 patted him down. I think all three of us that were
6 there at the scene pretty much took one individual
7 person and secured it down. So I'm not -- at this
8 particular time, I don't remember who got who.

9 Q Okay. Do you remember -- I think you told
10 the driver, Ms. Matthews, that you were
11 investigating a shooting at McDonald's?

12 A Yes, sir.

13 Q And do you remember she asked you whether
14 or not her boyfriend was the one that got shot?

15 A That's correct, yes, sir.

16 Q She told you her boyfriend was Rod Cook?

17 A Yes, sir.

18 Q So she was asking you whether or not Rod
19 was the individual who got shot?

20 A She --

21 MS. COTE: Objection, hearsay.

22 THE COURT: Sustained, counsel.

23 MS. COTE: Thank you.

24 Q Whatever question Ms. Matthews asked you,
25 you answered her question?

- 1 A Yes, sir.
- 2 Q Okay. Were you at the Waffle House with
- 3 Lt. Wellons at that point? Were y'all together?
- 4 A With Officer Wellons --
- 5 Q Wellons.
- 6 A -- yes, sir.
- 7 Q Did you go back and search through the
- 8 Ramblewood Apartments with Officer Wellons any at
- 9 that point?
- 10 A No, sir, I did not.
- 11 Q Is that area around Ramblewood Apartments
- 12 -- is that considered a high drug activity area?
- 13 A I don't know whether you'd consider it
- 14 high drug activity. I know that we've had some
- 15 drugs in the area. We've had some incidents there,
- 16 yes, sir.
- 17 Q In that around the McDonald's and
- 18 Ramblewood Apartments area?
- 19 A Yes, sir.
- 20 Q Okay.
- 21 That's all I have, Your Honor.
- 22 MS. COTE: Nothing further, Your Honor.
- 23 THE COURT: Thank you, sir. You may stand
- 24 down, sir.
- 25 MR. DURRELL: Thank you.

Michael Durrell - Cross

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1 MS. COTE: May he be excused from his
2 subpoena?

3 THE COURT: Counsel, no objection to this
4 witness being excused?

5 MR. O'NEILL: No, Your Honor.

6 THE COURT: Thank you for coming, sir.
7 You may be excused at this time.

8 MS. COTE: Thank you, Your Honor.

9 MR. DURRELL: Thank you.

10 THE COURT: All right, counsel, I think
11 this would be a good time for us to adjourn. We've
12 made it to 5:00, and we were trying to adjourn by
13 then.

14 Mr. Foreman, ladies and gentlemen of the
15 jury panel, we're going to go ahead and recess for
16 the day. Again, I'll remind you, as I always do,
17 not to discuss this case with anyone during the
18 recess.

19 If there should be any media coverage,
20 please do not read, listen to, or watch any media
21 account of the trial until after the trial is over.
22 Please do not go on any kind of electronic device to
23 try to find out anything about this case. Do not do
24 that.

25 Please have a pleasant night tonight. And

1 I'm going to ask you to be back in the jury room
2 ready to go in the morning at 9:30 -- at 9:30 in the
3 morning. Thank you.

4 (Jury out for the day until 9:30 a.m.
5 Wednesday.)

6 THE COURT: All right, counsel, is there
7 anything we need to address before we adjourn for
8 the day?

9 MS. WEISS: Not from the State, Your
10 Honor.

11 MR. O'NEILL: No, Your Honor.

12 THE COURT: All right, we'll start back at
13 9:30 in the morning. I'll be here probably around
14 nine or so if something comes up that you need to
15 see me about.

16 MR. O'NEILL: Yes, sir.

17 THE COURT: Thank you.

18 MS. WEISS: Thank you, Your Honor. Your
19 Honor, if I may put one thing on the record.

20 THE COURT: Yes.

21 MS. WEISS: Just briefly. Mr. O'Neill
22 mentioned earlier that the defendant's mother is in
23 the courtroom observing, and he has taken her off of
24 his witness list. I just want to put that on the
25 record since she is in here. He told me, but I want

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1 to make sure that's on the record. She's no longer
2 on their witness list.

3 THE COURT: Okay.

4 MR. O'NEILL: That's correct, Your honor,
5 she is not on our witness list.

6 THE COURT: Okay.

7 - End of Day -

1 Wednesday, April 10, 2013

2 (The defendant, together
3 with counsel, was personally present in the
4 courtroom.)

5 THE COURT: All right, if you would please
6 bring the jury in.

7 (The jury returned to the
8 courtroom at 9:42 a.m., after which the following
9 proceedings were had:)

10 THE COURT: Good morning, Mr. Foreman,
11 ladies and gentlemen of the jury panel. I hope you
12 had a pleasant night last night. We're ready to
13 resume with the trial at this time.

14 Counsel, are you ready to proceed?

15 MS. COTE: Yes, sir, Your Honor. The
16 State calls Lt. Steve Clare.

17 (The witness was sworn.)

18 CLERK OF COURT: Have a seat, please, sir.
19 Once you're seated, state your full name, spelling
20 your last on the record, please.

21 MR. CLARE: Stephen E. Clare -- C-L-A-R-E.

22 STEPHEN E. CLARE, having first been duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. COTE:

Lt. Steve Clare - Direct

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1 Q Lt. Clare, where are you employed?

2 A I work with the Batesburg-Leesville Police
3 Department.

4 Q Will you please discuss for the jury your
5 background and training with the Batesburg -- well,
6 background and training in law enforcement in
7 general, please?

8 A I've been with the Batesburg-Leesville
9 Police Department for 25 years. Training consisted
10 of basic training with the Academy, numerous crime
11 scene classes, basic detective, auto theft, homicide
12 investigation, latent print techniques, footwear,
13 and numerous more.

14 Q Are you currently the evidence custodian
15 at Batesburg-Leesville Police Department?

16 A Yes, I am.

17 Q Were you employed and working at
18 Batesburg-Leesville Police Department on October 13,
19 2010?

20 A Yes, I was.

21 Q Did you have cause to respond to a
22 shooting call that night?

23 A Yes.

24 Q When you received that call, where did you
25 first respond?

Lt. Steve Clare - Direct

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1 A I first responded to McDonald's. When I
2 got there, I was briefed by Capt. Goss. Then I was
3 going to start photographing the scene, and Capt.
4 Goss told me that I needed to go where the vehicle
5 was stopped. So then I proceeded over there.

6 Q What did you observe when you got to that
7 scene?

8 A They had a I think it was a brownish color
9 vehicle.

10 Q I'm going to show you what's been pre-
11 marked as State's Exhibit Thirty-Seven and ask you
12 if you recognize that.

13 A That's the vehicle that was stopped.

14 Q Did you take that photo that night?

15 A Yes, I did.

16 MS. COTE: Your Honor, at this time the
17 State seeks to introduce 37 into evidence.

18 MR. O'NEILL: No objection.

19 THE COURT: Admitted without objection.

20 (State's Exhibit Number
21 Thirty-Seven, Photo of Auto, was entered in
22 evidence.)

23 MS. COTE: May I publish to the jury,
24 please?

25 THE COURT: You may publish it.

Lt. Steve Clare - Direct

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1 MS. COTE: Thank you.

2 Q Was this the vehicle that was stopped that
3 night?

4 A Yes, it was.

5 Q And is that the location where it was
6 stopped that you responded to?

7 A Yes.

8 Q Thank you. Did you collect some items of
9 evidence at that scene?

10 A I did.

11 Q And after you collected those items, where
12 did you go after that?

13 A Then I proceeded to McDonald's.

14 Q What did you do when you first got to
15 McDonald's?

16 A The first thing I did, I photographed the
17 surrounding area of McDonald's, a 360 of the
18 restaurant.

19 Q I'm going to show you now what's been pre-
20 marked as State's Thirty-Eight, Thirty-Nine, Forty,
21 and Forty-One. Do you recognize these photographs?

22 A Yes, I do.

23 Q Did you take those photographs?

24 A Yes, I did.

25 Q Do they accurately depict the scene at

Lt. Steve Clare - Direct

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1 McDonald's on October 13, 2010?

2 A Yes.

3 MS. COTE: Your Honor, at this time the
4 State seeks to introduce 38, 39, 40, and 41 into
5 evidence.

6 MR. O'NEILL: No objection.

7 THE COURT: Admitted without objection.

8 MS. COTE: Thank you, Your Honor.

9 (State's Exhibits Numbers
10 Thirty-Eight, Photo of Side Door, McDonald's;
11 Thirty-Nine, Drive-through Photo; Forty, Outside
12 McDonald's Photo; and Forty-One, photo of Shell
13 Casings, was entered in evidence.)

14 Q After you took those photographs, Lt.
15 Clare, what did you do?

16 A After I took the photographs, then I
17 collected the items that I photographed.

18 Q What items did you photograph?

19 A I photographed two spent shell casings,
20 one unfired round, a McDonald's hat.

21 Q Okay. This is State's Twenty-Nine for
22 identification. If you'll look in there and tell me
23 if you recognize that item.

24 A Yes, I do.

25 Q Is that an item that you collected?

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1 A It is.

2 Q And what is it?

3 A It's a McDonald's hat.

4 Q Okay. I'm going to show you 31 at this
5 time. Do you recognize that item?

6 A Yes, this is the unfired bullet.

7 Q And did you collect that that night, as
8 well?

9 A I did.

10 Q And 32 and 33 for identification, do you
11 recognize those items?

12 A These are the spent shell casings that I
13 collected.

14 MS. COTE: Your Honor, at this time the
15 State seeks to introduce 29, 31, 32, and 33 into
16 evidence.

17 MR. O'NEILL: No objection.

18 THE COURT: Admitted without objection.

19 (State's Exhibits Numbers
20 Twenty-Nine, McDonald's Hat; Thirty-One, Unfired
21 Bullet; Thirty-Two, Shell Casing 1; and Thirty-
22 Three, Shell Casing 2, were entered in evidence.)

23 MS. COTE: May I publish these items to
24 the jury, Your Honor?

25 THE COURT: You may publish, yes, ma'am.

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1 Q All right, Lt. Clare, if you'll help me
2 give the jury a visual of the scene that night.

3 Beg the Court's indulgence, Your Honor.

4 Q What's this a picture of?

5 A That's a picture of the front of
6 McDonald's showing the parking lot and one of the
7 employee's vehicles.

8 Q And whose vehicle is that?

9 A That vehicle belonged to Mr. Jennings.

10 Q Okay. And what view was that from? Was
11 that from West Columbia Avenue?

12 A From the West Columbia Avenue side, yes,
13 ma'am.

14 Q All right. I'm just going to hold up
15 these up, if you'll turn the lights back on. I'm
16 not technologically savvy enough. This is a picture
17 with two cones that I'm showing to the jury right
18 now. What was found where those cones are located?

19 A Where those two cones are is where I
20 collected the two spent shell casings.

21 Q And were these -- State's Thirty-Two and
22 Thirty-Two, are those the spent shell casings?

23 A Yes, ma'am.

24 Q And there was one of those at each one of
25 those cone locations?

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1 A Yes.

2 Q Okay. Now, in this picture, what were you
3 depicting?

4 A In that picture, the greenish cone was the
5 unfired round, and the yellow cone was the
6 McDonald's hat.

7 Q Okay. This is State's Thirty-Nine for the
8 record. And State's Thirty-One, that was the
9 unfired bullet that you were marking?

10 A Yes, ma'am.

11 Q Do you know who this McDonald's hat,
12 State's Number Twenty-Nine, belonged to?

13 A I believe that belonged to Mr. Jennings.

14 Q This is State's Thirty-Eight. What was in
15 that picture?

16 A That's a picture of the side door where I
17 believe Mr. Jennings came out with the trash.

18 Q Okay. And can you show the jury as best
19 you can where the shell casings and things were in
20 location to this door? I see the drive-through
21 right here. But can you show, kind of give them an
22 idea?

23 A The shell casings were found back towards
24 the drive-through right here, the spent casings.
25 And the live round -- the unfired round was found on

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1 the other side of the drive-through going towards
2 the trash dumpster.

3 Q I'm going to show you what's already in
4 evidence as State's Two. Do you see the McDonald's
5 on that map?

6 A Yes, I do.

7 Q Can you show the jury where you found the
8 shell casings, where the dumpster was located, just
9 from that picture?

10 A The shell casings were located at the
11 beginning of the drive-through.

12 Q Where the drive-through order --

13 A Yes.

14 Q -- or the ordering speaker was?

15 A Yes. The unfired round was found on the
16 right side of where you order your food, and the hat
17 was found in between the drive-through. And right
18 here is where the dumpster is located. The hat was
19 located in the middle.

20 Q If you don't mind, will you step down and
21 do that all over again?

22 A Okay.

23 Q I'm sorry. I want to make sure everybody
24 can see. And I'll hold it for you, if that helps.

25 A Okay, in this area right here is where I

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1 found the two spent shell casings. And then the
2 unfired round was found on the opposite side of the
3 drive-through after where you order your food. The
4 hat was found in between the drive-through and the
5 dumpster.

6 Q And where was that door where Willie left?

7 A The door where Willie left is probably
8 over here where this yellow vehicle is.

9 Q Okay, thank you. If you'll go back to the
10 stand. And when you spent shell casings, just so
11 we're clear, what are those?

12 A A fired shell casing, a shell casing that
13 the round is not with it anymore.

14 Q Okay. So it's been fired from a gun?

15 A Yes.

16 Q Okay. After you left the McDonald's, did
17 you attend Mr. Jennings' autopsy?

18 A I did.

19 Q Was it the next day?

20 A It was the same day. It was 9:30 in the
21 morning, I believe.

22 Q Okay. I'm going to show you what's been
23 marked for identification as State's Exhibit Thirty.
24 Do you recognize that?

25 A Yes, I do.

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1 Q And what is that item?

2 A That is the bullet that I recovered from
3 the pathologist at the autopsy.

4 MS. COTE: Your Honor, the State would
5 seek to introduce 30 into evidence.

6 MR. O'NEILL: No objection.

7 THE COURT: Admitted without objection.

8 (State's Exhibit Number
9 Thirty, Bullet from Willie Jennings' Body, was
10 entered in evidence.)

11 Q And you said the pathologist removed this
12 from Mr. Jennings at the autopsy?

13 A Yes.

14 Q Okay, all right. Did you execute a search
15 warrant for the clothing that two of the suspects,
16 Mr. Miller and Mr. Tucker, were wearing?

17 A I did.

18 Q I'm going to show you State's Twenty-Eight
19 and State's Thirty-Six, first State's Twenty-Eight.
20 Do you recognize the item in that box?

21 A I do.

22 Q Did you collect that item?

23 A Yes, I did.

24 Q State's Thirty-Six, do you recognize that
25 item?

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1 A Yes, I do.

2 Q Did you collect that item?

3 A Yes, I did.

4 Q And what is 36?

5 A Thirty-six is a white T-shirt and a gray
6 shirt that Mr. Miller was wearing.

7 Q And what is State's Twenty-Eight?

8 A Twenty-eight is a black-colored shirt that
9 Mr. Tucker was wearing.

10 MS. COTE: Your Honor, at this time the
11 State would seek to introduce Exhibits Thirty-Six
12 and Twenty-Eight into evidence.

13 MR. O'NEILL: No objection.

14 THE COURT: Admitted without objection.

15 (State's Exhibits Numbers
16 Twenty-Eight, Tucker's Shirt; and Thirty-Six,
17 Miller's Shirts, were entered in evidence.)

18 Q All right. I'm showing you Exhibit
19 Twenty-Eight. This was the shirt that Mr. --

20 A Tucker.

21 Q -- Tucker was wearing?

22 A Yes.

23 Q And this is what he was wearing at the
24 time they were stopped in that vehicle that we saw
25 the picture of?

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1 A Yes, it was.

2 Q Okay. And this is what Mr. Miller was
3 wearing, is that correct?

4 A Yes. He was wearing that, also.

5 Q Okay. Did you also execute a search
6 warrant for the vehicle at a later date?

7 A Yes, I did.

8 Q The vehicle, to be clear, that was stopped
9 and carrying Mr. Tucker, Mr. Miller, and Ms.
10 Matthews?

11 A Yes, I did.

12 Q I'm going to show you State's Thirty-Five
13 and State's Thirty-Four for identification, first
14 State's Thirty-Four. Do you recognize that item?

15 A Yes, I do.

16 Q And what is that?

17 A That's a bill of sale for a 9-millimeter
18 that was recovered on the vehicle.

19 Q Okay. And did you recover that as a
20 result of the search warrant?

21 A Yes, I recovered that from the vehicle.

22 Q And State's Thirty-Five, do you recognize
23 the items in the bag?

24 A Yes, I do.

25 Q And what are those items?

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1 A It's a hat and an apron that was collected
2 from the front floorboard of that same vehicle.

3 MS. COTE: Your Honor, at this time the
4 State seeks to introduce number 34 and 35 into
5 evidence.

6 MR. O'NEILL: Can I see those?

7 MS. COTE: Yes, I'm sorry.

8 MS. COTE: Your Honor, may I publish these
9 to the jury?

10 THE COURT: They haven't been introduced
11 yet.

12 MR. O'NEILL: No objection.

13 THE COURT: Admitted without objection.

14 You may publish now.

15 MS. COTE: Thank you.

16 (State's Exhibit Numbers
17 Thirty-Four, Bill of Sale, Gun, 4/21/10; and Thirty-
18 Five, Cap and Apron from Car, were entered in
19 evidence.)

20 Q Would you mind reading number 34 into
21 evidence, please?

22 A Number thirty-four, it's dated 4/21/10,
23 and then it says, "Received \$345 for a S&W 9-
24 millimeter pistol from Angelo Pierce Tucker, Model
25 Number SW9V, as in "victor," E; Serial Number RAV,

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1 as in "victor," 0073. And then a signature.

2 Q I'm going to just show you what's already
3 into evidence as State's Exhibit Seventeen. Can you
4 tell me if the serial number on this gun matches the
5 serial number that's on that bill of sale?

6 A Yes, it does.

7 Q Thank you. And this is State's Thirty-
8 Five. What was your -- what did you believe this
9 was?

10 A That was the apron that was in the front
11 seat along with the hat, and I just collected it.

12 Q Was it in the passenger side?

13 A It was in the front passenger floorboard.

14 MS. COTE: Beg the Court's indulgence for
15 just one moment, Your Honor. Your Honor, beg the
16 Court's indulgence for just one moment.

17 Q All right, Lt. Clare, I apologize. I'm
18 going to show you what's been marked for ID as
19 State's Forty-Two through Forty-Seven and ask you if
20 you recognize these pictures. If you'll look at
21 them all at once and tell me if you recognize them.

22 A These are photographs that I took from
23 McDonald's the early morning of the 14th.

24 Q Are those also pictures that you took when
25 you took the other ones that we showed the jury

Lt. Steve Clare - Direct

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1 earlier?

2 A Yes.

3 Q Are they accurate depictions of the scene
4 that night?

5 A Yes, they are.

6 MS. COTE: Your Honor, at this time the
7 State seeks to introduce State's Forty-Two through
8 Forty-Eight into evidence.

9 MR. O'NEILL: No objection.

10 THE COURT: Admitted without objection.

11 (State's Exhibits Numbers
12 Forty-Two through Forty-Eight, Photos of McDonald's
13 Hardboard, were entered in evidence.)

14 MS. COTE: May we publish to the jury,
15 Your Honor?

16 THE COURT: You may publish, yes.

17 Q What are these all pictures of generally?
18 This is State's Forty-Seven. And they're all a
19 little dark, and I'll walk down the way.

20 A That's a picture showing the drive-through
21 side of McDonald's with the cone where the
22 McDonald's hat was and the dumpster on the right
23 side, the dumpster shelter.

24 Q Is this a farther right view of that with
25 the dumpster in it?

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1 A It is.

2 Q These are State's Forty-Seven and Forty-
3 Eight for the record. Now, what is State's Forty-
4 Six a picture of?

5 A That's a picture of the drive-through side
6 of McDonald's.

7 Q Now, State's Forty-Five and Forty-Four,
8 are those again pictures of the dumpster?

9 A They are.

10 Q And can you see part of that drive-through
11 ordering both in 44?

12 A Yes, you can.

13 Q And then State's Forty-Two and Forty-
14 Three. Is 42 again a different view of that
15 dumpster behind the McDonald's?

16 A Yes, it is.

17 Q And 43, is that another view of the
18 dumpster?

19 A Yes, it is.

20 Q What can you see in that picture?

21 A It's also showing the trash bag that was
22 lying on the ground.

23 Q Thank you, Lt. Clare. I have no further
24 questions for you. Please answer any questions Mr.
25 O'Neill may have.

Lt. Steve Clare - Direct

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1 MR. O'NEILL: Thank you, Your Honor. May
2 it please the Court?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. O'NEILL:

6 Q Good morning, Lieutenant.

7 A Good morning.

8 Q You indicated that you found two spent
9 shell casings out there in the parking lot?

10 A Yes, sir.

11 Q And what did the fact that you found two
12 spent casings indicate to you, in your kind of
13 experience investigating crime scenes?

14 A That two rounds were fired.

15 Q That would indicate there were at least
16 two rounds fired?

17 A Yes, sir.

18 Q What about the unspent shell casing that
19 you found?

20 A Maybe it was ejected, I don't know.

21 Q Basically, the firearm that you recovered
22 was a semiautomatic firearm?

23 A Yes, sir.

24 Q Okay. Are you familiar how a
25 semiautomatic firearm is loaded for firing?

1 A Yes, sir.

2 Q What usually happens when you load a
3 semiautomatic firearm?

4 A Okay, you put the clip in the weapon, and
5 you pull it back. And then you charge the round in
6 the chamber.

7 Q But sometimes is an unspent projectile
8 ejected during that process?

9 A Yes, sir, if there was a round in the
10 chamber.

11 Q And I think you said -- you might not have
12 testified to this on direct. But did you go back
13 and investigate the next day about a possible
14 gunshot hole in that dumpster enclosure?

15 A Yes, sir. Myself and the chief went back
16 to look for a second round.

17 Q Okay. Why did you do that?

18 A There was a hole in the dumpster, the
19 cement block that surrounds the dumpster.

20 Q The enclosure?

21 A Yes, sir.

22 Q Okay. Did you take a picture of that?

23 A Yes, sir.

24 Q Okay. Is that one of the pictures that
25 the State has blown up for you?

Lt. Steve Clare - Cross

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1 A No, sir, not the hole.

2 Q Okay. They didn't give you a blown-up
3 picture of the hole up there?

4 A No, sir.

5 Q Do you remember how high that hole was?

6 A It might have been chest-high.

7 Q Chest-high. Approximately how many feet
8 high would that be, just so the record is clear?

9 A Maybe five feet.

10 Q And that was in the same general vicinity
11 that you found the spent shell casings and the
12 unfired casing?

13 A If you fired in that direction, yes, sir.

14 Q Okay. Now, did you find any indication
15 that a projectile was fired into the pavement
16 anywhere around the dumpster?

17 A No, sir.

18 Q No indications of any sort of firing in
19 the ground anywhere around that area?

20 A No, sir.

21 Q Now, you indicated the areas where you
22 found these spent shell casings and this unfired
23 round, correct?

24 A Yes, sir.

25 Q It's possible that those shell casings

Lt. Steve Clare - Cross

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1 could have moved after they were fired, correct?

2 A It's possible, yes, sir.

3 Q The wind could have blown them to a
4 different direction. A car could have come by and
5 ran over them and pushed them in some other
6 direction?

7 A They weren't run over, no, sir.

8 Q But just because you found them there
9 doesn't mean that's where they came to rest out of
10 the firearm?

11 A Right -- yes, sir.

12 Q Did you actually see -- you actually
13 collected the clothes from Angelo Tucker?

14 A I collected the clothes from -- they were
15 located in our evidence room.

16 Q So the suspects already had them off by
17 the time you came in contact with them?

18 A Yes, sir.

19 Q Did you ever see Angelo Tucker actually
20 wearing those clothes?

21 A No, sir, I don't think so.

22 Q Did you see Meon Miller wearing his
23 clothes?

24 A No, sir.

25 Q You don't know whether or not he had a

Lt. Steve Clare - Cross

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1 white T-shirt on top of a gray T-shirt or underneath
2 a gray T-shirt?

3 A No, sir.

4 Q Do you remember what the suspect
5 description was that night?

6 A No, sir, I don't.

7 Q You said you met at the coroner's office
8 and talked with the coroner?

9 A At the autopsy.

10 Q Did you say you talked to the coroner or
11 just the pathologist?

12 A The coroner was there, and he gave me Mr.
13 Jennings' clothing. And the pathologist gave me the
14 fired bullet and some other items.

15 Q And was that Deputy Coroner Johnson or
16 Morton?

17 A I don't remember what his name was.

18 Q Is it law enforcement's policy to brief
19 the coroner kind of as to what's going on?

20 A I believe the coroner was already briefed
21 at the scene.

22 Q Do you know who briefed the coroner?

23 A No, sir, I don't.

24 Q That would have been done at the scene?

25 A I'm assuming.

1 Q You assume so. Do you know who actually
2 performed the gunshot residue test on the three
3 individuals?

4 A CSI, Shelby Derrick from Lexington County
5 Sheriff's Department.

6 Q Okay. You collected video from the CVS on
7 the area?

8 A Yes, sir.

9 Q Okay. Did you collect the video from the
10 Wal-Mart, or who collected the video from the Wal-
11 Mart?

12 A I believe Officer Stowe collected it from
13 Wal-Mart.

14 Q Who collected the video from the inside
15 and the outside of the McDonald's that night?

16 A It wasn't collected that night. We got
17 the video from I believe the manager or the owner.

18 Q Mr. Webb?

19 A Yes.

20 Q Did you get the video from Mr. Webb?

21 A Yes.

22 Q Okay. So you had a video of the inside of
23 the McDonald's, what was going on in the inside of
24 McDonald's --

25 A Yes.

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1 Q -- and a video of what was going on on the
2 outside of McDonald's?

3 A Whatever camera angles there were.

4 Q Yes. Did you review those videos?

5 A Yes.

6 Q Did you see Mr. Cook in any of those
7 videos?

8 A Yes, I did.

9 Q Did you actually see Mr. Cook bring Mr.
10 Jennings back into the restaurant after the shooting
11 occurred?

12 A I did.

13 Q So Mr. Cook was the one that went outside
14 to get Mr. Jennings and brought him back in?

15 A Yes, he was.

16 Q Did you ever recover any sort of blood DNA
17 outside near the dumpster here?

18 A No, sir.

19 MR. O'NEILL: Beg the Court's indulgence,
20 Your Honor.

21 THE COURT: Yes, sir.

22 MR. O'NEILL: That's all I have for this
23 witness, Your Honor.

24 THE COURT: Redirect?

25 MS. COTE: Brief redirect, Your Honor.

1 THE COURT: Yes, ma'am.

2 REDIRECT EXAMINATION

3 BY MS. COTE:

4 Q Lt. Clare, when you went back the next day
5 and you were looking for any kind of shell casing in
6 the cement walls around that dumpster, did you have
7 any indication that any hole had anything to do with
8 this incident?

9 A I tore the wall apart where there was an
10 indentation in the cinder block. And I searched, and
11 there was no bullet in there.

12 Q Was that night, October 13, 2010 -- do you
13 remember it being a particularly windy night?

14 A I can't recall whether it was.

15 Q Okay. Just so the jury has a clear
16 picture, we have several pictures of this cement
17 encasing around the dumpster. Can you show
18 approximately on one of these where this indentation
19 was that you were looking for?

20 A On this front part of the dumpster
21 enclosure, coming from the drive-through area,
22 approximately right here there was an indentation on
23 the side of the cinder block. And the indentation was
24 probably a couple of inches, but it didn't look like
25 anything went through.

Lt. Steve Clare - redirect

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1 Q In relation to this spot that you just
2 noted -- for the record, we're looking at State's
3 Forty-Three -- where were those other spent shell
4 casings found in relation to that?

5 A They were found probably back -- this is
6 the drive-through light where you order -- just past
7 that.

8 Q Could you give us an estimation how many
9 feet away is that?

10 A I'd say it might have been a hundred,
11 hundred and twenty-five feet in front of the
12 enclosure.

13 Q Okay.

14 Thank you, Your Honor. I have nothing
15 further.

16 MR. O'NEILL: Just briefly, Your Honor.

17 THE COURT: Yes, sir.

18 RE CROSS EXAMINATION

19 BY MR. O'NEILL:

20 Q Lieutenant, I'm going to show you what's
21 marked State's Exhibit Forty-Three here.

22 Permission to approach, Your Honor?

23 THE COURT: Yes, sir.

24 Q Lieutenant, do you have any idea how many
25 feet this dumpster enclosure is away from the side

1 door at McDonald's?

2 A No, I don't, not offhand.

3 Q This picture right here is taken from near
4 the dumpster enclosure?

5 A Yes.

6 Q And where would the side door be at in
7 this picture?

8 A The side door is on the other side of the
9 building.

10 Q Okay. So it's all the way on the other
11 side of the building?

12 A Yes, sir.

13 Q Okay. The cameras that are on the outside
14 of McDonald's, what coverage area do they cover? Do
15 you remember, or would you need another picture?

16 A There's nothing that covers the dumpster
17 area.

18 Q Okay. What about the drive-through area?
19 Do you need to look at different pictures?

20 A Yes, sir.

21 Q I'll get to look through the State's
22 exhibits and find one that you think is a good
23 picture there.

24 A I think one of the printed pictures, I
25 could show on that.

Lt. Steve Clare - Recross

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1 Q All right. This is one of the printed
2 pictures.

3 A I have a picture of the side door. This
4 picture right here, there's a camera angle that goes
5 towards the drive-through. It doesn't cover very
6 much area, and that's where I saw Mr. Cook carrying
7 Mr. Jennings in --

8 Q Okay.

9 A -- on the side-view camera.

10 Q And for the record, this is State's Number
11 Thirty-Eight? Is the one you're referring to
12 State's Number Thirty-Eight?

13 A Yes, sir.

14 Q Okay. And you said that there's a camera
15 -- where would the camera be pointing towards?

16 A It's -- the camera's pointed back towards
17 the drive-through.

18 Q Right here?

19 A Yes, sir.

20 Q So it's a camera pointing back towards the
21 drive-through area. And we can't see anything
22 that's going on in that direction?

23 A Supposedly, if it wasn't as dark.

24 Q Okay. So if there was any sort of actions
25 towards this side door, it would have been caught on

1 the camera?

2 A Yes, sir.

3 Q Because this camera is pointing towards
4 the side door towards the drive-through area?

5 A Yes, sir.

6 Q And the dumpster is on the other side of
7 the drive-through area?

8 A Yes, sir.

9 Q So if somebody was approaching this side
10 door, it would have been caught on the video that
11 points towards the side door?

12 A Yes, sir.

13 Q When you were viewing the video in this
14 case here, did you ever see any of the suspects
15 coming towards this side door?

16 A I didn't see any, no, sir.

17 Q Nobody ever approached this side door to
18 enter the McDonald's?

19 A No, sir.

20 Q Okay.

21 That's all I have, Your Honor.

22 THE COURT: Thank you, sir. You may stand
23 down, sir.

24 MS. WEISS: The State calls Vantouris
25 Hanna.

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1 (The witness was sworn.)

2 CLERK OF COURT: Have a seat, please, sir.

3 Once you're seated, state your full name, spelling

4 your last on the record, please. You'll need to

5 speak up in a loud voice.

6 MR. HANNA: Okay. Vantouris Hanna.

7 VANTOURIS HANNA, having first been duly

8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. WEISS:

11 Q Mr. Hanna, what name do you go by?

12 A Van.

13 Q Van. May I call you Van?

14 A Yes, ma'am.

15 Q Okay. Van, how old are you?

16 A Twenty-one.

17 Q Where do you live?

18 A Ridgeway.

19 Q Who do you live with?

20 A My mom, grandparents' house.

21 Q Who else lives there with you?

22 A My cousins.

23 Q How many cousins do you have that live

24 there?

25 A Six.

1 Q Okay. Boys or girls?

2 A Both.

3 Q Okay. Do you know Rod Cook?

4 A Yes.

5 Q Do you see him in the courtroom today?

6 A Yes.

7 Q Can you describe him for the record, what
8 he's wearing?

9 A He's got a blue shirt with a tie -- I
10 don't know if you'd call it a shirt. --

11 Q Vest.

12 A -- vest.

13 MS. WEISS: Your Honor, may the record
14 reflect he's identified the defendant.

15 Q Van, what is your relationship to Rod
16 Cook?

17 A My cousin, first cousin.

18 Q First cousin. And how is he related as
19 your first cousin?

20 A Through his mom.

21 Q His mom is?

22 A My aunt.

23 Q Okay. And your mom's sister?

24 A Yes.

25 Q And do you know Meon Miller?

Vantouris Hanna - Direct

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1 A Yes.

2 Q And how are you related to Meon Miller?

3 A My first cousin.

4 Q He's your first cousin --

5 A Through his mom.

6 Q So your mom's another sister?

7 A Yes.

8 Q How many siblings are there in all, does
9 your mom have?

10 A I think there's eight -- well, eight --
11 yes, eight.

12 Q All right. So there's nine total?

13 A Yes.

14 Q So you have a lot of first cousins?

15 A Yes.

16 Q Are you close with Rod Cook?

17 A Yes.

18 Q Are you close with Meon Miller?

19 A Yes.

20 Q Do you want to be here today?

21 A No.

22 Q Are you here under subpoena?

23 A Yes.

24 Q Would you have come if I didn't -- if you
25 weren't served with a subpoena requiring you to be

- 1 here?
- 2 A Yes.
- 3 Q You would have come?
- 4 A Yes.
- 5 Q You're here because you're under subpoena?
- 6 A Yes.
- 7 Q Van, do you remember October 13, 2010?
- 8 A Not really.
- 9 Q The day that we're talking about here
- 10 today?
- 11 A Yes.
- 12 Q And prior to that time, did you spend a
- 13 lot of time with your cousin Meon?
- 14 A Yes.
- 15 Q Where did Meon live at that time?
- 16 A In Ridgeway.
- 17 Q With who?
- 18 A With his mom, his grandparents, aunts, and
- 19 uncles.
- 20 Q Did y'all talk on the phone a lot?
- 21 A Yes.
- 22 Q Did you spend time together during the
- 23 day?
- 24 A Yes.
- 25 Q Did you have a job back then?

Vantouris Hanna - Direct

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- 1 A Yes.
- 2 Q Where did you work?
- 3 A McDonald's.
- 4 Q You did?
- 5 A Yes.
- 6 Q Which McDonald's?
- 7 A Blythewood.
- 8 Q Okay. And do you have a job now?
- 9 A No, laid off.
- 10 Q Back on October -- well, let me ask you
- 11 this. Did you spend a lot of time talking to Rod
- 12 back then?
- 13 A No.
- 14 Q Did you see him some?
- 15 A Yes.
- 16 Q Did you know where he lived?
- 17 A Yes.
- 18 Q Did you have a car back then?
- 19 A Yes.
- 20 Q Did Meon have a car?
- 21 A No.
- 22 Q So did you drive Meon around a lot?
- 23 A No.
- 24 Q Did you drive him when he called and
- 25 needed a ride?

1 A Sometimes.

2 Q I'm going to take you back to October
3 13th, the day that Meon was arrested. You remember
4 that day, right?

5 A Yes.

6 Q Did you talk to Meon Miller that day?

7 A Yes.

8 Q All right. Do you remember what time you
9 woke up that day, what time you normally would wake
10 up?

11 A Probably like around nine, ten, eleven.

12 Q Okay. And do you remember getting a call
13 from Meon?

14 A Yes.

15 Q What did Meon say to you when he called?

16 MR. O'NEILL: Objection, Your Honor,
17 hearsay.

18 THE COURT: Sustained.

19 Q As a result of Meon's call, after he
20 called you, what did you do?

21 A Went and picked him up.

22 Q Went and picked him up. As a result of
23 your conversation, did you take anything with you?

24 A Yes.

25 Q What did you take with you?

Vantouris Hanna - Direct

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1 A A gun, shotgun.

2 Q And whose shotgun was it?

3 A Mine.

4 Q And did you have any idea why Meon asked
5 you to bring your shotgun? I'm sorry. Did you have
6 any idea why you were bringing the shotgun?

7 A No, not really. But at the same time, it
8 was like Bra probably had something going on.

9 MR. O'NEILL: Objection, Your Honor,
10 hearsay.

11 THE COURT: I'll sustain the objection.

12 MS. WEISS: Yes, Your Honor.

13 Q What did you call Rod Cook when you talked
14 about him just in a sentence?

15 A Say that again?

16 Q What would you call Rod? If you were
17 talking to Meon, talking about Rod, what would you
18 call him? What was his nickname?

19 A Nickname?

20 Q Yes.

21 A Rod.

22 Q Okay. What did you call Meon if you were
23 talking about him?

24 A Meon.

25 Q Okay. If you were talking to him without

1 using his name, what would you use? What would you
2 say?

3 A Bra.

4 Q Bra. And would you use the same thing to
5 talk about Rod?

6 A Yes.

7 Q Okay. Is that generally how you address
8 people?

9 A Yes.

10 Q And is it reserved pretty much for family?

11 A Yes.

12 Q And so you took a .410 shotgun?

13 A Yes.

14 Q What did it look like?

15 A Single barrel, about this long.

16 Q And where did you go?

17 A To Bra's house.

18 Q Okay. You said you picked up Meon first.

19 And where was Meon?

20 A At my granddaddy's.

21 Q In Ridgeway?

22 A Yes.

23 Q And then where did you take him?

24 A To Rod's.

25 Q And who was there when you got to Rod's

Vantouris Hanna - Direct

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- 1 house?
- 2 A Danikwa and P.C.
- 3 Q And who is P.C. ?
- 4 A Rod's daughter.
- 5 Q Who's Danikwa?
- 6 A Tasha's daughter.
- 7 Q What happened to the shotgun when you got
- 8 there?
- 9 A Put it in his room.
- 10 Q Whose is "his room"?
- 11 A Rod's.
- 12 Q In his room, okay. And then what did you
- 13 do?
- 14 A Nothing.
- 15 Q Did y'all stay there?
- 16 A Yes, we stayed there and chilled with
- 17 Danikwa and P.C.
- 18 Q What does "chill" mean?
- 19 A Hanging out, watching TV.
- 20 Q Did you play with P.C. ?
- 21 A Yes.
- 22 Q How old was she then?
- 23 A She was about maybe three at the time.
- 24 Q She was little?
- 25 A Yes.

- 1 Q And how long did you stay there?
- 2 A Not long, about a couple of hours, then I
- 3 left.
- 4 Q And did you ever talk to Rod that day?
- 5 A No.
- 6 Q And have you ever talked to Rod about
- 7 what's going on here today with this incident?
- 8 A No.
- 9 Q After you left, did you ever find out
- 10 where your shotgun was?
- 11 A No.
- 12 Q Did you just leave it at Rod's?
- 13 A Yes.
- 14 Q At some point, did you get your shotgun
- 15 back?
- 16 A Yes.
- 17 Q And how did that happen?
- 18 A I came and got it.
- 19 Q Came where?
- 20 A To his house.
- 21 Q And where was it?
- 22 A Sitting in the same space.
- 23 Q How long after that day did you go back
- 24 and get your shotgun?
- 25 A Two days later.

Vantouris Hanna - Direct

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1 Q And what was going on when you went back
2 two days later at the apartment? What did you see
3 when you went in the apartment?

4 A Nothing.

5 Q Who was there?

6 A He was.

7 Q "He" being?

8 A Rod.

9 Q Did you talk to him?

10 A No, not really.

11 Q Okay. And what was Rod doing when you got
12 there?

13 A Nothing.

14 Q Okay. Were the children there?

15 A No.

16 Q Do you know where they were?

17 A No.

18 Q Was their stuff there?

19 A Yes.

20 Q Van, what was your cell phone number back
21 in 2010, do you remember?

22 A 422-5868.

23 Q Do you remember what Meon's cell phone
24 number was?

25 A I think it's kind of like 269, I think.

1 Q Do you remember -- did you talk to Tasha
2 at all that day?

3 A No.

4 Q And do you remember getting a text from
5 Tasha that day?

6 A No.

7 Q If you had gotten a text from her asking
8 for Meon's cell, would you have written back?

9 A No. She never texted me at all.

10 Q I'm going to show you State's Exhibit Four
11 and ask you to look where my pen is, number 422-
12 5367. Is that your cell number?

13 A Yes.

14 Q All right. That "D" indicates, according
15 to this record, a text. So seeing that, could she
16 have possibly texted you that day?

17 A If she did, I didn't reply back.

18 Q All right, Van. It's okay if you don't
19 remember, but I'm going to show you here.

20 A Uh-huh.

21 Q There's an incoming text from 422-5367.
22 So thinking back, could you have possibly responded
23 to her?

24 A And that was her cell or her house?

25 Q That's her cell. If Tasha asked you for

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1 Meon's cell number, would you have given it to her?

2 A No.

3 Q Why? So looking at these records, would
4 you have texted Tasha? Going back to what we were
5 showing earlier, going back to Meon's cell phone
6 that began with 269 that's been entered into
7 evidence, 269-9028.

8 A Yes.

9 Q That being Meon's cell phone?

10 A Yes.

11 Q So looking where my finger is there, 1359,
12 which would be 1:59, you got a phone call, then you
13 called Meon. Is that normal that you would have
14 called?

15 A Yes.

16 Q And then Meon would have called you
17 actually?

18 A Yes.

19 Q Okay. You said Meon called you, and it
20 was a two-minute phone call?

21 A Yes.

22 Q Then 2:08, you called Meon?

23 A Yes.

24 Q At 2:22, you called Meon again?

25 A Yes.

1 Q That was just for one minute. So during
2 that time, do you remember what the purpose was of
3 those phone calls back and forth?

4 A To come pick him up.

5 Q Okay. So that was the time that you went
6 and picked him up?

7 A Yes.

8 Q And then, your number pops up one more
9 time around 5:12, and it was just a one-minute call
10 from you. Do you remember calling him at 5:12?

11 A No.

12 Q But it was pretty common that y'all would
13 just call back and forth?

14 A Yes.

15 MS. WEISS: Thank you, Your Honor. No
16 further questions for this witness.

17 CROSS-EXAMINATION

18 BY MR. O'NEILL:

19 Q Good morning, Van. I've got a few
20 questions for you, okay?

21 A When you got to Rod's house, was Rod there
22 when you got there?

23 A No.

24 Q So you brought Meon to Rod's house, right?

25 A Yes.

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1 Q And when you got there, Rod wasn't there?

2 A No.

3 Q When you got there with Meon, was Tasha
4 there?

5 A She didn't get there till I left at 5:30.

6 Q You got there at -- what time did you get
7 there, do you remember?

8 A Between 2:00, 2:30, 3:00.

9 Q When you got there around 2:30 or 3:00,
10 neither Rod nor Tasha was there?

11 A No. Tasha came by like 5:30 when she got
12 off.

13 Q And she came back by herself?

14 A Yes.

15 Q And Rod wasn't with Tasha when she came
16 back?

17 A No.

18 Q So when you were there, there was no time
19 where both Rod, Tasha, and Meon were at Rod's house
20 that day together?

21 A No.

22 Q And you brought Meon to Rod's house?

23 A Yes.

24 Q Did Rod ever talk to you about a robbery
25 that day?

1 A No.

2 Q Did Meon ever talk to you about a robbery
3 that day?

4 A No.

5 Q Nobody ever talked to you about doing any
6 sort of robbery of McDonald's?

7 A No.

8 Q When you got -- you say you came back and
9 got your shotgun I think two days later after the
10 13th?

11 A Yes.

12 Q Was Rod home when you put the shotgun in
13 his room?

14 A Yes.

15 Q What day did you put the shotgun in his
16 room, do you remember?

17 A No, I don't remember.

18 Q Okay. So Rod wasn't there when you put
19 the shotgun in his room?

20 A No.

21 Q Okay. And when you came back and got the
22 shotgun, Rod was at the apartment?

23 A Yes.

24 Q And that was two days after the 13th?

25 A Yes.

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1 Q And when you got the shotgun, it was still
2 in the same place where you had left it?

3 A Yes.

4 Q Hadn't been moved, hadn't been touched or
5 anything like that?

6 A No.

7 Q Okay.

8 Beg the Court's indulgence, Your Honor.

9 That's all I have for this witness, Your Honor.

10 MS. WEISS: This witness may be excused.

11 THE COURT: Thank you, sir. You may stand
12 down.

13 Any objection to the witness being
14 excused?

15 MR. O'NEILL: No, Your Honor. He's under
16 our subpoena as well, so release him from our
17 subpoena, as well.

18 THE COURT: All right. Thank you for
19 coming. You're free to go.

20 MR. HANNA: Yes, sir.

21 MS. WEISS: Your Honor, may we approach?

22 THE COURT: You may.

23 Mr. Foreman, ladies and gentlemen of the
24 jury panel, the next witness is expected to be a
25 rather long witness. So it's probably a good time

1 for us to go ahead and take a short break. You may
2 retire to the jury room and refresh yourselves
3 during the break. Thank you.

4 (Jury out at 10:43 a.m.)

5 THE COURT: All right, we'll take about
6 ten minutes.

7 (Court in recess.)

8 THE COURT: Are we ready to proceed?

9 MS. WEISS: Yes, Your Honor. Before we
10 proceed -- we plan to call the next witness as Meon
11 Miller -- I just wanted to put on the record we had
12 talked earlier in the court that there is -- that we
13 settled the record. There's nothing. He only has
14 these pending charges, so there's nothing obviously
15 -- there's nothing to impeach him on beyond that.

16 However, I know we've talked about the
17 fact whether or not this particular night could have
18 involved a drug deal. There's no information that I
19 have of any prior drug deals, and I would just as
20 this point that the defense not go into that unless
21 they have some sort of evidence of prior drug
22 dealing.

23 MR. O'NEILL: I'm not sure what she's
24 asking. I'm allowed to cross-examine him about it
25 if I have a good-faith basis for my question.

1 THE COURT: Yes, that's what she's saying.
2 Do you have a basis for your questions? She's
3 saying any prior drug deals or whatever, going into
4 something that you don't have any proof of.

5 MR. O'NEILL: I'm not sure what she thinks
6 that I'm required to have. I'm not sure what the
7 State's position is.

8 THE COURT: Well, I think their position
9 is that if you don't have any evidence of prior drug
10 dealing by this particular witness, you can't ask
11 him about is he a drug dealer? That's clear to me.

12 MR. O'NEILL: Oh, yes. If I've talked to
13 witnesses and they've indicated to me some prior
14 drug activity on behalf of Mr. Miller, that would be
15 the basis of any question I would ask. I'm not just
16 pulling the question out of thin air. I've spoken
17 to some witnesses that have indicated to me my basis
18 for the question. That's my position.

19 MS. WEISS: If he has basis for that
20 before he tries to attack my witnesses' credibility
21 or my witnesses past history, I'd like to know what
22 kind of information he has.

23 MR. O'NEILL: I think the evidence I have
24 is what Ms. Matthews has already testified to on her
25 direct here concerning past drug activity for Mr.

1 Miller.

2 MS. WEISS: She testified that she knew
3 that Mr. Cook was a drug dealer and that she's not.

4 MR. O'NEILL: She testified about both Mr.
5 Cook and Mr. Miller, is my recollection of Ms.
6 Matthews' direct testimony.

7 THE COURT: I'm trying to recall her
8 testimony. I think her testimony was that I think
9 that the defendant had been involved in drug dealing
10 before, with marijuana, I believe.

11 MS. WEISS: Yes, sir, Your Honor.

12 THE COURT: And she also testified that
13 she thought that there may be a drug deal involved
14 on that particular night that she was taking Meon
15 Miller there, because they had a bookbag, and she
16 thought that there was probably marijuana in the
17 bookbag by not Mr. Miller but the other --

18 MS. WEISS: Tucker.

19 THE COURT: -- person named Mr. Tucker.
20 And that's what she testified to. And then she said
21 that, however, they opened up the bookbag before
22 they got at the McDonald's at Batesburg-Leesville
23 and showed a weapon and talked about ammunition in
24 there. And she could see then there was no
25 marijuana, so she knew at that time it was no drug

1 deal -- or that it was an indication it was
2 something other than a drug deal.

3 And that's the way I recall her testimony.
4 But she did testify, I believe, that Mr. -- the
5 defendant had been involved in drug dealing before
6 with marijuana. I'm trying to remember if she said
7 Meon Miller also was involved in that.

8 MR. O'NEILL: That's my recollection of
9 the testimony, Your Honor.

10 THE COURT: Do you recall?

11 MS. WEISS: I don't recall. I recall it
12 as you did. I just don't recall her saying that
13 Meon Miller had been involved in prior drug dealing.

14 THE COURT: We can try to pull it up.

15 How much trouble is it going to be to find
16 it, Madam Court Reporter?

17 COURT REPORTER: Well, you'd have to
18 listen to a lot of it probably.

19 THE COURT: Of her testimony.

20 MS. WEISS: I don't know how extensively
21 he plans to cross-examine him on it. I feel if this
22 becomes the whole point of the questioning, I don't
23 know if there's any basis for it. And I want to
24 make sure if he's going to impeach credibility,
25 there needs to be something more that's clearly a

1 prior bad act.

2 I know he's not the defendant in this
3 trial, but it just seems -- if he has information.
4 I just don't have information from this witness. I
5 don't have any prior record of it. I don't have --
6 now, whether he's used marijuana in the past, that
7 would be a different ballgame.

8 MS. WEISS: Okay, never mind. My co-
9 counsel did actually take the note that she did
10 think that he had sold drugs sometime.

11 THE COURT: Okay, all right. Just have a
12 basis for whatever questions you ask, the same as
13 any witness. If you're going to ask him some
14 questions, there has to be a basis for it other than
15 just trying to tarnish a person's reputation without
16 some reason to ask those questions.

17 All right, anything else?

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

19 THE COURT: All right. Please bring the
20 jury in.

21 MS. WEISS: Your Honor, can we stop for
22 one second? We just got a piece of information I
23 need to turn over to the defense before they come
24 out.

25 THE COURT: Okay. Hold the jury, please.

1 Are we ready to go now?

2 MR. O'NEILL: One second, Your Honor.

3 THE COURT: Yes, sir.

4 MS. WEISS: Okay, I think we're good.

5 THE COURT: We're ready to go. Counsel,
6 we're moving mighty slow in this case. And we've
7 got to pick it up, or I might start working late if
8 we're going to finish this case this week. I'm not
9 going to go beyond Friday on this case.

10 So if we need to, we'll start working
11 later, if that's what it takes. I've tried to
12 accommodate everybody, but I'm to the point now
13 where I don't know how much more we've got to go.
14 But we're going to start working late.

15 Bring the jury in, please.

16 (Jury in at 11:06 a.m.)

17 THE COURT: Counsel, are you ready to
18 proceed?

19 MS. WEISS: The State is ready, Your
20 Honor. The State calls Meon Miller.

21 (The witness was sworn.)

22 CLERK OF COURT: Have a seat, please, sir.
23 Sir, once you're seated, speak up loud and clear.
24 State your full name, spelling your last on the
25 record.

1 MR. MILLER: Yes, ma'am.

2 MEON MIKEAL DEANGLIUS MILLER, having first
3 been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. WEISS:

6 Q Good morning, Mr. Miller.

7 A Good morning.

8 Q May I call you Meon?

9 A Ma'am?

10 Q May I call you Meon?

11 A Yes, ma'am.

12 Q Meon, how old are you?

13 A Twenty.

14 Q Twenty. And how old would you have been
15 on October 13, 2010?

16 A How old would I have been?

17 Q How old were you on October 13, 2010, the
18 day we're --

19 A I was 18.

20 Q You were 18?

21 A Yes, ma'am.

22 Q Where did you grow up?

23 A I grew up in Ridgeway and Columbia.

24 Q When you were in Ridgeway, where did you
25 go to high school?

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- 1 A Where? Fairfield Central.
- 2 Q And where did you move to in Columbia?
- 3 A We stayed at Spring Valley Apartments.
- 4 Q Where did you go high school then?
- 5 A Spring Valley High.
- 6 Q Did you finish?
- 7 A No, ma'am.
- 8 Q How far did you go?
- 9 A I believe to the 10th, 11th.
- 10 Q Why did you leave?
- 11 A I just left.
- 12 Q Okay. Do you know Rod Cook?
- 13 A Yes, ma'am.
- 14 Q How do you know him?
- 15 A He's my cousin.
- 16 Q He's how close a cousin?
- 17 A He's real close.
- 18 Q Is he your first cousin?
- 19 A Yes, ma'am.
- 20 Q How well do you know him growing up?
- 21 A I know him all my life.
- 22 Q How often would you see him?
- 23 A Very often. Sometimes I'd babysit his
- 24 daughter. You know, I spend the night at his house.
- 25 Q And so you said you'd spend the night at

1 his house sometimes?

2 A Yes, ma'am.

3 Q And so sometimes if your mom got mad at
4 you, would you and stay at Rod and Tasha's?

5 A No, ma'am.

6 Q You could go over there any time you
7 wanted to?

8 A Yes, I'd go over any time I want to,
9 though.

10 Q Okay. Did you go over there and just hang
11 out sometimes?

12 A Yes, sometimes.

13 Q Are you friends with Danikwa?

14 A Yes, ma'am.

15 Q She's close to the same age you are?

16 A I don't really know. I don't know how old
17 she is.

18 Q She's maybe a little bit older?

19 A She's a little older.

20 Q Back in October 2010, before you got
21 arrested, were you working?

22 A No, ma'am.

23 Q Did you ever sell drugs?

24 A Yes, ma'am.

25 Q What kind of drugs did you sell?

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1 A I sold weed before.

2 Q Where would you sell it?

3 A Well, wherever.

4 Q Wherever in Ridgeway?

5 A In Ridgeway, Columbia.

6 Q Did you ever sell drugs in Batesburg-
7 Leesville?

8 A No, ma'am.

9 Q Did you ever hang out in Batesburg-
10 Leesville?

11 A No, ma'am.

12 Q Did you have friends in Batesburg-
13 Leesville?

14 A I ain't met nobody from Batesburg-
15 Leesville until I came to Lexington County.

16 Q Detention center?

17 A Detention center.

18 Q Okay. I'm going to take you back to the
19 day you got locked up, October 13, 2010. Where were
20 you staying the night before?

21 A The night before I was staying at my
22 grandfather's house at Ridgeway.

23 Q And where is that located?

24 A Highway 12, 20 -- I can't really remember
25 the address.

1 Q Anyway, it's out in Ridgeway?

2 A Yes, ma'am.

3 Q Okay. You were staying at your
4 grandfather's house. And who else was there with
5 you?

6 A I can't really remember. My brother was
7 there that morning. He went to school that morning.
8 I was staying there. I slept in his room that
9 night.

10 Q What's your brother's name?

11 A Marquez Woodard.

12 Q And how much younger is he than you?

13 A Two years.

14 Q Two years younger. So do you recall
15 getting a phone call that morning?

16 A Yes, ma'am.

17 Q From Rod Cook?

18 A Yes, ma'am.

19 Q Do you honestly remember exactly what time
20 that call came in?

21 A It came in -- I don't honestly remember
22 what time it was.

23 Q Okay. But you remember talking to Rod?

24 A Yes, I talked to him.

25 Q And what did Rod tell you when you talked

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1 to him that morning or that day?

2 A He said that he got a jugg, and if I want
3 to, know what I'm saying, come run it with him at
4 his job.

5 Q He got a what?

6 A A jugg.

7 Q A jugg, okay. Can you please explain to
8 us what a jugg is?

9 A Basically, it's something like something
10 to do with making money. It was like a lick, you
11 know what I'm saying.

12 Q What's a lick?

13 A A lick is stuff you do as robbing.

14 Q Okay. And he asked you to come do it at
15 his job?

16 A Yes, ma'am.

17 Q Why would he call you and ask you to do
18 that?

19 A I don't know.

20 Q Did you own a gun?

21 A No, ma'am.

22 Q Did you own a car?

23 A No, ma'am.

24 Q When he asked you to come do a jugg at his
25 job, did he say why he needed you to come to his job

1 and do this?

2 A He said that he was going to be evicted,
3 and he said he needed my help. And he was like
4 crying, you know. At first, I declined. I said no
5 again. I told him all right I will.

6 Q How did he -- you said first you said no.
7 What did he say when you say no?

8 A He was like, "Well, that's where we live,"
9 and he didn't really say anything. We had hung up.
10 And spoke again. And when we had spoke again, I was
11 like all right.

12 Q What did he say?

13 A What did he say?

14 Q Yes.

15 A He was like --

16 Q Before you said all right, you said no,
17 and then he called you back. What did he say?

18 A He said that "because I need you." He
19 said "because I need you," you know what I'm saying.
20 "I ain't trying to get evicted, and I ain't trying
21 to be staying on the street."

22 That's what he said, and I was like, "All
23 right," because he was like, "It's about \$18,000
24 worth," you know what I'm saying. "We can split the
25 money or whatever." And I was like, "All right."

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1 Q So there's \$18,000 worth, and y'all would
2 split the money?

3 A Yes, ma'am.

4 Q At that time, did you have a job?

5 A No, ma'am.

6 Q No. And you were living with family?

7 A Yes, ma'am.

8 Q He said it was going to be \$18,000. Did
9 he -- what did he tell you as -- when you said okay,
10 what did he say next?

11 A He was like, "First, I need you to get a
12 ride to my house." He said he needed me to get a
13 ride to my house, because he knew I ain't had a
14 ride. I told him I had a ride, and he told me to
15 ride to the store.

16 That's when I called my cousin Van. And
17 he also told me to have a gun. I said I ain't have
18 one. So I called my cousin. I knew my cousin had
19 one. So I called him, and I told him to bring a
20 gun.

21 Q You said you called your cousin. What
22 cousin is that?

23 A Van.

24 Q Van?

25 A Vantouris Hanna.

1 Q And he's another first cousin?

2 A Yes, ma'am.

3 Q And what did he say when you called him?

4 What did you say when you called him?

5 A I said, "Cuz, you could take me to Rod's
6 house. He's having some problems," you know. "And
7 if you've got a gun, can I borrow it?" you know what
8 I'm saying. I ain't let him know about the robbery
9 or anything like that, though.

10 Q Okay. And so you called Van. Did you
11 know at that point any more details about what was
12 supposed to happen? Did you know where Rod Cook
13 worked?

14 A Yes, I know where he worked.

15 Q Where did he work?

16 A I knew he worked at a McDonald's like
17 somewhere in Lexington County somewhere. But I
18 ain't knew it was exactly Batesburg.

19 Q So did you used to ride back and forth
20 with Tasha to take him and pick him up?

21 A I have rode with her on like one occasion.
22 Like we had went to do stuff.

23 Q Okay.

24 A And we was like we had went there, and we
25 was at a Wal-Mart, you know what I'm saying. Other

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1 than that, no, I ain't ride with him to Batesburg.

2 Q So it wasn't a regular occurrence. You
3 didn't go every night with her when she took him and
4 picked him up?

5 A No, ma'am.

6 Q So you were not familiar with Batesburg or
7 the McDonald's?

8 A No, ma'am. I rode with Rod a couple of
9 times to pick Tasha up from work somewhere in
10 Lexington somewhere. I don't even know where that
11 was at.

12 Q But Tasha didn't work at that McDonald's?

13 A I ain't seen her working at McDonald's.

14 Q Did she work in Batesburg?

15 A I don't think so.

16 Q You said it was Lexington?

17 A I think it was somewhere in Lexington.

18 Q So at that point, you knew he worked at
19 McDonald's, you needed to ride to his house, and he
20 had to have a gun. What else did you know at that
21 point about what was going to happen, about the jugg
22 that he had?

23 A At that point, he was like he was going to
24 call me with a little information on what I needed
25 to do. So when I got to his house, I was on a

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1 computer, and I believe I probably just smoked some
2 weed at his home. And me and my cousin Van, we
3 chilled, and then he left. He said he had to go
4 back home.

5 Q Okay. Well, let's go back just a second.
6 So when you called Van, you didn't know any more
7 details about that point?

8 A No, ma'am, not at that point.

9 Q So Van came and picked you up. And did
10 Van bring anything with him?

11 A Yes.

12 Q What did he bring with him?

13 A He brung a shotgun.

14 Q What kind of shotgun was it?

15 A I believe it was a .410 shotgun.

16 Q Okay. And were you going to use the
17 shotgun?

18 A Yes, ma'am, I was supposed to use it.

19 Q Okay. And did you use the shotgun?

20 A No, ma'am, I didn't use it.

21 Q Why did you decide not to use the shotgun?

22 A Because me and Tasha had spoke. She was
23 like, "You don't believe that's too big -- the gun's
24 too big?" And I was like, "Do you think so?" And
25 she said, "Yes." I was like, "Well, I know somebody

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1 with a smaller one. I'll call them." So that's
2 when I had called Angelo.

3 Q So he brought the shotgun, and he took you
4 over to Rod and Tasha's house. Who was at Rod and
5 Tasha's house when you got there?

6 A I want to say --

7 Q Just tell the truth. What do you
8 remember?

9 A I want to say I think Danikwa, and Avery,
10 and Reid (PH) I don't think P.C. was there. She
11 hardly was, but I don't -- yes, she was there.

12 Q Okay. And so what did y'all do when you
13 got there?

14 A I had got on the computer.

15 Q Okay. What were you doing on the
16 computer?

17 A I was listening to music.

18 Q Do you remember how long you were there?

19 A I was there for -- me and my cousin, we
20 chilled there for about I'll probably say two hours.

21 Q Okay.

22 A And he had left. He was like, "Cuz, I got
23 to go back home. My grandparents need me." I
24 believe that's what he said. I don't know if that
25 was his exact words, but it was like, "I got to go

1 back home, go back to Ridgeway." I was like, "All
2 right."

3 And then I was about to leave, Tasha had
4 came in during that time that he was leaving. So
5 they probably seen him. What she probably did was
6 she had came by.

7 Q Okay. And so what did you do next?

8 A I went into the back room, because he had
9 left the shotgun with me. That's when I was playing
10 with the shotgun. I showed her, I was like, "I got
11 the gun."

12 And she was like, "And you don't think
13 it's too big?" That's what she asked, and was I was
14 like, "Well, do you think it's too big?" And she
15 was like, "Yes." I was like, "I know somebody with
16 a smaller one."

17 Q All right. So what did you do next?

18 A What did I do next? I called Angelo, and
19 I was like, "If I could hold your gun, I've got a
20 little lick or whatever." He was like --

21 Q Now, who is Angelo?

22 A Angelo, he's a friend.

23 Q He's a friend. And how did you know
24 Angelo?

25 A I know Angelo from doing tattoos.

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1 Q Okay. And so Angelo is a friend. Is
2 Angelo friends with Tasha and Rod?

3 A No.

4 Q Is Angelo from Columbia?

5 A Yes, ma'am.

6 Q You knew him from Columbia?

7 A I knew him from Columbia. I don't know
8 exactly what he do.

9 Q But you knew him from Columbia?

10 A Yes, ma'am.

11 Q He wasn't from Batesburg-Leesville?

12 A No.

13 Q He was from around there. And he did
14 tattoos?

15 A Yes, ma'am.

16 Q And was he somebody you just hung out
17 with?

18 A Yes, ma'am.

19 Q So you called him and asked him about a
20 gun?

21 A Yes, ma'am, because I knew he keeps one.

22 Q Okay. And what did you ask him?

23 A I had asked him, I was like, "If I could
24 hold your gun, my cousin says he's got a little
25 lick." He was like, "Well, what kind of lick?" I

1 said, "He wants me to come rob him at his job or
2 whatever.

3 And he was like, you understand, what it's
4 like. I was like, "Well, he said it's like
5 \$18,000." And he was like, "Well, Cuz, I can't
6 really let you hold it. But I'll come with you."

7 Q Okay. And what did you think about that?

8 A I was like, "All right, that's cool,"
9 because I ain't never really done nothing like that.
10 And he was like, "All right, that's cool," you know
11 what I'm saying.

12 Q And you've never really done anything like
13 that, like what?

14 A Like a robbery and a job, no.

15 Q Okay.

16 A I've done nothing like that. So I was
17 like, "Okay." So he told me, he was like, "Just
18 call me later on whenever you're ready. I'm going
19 to be doing a tattoo."

20 Q Okay. And so what did you do after that?

21 A I was just in the neighborhood. I knew
22 people in the neighborhood.

23 Q You were just hanging out in the
24 neighborhood at that point?

25 A Hanging out in the neighborhood.

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1 Q So did you talk to Rod again?

2 A I had talked to him. He was like, "This
3 is what we're going to do." He was like, "I want
4 you to come rob me at my job." I told him, I was
5 like, "I'm got my home boy. He's got a smaller
6 pistol or whatever" and asked him if he approved of
7 it. He was like, "Yes, that's cool."

8 So I had let him -- I was like, "All
9 right. So what you want us to do?" And he was
10 like, "I want you to come hold me at gunpoint.
11 Whoever's got the gun hold me at gunpoint, and we're
12 going to do a lick." I think he said it was a
13 female there.

14 He was like, "You put them in the freezer,
15 whoever's got the gun put them in the freezer." And
16 he said -- and then he said he's going to empty the
17 money in a bag, and we're going to go to his house
18 and split the money.

19 Q Put them in the freezer, and then what do
20 you do after you put them in the freezer?

21 A We was going to -- Rod said whoever was
22 holding him with the gun, he's going to give us the
23 money, and we was going to --

24 Q Somebody's supposed to point a gun at him,
25 too?

1 A Yes, ma'am.

2 Q He'll empty money into a bag, and then
3 what?

4 A And then we was going to leave.

5 Q Okay. Now, did he tell you anything
6 specific about what to wear, what to bring?

7 A He told me to have on long sleeves,
8 something to cover my face.

9 Q Did you already have long sleeves with
10 you? Were you already wearing long sleeves?

11 A No, ma'am. I believe I had got some long
12 sleeves from his house and some clothes that I had
13 left over there.

14 Q Okay. So you had long sleeves and
15 something to cover your face. Did you have
16 something to cover your face?

17 A Angelo had gave me something to cover my
18 face.

19 Q What did Angelo give you?

20 A He gave me a bandanna, a dark-colored
21 bandanna. I believe it like black or dark blue.

22 Q Did he say which door to go to, how you
23 were supposed to get in the store?

24 A He said, "I need y'all to wait by the
25 garbage can, and I'm going to send the old man to

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1 come out where they take out the trash at 11 or
2 probably at 10." And he was like, "Whoever's got
3 the gun, go hold him at gunpoint and walk him back
4 in the door, and he'll tell you, like he would know
5 where to come in." I was like, "All right."

6 Q Had you ever met this old man before?

7 A No, ma'am.

8 Q Meon, back in that time, you texted a lot
9 of people, correct?

10 A Yes, ma'am.

11 Q Who all did you like to text?

12 A Who all did I like to text? People that
13 texted me, like family, friends, I'd text on back.

14 Q Did you have a girlfriend?

15 A No, not at the time. No, ma'am, I didn't.

16 Q Did you have a lot of friends that were
17 girls?

18 A Yes, ma'am.

19 Q Did you text a lot of friends that were
20 girls?

21 A Yes, ma'am.

22 MR. O'NEILL: Can we move that?

23 THE COURT: Yes.

24 Please place the easel where it won't
25 obstruct the view of defense counsel.

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1 Q So earlier in the day, you talked about
2 getting a phone call. Do you recall what time you
3 woke up that day?

4 A I really can't tell outside, because my
5 brother, he keeps like something over the window, so
6 I ain't really seen what it was, how it looked
7 outside.

8 Q Okay. At 1:10, you get a call from 629-
9 3036. Do you recognize that number?

10 A I believe I do recognize that number.

11 Q Was that Rod's number?

12 A Yes, ma'am.

13 Q Okay. You get a call then, and then a few
14 minutes later -- that was a one-minute call. A few
15 minutes later, at 1:52, when you called -- you got
16 an incoming call from Rod's phone for seven minutes.
17 Is that the call you were talking about where you
18 talked to Rod?

19 A Yes, ma'am.

20 Q And after that phone call, you said you
21 called Van. That was 422-5367, Van's number, do you
22 remember that?

23 A It could be.

24 Q Okay. It's already been testified to that
25 was Van's number. So you called --

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1 MR. O'NEILL: Objection, Your Honor.

2 THE COURT: You have to ask the witness
3 what he knows, counsel.

4 MS. WEISS: Okay.

5 Q So you called Van, and then at 4:23 -- if
6 you'll look on there where my fingers are -- at
7 4:23, you called Rod. Would that be about right?
8 And at 1809, a call from Rod.

9 You talked to him again for five minutes,
10 and that would be at 6:09. That was five minutes.
11 So those were the phone calls that you had earlier
12 in the day with Rod? Those are the ones you're
13 testifying to now?

14 A Yes, ma'am, I believe so.

15 Q Did you talk to Rod in person at his
16 apartment at all?

17 A No, ma'am.

18 Q Okay. And so you talked to him during
19 those three phone calls on the phone?

20 A Yes, ma'am, I believe so.

21 Q And then he gave you the instructions to
22 wait by the garbage can, and walk the man back in
23 the store, and then follow through with the other
24 instructions that you have previously told us?

25 A Yes, ma'am.

1 Q And how many people did he tell you would
2 be in the store?

3 A He told me it was going to be a girl, him,
4 and a guy, and the old man.

5 Q And did he tell you anything, any details
6 about those people that were going to be in there
7 with him, other than there was an old guy?

8 A No, ma'am. He didn't explain no details.

9 Q Did you ask any questions about the people
10 that were going to be in there?

11 A He was like, "Well, the guy is old." And,
12 you know, he said he was going to send him out.

13 Q Did he ever tell you to do anything beyond
14 just hold a gun to their heads?

15 A No, ma'am.

16 Q Did he tell you where the money would be?

17 A No, ma'am.

18 Q All right. So you stayed, you said you
19 were hanging out in the neighborhood. About what
20 time did you get back to Tasha and Rod's house, do
21 you recall?

22 A I got back -- I mean, I been there like
23 just in and out.

24 Q Okay.

25 A Hanging in and out, like if I got thirsty,

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1 go get something to drink.

2 Q Did you ever talk to Tasha about what time
3 y'all needed to leave?

4 A Tasha said she already had basically just
5 knew what time we was supposed to leave. She was
6 like, "You know you need to be ready like around
7 ten, 10:00, 10:30."

8 Q Well, how would she know when you needed
9 to leave? Did you tell her about Angelo?

10 A Did I tell her about Angelo? Yes, I told
11 her about Angelo.

12 Q And when did you tell her about Angelo?

13 A I told her about Angelo like after the
14 conversation when I got off the phone with him.

15 Q When you got off the phone with who?

16 A With Angelo. It was like, "Well, he's got
17 a gun, and he said whenever we ready, for me to go
18 pick him up."

19 Q Did you tell her where he was going to be?

20 A I believe I had called him back and asked
21 him where he was going to be. I called him back,
22 and he said -- when I called him back and I asked
23 him where he was going to be, he said he was at in
24 front of -- at some trailers in front of Sandhills,
25 I think, right off of Two Notch.

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1 Q And Angelo just said, "Sure, come pick me
2 up. I'll bring a gun. I'll go with you to do a
3 lick"?

4 A Yes, ma'am.

5 Q Okay. And this was all Rod's idea?

6 A Yes, ma'am.

7 Q And you didn't have any other information
8 about this other than -- did you give Angelo these
9 details, "This is what we're going to do"?

10 A Yes, ma'am.

11 Q Did you tell him that on the phone before
12 you went and picked him up?

13 A Not on the phone. I told him like once we
14 got like in the car. He asked, like, "What we going
15 do?"

16 Q So you told Tasha you had to go pick up
17 Angelo somewhere over by Sandhills?

18 A Yes, ma'am.

19 Q And then that's when she told you what
20 time to be ready?

21 A Yes, ma'am.

22 Q Okay, so around 10:00. Do you know if
23 Angelo was working that day?

24 A I knew he was working earlier that day
25 when I first called him.

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1 Q Okay.

2 A He was working at the tattoo shop on
3 Parklane.

4 Q So you -- where did you sit in the car?

5 A I sat in the passenger seat.

6 Q And what were you wearing?

7 A I was wearing gray.

8 Q You were wearing gray. You were wearing
9 gray on the outside of your shirt, or was it a
10 short-sleeved shirt or long-sleeved shirt?

11 A It was a long-sleeved gray shirt -- and
12 some gray pants.

13 Q Is that the shirt you were wearing, a
14 long-sleeved gray shirt?

15 A No -- no, ma'am. I ain't never seen that
16 shirt before.

17 Q You were wearing a white T-shirt
18 underneath it?

19 A I believe I wore a white Jordan T-shirt.

20 Q You were wearing a gray shirt outside --
21 on the outside?

22 A Yes, ma'am, it was a light gray shirt.

23 Q Okay.

24 A It wasn't no V-neck on it. It was a
25 thermal like the one I have on now. It was light

1 gray.

2 Q A thermal light gray shirt?

3 A Yes, ma'am.

4 Q Like that one?

5 A No, it wasn't no V-neck with no red on it
6 or anything. It ain't had no other colors on it.

7 Q No, no, no. The red was written on it.
8 It this the gray thermal?

9 A No, ma'am, I ain't never seen that shirt
10 before.

11 Q But you were wearing a gray thermal shirt
12 with long sleeves?

13 A Yes, ma'am.

14 Q Okay. And you sat in the front passenger
15 seat?

16 A Yes, ma'am.

17 Q So where did you go to pick up Angelo?

18 A We picked him off of Two Notch in some
19 trailer parks right at Sandhills Mall.

20 Q Who gave directions to go pick him up?

21 A He gave directions. I told Tasha where he
22 was.

23 Q Okay. How did you know where he was?

24 A Because he told me where he was.

25 Q All right. So you knew Tucker's cell

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1 phone number in your phone, right?

2 A He is in my phone. I don't know his
3 number by heart.

4 Q Okay. But you called him several times
5 until you picked him up. Until y'all picked him up,
6 you were on the phone with him?

7 A Yes, I think when we got in the
8 neighborhood, I was on the phone with him to ask him
9 where the house was located. And he told me where
10 it was. And then when we pulled up in front of it,
11 that's when I got off the phone with him.

12 Q Okay. So you got off the phone with him.
13 And where was he?

14 A He was inside the apartment -- not
15 apartment, the trailer.

16 Q He was inside?

17 A He just was coming out. Probably he was
18 like on the porch.

19 Q He was on the porch. So you saw Angelo on
20 the porch, and what did you do next?

21 A I was about to walk up there, but it was a
22 big dog in the front yard. So I ain't walked in the
23 yard. So I stood by the car, and then he came out.
24 And we talked, and we shared a cigarette.

25 And I was like, "Are your ready?" He was

1 like, "Yes." And I told him if he had his long
2 sleeves and stuff like that, and he already had it
3 on.

4 Q What was he wearing, do you remember?

5 A I believe he had on a black T-shirt and a
6 white thermal.

7 Q So you were wearing gray, he's wearing
8 black and white. Did he have anything with him?

9 A He had a bookbag and a gun.

10 Q Where was the gun?

11 A I don't know. I didn't see the gun until
12 we got in the car and he pulled it out. And I
13 looked back, and he said he had it. He was like,
14 "I've got it right here."

15 Q Do you know where he normally carries the
16 gun?

17 A Either in his bookbag or probably on his
18 waist, in his back pocket, or something like that.

19 Q So you do know that that bookbag is one
20 place where he carried that gun?

21 A Yes, ma'am.

22 Q All right. So he gets in the car, and
23 what happens next?

24 A He gets in the car, and I gave him the
25 details of how we've got to go out to the garbage

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1 can. And Tasha was like, "When we get" --

2 Q Okay, don't talk about what other people
3 said. What did you tell Angelo you had to do?

4 A I told Angelo that we had to -- I was
5 like, "You've got the gun, so you've got to hold my
6 cousin up. And I got to put people in the freezer.
7 And we're going to keep the money, and then we're
8 going to leave and come back at his house, and then
9 wait for him to come home. Then we're going split
10 the money." And I told him like that.

11 Q You started out with "We've got to stand
12 by the trash can"?

13 A Yes, ma'am. He said we've got to go by
14 the trash can, and I was like, "That's what we've
15 got to do." And Tasha was like, "All right" --

16 Q We're not talking about what other people
17 said. Just talk about what you said.

18 A That's what I said.

19 Q You said, "We've got to stand by the trash
20 can"?

21 A Yes, ma'am.

22 Q Okay. Did you tell him any other details
23 about what you were waiting for at the trash can?

24 A I told him we was going to wait for the
25 guy to come out that he said would come. Somebody

1 was supposed to take out the trash, and we was
2 waiting for the guy to come with the trash.

3 Q Okay. And what were you supposed to do
4 when the guy came with the trash?

5 A We was just supposed to hold him at
6 gunpoint and just walk him inside the building.

7 Q Did you know what door to take him to?
8 How were you supposed to know where to go?

9 A I guess we was going to tell the dude what
10 door.

11 Q Okay. So you had no details as to which
12 door to take him to?

13 A No, ma'am, I ain't had no details.

14 Q And then what were you supposed to do when
15 you got inside?

16 A What we supposed to do? We were supposed
17 to -- whoever had the gun was supposed to hold Rod
18 at gunpoint, and whoever didn't have a gun was going
19 to put the people in the freezer. Rod was going
20 give us the money, and we was going to leave.

21 Q Was there any mentioning about pistol
22 whipping?

23 A Rod was like hit him with the gun, "But
24 don't hit me hard." He was like, "Just make it look
25 like, you know, it's a robbery."

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1 Q So what else did y'all talk about in the
2 car, do you remember?

3 A Once we got in the car, Tasha, she said --

4 MR. O'NEILL: Objection, Your Honor,
5 hearsay.

6 THE COURT: Sustained.

7 Q Please don't talk about what anybody else
8 said, only what you said, and what Rod said, and
9 what you did, okay?

10 A Well --

11 Q Did you talk about anything else in the
12 car?

13 A No, ma'am.

14 Q Okay. Were you on your phone in the car?

15 A Yes, ma'am, I just was using my phone. I
16 believe I was texting.

17 Q Okay. Did you see if Tasha was on the
18 phone?

19 A Yes, ma'am, she was on the phone.

20 Q And were you paying any attention to what
21 Angelo was doing?

22 A He was texting on his phone.

23 Q Do you remember about how long it took you
24 to get to Batesburg?

25 A It felt like 20 minutes or so.

1 Q Did it feel like a long time?

2 A Not really, no -- no, ma'am.

3 Q What were you thinking at that point when
4 you were in the car?

5 A I was just thinking, you know, like what's
6 going on really, you know what I'm saying, how it's
7 going to turn out. You know, I was just thinking to
8 get what we came for and just come back.

9 Q Why were you willing to do this?

10 A I was willing to do this because at the
11 same time, he told that he was going to get evicted.
12 And at the same, I did want some money. And I
13 didn't want to see my little cousin, you know, being
14 evicted and stuff like that.

15 Q Had he ever told you before that they
16 might get evicted?

17 A No, he told me that day.

18 Q Did he ever tell you on any other
19 occasion?

20 A No, ma'am.

21 Q So what did y'all do when you drove into
22 Batesburg?

23 A We drove into Batesburg. And when we
24 drove into Batesburg, we -- we was --

25 Q All right, let me see if this will help.

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1 I'm going to show you what's been entered as State's
2 Exhibit Number Two. Do you recognize this map --
3 take a look at it -- McDonald's?

4 A Yes, ma'am, right there.

5 Q Why don't you step down so you can talk to
6 the jury? You have to speak up so the Court
7 Reporter can hear you. What did you do when you got
8 into Batesburg?

9 A When we got into Batesburg --

10 Q Speak up.

11 A That's the light right here?

12 Q Uh-huh.

13 A We was like over here.

14 THE COURT: I think you might be blocking
15 out part of the jury.

16 MS. WEISS: Yes.

17 THE COURT: If you could kind of stand to
18 the stand. There you go.

19 MS. WEISS: There we go.

20 A We was over here, and she was like --

21 Q Speak up. Speak up so we can hear you.

22 A We was right here. We got out -- we
23 didn't get out right here. We drove around. It was
24 like, "I'm going to be parked right here." That's
25 what Tasha stayed. It was somewhere over here.

1 "I'll be parked right here. I'm going to let y'all
2 out right here" --

3 Q No, don't talk about what she said. Talk
4 about what y'all did.

5 A Oh, well, we drove around, and then we got
6 out right here at the light. And then we ran --

7 Q Who is "we"? Who got out at the light?

8 A Me and Angelo, we got out at the light.

9 Q Speak a little bit louder so everybody can
10 hear you.

11 A Me and Angelo, we got out at the light,
12 and we ran over here to the trash can.

13 Q Okay. And then once you got to the trash
14 can -- the trash can is here -- where did you
15 position yourselves at the trash can?

16 A I positioned myself on the inside.

17 Q Inside the trash can?

18 A Yes, ma'am.

19 Q Okay.

20 A And I believe Angelo got on top, somewhere
21 like on top of the trash can to watch out for the
22 guy.

23 Q Okay. You believe he did, or you know he
24 did?

25 A He did.

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1 Q Okay.

2 A He did. And he waited.

3 Q Okay, thank you. You can sit back down.

4 Did Rod tell you why to go to the trash can?

5 A He told me to go to the trash can because
6 he said that's where he was going to send the dude
7 out so we can walk him back into the store.

8 Q Did he ever talk to you about surveillance
9 cameras?

10 A I don't remember him mentioning anything
11 about surveillance cameras.

12 Q So y'all positioned yourselves at the
13 trash can?

14 A Yes, ma'am.

15 Q Could you see the drive-through windows?

16 A Yes, ma'am.

17 Q I'm going to show you State's Exhibit
18 Forty-Three. Is this the trash can you're
19 referring?

20 A Yes, ma'am.

21 Q When you say you got inside, you got
22 inside that door right there?

23 A No, ma'am. I believe it was like an
24 opening like a door on one side, but it didn't have
25 no door. And I looked, and I just walked in. But I

1 was over there on that side.

2 Q So you were on that side --

3 A Yes, ma'am.

4 Q -- when you were waiting?

5 A Yes, ma'am.

6 Q Okay. And was Angelo in there with you?

7 A Yes, ma'am.

8 Q How long did y'all wait there?

9 A We waited --

10 Q Was it a long time or a short time?

11 A It wasn't long.

12 Q Okay. And did you hear something or see
13 something first?

14 A I heard the wheels on the trash can.

15 Q Okay. Were they kind of loud?

16 A Yes, they was kind of loud. But I heard
17 it.

18 Q Okay. And did you see anybody else out
19 there?

20 A No, ma'am, I didn't see nobody because of
21 the way I was positioned then.

22 Q When y'all over to the trash can, did you
23 see anybody around the trash can?

24 A No, ma'am.

25 Q Okay. Did you see anybody in the parking

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1 lot walking around?

2 A No, ma'am.

3 Q Did you have any marijuana on you?

4 A No, ma'am.

5 Q Did you try to sell anybody any marijuana?

6 A No, ma'am.

7 Q So you waited there, and you heard the
8 wheels on the trash can. And what did you -- did
9 you and Angelo say anything?

10 A He -- Angelo -- said he was going to get
11 on top --

12 MR. O'NEILL: Objection, Your Honor,
13 hearsay.

14 THE COURT: Sustained.

15 Q Did you say anything to Angelo?

16 A Not that I can think of.

17 Q Okay. Who had the gun at this point?

18 A Angelo still had the gun at this point.

19 Q And did Angelo have his bookbag?

20 A Yes, ma'am.

21 Q Angelo had the gun; Angelo had his
22 bookbag. Why didn't you have the gun?

23 A Why didn't I have the gun?

24 Q Yes.

25 A Because Angelo told me that I couldn't

1 hold it, that he was going come with me, so he had
2 the gun.

3 Q And that was okay with you?

4 A Yes, that was okay with me.

5 Q Why was that okay with you? It was your
6 lick.

7 A Because I didn't want to hold the gun,
8 really. If I could have hold the gun, I would have
9 held the gun.

10 Q Okay. So Angelo has the gun. What
11 happens next?

12 A Angelo had the gun. I see him run out the
13 little door. And when he run out, he was like,
14 "There he goes. Get ready." And then when he ran
15 out, the only thing I heard -- I was coming out, and
16 I heard like somebody laugh.

17 Q Was it Angelo laughing?

18 A No, ma'am, it wasn't Angelo laughing.

19 Q Who was laughing?

20 A The guy.

21 Q So the old man?

22 A The old man.

23 Q He was laughing. And what did the old man
24 that was laughing do?

25 A They was wrestling over the gun. They was

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1 wrestling, and then the gun dropped. So I picked it
2 up. When I picked it up, he rushed me. When he
3 rushed me, he was like he was on my back. And I got
4 the gun pointed at the ground, so I fired at the
5 ground a couple of times.

6 And then when he finally let me go -- when
7 he finally let me go, I looked back, it looked like
8 he had got shot in his leg. So I'm thinking like,
9 "I done shot this guy." So I ran.

10 Q All right. I'm going to back you up just
11 a minute. Angelo Tucker goes out with the gun,
12 holding the gun to an old man who starts laughing.
13 Did he get the better of Angelo pretty quickly?

14 A When I came out, I didn't really see if he
15 held the gun. When I come out, I just heard some
16 laughing. And when I heard the laugh, I come out.
17 And they was wrestling already. So they're
18 wrestling. When I see them wrestling, I'm like, "I
19 don't know what to do." So when the gun fell, I
20 picked it up.

21 Q Okay. Before this gun fell -- I'm going
22 to show you again State's Exhibit Forty-Three. You
23 said you heard the wheels on the cart. Is that the
24 cart you're talking about?

25 A I guess so.

1 Q Okay. Where was the victim -- where was
2 the old man, as he was called -- standing in
3 relationship to that cart?

4 A Maybe he was like -- he wasn't even by the
5 cart when I first came out.

6 Q Where were they?

7 A They was like behind the cart somewhere.

8 Q Like over that way?

9 A Yes, like behind it.

10 Q They were moving back towards that --

11 A They was moving back towards this way.

12 Q Okay. They were wrestling, and the gun
13 dropped.

14 A Yes, ma'am.

15 Q How long was that wrestling? How long did
16 that take?

17 A It didn't take long, not at all.

18 Q It was pretty quick --

19 A Yes, ma'am.

20 Q -- and Willie Jennings got the gun out of
21 Angelo's hand?

22 A Yes, ma'am.

23 Q At that point, why didn't y'all just run?

24 A At that point, why didn't we run?

25 Q Yes.

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1 A Because I don't know. I just thought to
2 pick the gun up, and, you know, to continue with the
3 robbery.

4 Q So you had just seen this man knock the
5 gun out of Angelo's hand, Angelo who's used to
6 carrying a gun get the gun knocked out of his hand,
7 and you decide to pick it up and go after him again?
8 Do you think he's going to go with you this time?

9 A What you mean, think he's going to go?

10 Q You think he's just going to say, "Oh,
11 okay. Now you have the gun. I'll just walk with
12 you"?

13 A Yes, that's what I sort of kind of
14 thought, yes, ma'am.

15 Q You were 18 years old, right?

16 A Yes, ma'am.

17 Q Does that make sense today?

18 A Not really.

19 Q That he just wrestled with Angelo,
20 wrestled a gun out of a man's hand, and now you pick
21 up the gun, and he's just going to say, "Oh, okay.
22 Now that you have the gun, I'll just walk in with
23 you"?

24 A Because -- I did it because I didn't know
25 that -- I know that he really didn't see me. That's

1 why he was wrestling with him.

2 Q Okay. But does that make sense to you
3 sitting here today?

4 A So now it's two of us, and now I've got a
5 gun. I can see the two of us, and I didn't think
6 that he was going wrestle with me.

7 Q Okay.

8 A And now it's two of us.

9 Q You didn't think he was going to wrestle
10 with you. What happened when you picked up the gun?

11 A He wrestled with me.

12 Q And I show you State's Exhibit Thirty-
13 Nine. I'm going to ask you to step down again. So
14 looking at this picture, it's a lot smaller. But
15 there's the big trash can, the dumpster. And you
16 said they were moving back this way towards the
17 drive-through wrestling, and you pick up the gun.
18 Where are you standing?

19 A I believe right in here. I don't remember
20 like --

21 Q Well, that's the dumpster right there.

22 A They were back over here.

23 Q There's the dumpster, and there's the
24 front of the dumpster.

25 A I just remember like being somewhere --

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1 COURT REPORTER: He's mumbling. I can't
2 hear him. He needs to go on the other side of you.

3 MS. WEISS: Come on the other side of me,
4 sorry.

5 A I just remember being somewhere about the
6 trash can. They moved back, so they was wrestling
7 somewhere over here.

8 Q Okay.

9 A And then the gun dropped, and I picked it
10 up.

11 Q And so where were you when the gun
12 dropped?

13 A The gun dropped like over here, I guess.

14 Q Okay. So y'all were still -- you were not
15 in front of the trash can at this point anymore?

16 A No.

17 Q Y'all had been moving towards the
18 McDonald's? The wrestling was moving back towards
19 the McDonald's?

20 A Yes, the wrestling was moving.

21 Q All right. So you pick up the gun, and do
22 you point it at Willie Jennings?

23 A Yes, ma'am, I was kind of like -- I was
24 about to say when I come over, you know what I'm
25 saying, like --

1 Q Turn around so that the jury can see.

2 A I just like kind of pointed at the ground.

3 Q You pointed at the ground?

4 A Yes, ma'am.

5 Q Where was Willie Jennings standing?

6 A He was --

7 Q He was standing right in front of you?

8 A Yes, ma'am. And I just pointed it like,

9 you know what I'm saying?

10 Q No, I don't know what you're saying. What

11 were you saying?

12 A I told him, I was like, "Now don't move

13 and just come on." And he rushed me. He grabbed my

14 hand.

15 Q Did he laugh again?

16 A No.

17 Q Okay. He rushed you, and he grabbed your

18 hand, like that?

19 A Yes, ma'am.

20 Q And then what happened?

21 A I turned this way.

22 Q Okay. So he's still got your hand and the

23 gun --

24 A Yes, ma'am.

25 Q -- and the gun's pointing that way?

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1 A Yes, ma'am.

2 Q And he --

3 A It was body weight on me. It's like --

4 Q I'm sure he's bigger and a lot bigger than

5 I am?

6 A Yes, ma'am. So --

7 Q So he's on you?

8 A So I'm trying to pull away.

9 Q Okay.

10 A So I realized I can't do nothing, so I

11 shot at the ground.

12 Q You shot at the ground?

13 A Yes, ma'am, to get him off.

14 Q Okay, that's one shot. Now, this is the
15 gun we're talking about. It's kind of a little gun.

16 A Yes, ma'am.

17 Q So you've got pretty good sized hands.

18 You've got the gun, and you point it at the ground.

19 And so what did he do after you shot once?

20 A We're still wrestling over the gun. So I
21 pulled the trigger two more times, I guess.

22 Q You guess? So you know --

23 A I know I pulled the trigger two more
24 times.

25 Q But he's got your hand, he's got his

1 weight on you, so do you know exactly where that gun
2 was pointed?

3 A No, ma'am.

4 Q Where were you trying to point?

5 A I was just shooting at the ground to get
6 him off me. I wasn't trying to hurt nobody. That
7 wasn't my intentions. I wasn't trying to hurt
8 nobody. I ain't one to hurt.

9 Q Right. You didn't want to hurt him. But
10 you pointed a loaded gun at him and shot the gun
11 three times while he's wrestling with you and that
12 gun is in your hand moving around. At that point,
13 did you know you had shot Willie Jennings?

14 A No, ma'am.

15 Q Okay. So what did you do after you fired
16 the gun three times?

17 A After I fired the gun three times, I
18 looked back to see what happened, because he had
19 fell, like he had let me go, and he was hopping like
20 he was he had got shot in the leg. So I thought, I
21 was like, you know, "I done shot this man, and I
22 shot him in his leg." So I ran.

23 Q So you just shot this man. You thought
24 you shot him in the leg. You turn around, and you
25 see him.

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1 A It was like right there. And I ran.

2 Q And what were you thinking at that moment?

3 A I had --

4 Q In your words, what were you thinking?

5 A I had messed up.

6 Q And it was just that calm, "I messed up"?

7 A No, not that calm really. I was just
8 like, "I done messed up, and I need to get away from
9 this place right now. I need to go back to the
10 car."

11 Q Okay. So you still had gun, and then what
12 did you do?

13 A What did I do? I ran.

14 Q You ran. Where did Angelo go?

15 A He followed behind me.

16 Q So he ran, too?

17 A Yes, ma'am.

18 Q Okay. You can go sit back down. So Rod
19 Cook told you he was going to send an old man out to
20 the trash can?

21 A Yes, ma'am.

22 Q Was Willie Jennings what you thought --
23 did he look kind of like an old man when you first
24 saw him?

25 A Yes, ma'am.

1 Q All right. He looked like one, didn't he?

2 A Yes, ma'am.

3 Q Did he act like the old man you thought
4 Rod Cook was sending out to that trash can?

5 A No, ma'am.

6 Q So it was at first when he got the gun out
7 of Angelo's hand that you knew it was messed up.
8 But by the time you shot him, you knew the plan's
9 over?

10 A Yes, ma'am.

11 Q And you ran. And where did you run?

12 A I ran back to the car.

13 Q Okay. And where was the car parked?

14 A I can't really tell you. It was parked
15 like by a Waffle House.

16 Q Okay. And where did you get in?

17 A I got back in the passenger seat.

18 Q Okay. Passenger seat in the front?

19 A In the front.

20 Q Okay. What did you do with the gun?

21 A Angelo told me to wipe it off. I wiped it
22 off, and I put it in the glove compartment.

23 Q You wiped it off with what?

24 A My shirt.

25 Q With your T-shirt?

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1 A No, it was my shirt.

2 Q Your shirt, okay. And what did you do?
3 Something we didn't mention before, you said that
4 Angelo gave you a bandanna. At what point, if any,
5 did you use the bandanna?

6 A It was already on my face like when we got
7 out of the car. I had put it on my face.

8 Q Okay. You put it on your face when you
9 got out of the car or when you got in the dumpster?
10 A When I got in the dumpster.

11 Q So you had it with you when you got out of
12 the car.

13 A Yes, ma'am.

14 Q You get in the dumpster, and you put it on
15 your face?

16 A Yes, ma'am.

17 Q Why did you put it on your face?

18 A Because I knew that we was about to rob
19 the store, and it was just basically that time to
20 put it over my face.

21 Q Okay. And when did you take it off your
22 face?

23 A When I got back in the car.

24 Q Did you still have it on while you were
25 fighting with Mr. Jennings?

1 A Yes, ma'am.

2 Q What did you do with the bandanna when you
3 took it off your face?

4 A I took it off my face, and I believe I set
5 it down in the car somewhere.

6 Q Did you wrap it around the gun, put it in
7 there with the gun?

8 A I think so.

9 Q Is that the bandanna you're talking about?

10 A Yes, ma'am.

11 THE COURT: Refer to it by exhibit number,
12 please.

13 MS. WEISS: Certainly. I'm sorry.

14 Q State's Exhibit Nineteen, is this the
15 bandanna you're talking about?

16 A Yes, ma'am.

17 Q Did you say anything when you got in the
18 car? Not what anybody else said, did you say
19 anything when you got in that car?

20 A No, ma'am. They was just like said
21 something to me.

22 Q And what did you say in response?

23 A I said, "I didn't mean to do it, Bra."

24 Q Did you say why you did it?

25 A Because he had -- he was strong. I had to