

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

RECEIVED

Oct 02 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ALLEN ANGELO FIELDS,

APPELLANT

APPELLATE CASE NO 2019-001393

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 47 (TD SURVEILLANCE VIDEO)

STATE OF SOUTH CAROLINA.	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
State of South Carolina,	)	CASE NO. 2017-GS-10-2131
	)	CASE NO. 2017-GS-10-2132
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	ORIGINAL
	)	
Allen Angelo Fields,	)	
	)	
DEFENDANT.	)	
	)	

August 12, 2019 to August 14, 2019

Charleston, South Carolina

B E F O R E:

The Honorable Bentley Price, and a Jury.

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I N D E X

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(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

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If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARK</u>	<u>ADMIT</u>
1	Photo	50	80
2	Photo	50	80
3	Photo	50	80
4	Photo	50	80
5	Photo	50	80
6	Photo	50	80
7	Photo	50	113
8	Photo	50	113
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<u>S T A T E E X H I B I T S</u>			
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65	Allison Wilson Id'ing Car	50	108
66	CDR's for 843-509-1738	50	---
67	Inmate Transaction Logs	50	---
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PROCEEDINGS

THE COURT: All right. Good morning. We are here on The State versus Allen Fields. He's being indicted for armed robbery and possession of a weapon during the commission of a violent crime.

Here for the State is David Osborne and Lem Zeigler. And Mr. Daniels and Ms. Norris are representing Mr. Fields.

Real quickly, I wanted to go over the voir dire before we brought up the jury. Obviously, I am going to give them the standard voir dire that we typically have.

And, Mr. Daniels, if you'll remind me I will ask the entire panel before they begin if they are part of any law enforcement agency or work inside the walls of a courthouse. That is the one that's missing from Judge Young's cheat-sheet. I keep saying I am going to put it in there. And somehow it's laminated and I can't figure out how to un-laminate it. So that's the problem.

So I received both the State's and the defense's. Have y'all both taken a look at either -- either's?

MR. OSBORNE: I have, Your Honor, ---

THE COURT: Okay.

MR. OSBORNE: --- and I have no objection to anything from the defense.

THE COURT: All right.

MR. DANIELS: We object to question one.

1 THE COURT: All right, one. As to?

2 MR. DANIELS: Relevancy. Space travel is not an issue in
3 this.

4 THE COURT: Yeah, I agree. The only issue with that, Mr.
5 Osborne, that's just going to confuse the jury. I appreciate
6 it. I understand it, you understand it, we all understand it.
7 They are not going to understand it, so I am going to take
8 that one out.

9 And any objection to any of the others?

10 MR. DANIELS: No, Your Honor.

11 THE COURT: All right. So I am going to ask State's Voir
12 Dire 2, 3, 4 and 5; and Defense Voir Dire 1 through 14. And,
13 also, I am going to give them the standard voir dire questions
14 as well.

15 Just for purposes of scheduling, before the jury gets in
16 here, I see that the State has four CPD officers. Are they
17 all four here and ready to go? Like I guess my question is
18 how long do you think each will take?

19 MR. OSBORNE: Well, that's not -- that is not our witness
20 order.

21 THE COURT: Okay.

22 MR. OSBORNE: I have five witnesses on standby this
23 afternoon.

24 THE COURT: Okay.

25 MR. OSBORNE: I thought that was -- I mean I can get more

1 Your Honor, we have an objection, or may we approach the
2 bench, don't consider that to be anything worrisome or
3 anything along those lines, that we're keeping anything from
4 you. It just may be an issue of law that only I need to
5 consider.

6 There may also be times where I ask you to excuse
7 yourself from the courtroom and I need to take up a matter of
8 law, because we may want to discuss the facts and I don't want
9 you to think that I have any opinion whatsoever about the
10 facts. I don't know the facts. All right? I am only to
11 determine the law. Y'all are the sole judges of the facts.

12 At the close of this trial, I'm going to come back to you
13 and I'm going to give you the law in which you are to apply
14 the facts that were given to you in this case, to the law that
15 I charge you, and you will apply the two to determine what
16 your verdict will be. All right?

17 All right. Mr. Osborne, you may proceed.

18 MR. OSBORNE: Thank you, Your Honor. May it please the
19 Court?

20 THE COURT: Yes, sir.

21 OPENING STATEMENT

22 MR. OSBORNE: We are all here because this defendant made
23 a decision. He made the decision to arm himself with a knife
24 and go into the bank and commit a robbery.

25 Now, this is not your typical sort of bank robbery.

1 You're not going to hear about any guns being fired, you're
2 not going to hear about any hostages being taken, or anything
3 like that. So by all accounts, this is really a pretty low-
4 key bank robbery. But ladies and gentlemen, it is a bank
5 robbery nonetheless. And his decision to arm himself and rob
6 that bank should have a consequence.

7 The robbery occurred on September the 13th of 2016 at
8 about 4:44 p.m. The bank that was robbed is a TD Bank. It's
9 in West Ashley. If you're familiar with West Ashley and
10 you're coming down Sam Rittenberg, it's right at Sam
11 Rittenberg and New Orleans Road. Pretty much across the
12 street from the Best Buy.

13 Directly next to that bank is a gas station. I think
14 it's a Seven-Eleven now, but it used to be a Sonoco.
15 Separating the bank and the Sonoco is a chain-link fence.

16 You will see surveillance video from that gas station
17 minutes before the robbery. And on that video what you will
18 see is a black Chevrolet Impala come through the parking lot
19 of the gas station, come back out on Sam Rittenberg, and come
20 back through the parking lot again. Then you'll see it back
21 into a spot directly next to that chain-link fence.

22 Shortly after that, you will see an older black male walk
23 from the direction of the Impala toward the gas station.
24 You'll see that he goes into the gas station and he orders a
25 beer. He comes back out, and then he walks back toward the

1 Impala. That individual is not the person who robbed the
2 bank.

3 Shortly after that, the defendant enters the bank. Now,
4 he attempts to conceal himself by wearing shades and a hat.
5 He goes up to one teller, presents a knife, and demands money.
6 She surrenders currency. She puts it into a bag.

7 He then goes to the second teller and goes through the
8 same routine. Presents a knife, demands money. In total,
9 they surrender about \$5,300. The defendant then leaves the
10 bank, runs out, jumps the fence, and then enters the passenger
11 side of that Chevrolet Impala.

12 You'll hear through the investigation of that man
13 [indicates], Detective Richardson, that he learned that that
14 Impala is registered to a woman by the name of Janae Nelson.
15 Janae Nelson is the girlfriend to a person by the name of
16 Christopher Wright. They have a child together. Christopher
17 Wright is his brother.

18 You will hear that the old man that went into -- or older
19 man that went into the gas station is Travis Simmons. Travis
20 Simmons is neighbors to both the defendant and Christopher. I

21 All right. And you'll hear more about the connection
22 between those three people as the trial goes along. But what
23 you won't hear in this case is you will not hear anyone from
24 the bank come in here and say, that's the guy that committed
25 the robbery. You will not hear Detective Richardson tell you

1 that they got fingerprints inside the bank connecting him to
2 the robbery. You won't hear about any DNA, you won't hear
3 about any GPS tracking, or bait money, or anything like that.

4 That type of evidence would be called direct evidence.
5 In criminal trials, you will hear there is direct evidence and
6 circumstantial evidence. Direct evidence will be evidence
7 that points directly towards his guilt. That is not this type
8 of case. This is a circumstantial case. And as the trial
9 goes along you'll hear all of the evidence, all of the
10 circumstantial evidence, that points toward the defendant's
11 guilt.

12 But the important thing for you to know right now, and
13 the judge is going to instruct you on this later, is that the
14 law gives no greater weight to direct evidence versus
15 circumstantial evidence.

16 In the eyes of the law the evidence is equal. But one
17 thing you do need to know about circumstantial evidence is
18 that it's kind of like a puzzle. All of the pieces of the
19 circumstantial evidence have to fit together in order for you
20 to convict him.

21 And at the end of this trial, I'm going to ask you to do
22 just that. I'm going to ask you to put those pieces together.
23 And when you do, I'm going to ask you then to hold him
24 accountable and convict him of armed robbery and possession of
25 a weapon during the commission of a violent crime. Thank you.

1 THE COURT: Mr. Daniels, do you wish to present an
2 opening statement?

3 MR. DANIELS: Thank you.

4 OPENING STATEMENT

5 MR. DANIELS: Allen Fields is on trial because of a
6 misidentification. You already heard this case is
7 circumstantial. No direct evidence out of the State. It's a
8 misidentification, a misidentification from suspicious
9 sources.

10 I'll be frank with you. It's deplorable what happened at
11 TD Bank. A man armed with a knife went into that bank
12 threatening people to get money. That was his motivation.
13 It's deplorable. There's no excuse for it. But that robber
14 is not Allen. That robber is not Bubba, as Allen is also
15 known.

16 Initial, the police do what we would expect them to do:
17 Show up to the bank quickly. They speak with eyewitnesses,
18 those people who have direct knowledge of what happens. They
19 take their statements. The police get the security-camera
20 footage. And the police process the bank for forensic
21 information, DNA and fingerprints.

22 The investigation begins. Eventually, the police are
23 going to turn from that direct evidence and where all of that
24 direct knowledge is and they're going to turn to people with
25 their own motivations, their own interests, that weren't even

OPENING BY MR. DANIELS

1 at the bank that day. Why?

2 Now, your life changed dramatically about two hours ago.
3 When you raised your hand you promised, you promised, to
4 uphold the law in this case. It sounds simple. That's one of
5 the hardest promises you have ever made. You're going to
6 struggle to keep it.

7 Because you see where Allen is sitting. Most of you have
8 never had to sit there. You hear the State's argument. Most
9 of us have never had anything like that leveled against us.
10 And you're going to hear a case. Most of us can't even begin
11 to relate to that.

12 So that might get you thinking, well, maybe he did do
13 something wrong because we're here. And if you have any
14 inkling of that, any inkling, consciously or subconsciously in
15 your mind, in your heart, in your gut, in your soul, then you
16 have violated that oath that you took. You have to presume
17 Allen is innocent.

18 A famous Supreme Court Justice about a century ago said
19 jury duty is the highest duty one can do for their country
20 during times of peace. He said that because as jurors you
21 stand between us and the awesome power of the State, the power
22 to deprive one of their life or their liberty. It is a
23 terrifying power. And so the difficult task falls to you to
24 presume that the accused, Allen, is innocent.

25 Now, as the judge said, you've all seen movies, all seen

1 TV shows, about what happens at trial. But here's what
2 actually happens. A trial is not a fight. A trial is not a
3 battle. Allen doesn't have to prove anything.

4 As the judge said, the defense, we don't even have to
5 talk. In fact, there'll be times when we don't talk. That's
6 not arrogance. That's not misplaced ideals. That is the
7 single greatest benefit of being in this country. The
8 government has to prove beyond a reasonable doubt that the
9 accused committed the crime that they're charged with, and
10 they have to prove that beyond a reasonable doubt.

11 Now, you've heard the phrase beyond a reasonable doubt
12 countless times in your life. Have you stopped and thought
13 about what that phrase means? Because that's what we're going
14 to be asking.

15 The judge will explain later in the week that a
16 reasonable doubt is the type of doubt that would cause a
17 reasonable person to hesitate to act.

18 If you go to hit a button and your hand slips, you
19 hesitate in any manner, and you can give -- name, you can give
20 a reason, why you slowed down, why you hesitated, that's a
21 reasonable doubt. I don't trust that witness; there's no
22 evidence putting the defendant in the scene of this crime;
23 this whole story doesn't add up. Reasonable doubt is all it
24 takes.

25 Beyond a reasonable doubt is the highest standard that we

1 have in the judicial system. And we have that and its home is
2 in criminal because it protects all of us.

3 Now, you're objective. As the judge said before you went
4 to lunch, you know nothing about this case. And that
5 objectiveness, coupled with the tools that you brought here
6 today, common sense, knowledge and experience of how the world
7 actually works outside of the courtroom, that's what qualifies
8 you to do your job.

9 Those two things, that objective lens, is priceless to
10 Allen. Allen has waited for over 1,000 days, 1,042 days as of
11 today, that is almost three years, for you -- for you to take
12 that objective lens, take those tools, look at the State's
13 case, a case that they're saying has no direct evidence off
14 the bat, see if this does have.

15 The State is not looking at this case through an
16 objective lenses. The government, through its employees, is
17 looking at it through its government-employee lens.

18 Question everybody's motivation in this case. You
19 inherently understand that everyone has their own interests,
20 their own motivations, their own agendas, that cause them to
21 act the way that they do.

22 In this case you're going to meet many different people
23 who were not in the bank. You should be asking yourself what
24 is their objective, what is their motivation, what did they
25 stand to gain; in some circumstances, what did they stand to

1 lose. They weren't in the bank.

2 You're going to meet, most likely, Levi Singleton. Levi
3 was the person that the police turn away, from the people in
4 the bank to him. He meets with the police multiple times.
5 He's going to give them lots of different information, lots of
6 changing information. Use that common sense. Use that
7 objectivity. Why? He has an obvious motivation. You can
8 tell based off of where he meets people. I think you know
9 that.

10 You're also likely going to meet Jacqueline Grant.
11 Jacqueline Grant, a nice woman, Allen's aunt. She's
12 questioned under very odd circumstances. That may give her an
13 edge, benign and short-term as it may be. What's causing her
14 to act the way that she is? Who is she actually talking
15 about?

16 Christopher Wright. You're going to hear a lot about
17 Christopher Wright. Christopher Wright is Allen's estranged
18 half-brother. Allen didn't meet him until six years before
19 this event. You're not going to meet Christopher Wright - I'd
20 be surprised if you did - because Christopher Wright is the
21 driver of the car used in the robbery. Allen and Chris don't
22 have those bonds, brother -- of brotherhood that you expect.
23 They didn't grow up together. You'll hear a lot about Chris.
24 Focus on the evidence against Chris. That points to
25 Christopher. It does not point to Allen. Two different

OPENING BY MR. DANIELS

1 people.

2 You're going to hear, and likely meet, Janae Nelson. Ms.
3 Nelson, NayNay as she's also known, is Christopher Wright's
4 long-term girlfriend, the mother of his small child that she
5 is desperate to keep in his son's -- in her son's life. She's
6 going to meet with the police multiple times. She's going to
7 give conflicting statements, minute-to-minute and over the
8 weeks. Why? What's her agenda? Who is she trying to save?
9 Is she trying to appease someone? Questions you should be
10 asking.

11 You're going to meet other witnesses that weren't in the
12 bank that day, people who never -- probably have never even
13 been to that bank. Use that common sense, use that
14 objectivity. Why are they talking, what are they saying, and
15 what circumstances are they saying, and when was it said
16 actually? Are they reliable? No.

17 There's massive inconsistencies, massive inconsistencies
18 in the story the State is trying to put forward. So much so,
19 they started off with there's no direct evidence.

20 Ask yourself why does the State, why does the government,
21 go from a pool of a crowded bank, witnesses willing to talk,
22 who give contact information, give their reports, give
23 interviews, follow up with them, and the police turn to these
24 people with their own agendas, not the objective pool of the
25 victims.

1 Hold the State to their standard. Hold the State to
2 beyond a reasonable doubt standard. That's a special
3 standard. Look for inconsistencies. Ask questions. You will
4 find that Allen is not guilty of armed robbery.

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

6 Mr. Osborne, call your first witness.

7 MR. OSBORNE: The State calls Katherine Lenihan.

8 THE COURT: All right.

9 [Off the record momentarily]

10 [Whereupon, Ms. Lenihan comes forward]

11 THE CLERK OF COURT: Raise your hand.

12 [Whereupon, Ms. Lenihan complies]

13 THE CLERK OF COURT: Do you swear or affirm that the
14 testimony you shall give the Court and jury in the trial of
15 this case shall be the truth, the whole truth, and nothing but
16 the truth, so help you God?

17 THE WITNESS: Yes.

18 THE CLERK OF COURT: All right. Please be seated.

19 [Whereupon, the witness takes the witness stand]

20 THE CLERK OF COURT: Please state your name and spell
21 your last name for the record, please.

22 THE WITNESS: Kate Lenihan. It's L-E-N-I-H-A-N.

23 MR. OSBORNE: Good afternoon, Officer Lenihan.

24 KATHERINE LENIHAN, Having Been First Duly Sworn,
25 was Examined and Testified as Follows:

1 **DIRECT EXAMINATION BY MR. ZEIGLER OF KATHERINE LENIHAN:**

2 Q. Where are you from?

3 A. I am originally from Virginia Beach.

4 Q. Where are you currently employed?

5 A. Charleston City.

6 Q. Are you at the Police Department?

7 A. Yes.

8 Q. How long have you been with CPD?

9 A. I was originally employed with CPD in 2009. I left for a
10 year and was employed with Virginia Beach Police Department,
11 and then rejoined City of Charleston in 2016.

12 Q. What are your duties at CPD?

13 A. Currently, it's investigation. Maybe -- mostly in the
14 West Ashley area.

15 Q. Okay. And what were your duties at Virginia Beach Police
16 Department?

17 A. Patrol.

18 Q. Were you employed with the CPD on September 13th, 2016?

19 A. Yes.

20 Q. What were your duties that day?

21 A. Patrol of West Ashley.

22 Q. How did you come about being involved in this occasion?

23 A. I was dispatched to the TD Bank on Sam Rittenberg in
24 reference to a robbery that had just occurred.

25 Q. Were you pretty close to that area at that time?

1 A. I was. I was actually at Orleans Road, at the light,
2 about to take a left onto Sam Rittenberg.

3 Q. Okay. And you responded to the TD Bank at 852 Orleans
4 Road?

5 A. Yes.

6 Q. Is that in Charleston County, South Carolina?

7 A. Yes.

8 Q. What did you do when you first arrived?

9 A. When I first arrived on scene, I was met with Kristy
10 Kelso who was a bank representative.

11 Q. And what did you learn through your initial
12 investigation?

13 A. I learned that a black male entered the bank wearing
14 a black baseball cap, dark jeans, and a white or a gray
15 tee-shirt, and he had sunglasses. He had entered the bank
16 demanding money.

17 Q. Was he holding anything with -- in his hands?

18 A. Yes. He was demanding money with a knife in his hand.

19 Q. Okay. And then did he walk -- he walked up to the
20 seller -- teller stations?

21 A. He did.

22 Q. How did you determine that he had exited?

23 A. The bank tellers had been -- informed me that he had
24 exited through the front doors and went to the back of the
25 bank where the Sonoco was and jumped the fence.

1 Q. So where did Ms. Kelso take you? Or who did you -- who
2 did you meet with after meeting with Ms. Kelso?

3 A. Ms. Kelso took me inside to the bank teller, Katherine
4 Muller; and then I met with Allison Wilson.

5 Q. Okay. And did you direct officers to go investigate
6 somewhere else based off of your meetings with them?

7 A. Yes. Based off of what they told me, I directed them to
8 the rear of the bank.

9 Q. Okay. Did they go anywhere else besides the bank?

10 A. Not that I know of.

11 Q. Did they go towards the Sonoco ---

12 MS. NORRIS: Objection.

13 Q. --- next door ---

14 MS. NORRIS: Leading.

15 THE COURT: Just ask a question and allow her the
16 opportunity to answer the question. Okay?

17 I'll sustain the objection.

18 MR. ZEIGLER: Okay.

19 Q. What other businesses did they go to to investigate this
20 crime?

21 A. The Sonoco behind the bank.

22 Q. Is there anything else that you discovered that you would
23 like to mention?

24 A. No. That's all.

25 Q. Okay. And that ends your involvement?

DIRECT EXAMINATION BY MR. ZEIGLER OF KATHERINE LENIHAN

1 A. Yes.

2 MR. ZEIGLER: Thank you. Nothing further, Your Honor.

3 THE COURT: All right.

4 MS. NORRIS: No questions. Thank you, Officer.

5 THE COURT: All right. Anything further for this
6 witness?

7 MR. ZEIGLER: Not from the State.

8 THE COURT: All right. From the defense?

9 MR. DANIELS: No, Your Honor.

10 THE COURT: All right. Officer Lenihan, you may be
11 excused.

12 THE WITNESS: Thank you.

13 THE COURT: Have a wonderful day.

14 THE WITNESS: You, too.

15 THE COURT: Call your next witness.

16 MR. ZEIGLER: The State calls Angela Casey.

17 [Whereupon, Ms. Casey comes forward]

18 THE CLERK OF COURT: Do you swear or affirm that the
19 testimony you shall give the Court and the jury in the trial
20 of this case shall be the truth, the whole truth, and nothing
21 but the truth, so help you God?

22 THE WITNESS: Yes.

23 THE CLERK OF COURT: Okay. Please be seated.

24 [Whereupon, Ms. Casey takes the witness stand]

25 THE CLERK OF COURT: Please, for the record, can you

DIRECT EXAMINATION BY MR. ZEIGLER OF ANGELA CASEY

1 state your name and spell your last name, please.

2 THE WITNESS: Angela Casey. The last name is
3 C-A-S-E-Y.

4 MR. OSBORNE: Good afternoon, Ms. Casey.

5 ANGELA CASEY, Having Been First Duly Sworn, was Examined and
6 Testified as Follows:

7 **DIRECT EXAMINATION BY MR. ZEIGLER OF ANGELA CASEY:**

8 Q. Where are you employed?

9 A. Charleston County Consolidated 911 Dispatch Center.

10 Q. How long have you been there?

11 A. Twenty-eight years.

12 Q. What's your current position there?

13 A. CDC analyst.

14 Q. Is that what your position was back in September of 2016?

15 A. Yes.

16 Q. What are some of your duties and responsibilities?

17 A. Recording of tapes for dispatch, the retrieving of
18 CAD dispatch notes, and also storing them until
19 someone -- some of the tapes or audios are needed.

20 THE COURT: Ms. Casey, could you pull that microphone
21 just a little bit closer to you?

22 [Whereupon, the witness complies]

23 THE COURT: Thank you.

24 THE WITNESS: You're welcome.

25 Q. Okay. And what are some of the -- or do you sometimes

1 receive subpoenas from law enforcement, or investigators from
2 our office, requesting information from your department?

3 A. Yes.

4 Q. What kind of documents are often requested or items?

5 A. The 911 audio transmission. Also, the CAD notes from the
6 dispatcher -- between the dispatcher and the officers.

7 Q. Okay. Let's talk about 911 calls. When a person calls
8 911, are those calls recorded?

9 A. Yes.

10 Q. Okay. And is the -- is the recording done at or near the
11 time that the call is made?

12 A. Done at the time the call is made.

13 Q. And that's a regularly-conducted activity for
14 Consolidated Dispatch; correct?

15 A. Yes.

16 Q. And all 911 calls that are received are recorded?

17 A. Yes.

18 Q. How do you keep or store those calls?

19 A. They're stored -- they're stored on our recorder, which
20 is called a Nice recorder. They're stored for a period of one
21 year. But once we retrieve them, they are -- they're saved
22 until as needed.

23 Q. Okay. And after a call is made, are they or are they not
24 able to be altered?

25 A. After it's made, no, they're not able to be altered.

DIRECT EXAMINATION BY MR. ZEIGLER OF ANGELA CASEY

1 Q. How long do you keep a call?

2 A. We keep a 911 on the recorder for one year after the date
3 of the incident. However, once we retrieve them from the
4 recorder, they are stored on our CAD -- on our computer until
5 it's needed.

6 Q. Okay. And when you receive a request, how do you go
7 about retrieving a call?

8 A. We first retrieve the CAD report. Once we retrieve the
9 CAD report, then we synchronize the CAD with the times on the
10 recorder. Then we pull the audio from the recorder that way.

11 Q. Okay. Did you receive a request for a 911 call in this
12 case?

13 A. Yes.

14 MR. OSBORNE: Your Honor, may I approach the witness?

15 THE COURT: Sure.

16 Q. I'm handing you what's been marked for identification
17 purposes as State's Exhibit 14. Do you recognize that?

18 A. Yes.

19 Q. Can you please just identify what that is?

20 A. This is a CD that contains a 911 clip of the incident.

21 Q. How are you able to identify that?

22 A. My initials are on it.

23 Q. And is that the 911 call for this case?

24 A. Yes.

25 Q. And do you know that through your initials or having

1 listened to that call?

2 A. Yes.

3 Q. Okay. Does it fairly and accurately depict the 911 call
4 in this case?

5 A. Yes.

6 Q. Was it altered in any way?

7 A. No.

8 MR. ZEIGLER: Your Honor, may I --

9 Q. Do you also keep a written record of the 911 calls?

10 A. Yes.

11 Q. What is the record called?

12 A. A CAD report.

13 Q. And that's also done at or during the time that the call
14 is made; right?

15 A. Correct. Yes.

16 Q. And that is also a regularly-conducted activity for
17 Consolidated Dispatch?

18 A. Yes.

19 Q. How are your CAD records kept?

20 A. They're kept in the recorder also, until we retrieve it.

21 Q. Can they be altered once they're created?

22 A. No, they cannot.

23 Q. How do you keep that report?

24 A. They are saved on the recorder until we retrieve it off
25 the recorder, then it's saved onto our PC.

DIRECT EXAMINATION BY MR. ZEIGLER OF ANGELA CASEY

1 Q. Are those ever destroyed?

2 A. They are destroyed only after six years.

3 Q. Did you receive a request for a CAD report in this case?

4 A. Yes.

5 MR. OSBORNE: Your Honor, may I approach the witness?

6 THE COURT: Sure.

7 Q. I'm handing you what's been marked State's 15 for
8 identification purposes. Could you please identify that
9 document?

10 A. This is called an incident detail report, which is a CAD
11 report for the incident.

12 Q. Okay. And how are you able to recognize that?

13 A. This is something that I pull daily for other recorders.

14 Q. Okay. Have you read the CAD report for this incident?

15 A. Yes.

16 Q. Does it fairly and accurately depict the CAD report for
17 the 911 call in this particular case?

18 A. Yes.

19 MR. OSBORNE: Your Honor, at this time I would like to
20 offer State's 15 into evidence.

21 MS. NORRIS: No objection.

22 THE COURT: All right. Without objection.

23 [Whereupon, State's Exhibit Number 15 is admitted into
24 evidence by the Court]

25 MR. OSBORNE: And I have nothing further from this

DIRECT EXAMINATION BY MR. ZEIGLER OF ANGELA CASEY

1 witness, Your Honor.

2 THE COURT: All right.

3 MS. NORRIS: Thank you, Ms. Casey.

4 I don't have any questions, Your Honor.

5 THE COURT: All righty. You may be excused. Have a
6 wonderful day.

7 THE WITNESS: Thank you.

8 [Whereupon, the witness is excused and exits the witness
9 stand]

10 THE COURT: All right. Call your next witness.

11 MR. OSBORNE: The State calls Katherine Muller.

12 [Whereupon, Ms. Muller comes forward]

13 THE CLERK OF COURT: Do you swear or affirm that the
14 testimony you shall give the Court and jury in the trial of
15 this case shall be the truth, the whole truth, and nothing but
16 the truth, so help you God?

17 THE WITNESS: I do.

18 THE CLERK OF COURT: Please be seated.

19 [Whereupon, Ms. Muller takes the witness stand]

20 THE CLERK OF COURT: Please state your name and spell
21 your last name for the record, please.

22 THE WITNESS: My name is Katherine Lucy Muller. The last
23 name is M-U-L-L-E-R.

24 MR. OSBORNE: Good afternoon, Ms. Muller.

25 THE WITNESS: Good afternoon.

26

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 KATHERINE LUCY MULLER, Having Been First Duly Sworn, was
2 Examined and Testified as Follows:

3 **DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER:**

4 Q. Let's just start off by introducing yourself a little bit
5 to the jury, okay. Where are you from?

6 A. I'm from Columbia. I've lived in Charleston for about 13
7 years.

8 Q. Okay. When did you move to Charleston?

9 A. 2003.

10 Q. For what purpose?

11 A. School. And then I started working at the bank.

12 Q. Okay. At the TD Bank?

13 A. Yes.

14 Q. And how long have you worked there?

15 A. About eight years now so.

16 Q. What was -- when you first started what was your
17 position?

18 A. Teller, and then head teller, and then now I am in the
19 Columbia area in IRA.

20 Q. Okay. Let's go back to September the 13th of 2016, the
21 date of this incident. Were you a teller then?

22 A. Head teller.

23 Q. A head teller?

24 A. Yes.

25 Q. At TD Bank?

1 A. Yes.

2 Q. And what is the address?

3 A. 852 Orleans Road, 29407.

4 Q. Okay. And you were working that day?

5 A. Yes.

6 Q. And I think it's -- you know, most people know. What are
7 some of your duties and responsibilities as a head teller?

8 A. So handle the cash, run transactions, do maintenance on
9 accounts; things like that.

10 Q. Okay. So is it fair to say though if someone were to
11 enter the bank you were sort of the first point of contact?

12 A. Yes.

13 Q. Okay. Well, let's get right into why you are here and
14 why we are all here. Tell the jury what happened on that day.

15 A. So September 13th is towards the end of the day. So
16 close to 5:00. So we were getting ready to close. And then
17 the suspect entered the bank and kind of approached us very --
18 very quickly.

19 And then once he got to the teller line he demanded
20 money. Presented a bag, repeatedly. Said to give me all your
21 money. And then he brandished a knife and continued to ask
22 for money.

23 So once I had given him the cash from my drawer he then
24 turned and proceeded to the other teller, Allison Wilson that
25 was working that day, and robbed her as well.

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 After he robbed her then he exited the bank around the
2 back to the Sonoco Gas Station behind the bank where we have a
3 big teller drive through window. So we could see him go over
4 the fence and then got into the passenger side of a Chevy
5 Impala that was black. And then they left.

6 Q. And what did you do then?

7 A. So right after I got robbed I called 911. So I think he
8 was still walking out when I dialed 911.

9 Q. Okay. Did -- let me just ask us some questions. Did --
10 was there a silent alarm system -- I mean could you hit a
11 silent alarm?

12 A. Yes. Once it was safe I did that. And then once it was
13 safe again dialed 911 so -- but, yes, the button was pushed as
14 well as called 911.

15 Q. Okay. What about bait money?

16 A. Once again that is one of those things that it is present
17 but you have to feel safe doing so. Since the suspect had a
18 knife I was unable to give him the bait money.

19 Q. You said you had to feel safe. You didn't feel safe?

20 A. No, I did not.

21 Q. And that was because he had a knife?

22 A. Correct.

23 Q. And would that also go along with dye packs or GPS
24 trackers or anything like that?

25 A. Yes, so -- yeah.

1 Q. Okay.

2 MR. OSBORNE: Your Honor, may I approach?

3 THE COURT: Absolutely.

4 Q. All right. I am going to show you a bunch of items. So
5 I don't have to keep walking back and forth. I will start off
6 by showing you State's 14. Can you take a look at that and
7 tell me if you recognize that?

8 A. Yes. This is a clip from a 911 call that I made right
9 after I was robbed.

10 Q. And how do you know that it what it is?

11 A. I have my initials here from where I verified it.

12 MR. OSBORNE: All right. Your Honor, at this time we
13 would seek to admit State's 14 into evidence.

14 THE COURT: All right. Any objection?

15 MR. DANIELS: No objection.

16 THE COURT: All right. Without objection.

17 [Whereupon, State's 14 was admitted into evidence]

18 Q. All right. Now I am going to show you State's -- we will
19 just do this in ord47. Can you take a look at that and tell
20 me if you recognize that?

21 A. Yes. This is the video footage from the time period in
22 which I got robbed on September 13th, 2016.

23 Q. Okay. And how do you know that?

24 A. I viewed it and I have initialed here [indicating].

25 Q. Okay.

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 MR. OSBORNE: Your Honor, at this time we would seek to
2 admit State's 47 into evidence.

3 THE COURT: All right.

4 MR. DANIELS: No objection.

5 THE COURT: Without objection.

6 [Whereupon, State's Exhibit 47 was admitted into
7 evidence]

8 Q. All right. Now I am going to show you State's -- we will
9 just do this in order to kind of make it a little bit easier.
10 State's 1 through 6. Can you take a look at those and tell me
11 if you recognize those?

12 A. Yes.

13 Q. And what are they?

14 A. This is photographs from the branch that I worked at for
15 TD Bank on 852 Orleans Road.

16 Q. Okay.

17 MR. OSBORNE: Your Honor, at this time we seek to admit
18 State's 1 through 6 into evidence.

19 MR. DANIELS: No objection.

20 THE COURT: All right. Without objection.

21 [Whereupon, State's Exhibit Numbers 1 through 6 was
22 admitted into evidence]

23 Q. And now I am going to show you 12, 13, 44, 45, and 46.
24 And the same question: Do you recognize those?

25 A. Yes. So this is the back parking lot of the bank that

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 meets the property where the Sonoco gas station is and where
2 you can see through from the teller line there.

3 Q. Okay.

4 MR. OSBORNE: Your Honor, at this time we would seek to
5 admit 12, 13, 44, 45, and 46 into evidence.

6 MR. DANIELS: No objection.

7 THE COURT: All right. Without objection.

8 [Whereupon, State's Exhibit Number 12, 13, 44, 45, and
9 46, was admitted into evidence]

10 Q. All right. While I have got you we will go ahead -- you
11 said it was a black Chevrolet Impala?

12 A. Yes, sir.

13 Q. I am going to show you State's 29, 30, 31, and 32. Can
14 you take a look at that and tell me if the photograph on that
15 car resembles the car that you saw?

16 A. Yes, it does. It looks just like it.

17 Q. You said it looks just like it?

18 A. Yes, sir.

19 MR. OSBORNE: All right. Your Honor, we would seek to
20 admit State's 29 through 32 into evidence.

21 THE COURT: Any objection?

22 MR. DANIELS: No objection.

23 THE COURT: All right. Without objection.

24 [Whereupon, State's 29, 30, 31, and 32, was admitted into
25 evidence.)

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 Q. All right. We are going to start off -- we will just
2 show the video first. Your Honor, at this time I am
3 publishing State's 47.

4 All right. Before I press play I see up here on the top
5 left this is September 13th of 2016 and the time is 4:44 p.m.
6 Is that all accurate, Ms. Muller?

7 A. Yes.

8 Q. Okay. And are we looking at you right here [indicating]?

9 A. That is me.

10 Q. Okay. Let me go ahead and play it.

11 [Whereupon, begin publication of video]

12 Q. And this is the front door I take it?

13 A. Yes.

14 [Whereupon, pause video]

15 Q. I see that -- I am just going to pause it real quick. I
16 am not going to do this much. But this individual right here
17 [indicating], this woman that comes over and sits down, do you
18 know if anyone ever assisted her?

19 A. No, because I believe she didn't want to be assisted.
20 She said she was -- she was just waiting. So she sat down and
21 was there the entire time of the robbery.

22 Q. Okay. She didn't want to be assisted?

23 A. No.

24 Q. Okay.

25 [Whereupon, resume publication of video]

1 Q. And right after that, is this the individually here
2 [indicating]?

3 A. Yes.

4 [Whereupon, pause video]

5 Q. Okay. I see -- we don't have the advantage of audio
6 here. Okay. So I just want to stop it here. Do you remember
7 as best you can recall what it is he said that caused you to
8 go to the register?

9 A. Just to give him all the money, over and over again.
10 That he wasn't kidding, give him the money.

11 Q. Okay. And this [indicating] is the knife that you
12 mention in your testimonies right now?

13 A. Yes, sir.

14 [Whereupon, resume publication of video]

15 [Whereupon, pause video]

16 Q. Okay. So Ms. Wilson would have been directly to your
17 left?

18 A. Yes.

19 Q. Okay. And how much do you estimate that you put in the
20 bag for him?

21 A. A little over 2,500.

22 [Whereupon, resume video]

23 [Whereupon, pause video]

24 Q. Okay. I just want to ask you one question here. Let's
25 see if I can [adjust ELMO] -- do you know this individual?

1 A. Not personally, no.

2 Q. I mean do you know him at all; do you know who he is?

3 A. That is the suspect that robbed me, yes.

4 Q. Okay. But I mean like do you have any experience as to
5 knowing who this person is outside of this incident right
6 here?

7 A. No.

8 Q. Have you ever seen him before outside of this incident
9 right here?

10 A. No.

11 Q. Did you grow up with him or anything like that?

12 A. No.

13 Q. Oh, okay. If you were to see this person again would you
14 have any chance in identifying him?

15 A. Yes.

16 Q. Well, do you see him in the courtroom?

17 A. Yes.

18 MR. DANIELS: Objection. We -- I think we have an issue
19 of law at this point.

20 THE COURT: All right. Ladies and gentlemen, we are
21 going to take about a quick ten-minute break. All right.
22 Give you an opportunity to stretch your legs and use the
23 restroom. We will get you right back in here in just a little
24 bit. All right?

25 [Whereupon, jury exits 8/12/19, 2:32 p.m.]

1 THE COURT: All right. Yes, sir, Mr. Daniels.

2 MR. DANIELS: Your Honor, there is no previous
3 identification. This is -- there is no previous
4 identification. In previous reports she has identified
5 another person. An in-court identification is unreliable. It
6 is prejudicial just being in this situation. And that is the
7 basis of the identification.

8 THE COURT: And where did she testify or indicate that
9 she had identified someone else?

10 MR. DANIELS: If she was shown a six-pack line by
11 Detective Richardson and she picked -- she's picked suspect
12 number four. My client was on that six-pack. He was number
13 three.

14 THE COURT: Can you cross-examine her or impeach her
15 testimony or identification with that? Do you have access to
16 that?

17 MR. DANIELS: I do have access to that.

18 THE COURT: All right. Well, let me hear from the State.

19 MR. OSBORNE: You stole my thunder, Judge. I mean that
20 is perfect cross, perfect fodder for cross.

21 THE COURT: Right. I think if the witness -- I'm sorry,
22 go ahead.

23 MR. DANIELS: He also -- we were also led to believe and
24 when this trial was on the document in May that he wasn't
25 going to offer any in-court identification. We didn't think

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 that that was changing.

2 THE COURT: What precludes you from going down the line
3 of testimony with her asking her all of those questions about
4 whether she has had an opportunity to identify him before, has
5 she been given any other subsequent photos of the defendant,
6 did you -- when was the last -- the proximity of time in which
7 the six-pack was made and given to her as opposed to the
8 proximity of time that has transpired now, three years. You
9 could ask her all of those questions.

10 So I am going to let -- so I am going to let her -- I am
11 going to let her do -- well, she hasn't -- she has identified
12 him; but, you know, we will have to just kind of go down that
13 line of questioning, whatever they are going to do.

14 But I am going to give you a lot of leeway and latitude
15 on your impeachment, okay? As much as you need.

16 All right. Do y'all want to take a two-minute break or
17 do y'all want to -- let's just take a two-minute break.
18 Because I gave them five so.

19 I'm sorry, go ahead. Anything? Okay. All right. We
20 will just take a three-minutes break.

21 [Whereupon, break 8/12/19, 2:34 p.m.)

22 [Whereupon, resume 8/12/19, 2:34 p.m. for on-record bench
23 conference by the Court with court reporter as follows:]

24 THE COURT: For the record, I read the arrest warrant
25 numbers into the record as to the indictments numbers of the

1 case. The indictment numbers in this case for the armed
2 robbery is 2017-GS-10-02131. And as to the possession of a
3 weapon during the commission of a violent crime it is
4 2017-GS-10-02132.

5 [Whereupon, break 8/12/19, 2:35 p.m.)

6 [Whereupon, resume 8/12/19, 2:40 p.m.)

7 THE COURT: Okay. Bring back the jury for us, please.

8 Ms. Muller, you are still under oath; okay? All right.

9 [Whereupon, jury enters 8/12/19, 2:41 p.m.)

10 THE CLERK: Your Honor, the jury is complete.

11 THE COURT: All right. Thank you so very much.

12 Ms. Muller you are still under oath, and y'all can
13 proceed.

14 MR. DANIELS: Thank you, Your Honor.

15 THE COURT: For the record the objection is overruled.

16 Q. All right. Ms. Muller, we left off I think the question
17 went something like you didn't grow up with this individual
18 and you have never had any encounters with him that you know
19 of ---

20 A. No.

21 Q. --- prior to this incident.

22 A. No.

23 Q. And then I said something along the lines of well based
24 on what he is wearing or whatever you wouldn't be able to
25 identify him if seen again, right?

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 A. Yes.

2 Q. And then you said you could?

3 A. Yes.

4 Q. All right. Do you see the guy in the courtroom that
5 robbed you?

6 A. Yes.

7 Q. And could you point him out and describe what he is
8 wearing?

9 A. He is wearing a suit. Right over here [indicating] in
10 the middle of the table.

11 Q. Okay. Now and in all fairness though, you were shown a
12 lineup by a CPD detective I guess about a week after this
13 robbery; correct?

14 A. Uh-huh, yes.

15 Q. And in that lineup you didn't pick him out, did you?

16 A. That is correct.

17 Q. And in fact I think you said you thought it was somebody
18 else in the lineup, correct?

19 A. Yes.

20 Q. Okay. I mean are you -- you are just picking him out
21 because he is sitting in the courtroom?

22 A. No. At that time I was in California. So the photo
23 lineup was over a cell phone. So I did the best I could in
24 trying to identify him, a week after and across the country.

25 Q. Okay. All right. I am going to move now to State's 14.

1 [Whereupon, publish State's 14, 911 call]

2 Q. All right. Ms. Muller, that was you calling 911?

3 A. Yes.

4 Q. And I guess you go by Lucy?

5 A. Yes.

6 Q. Okay. All right. Let's go back through some of these
7 photographs here. All right. I am going to start by showing
8 you State's 1. What are we looking at here?

9 A. That is the front of the TD Bank located at 852 Orleans
10 Road.

11 Q. Okay. And you can -- you can draw on that. That is a
12 touch screen. I think you can. In front of you. Where --
13 orient ourselves. So we are in the jury here. Where would
14 Orleans Avenue be?

15 A. So Orleans is going to run this way [indicating] in front
16 of the bank there.

17 Q. And then Sam Rittenberg would be?

18 A. Sam Rittenberg is going to be on this side over here
19 [indicating].

20 Q. Okay. And you sit right on -- right on the corner?

21 A. Right on the corner, yes, sir.

22 Q. All right. Now if you hit that triangle on the top left.

23 A. [Complied]

24 Q. There you go. And then a "clear" drop down box will come
25 up. Hit it again.

1 [Pause to clear screen of previous markings]

2 Q. All right. I am showing you State's 2. The front door?

3 A. Yes.

4 Q. Three?

5 A. That is the front door looking out towards Orleans.

6 Q. Okay. Four?

7 A. That is the lobby.

8 Q. All right. Five?

9 A. That is the teller line.

10 Q. Okay. And where would you have been looking at it from
11 this angle?

12 A. Right here [indicating]

13 Q. Okay. And then Ms. Wilson?

14 A. She was on the last.

15 Q. Okay. And you can clear that again if you don't mind.

16 A. [Complied by clearing screen of previous markings]

17 Q. Thank you. All right. Six is just looking at it from
18 another angle?

19 A. Yes.

20 Q. All right. Now you said that -- or you testified earlier
21 that you went and looked out the teller window to see which
22 way he went?

23 A. Yes. So this area here [indicating], that is the drive
24 through. You can see it goes directly towards that gas
25 station behind us.

1 Q. Okay. If you want to clear that I will show you 44.
2 A. [Complied by clearing screen of previous markings]
3 [Whereupon, exhibit displayed]
4 Q. And is that what you were talking about?
5 A. Yes.
6 Q. Okay.
7 [Whereupon, exhibit displayed]
8 Q. Forty-five. Now that chain link fence that separates, I
9 take it, the gas station from the bank?
10 A. Yes. Okay. When he fled did you see him jump that fence
11 or ---
12 A. Yes. So this area over here [indicating].
13 Q. Okay.
14 [Whereupon, exhibit displayed]
15 Q. Forty-six, this is kind of like a wide-angle I guess?
16 A. Yes.
17 Q. Or no -- actual- -- we are looking at ---
18 A. So that is from the gas station.
19 Q. Okay. So we are looking back at the bank from here?
20 A. Correct.
21 Q. Okay. So that brick building back there that is your
22 bank?
23 A. Yes.
24 Q. Or was.
25 [Whereupon, exhibit displayed]

DIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE LUCY MULLER

1 Q. I am showing you 12. Are we in the Sonoco parking lot
2 now?

3 A. Yes.

4 [Whereupon, exhibit displayed]

5 Q. And then 13. So again your bank is on the right and on
6 the left is the Sonoco?

7 A. Yes.

8 Q. All right. And I heard you say on the 911 call that it
9 is a black car?

10 A. Yes.

11 Q. I think and you testified that it was a Chevrolet Impala?

12 A. Yes.

13 [Whereupon, exhibit displayed]

14 Q. State's 29.

15 A. Yes.

16 [Whereupon, exhibit displayed]

17 Q. Thirty.

18 [Whereupon, exhibit displayed]

19 Q. Thirty-one.

20 [Whereupon, exhibit displayed]

21 Q. And thirty-two.

22 All those look like the vehicle?

23 A. Yes, they do.

24 MR. OSBORNE: No further questions, Your Honor.

25 THE COURT: All right. Mr. Daniels.

1 **CROSS-EXAMINATION BY MR. DANIELS OF KATHERINE MULLER:**

2 Q. Does your memory typically get better over time?

3 A. In general, do you mean?

4 Q. Yeah, do you remember something from a year ago better
5 today than you did the day after you saw it?

6 A. Not typically. But it depends on what the memory is.

7 Q. So you were the first -- first teller that was robbed?

8 A. Yes.

9 Q. And you watched the robber come in?

10 A. Yes.

11 Q. And in that moment -- I believe you spoke with one of the
12 detectives and you said you had a bad feeling?

13 A. Uh-huh.

14 Q. I need you to say yes or no for the record.

15 A. Yes.

16 Q. Okay. So you watched. Come in. Which -- and tell me
17 about his hat.

18 A. It was an all-black hat.

19 Q. You said it was cloth, correct?

20 A. I said it was all black. But, yes, it was a baseball cap
21 that was cloth.

22 Q. Okay. Just generic?

23 A. Yes.

24 Q. No logo?

25 A. No logo.

1 Q. Okay. Rounded brim?

2 A. Yes.

3 Q. And you told all this to the detective that day?

4 A. Yes.

5 Q. Because you wanted, almost three years ago, to give the
6 best identification you could?

7 A. Yes.

8 Q. Okay. So the shirt -- was it one shirt or two shirts
9 that he was wearing?

10 A. It appeared to be one shirt, but it was two different
11 colors.

12 Q. So two-tone?

13 A. Yes.

14 Q. Okay. And he was wearing sunglasses?

15 A. Yes.

16 Q. And you described it as athletic type?

17 A. Correct.

18 Q. Like over ones?

19 A. Yes.

20 Q. Close to his eyes?

21 A. Yes.

22 Q. So you couldn't see him?

23 A. Yes -- I ---

24 Q. Mirrored?

25 A. I'm sorry?

- 1 Q. Mirrored?
- 2 A. Mirrored, yes.
- 3 Q. Hat low?
- 4 A. Yes.
- 5 Q. Okay. Now you met with the detectives; the detectives
- 6 took your contact information?
- 7 A. Correct. Yes.
- 8 Q. And you went out of town?
- 9 A. Yes.
- 10 Q. Okay. And Detective Richardson contacted you?
- 11 A. Yes.
- 12 Q. Okay. And he sent you a photo lineup?
- 13 A. Yes.
- 14 Q. He emailed it to you?
- 15 A. He texted.
- 16 Q. Do you receive emails on your phone?
- 17 A. Yes.
- 18 Q. I don't want you to get your memory wrong. Okay. And on
- 19 that lineup was six photos, correct?
- 20 A. Yes.
- 21 Q. And you knew the seriousness that was involved in this?
- 22 A. Yes.
- 23 Q. You had been robbed, correct?
- 24 A. Yes.
- 25 Q. Now these images were in color?

CROSS-EXAMINATION BY MR. DANIELS OF KATHERINE MULLER

1 A. Yes.

2 Q. On your phone could you zoom in?

3 A. Yes.

4 Q. Did you?

5 A. Yes.

6 Q. Because you knew the seriousness?

7 A. Yes.

8 Q. And you had time for that identification, with that six-
9 pack lineup?

10 A. Yes.

11 Q. You could study it?

12 A. Yes.

13 Q. You had, what, ten seconds during the robbery?

14 A. Probably longer than that. Because he robbed two of us,
15 yes.

16 Q. Okay. So 20 seconds?

17 A. Maybe more than that.

18 Q. All right. We can -- we can watch the tape if we need
19 to. But a short amount of time?

20 A. Yes.

21 Q. Particularly compared to how long you had with that text
22 message, with that colored photo lineup, with no pressing
23 concerns other than the importance of identifying it properly?

24 A. Yes.

25 Q. And you made a selection?

1 A. Yes.

2 Q. And that selection was not Allen, and then you come in
3 today and you are pointing at my client three years later?

4 A. Yes.

5 Q. This is the first time you have identified Allen?

6 A. Yes.

7 Q. Something looks a little different lined up here. One
8 person is a different color, quite frankly. Is that what you
9 see?

10 A. Yes.

11 Q. No more questions.

12 THE COURT: All right. Mr. Osborne.

13 **REDIRECT EXAMINATION BY MR. OSBORNE OF KATHERINE MULLER:**

14 Q. Just one question. Mr. Daniels asked you is this the
15 first time that you have identified the defendant. Am I
16 understanding your testimony to say that Detective Richardson
17 took a picture, took a screenshot or took a photograph of six
18 people and then texted it to you?

19 A. Yes.

20 Q. And then you identified somebody other than the
21 defendant?

22 A. Correct, yes.

23 Q. But you didn't know that, correct?

24 A. No.

25 Q. I mean he didn't tell you, oh, wrong, try again?

1 A. No.

2 Q. And that he didn't send you another picture of the
3 defendant, did he?

4 A. No.

5 Q. He didn't keep sending it over and over and over
6 again ---

7 A. No.

8 Q. --- until you got the right one?

9 A. No.

10 Q. So you did the best you could do then?

11 A. Yes.

12 Q. Are you doing that now?

13 A. Yes

14 Q. Okay. No further questions.

15 **RECROSS-EXAMINATION BY MR. DANIELS OF KATHERINE MULLER:**

16 Q. And with those six photos, all African-American?

17 A. Yes.

18 Q. All men?

19 A. Yes.

20 Q. No time pressures, you can look at that as long as you
21 want?

22 A. Yes, that's ---

23 Q. I mean nobody is going to take your phone away and be
24 like stop looking at that?

25 A. No.

1 MR. DANIELS: No further questions.

2 THE COURT: All right. Ms. Muller, thank you so very
3 much. You are excused, and travel safe.

4 THE WITNES: Thank you.

5 THE COURT: Yes, ma'am.

6 [Whereupon, the witness is excused and exits the witness
7 stand]

8 THE COURT: Call your next witness.

9 THE BAILIFF: Your Honor, may I approach?

10 THE COURT: Yes, sir.

11 [Whereupon, an off-the-record bench conference is held
12 with the bailiff and Court]

13 [Whereupon, an off-the-record bench conference is held
14 with counselors and Court]

15 THE COURT: All right. Ladies and gentlemen of the jury,
16 it has come to my attention that y'all have inquired as to the
17 ability to take notes.

18 That is completely in your discretion. If you would like
19 to take notes -- some judges don't allow it. I've discussed
20 it with the attorneys. They have no objection.

21 It's a unique scenario because y'all have asked to take
22 notes. And I didn't even bring it up, so obviously you would
23 like to take notes. And so I have no problem with allowing
24 you. So they are going to get you some notepads and pens, and
25 you are free to take notes.

1 I would caution you, the reason a lot of judges don't
2 like it is that what ends up happening is when someone else is
3 taking a note, someone else is paying attention to the next
4 question. And in deliberation they'll say, well, my notes say
5 X, and they'll say, well, my notes say Y. And the reason is
6 is because you're writing things down at different times. I
7 just caution you about that.

8 So if you're going to take quick notes, I would just ask
9 you to consistently pay attention and understand that in
10 deliberation there may be an issue as to that. Okay? All
11 right.

12 You can give them the notepads.

13 THE BAILIFF: Okay.

14 [Off the record momentarily and notepads distributed]

15 THE COURT: All right. If everybody will open it up and
16 make sure that they have a clean pad. Sometimes you get a pad
17 that's not been disposed of and you have got a whole nother
18 trial on there.

19 Everybody is good to go? All right.

20 All right. Call your next witness.

21 MR. OSBORNE: Thank you, Your Honor. The State calls
22 Allison Wilson.

23 [Whereupon, Ms. Wilson comes forward]

24 THE CLERK OF COURT: Do you swear or affirm that the
25 testimony you shall give the Court and jury in the trial of

1 this case shall be the truth, the whole truth, and nothing but
2 the truth, so help you God?

3 THE WITNESS: I do.

4 THE CLERK OF COURT: Please be seated.

5 [Whereupon, the witness takes the witness stand]

6 THE CLERK OF COURT: Please state your name and spell
7 your last name for the record, please.

8 THE WITNESS: My name is Allison Marino Wilson, spelled
9 W-I-L-S-O-N.

10 MR. OSBORNE: Good afternoon, Ms. Wilson.

11 THE WITNESS: Hello.

12 ALLISON M. WILSON, Having Been First Duly Sworn, was Examined
13 and Testified as Follows:

14 **DIRECT EXAMINATION BY MR. OSBORNE OF ALLISON M. WILSON:**

15 Q. Where are you from?

16 A. I'm from Goose Creek.

17 Q. Okay. Born and raised?

18 A. No. Originally from Illinois.

19 Q. Okay. What brought you down to South Carolina?

20 A. Boeing, actually. My husband works there. So moved
21 here. Relocated.

22 Q. Okay. Where do you work now?

23 A. CresCom Bank.

24 Q. All right. Back in 2016, where did you work?

25 A. TD Bank.

1 Q. And what was your title there?

2 A. I was a customer service representative and teller.

3 Q. All right. So let's go back to September the 13th of
4 2016. Were you working at the TD Bank then at 852 Orleans?

5 A. Yes.

6 Q. Okay. And you were a teller then?

7 A. Yes.

8 Q. All right. Well, let's just get right into it. What
9 happened on that date when you working, in significance to why
10 we are all here?

11 A. Okay. Well, I had a customer at my teller station. And
12 a gentleman walked through the door, bee-lined straight for my
13 head teller Katherine's station.

14 I noticed that she was handing over money out of her
15 drawer to -- and putting it in a grocery sack for him. So I
16 realized that she was being robbed. I pressed the emergency
17 button to alert the authorities. And my customer panicked;
18 and I gave her her transaction back, told her to leave.

19 And once he was done robbing her, he came down to my
20 station, put a knife on my station, and a bag, a grocery sack,
21 and said give me everything you have, I will hurt you, I'm not
22 playing, give me everything you have.

23 So I gave him most of the money out of my drawer. And
24 then I had a little bit of money still left in the drawer so
25 he said, I said everything, I'm not playing, I will hurt you.

1 And so I gave him the rest of the money and he bee-lined
2 right back out the door.

3 Q. And did you see where he went from there?

4 A. I did. So I saw him make a right when he exited the
5 building, from my perspective at the teller line. And I
6 looked out the drive-through window and saw him jump the fence
7 next to the trashcan and get into a four-door sedan in the
8 Sonoco parking lot.

9 Q. Could you tell if he was driving, passenger?

10 A. He was in the rear passenger seat.

11 Q. How much money do you think you gave him?

12 A. From my drawer, no more than \$2,000.

13 Q. Okay. I guess it goes without saying, but with the knife
14 and everything, did you feel threatened; is that why you
15 surrendered the money?

16 A. Yes. Absolutely.

17 Q. All right. We're just going to go through some of this
18 again. State's 1, we're looking at the front door here?

19 A. Yeah. Front entrance to the bank.

20 Q. Okay. And whenever he exited, which way did he turn to?

21 A. I can draw on this?

22 Q. Sure.

23 A. He went this way [indicates].

24 MR. OSBORNE: And do you -- you can clear that with the
25 triangle on the next one.

1 [Whereupon, pause to clear screen from previous markings]

2 [Whereupon, display next exhibit photo]

3 Q. All right. We're looking at the front door again?

4 A. Yes.

5 Q. Okay. Inside, looking out here?

6 A. Yes.

7 Q. On State's 3.

8 And I'll just show this last one here, State's 5?

9 A. That's the teller line in the lobby.

10 Q. Okay. Now, you said that you had saw them -- or saw him
11 jump a fence and enter -- what kind of car was it again; do
12 you know?

13 A. It was a four-door sedan. I couldn't tell the make and
14 model. I'm not very good with that.

15 Q. Okay. And I'm showing you State's 44. Do you recognize
16 this?

17 A. I do. That's the fence that leads -- that separates the
18 bank from the gas station ---

19 Q. Okay.

20 A. --- where he jumped.

21 Q. And so from this perspective, we're inside the bank
22 looking out the window; is that fair to say?

23 A. That's correct.

24 Q. Okay. And this -- I am showing you 45. This is just a
25 close-up of it. Can you point out on there where you saw him

1 jump the fence, or do I need to go back to the other picture?

2 A. No, I can see it here. Right here [indicating], right
3 between the dumpster and the tree.

4 Q. Okay. All right.

5 We're going to go to 47 here. And bear with me one
6 second.

7 [Whereupon, publish video]

8 Q. We've heard Ms. Muller testify. Is this -- this is Ms.
9 Muller here [indicating]?

10 A. Yes.

11 Q. Okay. So you recognize some of this happening; is that
12 fair to say?

13 A. That's fair to say.

14 Q. This individual, this woman walking in right now, did you
15 ever assist her?

16 A. I did not. I may have asked her if she needed any
17 assistance; but I just directed her to the waiting area, if I
18 did.

19 Q. Okay. All right. And you had mentioned that you were
20 assisting a customer. This woman in front of you, is this the
21 customer that you were assisting?

22 A. That's correct.

23 [Whereupon, resume publication]

24 [Whereupon, pause publication]

25 Q. Do you remember what it is that he said to you that

1 caused you to open the register drawer?

2 A. He said -- he said, give me all your money, I'm not
3 playing with you, I will hurt you. He repeated it a couple of
4 times.

5 Q. Okay.

6 [Whereupon, resume publication]

7 [Whereupon, pause publication]

8 Q. I notice he left out this door. And this woman, she
9 leaves out, too, directly thereafter.

10 And you had said earlier that he left the store and he
11 went to the right. I mean just take a look at this and tell
12 me if ---

13 A. Sure. I was mistaken. He went left.

14 Q. Okay. Why -- do you know why she didn't leave?

15 A. I don't. Well, it is protocol for when we're robbed for
16 us to keep all customers that could be a witness in the store.
17 So she may have been told to stay.

18 Q. Okay.

19 A. But I did not tell her to stay.

20 Q. Okay.

21 MR. OSBORNE: It should be backing up in one second here.

22 [Whereupon, resume publication]

23 [Whereupon, pause publication]

24 Q. You mentioned that he was armed. Is this what you were
25 referring to?

1 A. Yes.

2 Q. Well, let me ask you, Ms. Wilson, had you seen this
3 person that robbed the bank prior to this?

4 A. No. I don't recall seeing him.

5 Q. Do you know him at all?

6 A. No.

7 Q. You didn't grow up with him or anything like that?

8 A. No.

9 Q. Or raising?

10 And you were shown a lineup and you weren't able to pick
11 out the guy; is that correct?

12 A. That's correct.

13 MR. OSBORNE: Okay. Your Honor, may I approach?

14 THE COURT: Absolutely.

15 Q. I am showing you State's 65. Can you take a look at that
16 and tell me if you recognize that?

17 A. Yeah. That is his -- the car that I -- that was the car
18 that looked like the car that he got into.

19 Q. Okay. And that's your signature at the bottom?

20 A. Yes.

21 MR. OSBORNE: Your Honor, at this time we would seek to
22 admit State's 65 into evidence.

23 THE COURT: All right. Any objection?

24 MR. DANIELS: No objection.

25 THE COURT: All right. Without objection.

1 [Whereupon, State's Exhibit Number 65 is admitted into
2 evidence by the Court]

3 Q. All right. So you met with detectives on a later date?

4 A. I did.

5 Q. And they showed you this screenshot?

6 A. Yes.

7 Q. Do you know if that is from the gas station, or you
8 aren't sure?

9 A. I'm not sure. I -- it looks like it is, but I couldn't
10 tell you for sure.

11 Q. Okay. But you identified that as being the vehicle that
12 the guy jumped into?

13 A. Yeah.

14 Q. Okay. As best you can recall, I mean ---

15 A. Yes. Yeah.

16 Q. --- from this black car?

17 A. As best that I could tell.

18 Q. All right. Thank you.

19 MR. OSBORNE: No further questions, Your Honor.

20 THE COURT: All righty.

21 **CROSS-EXAMINATION BY MR. DANIELS OF ALLISON WILSON:**

22 Q. You were shown an identification, six photos?

23 A. Yes, sir.

24 Q. When you met with the detectives?

25 A. Yes.

CROSS-EXAMINATION BY MR. DANIELS OF ALLISON WILSON

1 Q. Those were color?

2 A. Yes.

3 Q. You had time to examine those?

4 A. I did.

5 Q. You made a selection?

6 A. I did not.

7 Q. Okay.

8 MR. DANIELS: No further questions.

9 THE COURT: All righty.

10 All right, Ms. Wilson, you may be excused.

11 THE WITNESS: Thank you.

12 THE COURT: All right. Have a wonderful day. Travel
13 safe.

14 THE WITNESS: Thanks.

15 [Whereupon, the witness is excused and exits the witness
16 stand]

17 THE COURT: All right. Call your next witness.

18 MR. OSBORNE: The State calls crime scene detective Jeff
19 Miller.

20 THE COURT: Okay.

21 [Whereupon, Mr. Miller comes forward]

22 THE CLERK OF COURT: Do you swear or affirm that the
23 testimony you shall give the Court and jury in the trial of
24 this case shall be the truth, the whole truth, and nothing but
25 the truth, so help you God?

1 THE WITNESS: I do.

2 THE CLERK OF COURT: Please be seated.

3 [Whereupon, the witness takes the witness stand]

4 THE CLERK OF COURT: Please state your name and spell
5 your last name for the record, please.

6 THE WITNESS: Jeffery Miller. M-I-L-L-E-R.

7 MR. OSBORNE: Good afternoon, Investigator Miller
8 JEFFREY MILLER, Having Been First Duly Sworn, was Examined and
9 Testified as Follows:

10 **DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY MILLER:**

11 Q. Good afternoon, Investigator Miller.

12 A. Hey.

13 Q. Where are you from?

14 A. Indiana.

15 Q. Where are you employed?

16 A. Charleston City Police Department.

17 Q. Is that what brought you down from Indiana?

18 A. No. I was little when I came down here.

19 Q. How long have you been in Charleston?

20 A. Since the early '70's.

21 Q. How long have you been with CPD?

22 A. Since 1985.

23 Q. What positions have you held there?

24 A. I started as a patrol officer. I was a patrol
25 supervisor. Then I went into the crime scene unit as a crime

1 scene officer. And then I retired in 2009. And now I am a
2 civilian crime scene investigator.

3 Q. So what was your position in 2016?

4 A. I was a civilian crime scene investigator.

5 Q. Okay. And just explain some of your duties as a civilian
6 crime scene investigator with CPD.

7 A. Well, we respond to calls for service. We look for and
8 we collect physical evidence. It could be dusting for
9 fingerprints, it could be collecting an actual item, or just
10 taking photographs.

11 Q. Okay. And you responded to 852 Orleans in regards to
12 this incident; correct?

13 A. Yes, I did.

14 Q. Okay. How did you become involved?

15 A. Well, I heard it on the radio. We work off the same
16 channel. So I either responded on my own or I was dispatched.
17 And I went straight to the bank and then I spoke with an
18 officer to get the information on how the incident transpired.

19 Q. Okay. Just explain what you did at the TD Bank that day.

20 A. Well, I got the information that the suspect entered and
21 exited through the same door, which was two sets of doors, and
22 also where he interacted with the teller windows once he was
23 inside the store. I mean the bank. Sorry.

24 Q. Okay. And did you take fingerprints -- do fingerprints,
25 photos, and DNA on everywhere that they said that he went?

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY MILLER

1 A. Yes, I started on the outside doors and then made my way
2 inside. I did the teller windows. And then I also did those
3 same areas for contact DNA.

4 Q. Okay. What do you do with the evidence you collect once
5 you're finished?

6 A. Everything is then sealed in envelopes and then turned in
7 to evidence storage.

8 MR. OSBORNE: Your Honor, may I approach the witness?

9 THE COURT: Sure.

10 While he's doing that: Officer Miller, can you -- is
11 your microphone on? Like do you see a red button? It would
12 look like this on mine.

13 THE WITNESS: It's not on.

14 [Off the record momentarily to adjust microphone]

15 THE COURT: All right. Can you pull that as close as you
16 can to you? I'm having a hard time hearing you.

17 THE WITNESS: Okay.

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

19 Absolutely, you can approach.

20 MR. ZEIGLER: Thank you, Your Honor.

21 Q. I am showing you what's been marked for identification
22 purposes as State's 7 through 11. Could you just take a look
23 at those and identify them, please?

24 [Whereupon, the witness reviews exhibits]

25 A. Yeah. They're pictures of fingerprints that I -- that I

1 lifted from the door.

2 Q. Did you take those pictures yourself?

3 A. Yes, I did.

4 Q. Do they -- do those images fairly and accurately
5 represent the crime scene at TD Bank that day?

6 A. Yes.

7 Q. Okay.

8 MR. ZEIGLER: May I approach?

9 THE COURT: Sure.

10 MR. ZEIGLER: Your Honor, at this time I would like to
11 enter State's 7 through 11 into evidence and publish them for
12 the jury.

13 MS. NORRIS: No objection.

14 THE COURT: All right. Without objection.

15 [Whereupon, State's Exhibit Numbers 7 through 11 are
16 entered into evidence by the Court]

17 Q. If you could just explain what's in State's 7, please.

18 A. That's showing where I dusted the -- that's a pull handle
19 for a door. So I dusted it for fingerprints and then I placed
20 the tape on it and then I gave it a number. And then that's
21 where you see the picture here is of the number on the tape
22 prior to me pulling the tape off the door.

23 Q. Were there any results?

24 A. [No response]

25 Q. Any results from that?

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY MILLER

1 A. I lifted several fingerprints and then they were all
2 turned in to be examined. I don't know what all the results
3 were, no.

4 Q. Okay. And Number 8, is that the same ---

5 A. Same ---

6 Q. --- same thing as the other handle?

7 A. --- same system. Yes.

8 Q. Okay. And Number 9?

9 A. That's -- there was a fingerprint that you can't see on
10 the glass, so I put the scale on there.

11 Q. There's Number 10. Does that ---

12 A. And as you get closer -- yes.

13 Q. Okay. And then Number 11 may help some more.

14 A. Yes. I put a card behind it on the other side because
15 the sun was preventing me from seeing it very well.

16 MR. ZEIGLER: Okay. I've got nothing further for this
17 witness, Your Honor.

18 THE COURT: All righty.

19 **CROSS-EXAMINATION BY MS. NORRIS OF JEFFREY MILLER:**

20 Q. So let me just make sure that I understand. You
21 attempted to pull fingerprints from the door?

22 A. I did lift some fingerprints, yes.

23 Q. All right. And also the two teller windows?

24 A. I didn't get anything from the teller windows; but I did
25 process them, yes.

1 Q. Okay. And you also processed those same points, the door
2 and the teller windows, for DNA?

3 A. Well, contact DNA is where we take a moistened swab and
4 then -- and then swab the area and then turn the -- and
5 collect those.

6 Q. All right. And did you also check the fence? We've had
7 some testimony that the suspect went across the fence.

8 A. Yes, I was advised by a detective that the suspect was
9 seen crossing the fence. And I did the same thing at the
10 fence. I processed it for fingerprints. Didn't get anything.
11 And then I also did contact-DNA on the fence.

12 Q. All right. And did you process any other points?

13 A. No.

14 Q. Okay. Those were the points that you were told the
15 suspect touched?

16 A. Correct.

17 MS. NORRIS: All right. Thank you, sir.

18 THE COURT: All right. Officer Miller, you are excused
19 unless there's anything further from the State.

20 MR. ZEIGLER: No.

21 THE COURT: All right. Thank you so very much.

22 THE WITNESS: Thank you.

23 THE COURT: Have a great day.

24 [Whereupon, the witness is excused and exits the witness
25 stand]

1 THE COURT: All right.

2 MR. OSBORNE: The State calls Thomas Cullum, the manager
3 of the Sonoco or that Seven-Eleven.

4 [Whereupon, Mr. Cullum comes forward]

5 THE CLERK OF COURT: Do you swear or affirm that the
6 testimony you shall give the Court and jury in the trial of
7 this case shall be the truth, the whole truth, and nothing but
8 the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK OF COURT: Please be seated.

11 [Whereupon, Mr. Cullum takes the witness stand]

12 THE CLERK OF COURT: Please state your name and spell
13 your last name for the record, please.

14 THE WITNESS: Thomas Cullum. C-U-L-L-U, M as in Mary.
15 THOMAS CULLUM, Having Been First Duly Sworn, was Examined and
16 Testified as Follows:

17 **DIRECT EXAMINATION BY MR. OSBORNE OF THOMAS CULLUM:**

18 Q. Good afternoon, Mr. Cullum. Where are you from?

19 A. Greenwood, South Carolina. I've live in Charleston for
20 fifty-something years.

21 Q. What brought you down to Charleston?

22 A. My parents, when I was two.

23 Q. Where are you employed?

24 A. I work for Sonoco, slash, 7-Eleven. 7-Eleven bought out
25 all the Sonoco's, so they're now 7-Eleven's.

1 Q. Okay. And in September, 2016, was it Sonoco?

2 A. It was Sonoco, yes.

3 Q. Okay. What are your duties at Sonoco?

4 A. I am the store manager.

5 Q. Okay. And what do you do as the store manager?

6 A. All things deemed necessary. Make the schedules, staff
7 the store, keep the money straight, keep the store stocked,
8 watch security videos, order groceries, treat customers right.

9 Q. Okay. And do you have background as a store manager
10 before starting at Sonoco?

11 A. Yes. I worked for a locally-owned convenience store
12 called Blue Water for about ten years.

13 Q. Okay. And you said you pull surveillance video at
14 times ---

15 A. Oh, yeah.

16 Q. --- as part of your job as a manager?

17 A. Oh, yeah.

18 Q. Okay. Who else has access to those videos?

19 A. My boss would. And we have a monitoring facility who can
20 monitor them.

21 Q. Okay.

22 A. But as far as that store local, it would just be me and
23 my assistant manager.

24 Q. Okay. And how long does Sonoco store policy have you
25 keep surveillance videos before you are permitted to override

1 or delete video?

2 A. I don't do the overriding or deleting. It is the system
3 is set up. But it is somewhere around thirty days.

4 MR. ZEIGLER: Okay. Your Honor, may I approach the
5 witness?

6 THE COURT: Sure.

7 Q. I'm handing you what's been marked for identification
8 purposes as State's Exhibit 16. Do you recognize that?

9 A. I recognize -- I must have made this for you. My
10 handwriting -- or at least I initialed the times and the
11 dates.

12 Q. Have you watched that video?

13 A. I have.

14 Q. Okay.

15 A. I mean, I didn't know what I was looking for, really,
16 because I wasn't there at the time.

17 Q. Okay. Does the video content fairly and accurately
18 represent the Sonoco you currently manage located at 1984 Sam
19 Rittenberg?

20 A. It does at the time this video was taken. And in the
21 meantime, in the last six months or so, we've been remodeled
22 so it looks a little different now.

23 Q. Okay. And with a surveillance video like this, you said
24 you can't modify it in any way?

25 A. No. Absolutely. It's -- I believe -- and this gets kind

1 of technical. But I believe it is actually stored off-site at
2 our central monitoring facility. But all I can do is watch
3 it. I cannot change dates, times, places.

4 Q. Okay. But you can pull them and give them to us, ---

5 A. That is correct.

6 Q. --- if the State -- if the State requested it?

7 A. That is correct.

8 MR. ZEIGLER: Okay. Your Honor, at this time I would
9 like to enter State's 16 into evidence.

10 MS. NORRIS: No objection.

11 THE COURT: All right. Without objection.

12 [Whereupon, State's Exhibit Number 16 is admitted into
13 evidence by the State]

14 Q. And with something like surveillance videos that have
15 failure, any of the businesses that you've managed, is it
16 common to see that the clock might be a minute or two fast?

17 A. Yeah. In a store -- take this store, for example;
18 every -- I've probably got fifteen different computers in
19 there, and every computer -- they're not always synced up
20 to the minute. Like right now I think my registers are off
21 by a minute-and-a-half, two minutes, from the security
22 computer.

23 Q. Okay. Do you have any idea why that is?

24 A. I think because they're stand-alone systems.

25 Q. Okay.

1 A. They don't -- the security system is a stand-alone system
2 by itself. Nothing else talks to it. The rest of it, most of
3 it's networked together and it talks and syncs up times.

4 Q. Okay. And once -- I mean, while they can be off, they're
5 not usually off by more than just a couple of minutes?

6 A. Yeah, just -- yeah.

7 MR. ZEIGLER: Okay. I've got nothing further, Your
8 Honor.

9 THE COURT: All right.

10 MS. NORRIS: Thank you, sir. We don't have any
11 questions.

12 THE COURT: All right. Thank you very much for being
13 here.

14 THE WITNESS: Thank you.

15 THE COURT: Yes, sir. You're excused.

16 THE WITNESS: Thank you.

17 THE COURT: All right.

18 [Whereupon, the witness is excused and exits the witness
19 stand]

20 MR. OSBORNE: The State calls Investigator Jeff Fort.

21 [Whereupon, Mr. Fort comes forward]

22 THE CLERK OF COURT: Do you swear or affirm that the
23 testimony you shall give the Court and the jury in the trial
24 of this case shall be the truth, the whole truth, and nothing
25 but the truth, so help you God?

DIRECT EXAMINATION BY MR. OSBORNE OF THOMAS CULLUM

1 THE WITNESS: I do.

2 THE CLERK OF COURT: Please be seated.

3 [Whereupon, the witness takes the witness stand]

4 THE CLERK OF COURT: Please state your name and spell
5 your last name for the record, please.

6 THE WITNESS: It is Jeffrey. Last name is Fort,
7 F-O-R-T.

8 JEFFREY FORT, Having Been First Duly Sworn, was Examined and
9 Testified as Follows:

10 **DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT:**

11 Q. All right. Investigator Fort, where do you work?

12 A. I work for the Charleston County Solicitor's Office.

13 Q. All right. And how long have you been there?

14 A. April of 2018 is when I began.

15 Q. And what prior work experience did you have prior to
16 working with us?

17 A. Prior to the Solicitor's Office, I worked with the City
18 of Charleston Police Department in patrol and investigations.
19 And prior to that, I did corporate investigations for ten
20 years or so.

21 Q. All right. So you're an investigator. We have worked
22 together. Tell the jury what some of your duties and
23 responsibilities are as an investigator.

24 A. Within the Solicitor's Office, basically we sit down and
25 we will receive -- after we receive case files from Charleston

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT

1 County agencies we will vet those cases. We'll go through and
2 we'll take a look at different reports, witness's statements,
3 review evidence, just make sure we have everything there to
4 proceed with prosecution. And if not, then we move forward in
5 trying to recover those -- that evidence to assist with the
6 prosecution of the case. I also serve subpoenas, follow up
7 with witnesses and what I am doing today.

8 Q. Okay. So you sort of -- you help -- well, you help me
9 out. We work together with sort of back-end stuff on the
10 investigation; is that fair to say?

11 A. That's correct.

12 Q. All right. So I want to start by asking you about the
13 surveillance video in this case. Did you have the occasion to
14 go through that early on?

15 A. I did, yes.

16 Q. And when you went through that did you see something of
17 interest to you that you wanted to do a little bit of follow
18 up on?

19 A. Upon reviewing the video, outside of obviously the knife
20 that was in the defendant's hand, there was a bag and it was a
21 white bag that had a particular logo on it. So zooming in on
22 that logo. My next question would be where did the bag come
23 from. It was a simple, white, little plastic bag that you
24 would get from a convenience store.

25 So I went next door to the Sonoco, which was the one

1 identified in the photos that you've seen already, and went in
2 to talk to the manager, which was also Mr. Cullum. Took a
3 look at their plastic bags; and, low and behold, that
4 particular bag that they use is the same one that the person
5 had that's on the bank video.

6 [Whereupon, photo displayed]

7 Q. All right. Is that a fair shot of what you were looking
8 at?

9 A. Absolutely.

10 MR. OSBORNE: All right. Your Honor, may I approach?

11 THE COURT: Sure.

12 Q. Showing you State's 62. Can you take a look at that and
13 tell me if you recognize that?

14 A. I do.

15 Q. And what is that?

16 A. That's the bag that I brought from the Sonoco.

17 MR. OSBORNE: All right. Your Honor, at this time we
18 would seek to admit State's 62 into evidence.

19 MR. DANIELS: No objection.

20 THE COURT: All right. Without objection.

21 [Whereupon, State's Exhibit Number 62 is admitted into
22 evidence by the Court]

23 Q. All right. And you got that from the next-door gas
24 station at the Sonoco?

25 A. That's correct.

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT

1 Q. And this is just a photograph of it?

2 A. That's a photograph of the bag.

3 Q. Okay.

4 A. And if I might add, one of the reasons that I went to
5 that particular Sonoco is, number one, that's where the black
6 vehicle was parked, the getaway vehicle; so that kind of led
7 me down that trail ---

8 Q. Okay.

9 A. --- to that particular store.

10 Q. Okay. What is -- what does discovery mean?

11 A. Basically, discovery -- based upon the Rule 5 rules of
12 evidence any time the State receives any type of evidence from
13 anyone in regard to a case we have an obligation to turn that
14 over to the defense as soon as we get that, as quick as
15 possible.

16 So when the initial recovery -- or initial discovery
17 comes in, we make copies of that. And we, of course, send
18 that over ---

19 Q. Okay.

20 A. --- for their review, for their consideration, to prepare
21 properly.

22 Q. And did -- and was that done in this case?

23 A. Yes, it was.

24 Q. And it was -- it was -- correct me if I am wrong, but
25 wasn't it done at multiple times?

1 A. In this case it was because evidence came in in multiple
2 stages.

3 Q. And then you had the chance to go back and research that?

4 A. That's correct.

5 Q. When was the initial discovery sent out?

6 A. I believe, according to my notes, it was around November
7 21st of 2016.

8 Q. Okay. So that's the initial packet and that was sent to
9 the defense on that date?

10 A. That's correct.

11 Q. All right. Was there an occasion in which additional
12 discovery went out on a later date?

13 A. It was, yes.

14 Q. Okay. And when was the next batch of discovery that was
15 sent out? About.

16 A. I believe that was October 4th of 2018.

17 Q. Okay. So we're looking at almost two years later, from
18 the 16th of November until the 1th would be the next batch; is
19 that fair to say?

20 A. Thereabout, yes.

21 Q. All right. So why was there a delay, if you know?

22 A. When we go through and we do investigations. We follow
23 up with things. I mean, it could be reviewing jail calls. It
24 could be maybe an additional witness popped up or additional
25 information, you know, came about. So we have to basically go

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT

1 back and follow up with that. So once that comes about, then
2 that information again --

3 MR. DANIELS: Objection. Relevance.

4 MR. OSBORNE: It'll become relevant later, Judge.

5 THE COURT: All right. I will overrule it for right now.
6 Let's just get to the where we're headed.

7 Q. All right. So the important part for now is initial
8 batch on the 2016, another batch in 2018?

9 A. That's correct.

10 Q. Okay. The batch that went out in 2016, did it make any
11 mention of a person by the name of Levi Singleton?

12 A. It did. It did.

13 Q. With the initial batch?

14 A. With the -- yes, with the initial batch.

15 Q. Okay. What about the supplemental batch; did that
16 mention anything about Levi Singleton?

17 A. So when you're saying the initial batch, you're talking
18 about ---

19 Q. In 2016.

20 A. 2016. Okay. In that particular instance involving Mr.
21 Singleton there was information where the defendant and Mr.
22 Singleton had a conversation.

23 Q. Well, the only thing I am asking you is in 2016, with
24 that initial batch, was the name of Levi Singleton mentioned
25 in that initial batch; or was it in the second batch in 2018?

1 A. Give me just one moment, please.

2 [Whereupon, the witness reviews documents]

3 A. It was in the initial batch, I believe.

4 MR. OSBORNE: All right. Your Honor, may I approach?

5 THE COURT: Sure.

6 Q. I am showing you State's 26. Can you take a look at that
7 and tell me if you recognize that?

8 A. I do.

9 Q. And what is that?

10 A. That's a photo of one of the suspects that was in the
11 vehicle.

12 Q. Okay. Who?

13 A. Mr. Travis Jerome Simmons.

14 Q. Did you want to try to speak to Mr. Simmons?

15 A. Yes, I did.

16 Q. Why?

17 A. Because he was involved in the case.

18 Q. Okay. Well, what did you do to try to speak to him?

19 A. I went by his address. And I actually did speak to Mr.
20 Simmons a couple of different times over the past six months,
21 when the trial had a previous date set; and Mr. Simmons didn't
22 exactly want to speak to me about it.

23 Q. Okay. Did you try to serve him for this trial?

24 A. I did try to serve him for this trial.

25 Q. Did you have any luck?

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT

1 A. No, I did not.

2 Q. And what efforts did you go through to try to serve him
3 for this trial?

4 A. I went and knocked on his door, the same thing I did
5 before where I reached him. Normally Mr. Simmons likes to sit
6 outside. And that's where I would find him every time,
7 outside of his residence.

8 Q. Okay. Do you know where he is now?

9 A. I do not. The only thing that I know is he does have
10 pending charges for bank robbery.

11 MR. OSBORNE: I have no further questions, Your Honor.

12 THE COURT: All righty.

13 MR. OSBORNE: Twenty-six is only for ID purposes ---

14 THE COURT: Okay.

15 MR. OSBORNE: --- for now.

16 MR. DANIELS: No questions.

17 THE COURT: All right. Mr. Fort, you may be excused.

18 [Whereupon, the witness is excused and exits the witness
19 stand]

20 MR. OSBORNE: Your Honor, may we approach?

21 THE COURT: Sure.

22 [Whereupon, an off-the-record bench conference is held]

23 THE COURT: All right. Ladies and gentlemen, we're going
24 to take about a five-minute break. Stretch your legs and then
25 we'll come back and resume the trial. Again, don't discuss

1 anything about the case amongst yourselves until the end. All
2 right?

3 [Whereupon, the jury exits the courtroom at 3:38 p.m.]

4 THE COURT: Gentlemen, we are going to stay on the
5 record. I have got to ask you just a couple of quick
6 questions.

7 Thomas Cullum is not on anybody's witness list. Maybe
8 just an oversight. Do y'all want me to ask the jury if they
9 recognized him, know him or anything, in case it becomes an
10 issue down the road? Or just no one piped up? Or wait and
11 see what happens?

12 MR. OSBORNE: It's probably best to ask the question.
13 Sorry.

14 THE COURT: Okay.

15 MS. NORRIS: I would -- I would inquire whether anybody
16 knew him. And in fairness to the State, he was not a surprise
17 to us.

18 THE COURT: Okay. Not a problem.

19 MS. NORRIS: We knew -- we knew that was an alternative.
20 I guess it just didn't make the final written version.

21 THE COURT: All right. Not a problem. I will inquire as
22 to whether they know Mr. Cullum when they return.

23 Are you planning on calling the consolidated dispatcher,
24 Tonia Mallette?

25 MR. OSBORNE: No. No, sir.

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1 THE COURT: All right. So we're going to take off. What
2 about Detective Brown and Richardson?

3 MR. OSBORNE: Brown or Cullum was going to handle that.
4 So Cullum got it, so Brown is out. Richardson is going to
5 testify.

6 THE COURT: So ---

7 MR. OSBORNE: Brown is out.

8 THE COURT: --- Thomas Collum testified. And so who is
9 out, Richardson?

10 MR. OSBORNE: Brown. Detective Brown.

11 THE COURT: Brown is out. And then so that leaves us
12 with Detective Richardson.

13 MR. OSBORNE: Yes.

14 THE COURT: And then we have Agent Simmonds, who we know
15 is coming tomorrow. What about Loretta Mitchum?

16 MR. ZEIGLER: She's no -- not -- or the jail.

17 THE COURT: She's -- so she'll be here in a minute?

18 MR. OSBORNE: She's in route.

19 THE COURT: All right. Then that leaves us one, two,
20 three, four, five, six, seven potential lay witnesses. Are
21 they ready for tomorrow? Because, really, that's only nine
22 witnesses. Clay --

23 MR. OSBORNE: Yeah ---

24 THE COURT: Clay is going to take some time. I know
25 Clay. That's why I keep calling him Clay. Agent Simmonds is

1 going to take some time, I assume.

2 MR. OSBORNE: And Richardson will take some time. I
3 mean, to be perfectly frank to you, in all candor, I am not
4 sure how many of the seven are going to show up.

5 THE COURT: All right. That was kind of what I was
6 getting at is we are just going to have to go through what we
7 can get through and -- I mean, you know the game. At the
8 close of it, if they don't show, they just don't show.

9 MR. OSBORNE: Yeah.

10 THE COURT: So just make sure if we -- because obviously
11 we are going to get done early today.

12 How is Agent Simmonds -- I mean, is he still okay to come
13 and testify?

14 MR. OSBORNE: Yes, he is.

15 THE COURT: Okay. All right. So that leaves us one,
16 two, three, and then we are just rolling the dice on the other
17 one. All right.

18 All right, we are off the record ---

19 MR. DANIELS: Can I -- Your Honor ---

20 THE COURT: Hold ---

21 MR. DANIELS: -- before we go off the record, I need to
22 say something to preserve.

23 THE COURT: Okay.

24 MR. DANIELS: When I was cross-examining Katherine Muller
25 I made a comment to who was in the courtroom. At the State's

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1 table were three Caucasian males. At my table was my client
2 and a female, in addition to court staff.

3 THE COURT: Okay.

4 MR. DANIELS: That's been an issue in the past on
5 appeals.

6 THE COURT: Okay. All right. And just so y'all know
7 what we were doing up here earlier: I read twice the warrant
8 number to the jury. It doesn't really affect anything as to
9 them because it doesn't go back anyway. But the court
10 reporter and I cleared up the indictment number, as opposed to
11 the warrant number, 2017-GS-10-02131 and 32. That's what we
12 were doing, just for the record, as y'all were wondering why
13 we were talking.

14 All right, guys. We will take a recess. Just let Mr.
15 Robinson know whenever she gets here.

16 MR. OSBORNE: Yes, sir.

17 THE COURT: All right. Thank you.

18 [Whereupon, a recess is taken from 8/12/19, 3:41 p.m.]

19 [Whereupon, resume 8/12/19, 3:59 p.m.]

20 THE COURT: All right. Go ahead and grab the jury for
21 us, if you would, Mr. Robinson.

22 [Whereupon, the jury enters the courtroom at 3:59 p.m.]

23 THE BAILIFF: Your Honor, the jury is complete.

24 THE COURT: All right. Thank you so very much.

25 If the State would proceed. Call its next witness.

1 MR. ZEIGLER: The State calls Loretta Mitchum.

2 [Whereupon, Ms. Mitchum comes forward]

3 THE DEPUTY CLERK OF COURT: Do you swear or affirm that
4 the testimony you shall give the jury -- the Court and jury in
5 the trial of this case shall be the truth, the whole truth,
6 and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE DEPUTY CLERK OF COURT: Please be seated.

9 [Whereupon, the witness takes the witness stand]

10 THE DEPUTY CLERK OF COURT: Please state your name and
11 spell your last name for the record, please.

12 MR. ZEIGLER: Loretta Mitchum. M-I-T-C-H-U-M.

13 MR. OSBORNE: Good afternoon, Ms. Mitchum.

14 MR. ZEIGLER: Hello.

15 MR. OSBORNE: Okay. We'll just go straight to it.

16 LORETTA MITCHUM, Having Been First Duly Sworn, was Examined
17 and Testified as Follows:

18 **DIRECT EXAMINATION BY MR. ZEIGLER OF LORETTA MITCHUM:**

19 Q. Where are you employed?

20 A. I work for Sheriff Al Cannon Detention Center.

21 Q. Okay. And the -- that's run by the Sheriff's Office;
22 correct?

23 A. Oh, yes, Charleston County Sheriff's Office.

24 Q. Okay. And how long have you been there?

25 A. Two years.

DIRECT EXAMINATION BY MR. ZEIGLER OF LORETTA MITCHUM

1 Q. And what jobs or units have you had while there?

2 A. I'm sorry, sir?

3 Q. What jobs and units have you been in since you started
4 there?

5 A. Security Threat Group.

6 Q. Okay. And what's the purpose of that group?

7 A. They monitor the gang activity in any high-profile case.
8 And I am the administrative assistant there; and I handle any
9 subpoena requests, warrants.

10 Q. Okay. And you monitor an inmate's mail, visitation,
11 phone calls?

12 A. Yes.

13 Q. Do your duties -- so what kind of responsibilities do you
14 have with that subpoena compliance that you were just talking
15 about?

16 A. When I am requested, just different information. It is
17 just whatever they ask for: inmate name, number, specific
18 times, whether it's phone calls, visitation, incident records.

19 Q. Okay. And do you do movement logs on subpoenas?

20 A. Yes.

21 Q. Okay. And in your current capacity did you receive a
22 subpoena from our office regarding inmate logs for Allen
23 Fields, Henry White, and Levi Singleton?

24 A. Yes.

25 Q. Okay. And can you just explain what those are, what

1 inmate movement logs are or housing logs?

2 A. The sergeant in that unit, as an inmate is moved from
3 different locations, they have to key in where that inmate is
4 at all times so there's a record if something happened in the
5 jail we know where the inmate is at at any certain time.

6 MR. ZEIGLER: Okay. Your Honor, may I approach the
7 witness?

8 THE COURT: Absolutely.

9 Q. I'm handing you what's been marked, for identification
10 purposes only, as State's 59 and 60 and 67. Can you please
11 identify those documents?

12 A. That's the inmate housing listings that shows where
13 they're moved and what period of time.

14 Q. Which inmates are those particular reports for?

15 A. Levi Singleton, Allen Fields, and Henry White.

16 Q. Okay. And inmates who are housed in the same unit or
17 cellblock typically have access to one another; correct?

18 A. Yes.

19 Q. Okay. And how long are inmates typically out of their
20 cells on any given day?

21 A. Most of the day they go in like meals or nurse checks or
22 at night. More than that, they're in their open pods.

23 Q. Open pods. So they're not locked in one cell,
24 constantly, at all times?

25 A. No.

DIRECT EXAMINATION BY MR. ZEIGLER OF LORETTA MITCHUM

1 Q. Okay. What kind of interactions can they have with one
2 another while in the same cellblock?

3 A. Talking, playing games, and watching videos.

4 Q. They do like rec time?

5 A. Rec yard.

6 Q. Okay. And they're able to communicate freely; I mean,
7 nobody's preventing them from communicating, correct?

8 A. Correct.

9 Q. Okay. I want to direct your attention to the log with
10 Levi Singleton's name on it.

11 MR. ZEIGLER: I believe that's Number 59, for the record.

12 Q. When, if at all, were the defendant and Levi Singleton
13 housed together?

14 A. I had it. Let me get that one.

15 [Whereupon, the witness reviews documents]

16 A. See if I can find mine, because I had them marked down
17 with the times and dates they were together.

18 [Whereupon, the witness reviews documents]

19 [Off the record momentarily]

20 A. On -- Singleton, on 9/29/17 he was in unit A1C, moved to
21 C3N. And on 1/11/17 Fields was moved into C3N.

22 Q. Okay. So from I guess January 11, 2017, until October
23 18, 2017, Allen Fields was in that unit?

24 A. He was in C3N, Bed 13.

25 Q. Okay. And at that same time between September 27, 2017,

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1 and when Fields left on October 18, 2017, Levi Singleton was
2 also there?

3 A. He was in C3N, Bed 15.

4 Q. Okay. And now I want to direct you to the log with Henry
5 White's name on it.

6 MR. ZEIGLER: Which is Number 67, for the record.

7 Q. On March 20th, 2018, was Allen Fields moved to Pod B2H?

8 A. 3/20/18?

9 Q. Yes, ma'am.

10 A. Yes.

11 Q. Okay. And then on March 14, 2019, did Henry White arrive
12 in Pod B2H?

13 A. Yes.

14 Q. Okay. And then on April 29, 2019, Henry White moved to a
15 different location; is that correct?

16 [Whereupon, the witness reviews documents]

17 A. I -- here it showed he was -- a bed change.

18 Q. Okay.

19 A. But still that same unit.

20 Q. Okay. So between March 14, 2019, and April 29, 2019,
21 Fields and White would have had complete access to one
22 another?

23 A. Yes.

24 Q. Okay. And so they could have spent a lot of time
25 together during those periods?

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1 A. Yes.

2 Q. Just like Levi Singleton could have spent a lot of time
3 with Mr. Fields ---

4 A. Yes.

5 Q. --- during his periods?

6 Okay. Did you receive a subpoena from our office
7 requesting a copy of Allen Angelo Fields' jail calls?

8 A. Yes.

9 Q. Okay. Let's explain how jail calls work. Do inmates
10 have the ability to make jail calls?

11 A. Yes. Once they come in they are given a pin number. And
12 if they leave and come back they still keep the same pin
13 number. And when they make a phone call they have to enter
14 that pin number for the call to go out.

15 Q. Okay. But in all fairness, inmates can switch their pin
16 number, exchange it with somebody, let someone else use it or
17 ---

18 A. It is asked not to; but, yes, they have access to give it
19 to someone else.

20 Q. Okay. And do you keep a record of jail calls?

21 A. Yes.

22 Q. And how are those calls stored?

23 A. Electronic, as the call is taking place.

24 Q. Okay. So they are stored at or near the time the call
25 was made?

1 A. At the time, yes.

2 Q. Okay. And does the Al Cannon Detention Center maintain
3 those calls in the normal and ordinary course of business?

4 A. Yes.

5 Q. Okay. And when my office sent you a request for this
6 defendant's jail calls how did you retrieve them?

7 A. Going in and looking up the inmate's number, looking at
8 the date that it's requested; and we have a program, GTL, that
9 we go in and it's where all the recorded phone calls are.

10 Q. Okay. And that's one of your duties ---

11 A. Yes.

12 Q. --- in your current position?

13 MR. ZEIGLER: Okay. Your Honor, may I approach the
14 witness?

15 THE COURT: Sure.

16 Q. I am handing you State's 57 and 58 for identification
17 purposes only. Can you please identify those disks?

18 A. Yes. They are calls made at the Detention Center for
19 Allen Fields.

20 Q. Okay. How do you know what's on those?

21 A. [No response]

22 Q. Are they marked in any ---

23 A. Yes. It has his name, number, and what clips the calls
24 are from.

25 Q. Okay. And did you listen to Mr. Fields' calls?

DIRECT EXAMINATION BY MR. ZEIGLER OF LORETTA MITCHUM

1 A. Yes.

2 Q. And those can't be changed in any way, as far as you are
3 aware?

4 A. No.

5 MR. ZEIGLER: Okay. Your Honor, at this time I would
6 like to offer State's Exhibit I believe it's 57 and 58 into
7 evidence.

8 MR. OSBORNE: Well, no, only 58.

9 MR. ZEIGLER: Only Number 58 into evidence, Your Honor.

10 MR. DANIELS: I'd like to review that before it's ---

11 THE COURT: Sure. Please just show it to opposing
12 counsel, please.

13 [Whereupon, Mr. Zeigler proffers exhibit to Mr. Daniels]

14 MR. DANIELS: Your Honor, we object to 58.

15 THE COURT: Okay.

16 MR. DANIELS: Relevancy 403 concerns. We had mentioned
17 this before trial. So --

18 THE COURT: Okay. And this is the witness you are
19 attempting to get 58 in through?

20 MR. ZEIGLER: Nothing further, Your Honor.

21 THE COURT: You want to mark it for ---

22 MR. ZEIGLER: We will just ID it.

23 THE COURT: You want to mark it for identification
24 purposes only, 57 and 58? Or just 58?

25 MR. ZEIGLER: Both -- both for identification purposes.

DIRECT EXAMINATION BY MR. ZEIGLER OF LORETTA MITCHUM

1 THE COURT: Okay, 57 and 58 will be for identification
2 purposes only.

3 [State's Exhibit 57 and 58 were previously marked for
4 identification]

5 MR. ZEIGLER: I have no further questions, Your Honor.

6 THE COURT: All right.

7 **CROSS-EXAMINATION BY MR. DANIELS OF LORETTA MITCHUM:**

8 Q. I just want to clarify something real quick.

9 A. Okay.

10 Q. You were comparing multiple inmate logs there, right?

11 A. Yes.

12 Q. You weren't paying any special attention to Allen or to
13 the other people, were you? You had to -- you had to look at
14 your records?

15 A. Yes.

16 Q. Okay. It's not something that you can just recall off
17 the top of your head ---

18 A. No.

19 Q. --- I know where Allen is?

20 A. No.

21 MR. DANIELS: Okay. Have a good night.

22 THE COURT: All right. All righty. Anything further?

23 MR. ZEIGLER: No, Your Honor.

24 THE COURT: All righty. Well, thank you so very much for
25 being here; and have a wonderful rest of your day.

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1 THE WITNESS: Thank you.

2 THE COURT: All right.

3 [Whereupon, the witness is excused and exits the witness
4 stand]

5 THE COURT: All right. Ladies and gentlemen of the jury,
6 that is going to be it for today. We are going to get out a
7 little early, let you go ahead and beat the five-o'clock
8 traffic. I won't tell any of your loved ones where you are
9 between now and 5:30 - you are very welcome - if you won't
10 tell my wife where I will be.

11 So here's some housekeeping matters that we are going to
12 go through: The first of which is a witness testified, Thomas
13 Cullum. He was the 7-Eleven manager. He, unfortunately, was
14 inadvertently left off the witness list or I did not announce
15 him. Does anybody in the jury panel have a close personal
16 relationship or know Mr. Cullum?

17 [Whereupon, there is no response]

18 THE COURT: All right. Let the record reflect that no
19 one has indicated that they know him.

20 That just would have been essentially what we did earlier
21 in the voir dire. We don't want to get through and say, oh,
22 goodness, he's my neighbor or my close personal friend. So I
23 just wanted to make sure we're all straight on that.

24 Ladies and gentlemen, we are going to start back tomorrow
25 morning at 9:30. That gives everybody an opportunity to get

1 their kids sorted out and not have to rush here. Obviously,
2 all these attorneys have to get the courtroom set back up.

3 So we usually start around 9:30. But as you saw, I try
4 to keep it going very fast, very quick. When I say 9:30, that
5 really means 9:25. So the -- so just be in the jury room as
6 soon as you can. If we are all there at 9:30, we'll go ahead
7 and start then.

8 Also, out of the graciousness of my own heart, I am going
9 to have the County purchase you a delicious lunch tomorrow.
10 And so in doing so -- that is just for several reasons. One,
11 to just kind of keep us going; and, two, it's 115 degrees
12 outside and for you to walk to Jimmy John's we're just going
13 to save you the trip. How about that.

14 JURY MEMBERS: Thank you.

15 THE COURT: So you are welcome. You are going to get one
16 of these [indicates] in your jury room. If you'll just put
17 your juror number up here [indicating]. Obviously, just fill
18 it out, pick it out, and give it to these wonderful bailiffs.
19 We'll give it to the Clerk's Office and we will have it at our
20 lunch tomorrow.

21 All right. Please don't discuss the case. Don't do any
22 Google searches. Don't discuss it with your family. Again,
23 blame it on me. I am the old mean judge that I said you
24 couldn't talk about it. And we will see y'all first thing in
25 the morning. Enjoy the rest of your day.

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1 [Whereupon, the jury exits the courtroom at 4:16 p.m.]

2 THE COURT: All right. Anything before we adjourn for
3 the evening?

4 MR. OSBORNE: Nothing from the State, Your Honor.

5 MR. DANIELS: I'd like to clarify the notebooks.

6 THE COURT: Okay.

7 MR. DANIELS: I am concerned about them going back to the
8 deliberate [sic] room. If they could stay here ---

9 THE COURT: Okay.

10 MR. DANIELS: --- and just be gathered by the bailiffs,
11 make sure that they don't go home or anything.

12 THE COURT: Yeah, they weren't supposed to go back there
13 with them.

14 THE BAILIFF: Okay.

15 THE COURT: Just go back there and just ---

16 THE BAILIFF: You will bring them back.

17 THE COURT: Yeah, just grab them now and make sure they
18 don't take them home, please. And if you don't mind, Mr.
19 Robinson, if you will just bring them in here and put them up
20 there for us, please. We'll address that.

21 Thank you for bringing that to our attention.

22 So tomorrow we're thinking detective -- or Case Agent
23 Detective Richardson, Agent Simmonds. And we're just going to
24 roll the dice on who shows.

25 MR. OSBORNE: Yes, sir.

1 THE COURT: All right. That's why I did the lunch. We
2 just don't know where we will be.

3 Yes, ma'am?

4 MS. NORRIS: Have you had an opportunity to review that
5 probate record for Mr. White?

6 THE COURT: No, ma'am. That is the last thing that we
7 were going to discuss.

8 Have y'all gotten the report back from Probate?

9 [Whereupon, there is no response]

10 THE COURT: All right. It's 4:15. I mean, you can just
11 go over to probate court and ask them if they have a copy of
12 his records. And if not, just get them to me by the end of
13 the day and I can review them first thing in the morning.

14 And if we haven't gotten them by 9:30 in the morning, at
15 8:30 I'll send somebody over there to get them myself. Easy
16 enough.

17 MS. NORRIS: Thank you, Your Honor.

18 MR. OSBORNE: Thank you.

19 THE COURT: All right. We will see y'all tomorrow
20 morning around 9:30.

21 MR. OSBORNE: Thank you, Judge.

22 THE COURT: Thank you.

23 [Whereupon, adjourn 8/12/19, 4:17 p.m.]

24 [Whereupon, resume 8/13/19, 9:32 a.m.)

25 THE COURT: All right. So, Mr. Daniels, we have received

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1 the information from Probate Court concerning the Drug Court
2 application and other information. I have reviewed it as I
3 indicated I would. And so is that pertaining to your witness
4 that you have that is your witness for today?

5 MR. OSBORNE: Yes, sir.

6 THE COURT: All right. And it is the witness that is
7 alleged to have spoken to the defendant personally inside the
8 Detention Center?

9 MR. OSBORNE: Yes, sir.

10 THE COURT: All right. And, Mr. Daniels, what are you
11 seeking to get through this documentation?

12 MR. DANIELS: Your Honor -- and Teresa can correct me if
13 I'm wrong. What we're trying to seek is any violations of the
14 drug-court agreement, any sanctions that he may have had, any
15 essays that he has to write, anything about his conduct while
16 he's in Drug Court not pertaining to medical issues.

17 So in Drug Court, what happens is they'll tell you like
18 first offense or not being honest, which is one of their
19 requirements, you can trigger ninety days in jail.

20 THE COURT: Right.

21 MR. DANIELS: Something like that, or it can trigger an
22 essay.

23 THE COURT: Yeah. I ---

24 MR. DANIELS: Anything like that ---

25 THE COURT: I had ten clients in Drug Court. So, I mean,

1 I have been through -- I actually tried to sue Drug Court
2 one time. So I am fully aware of how they -- how they work.
3 So ---

4 MR. DANIELS: And we're looking for any violation,
5 anything like that, that would go to motive of why he's
6 talking suddenly.

7 THE COURT: Why he's what?

8 MR. DANIELS: Why he's suddenly talking. Why he's trying
9 to reach out to Stephanie Linder in the Solicitor's Office.
10 We believe ---

11 THE COURT: So is that something he did?

12 MR. DANIELS: Yes. He reached out to -- through the
13 guards to Stephanie Linder, alerted them of, hey, I want to
14 talk to you about a case that you have next week. This is
15 back in April or May.

16 THE COURT: All right. For the record, Stephanie Linder
17 is the Drug Court prosecutor for the Ninth Circuit Solicitor's
18 Office, just so the record will ---

19 MR. DANIELS: Yes. She's ---

20 THE COURT: Right. I am just saying the Appellate Court
21 is not going to know who Stephanie Linder is.

22 So he reaches out to the solicitor in charge of Drug
23 Court and then says, I've got some information for y'all. And
24 what does he -- does he have an attorney or anybody that he
25 says -- that he tries to gain immunity by coming forward; does

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1 he try to seek anything for it?

2 MR. DANIELS: At the time he was represented -- we have a
3 Karen Barker in our office who represents a ---

4 THE COURT: All of them.

5 MR. DANIELS: She's a public defender.

6 THE COURT: Right. She represents them all.

7 MR. DANIELS: And he does not reach out to her.

8 Additionally, he -- and when -- in the Drug Court waiver and
9 agreement that he signs to get into Drug Court he waived a lot
10 of his privacy. It includes -- it includes the Public
11 Defender's Office, the Solicitor's Office and other parties
12 they may meet.

13 THE COURT: Probation and Parole and anybody at the
14 Detention Center.

15 MR. DANIELS: As such, we don't think that he's -- we
16 don't think that privacy is at issue with this. Furthermore,
17 we think that that actually -- we would say that that
18 constitutes a form of a rap sheet or a record within the
19 confines of Drug Court. And while we would say that under
20 Brady we are entitled to that information affirmatively by the
21 solicitor, we understand that that's not how this happened.
22 So we're just trying to get access to this information.

23 THE COURT: All right. What's the State's position on
24 it? Have you had -- have you had access to this? Have you
25 seen it?

1 MR. OSBORNE: No, Your Honor.

2 THE COURT: Does Stephanie Linder have access to it? I'm
3 assuming yes. As the drug court prosecutor, she's in there.
4 She would know about all these violations and things that he's
5 done.

6 MR. OSBORNE: The only thing I can tell you in that
7 regard, speaking for Stephanie -- I can certainly text her and
8 get her here. Stephanie told me that she doesn't maintain any
9 of those records and don't have -- and doesn't have access to
10 any of those records, ---

11 THE COURT: Right.

12 MR. OSBORNE: --- the only thing she could provide is the
13 sentencing sheet.

14 THE COURT: Okay.

15 MR. OSBORNE: And the only thing that we have in
16 reference to what Mr. Daniels is referring to is that we have
17 provided him a handwritten note that Mr. White sent to the
18 jailer saying I want to talk to the police because I have
19 information about this bank robbery.

20 THE COURT: Okay.

21 MR. OSBORNE: And all of that we have given to them.

22 MR. DANIELS: And we would also like to point out that
23 under Brady that's not just records. That's evidence and
24 access to information. We believe it falls under that.

25 THE COURT: Right. So what just precludes you from

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1 asking him all about his motive as to why he's coming forward
2 now, and you can bring up the fact that he's in Drug Court,
3 you -- I mean, nothing precludes you from doing anything along
4 those lines.

5 You could ask him about the waiver, you could ask him
6 about his violations, isn't it true that you have consistently
7 and constantly violated the conditions and the agreements that
8 you have with Probate Court.

9 MR. DANIELS: And this is -- this is why we wanted to
10 bring it under Brady, as well. That's information, from a
11 very biased witness, that goes to impeachment. If we don't
12 have the ability to impeach from somebody who is obviously
13 very self-motivated to save their own skin and stay in Drug
14 Court, that hinders us.

15 THE COURT: But you ---

16 MR. DANIELS: But, you know, the access that the
17 solicitor has to the information, they have access to it
18 through their liaison. Probate has access to it. My office
19 doesn't have access to it, even though that we have an
20 attorney on staff, because that's the -- that's the
21 professional -- the rules of professional conduct and the
22 attorney-client privilege that we can't access that.

23 THE COURT: In my opinion this all hinders around one
24 single issue, can the solicitor keep him in drug court as a
25 condition of his testifying.

1 I don't know the answer, and I think the only way we are
2 going to answer that is to go get the sentencing sheet. If
3 he's already been sentenced it doesn't matter because he can't
4 save his own skin regardless, because he's going to get --
5 he's going to prison regardless. Do you see what I'm saying?

6 MR. OSBORNE: And just -- and I just want to make the
7 record abundantly clear on this, because prosecutors are
8 constantly getting hammered on the Brady violations, it seems
9 like. We do not have this information that Mr. Daniels that
10 we keep -- he's couching it as a Brady violation. It's not a
11 Brady issue. It's him -- we don't have a dog in this fight,
12 because we don't have the information. He keeps saying we do,
13 but we don't.

14 THE COURT: I agree with him. He doesn't have the
15 information; and I know he doesn't have the information
16 because I had to sign an order - which will be made part of
17 the record; I can make it -- I mean, it's filed - whereby I
18 had to order the Probate Court to give me the information.
19 And I'm the only person that can do that. I know he can't do
20 that. So it's definitely not a Brady violation.

21 I'm just trying to determine whether you're entitled to
22 it to -- for impeachment purposes of a witness whose motive
23 and bias to testify would be to stay in Drug Court. That's
24 the only thing I'm trying to figure out if that's the issue.

25 Cameron, can you get me a sentencing sheet?

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1 THE DEPUTY CLERK OF COURT: Yes.

2 THE COURT: How fast can you get it?

3 THE DEPUTY CLERK OF COURT: Well, that's -- oh, right
4 now, actually -- is it for someone who already ---

5 THE COURT: It's public record, ---

6 THE DEPUTY CLERK OF COURT: Yes.

7 THE COURT: --- so it's downstairs.

8 THE DEPUTY CLERK OF COURT: No, I can get it off of here
9 [indicating].

10 THE COURT: Oh.

11 THE DEPUTY CLERK OF COURT: I just need a name or a
12 warrant number or ---

13 THE COURT: All right. Y'all give me the name. Let me
14 get the sentencing sheet real quick and let me take a look at
15 it. That's really going to make my decision.

16 MR. DANIELS: I understand that, Your Honor. For the
17 record, I would like to point out that under Brady it's access
18 to information. It -- and through the office.

19 THE COURT: Okay.

20 MR. DANIELS: If they have someone sitting in that,
21 noting he has violated on this date, he has violated on this
22 date and these were the steps that were taken ---

23 THE COURT: Okay.

24 MR. DANIELS: --- that information is there through their
25 coordinator. Maybe not through this specific solicitor.

1 THE COURT: Yeah, let me look at who wrote these notes.

2 MR. OSBORNE: Your Honor, our coordinator is Assistant
3 Solicitor Stephanie Linder. And at nauseam we have talked
4 about this. Stephanie does not have that information that you
5 are asking Stephanie to provide.

6 THE COURT: I don't know who writes these notes. It just
7 says court notes in this documentation. I know that's what
8 you want access to, but I don't know who's writing them.

9 MR. DANIELS: Okay. And just for the record, it's not
10 record-keeping; it's access to information.

11 THE COURT: Okay.

12 MR. OSBORNE: And Stephanie ---

13 THE COURT REPORTER: I'm sorry. It's not -- I'm sorry.
14 It's not record-keeping, it's what?

15 MR. DANIELS: It's not record-keeping; it's access to
16 information, information that they have that they've gathered
17 through their meetings.

18 THE COURT: Let me just make this abundantly clear. Then
19 you have made the record. It's not a Brady violation, period.

20 MR. OSBORNE: Thank you, Judge.

21 THE COURT: Can you put that period in a capital? So
22 just move on.

23 All right. Are they all here? They all here? All
24 right. You guys give me -- where did Cam go? Oh. Give me
25 the sentencing sheet.

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1 I am going to go talk to the jury, if y'all are okay with
2 that, and tell them that we're working. Because I told them
3 to be here early. And then we'll bring them right back out.

4 MR. ZEIGLER: All right. Would you like to hear the
5 suppression issue with the jail calls, since they were
6 introduced yesterday for identification?

7 THE COURT: Sure. Let me just tell them we're doing
8 that.

9 MR. ZEIGLER: All right.

10 [Whereupon, a recess is taken 8/13/19, 9:30 a.m. to 9:34
11 p.m.]

12 MR. DANIELS: For appellate purposes and the record, we
13 would just request that we get Stephanie Linder saying she
14 does not have access to this information.

15 We do feel it's a Brady issue, and if it comes up -- it
16 is a novel issue. If it comes up in the future we want to
17 make sure the record is clear.

18 THE COURT: Okay. How do you want to do it?

19 MR. DANIELS: We would just like to be able to ask Ms.
20 Linder a couple of questions about her role in Drug Court and
21 the access to information she has. We've asked the
22 Solicitor's Office to make contact with Ms. Linder.

23 THE COURT: Okay.

24 MR. OSBORNE: We've texted her. We haven't got a
25 response.

1 THE COURT: All right. Are we on the record?

2 [Whereupon, court reporter confirms we are on record]

3 THE COURT: All right. So in reviewing Mr. White, the
4 potential witness for today's sentencing sheet, Charleston
5 County adheres to the sentencing judge has already sentenced
6 Mr. White. He received -- this is public record. I

7 But he received three years, and that's in jail. And he
8 was given credit for the time that he served, which was 195
9 days. Judge Young sentenced him on 8/8/18, August 8th, 2018,
10 but left the -- obviously, the signature of the imposing -- or
11 the imposition judge or imposing judge blank.

12 So the question then becomes I guess -- the only thing
13 that I would need to ask Ms. Linder is, do you have the
14 authority to keep him in Drug Court. That's the only question
15 I need to know. Because he's been sentenced. Do you see what
16 I'm saying?

17 MR. OSBORNE: Yes, sir.

18 THE COURT: Because that's the only issue that they have
19 going towards his motive. If she's like, Judge Young
20 sentenced him to three years, we kicked him out [indicates],
21 you know, hands are -- there's nothing we can do. I just
22 don't know if she has any discretion over that.

23 Because back in the day, whenever my clients got kicked
24 out of Drug Court -- I only had one client get kicked out of
25 Drug Court and we came up and we were like, Your Honor, we'd

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1 like to address you concerning sentence - it was Judge
2 Jefferson - concerning sentencing for Mr. Jenkins. Judge
3 Jefferson said, I'll be happy to hear from you but he was
4 already sentenced to ten years, good luck to you, sir. And
5 that was it. He walked out the side and went and served ten
6 years.

7 So I just don't know if the Drug Court prosecutor for
8 y'all, you know, Stephanie, has that power. So I guess we'll
9 just need to ask her. Because of course that goes to his
10 motive as to testimony -- testifying.

11 MOTION TO SUPPRESS

12 THE COURT: All right. Mr. Daniels, what was the other
13 motion that you wanted to discuss real quickly?

14 MR. DANIELS: We had -- we think that the jail calls
15 should not be allowed in was another issue.

16 THE COURT: All right. Under ---

17 MR. DANIELS: That and we want to make sure that you have
18 time to listen to them before they're tried to be admitted.

19 THE COURT: All righty.

20 MR. OSBORNE: Now, Your Honor, the objection was
21 relevance. And I think he said 403, as well. We have
22 Detective Richardson. We can knock out that if you want to
23 now, in maybe five or ten minutes of testimony.

24 THE COURT: Well, is Ms. Linder -- do you want Ms. Linder
25 to come up now and we can see if she's available for -- okay.

1 MR. ZIEGLER: Yes, Your Honor.

2 THE COURT: Okay. Well, while we're waiting on Ms.
3 Linder -- Mr. Zeigler, just keep texting her and see if we can
4 get her up here. I'm happy go ahead and hear that motion so
5 we can just kind of keep moving when the jury comes out. All
6 right?

7 MR. OSBORNE: The State calls Detective Richardson.

8 THE COURT: All right. Mr. Richardson, if you'll come on
9 up.

10 [Whereupon, Mr. Richardson comes forward]

11 THE DEPUTY CLERK OF COURT: Do you swear or affirm that
12 the testimony that you give the Court to be the truth, the
13 whole truth, and nothing but the truth, so help you God?

14 THE WITNESS: Yes, sir.

15 THE CLERK OF COURT: All right. Please be seated.

16 [Whereupon, the witness takes the witness stand]

17 THE CLERK OF COURT: Please state your name and spell
18 your last name for the record, please.

19 THE WITNESS: Sure. James Richardson. It's
20 R-I-C-H-A-R-D-S-O-N.

21 JAMES RICHARDSON, Having Been First Duly Sworn, was Examined
22 and Testified as Follows:

23 **DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON (IC):**

24 Q. All right. Detective Richardson, we're just going to get
25 right into the jail calls in this.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON (IC)

1 Did you have the occasion in this investigation to listen
2 to some jail calls that were captured under the inmate name of
3 Allen Fields?

4 A. Yes, sir.

5 MR. OSBORNE: All right. And, Your Honor, may I
6 approach?

7 THE COURT: Absolutely.

8 Q. And I'm going to show you State's -- what's already been
9 marked for identification purposes, State's 57 and 58. We'll
10 start -- well, just for the record, say -- well, do you
11 recognize 57 and 58?

12 [Whereupon, the witness reviews exhibits]

13 A. Yes, sir, I do.

14 Q. Okay. What is 57?

15 THE COURT: Mr. Osborne? Detective, will you tap your
16 mike. It's not on.

17 THE COURT REPORTER: It's not on.

18 THE COURT: Can you help us, Mr. Robinson?

19 [Off the record momentarily to adjust microphone]

20 Q. Okay. State's 57, do you recognize that?

21 A. Yes, sir.

22 Q. And what is that?

23 A. That is the inmate jail phone calls for one Allen Fields.

24 Q. Okay. So those are all of the jail calls for Allen
25 Fields from a certain time period?

1 A. Yes, sir.

2 Q. And what is that time period?

3 A. The time period is going to be from the time of his
4 arrest, following -- if you will excuse me [review documents].
5 Clips one and two is going to be the date of his arrest.

6 Q. Okay. And the second, 58, those are clips from a
7 particular call? Is that ---

8 A. Yes, sir.

9 Q. --- fair to say?

10 A. Yes, sir.

11 Q. Okay. So the only difference between 57 and 58 is 58 has
12 clips from a particular call made on 57, not the entire call?

13 A. Correct.

14 Q. Okay. Now, when you were listening to -- when you were
15 listening to the entire call that came from the clips from 58,
16 did you hear certain things in that call that made you believe
17 that in fact it was the defendant who was speaking and not
18 somebody else, not that he had switched a pin?

19 A. Yes, sir.

20 Q. All right. For purposes of this hearing you can go ahead
21 and talk about everything that you heard in that call. I know
22 we talked about curtailing some of it. But for purposes of
23 this ---

24 A. Okay.

25 Q. --- you can talk about all of it.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON (IC)

1 A. Specifically what led me to believe that it was in fact
2 the defendant that was speaking on part of some of these jail
3 phone calls was not only, one, that he identified by the
4 moniker Bubba, which the defendant is known to go by.

5 During the course of the jail phone calls I believe the
6 initial part there was a mention of a probation violation
7 which the defendant himself identified as not being served
8 yet. The defendant was known to have an active warrant from
9 Probation and Parole from the State of South Carolina for a
10 marijuana charge.

11 Furthermore, in reviewing details of these phone calls,
12 intimate details which led up to his arrest at Ashley
13 Phosphate, the U.S. Marshall's Task Force was also curtailing
14 some of those conversation. That was knowledge I was aware of
15 only through speaking through the task force officer at the
16 time that actually located Mr. Fields. And that was intimate
17 details not shared with him upon his arrest.

18 Also noted were several names that I could associate with
19 the defendant at the time. And those would come to mind.

20 Q. Like, well, NayNay? Did he ever mention that?

21 A. Yes, sir.

22 Q. And how was that name relevant to the investigate?

23 A. That is going to be one Janae Nelson; and she was
24 identified as the girlfriend to Christopher Wright who is in
25 fact the brother to the defendant.

1 Q. And I believe the getaway vehicle was registered to her?

2 A. Yes, sir.

3 Q. Okay. And, now, there was some -- did he mention
4 anything about specifically Sonoco?

5 A. There was some conversation that was curtailed in these
6 jail phone calls about a photo that was shown of an individual
7 who was in the Sonoco, and that person was ultimately
8 identified during the course of the investigation.

9 Q. Okay. And, now, I know the jury is not here; but I
10 notice that there is a statement on here, that I'm sure you
11 have heard, where he says they tried to question me downtown.
12 Did you try to question him downtown?

13 A. As the case agent, yes, sir.

14 Q. And, I mean, he requested an attorney. You never spoke
15 to him, actually; correct?

16 A. Correct.

17 Q. Or at least you got a statement from him?

18 A. Correct.

19 Q. Okay. And these clips are -- in particular is it fair to
20 say that when you heard these clips you found relevant things
21 to this investigation specifically?

22 A. Yes, sir.

23 MR. OSBORNE: Your Honor, at this time we would seek to
24 just play for your edification State's 58.

25 THE COURT: Sure.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON (IC)

1 Q. And while we're waiting for this to come up: Through
2 your investigation did you discover who Janae Nelson's mom
3 was?

4 A. Yes, sir.

5 Q. And who was -- what was her name?

6 A. Pamela Nelson.

7 Q. And what was Pamela's relationship to the defendant?

8 A. His girlfriend at the time.

9 MR. OSBORNE: All right. Playing clip one now.

10 [Whereupon, State's Exhibit Number 58 is played for the
11 Court]

12 Q. Okay. It sounds as though he's trying to identify the
13 people that identified him?

14 A. Yes, sir.

15 Q. Did you -- I mean were there people who identified him on
16 paperwork?

17 A. Yes, sir.

18 Q. In that initial warrant that you wrote up that he would
19 have had possession of, did you identify the individuals who
20 identified him by name?

21 A. No, sir.

22 MR. OSBORNE: All right. Playing clip two.

23 [Whereupon, State's Exhibit Number 58 is played for the
24 Court]

25 Q. Okay. So were you able through your investigation to

1 identify the person in the store?

2 A. Yes, sir.

3 Q. And who was that?

4 A. Travis Jerome Simmons.

5 Q. Okay. And did you in fact speak to Travis Jerome
6 Simmons?

7 A. Detective Sergeant Bailey and I did, yes, sir.

8 Q. Okay. Was it Travis Simmons who gave you his name that
9 gave you the break on trail to get to him?

10 A. No, sir.

11 Q. Okay. But he wouldn't have known that, correct?

12 A. Correct.

13 MR. OSBORNE: No further questions.

14 THE COURT: All right. Mr. Daniels?

15 **CROSS-EXAMINATION BY MR. DANIELS OF JAMES RICHARDSON:**

16 Q. Okay. When was he served with this warrant?

17 A. It's going to be the 4th of October of 2016.

18 Q. The same day as the warrant?

19 A. Yes, sir.

20 Q. Okay. And he's referencing that warrant?

21 A. Yes, sir.

22 Q. Because he uses language in here that you use: This
23 person will be named later?

24 A. To be named later ---

25 Q. Yes.

1 A. --- at the discretion of the court, yes, sir.

2 Q. And in the warrant for armed robbery, it's pretty
3 detailed; it's two-pages of affidavit; it's not the normal
4 half paragraph we see; correct?

5 A. Correct.

6 Q. And in that, you talk about a person; you say a person
7 went into the Sonoco gas station. So he's not naming anybody,
8 is he?

9 A. No, sir.

10 Q. And you discussed a person being in the store, correct,
11 in your warrant?

12 A. Yes, sir. Reference.

13 Q. You referenced it. Well, I mean, the whole warrant is a
14 summation, the whole affidavit. So you summarized that a
15 person goes in the store this day?

16 A. Correct.

17 Q. Okay. Now, when Allen was arrested, who was he with?

18 A. He was with Christopher Wright, Janae Nelson, and also in
19 the black Chevy Impala car of interest.

20 Q. Yes. And did you arrest them?

21 A. No, sir.

22 Q. Okay. Was there body-camera footage from the officer who
23 did arrest them?

24 A. I don't believe there was body cam footage. I don't
25 believe the department was equipment with that equipment at

1 the time.

2 Q. Okay.

3 A. I'm not familiar. I was not there during the execution
4 of that arrest.

5 Q. And you used the term car of interest?

6 A. Car of interest. Yes, sir.

7 Q. All right. So he was arrested, and his brother
8 Christopher Wright was arrested. And what happened to Janae
9 NayNay Nelson?

10 A. If I can correct you, sir, the defendant was arrested.

11 Q. Yes. Allen Fields.

12 A. Yes, sir.

13 Q. Yes. He was arrested.

14 A. Correct.

15 Q. What happened to Christopher Wright?

16 A. Christopher Wright actually consented to an interview
17 down at 180 Lockwood ---

18 Q. Okay.

19 A. --- to speak with the detectives.

20 Q. He was taken also downtown?

21 A. He was escorted downtown.

22 Q. Escorted downtown. Did he drive the car?

23 A. Sir?

24 Q. Did he drive the car?

25 A. Again, I wasn't there at that time. I can't speak on

1 incidents I wasn't present for.

2 Q. But he wasn't in cuffs?

3 A. Sir?

4 Q. Christopher Wright wasn't in cuffs in the back seat?

5 A. He was not under arrest, no, sir.

6 Q. Okay.

7 A. He went free to leave.

8 Q. And Janae also came downtown at that time?

9 A. Yes, sir.

10 Q. Okay. These aren't the whole recordings?

11 A. No, sir.

12 MR. DANIELS: No further questions.

13 THE COURT: All right. Anything further?

14 MR. OSBORNE: No, Your Honor.

15 THE COURT: All right. Detective, you can stand down.

16 [Whereupon, the witness exits the witness stand]

17 THE COURT: Yes, sir, Mr. Daniels. I'll be happy to hear
18 from you. It's your motion.

19 MR. DANIELS: Thank you, Your Honor.

20 I think this is a case of this really being more
21 prejudicial than probative. He's referencing the warrant.
22 He's completely within the context of that warrant.

23 It's a long warrant. Most of the warrants that we are
24 used to seeing, three poorly written sentences. This is a
25 page-and-a-half in great detail. It talks about a black Chevy

1 Impala. He was in a black Chevy Impala. And it talks about,
2 we don't know what happened -- excuse me. It talks about a
3 black Chevy Impala. It talks about somebody going into the
4 Sonoco. He even says: I don't know. I don't know. The guy
5 in the store.

6 All of that is contextualized through the warrant. He's
7 in pretrial detention. He's seeking legal counsel at this
8 point. He's not been appointed a public defender. He has not
9 had a lawyer. He has to be able to reach out and talk with
10 family to try to get representation in place.

11 None of this is new, unique knowledge that's outside that
12 warrant. The jury is not going to see the warrant. The
13 warrant is not evidence. So you don't have that context.
14 There's nobody I can cross-examine about that context.

15 Additionally, with the -- with the what NayNay is doing,
16 which -- what Nelson is doing, he saw that. I can't bring in
17 what he saw without putting him in the stand, and that causes
18 all types of problems.

19 THE COURT: Say that part again. What's your concern?
20 Because, obviously, I don't want to burden-shift ---

21 MR. DANIELS: My concern is ---

22 THE COURT: --- any point.

23 MR. DANIELS: My concern is that it's too -- it's too
24 prejudicial.

25 THE COURT: I'm talking about as to NayNay what ---

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1 MR. DANIELS: To NayNay? He saw -- he was with NayNay
2 and Chris. He's in a car, being taken downtown. Police cars
3 have windows. They're escorted in that black Chevy Impala.
4 He can see this. It's possible. It's possible. I have no
5 cross-examination for that. That's attributing firsthand
6 knowledge that he doesn't have and trying to frame it in such
7 a way that makes ---

8 THE COURT: That's -- that's testimony I haven't heard.
9 So what you're indicating is that on the day of the robbery,
10 he is arrested ---

11 MR. DANIELS: No.

12 THE COURT: No? So how does he ---

13 MR. DANIELS: October 4th.

14 THE COURT: --- see through the windows, NayNay and Chris
15 in the Impala?

16 MR. DANIELS: Because they are there ---

17 THE COURT: They are where?

18 MR. DANIELS: --- on October the 4th.

19 THE COURT: You keep saying there.

20 MR. DANIELS: At Sono- -- or in -- they are also at a
21 Sonoco on October 4th. All three of them are together. When
22 he's arrested and he's driven off ---

23 THE COURT: When is he arrested?

24 MR. DANIELS: October 4th.

25 THE COURT: Okay.

1 MR. DANIELS: At the Sonoco, with Janae and Chris. Janae
2 and Chris are not arrested. They're taken downtown. They're
3 at a different Sonoco on October 4th.

4 THE COURT: Oh. So that's just ---

5 MR. DANIELS: Yeah.

6 THE COURT: Oh. That's my confusion. I was thinking he
7 was arrested at the scene, because the whole thing happened at
8 a Sonoco. Randomly, at a different Sonoco, they just like
9 these type of gas stations, apparently, he's arrested at the
10 Sonoco by the federal marshals and he can see them, too --
11 okay, that clears up the ---

12 MR. DANIELS: And so there's some confusion there. And
13 there's context there that we can't bring in.

14 Additionally, we can't play the entire tape because the
15 entire tape talks about probation violations, it's profanity-
16 laced. That obviously, accordingly to Cheeseborough and to
17 the most recent case, 2017, King, it's prejudicial, more than
18 probative.

19 Furthermore, I -- there -- we have issue with some
20 wording because the term admit is in there. And he ---

21 THE COURT: The word what?

22 MR. DANIELS: The word admit is in that. Now, the word
23 admit, in normal operation, is usually in the imperative or
24 the first person on it's admit, or I admit. That's not what's
25 happening here. He's saying, based off of the warrant --

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1 based off of the warrant, that somebody else is testifying;
2 somebody else is testifying, or somebody else is speaking with
3 the police. It's a small word, but it's a word that carries a
4 lot of weight. And we're concerned that that may create an
5 emotional reaction.

6 For these reasons, we think that those calls should not
7 come in. It is far more prejudicial than probative.

8 THE COURT: All right. Let me ask you this, Mr. Daniels.
9 If I allow it to come in, you said that you have no one to
10 cross-examine concerning that infor- -- the information that
11 he is discussing, which is the warrant.

12 You're right, the warrant is not coming in. But can't
13 you do exactly that with the detective and say, hey, he got
14 this information from a warrant that you drafted and it was a
15 very lengthy, well-written, descriptive -- and you can just
16 say everything he talks about: Isn't it true that it's
17 contained in that warrant, and wouldn't he have access, and
18 isn't he being inquisitive as to the information that's
19 contained in that warrant?

20 MR. DANIELS: Your Honor, I can; but I am not going into
21 the knowledge that he has. And the point of this evidence is
22 to show knowledge that he has.

23 THE COURT: But the knowledge that he has, again, you
24 could cross-examine the detective, was based solely on the
25 warrant that was given to him, and he is alleging that it's

1 not him.

2 So it would be like if you said that I went to McDonald's
3 this morning in a warrant and I'm calling up and saying to my
4 wife, well, they're talking about I went to McDonald's, I --
5 you know, how are they getting this information, because I
6 didn't. You see what I'm saying?

7 MR. DANIELS: I do.

8 THE COURT: He is being inquisitive as to the information
9 that he has been given by this detective. And you can simply,
10 you know, frame it as that.

11 MR. DANIELS: And I understand that. We still think that
12 there's a lot of issues here that make this more probative --
13 excuse me -- more prejudicial than probative.

14 THE COURT: All right.

15 MR. DANIELS: And we're not contesting it's relevancy.
16 Obviously, it's relevant.

17 THE COURT: Right.

18 MR. DANIELS: But it is -- it is far outside of what's
19 acceptable in prejudicial terms.

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

21 MR. OSBORNE: The only thing I would say, Your Honor, I
22 have listened to the whole recording several times. It's not
23 profanity-laced. There are only about three lines in which he
24 mentions a previous arrest. Obviously, that could be
25 redacted. I have no problem under the rule of completeness

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1 introducing the whole call, redacting those portions, if
2 that's what he wanted. I mean, we talked about that. He said
3 he didn't want that.

4 So -- and now I don't know what clips he's referring to.
5 He doesn't say anything on the clips about not knowing the
6 person in the store. What he's talking about is not knowing
7 who identifies him. That's key to our case because you're
8 going to -- these are relatives of his, and we're not exactly
9 sure what they're going to say whenever they get on the stand.

10 But nevertheless, I don't find that they're confusing at
11 all, what he says here. But they mention the Facebook thing.
12 They show the person pictures from "me" in Facebook and they
13 show pictures of "me" in the bank robbery. Pretty clear.

14 THE COURT: Mr. Daniels?

15 MR. DANIELS: Again, we think that is a phraseology
16 issue. He is under stress. Just been arrested, doesn't have
17 representation, and he is already invoked his right to
18 counsel. We think this is far more prejudicial than
19 probative. It's how he's speaking. He's speaking rushed.
20 This -- we disagree with the State.

21 THE COURT: All right. Well, under a 403 analysis I find
22 it to be more probative than prejudicial. Obviously, he was
23 just arrested. He was told, just as soon as he picked up that
24 phone that it was going to be recorded and that it could be
25 utilized at a later date. And, obviously, it's being

1 utilized.

2 I will allow the redacted portion. I don't think under
3 the rule of completeness that even Mr. Daniels wants the whole
4 tape in. So we'll just stick with 58. All right?

5 [Whereupon, State's Exhibit Number 58 is admitted into
6 evidence by the Court]

7 THE COURT: Ms. Linder, if you'll be so kind to come up
8 real quickly. We've just got one little small issue, and then
9 we've got to get the jury back out.

10 [Whereupon, Ms. Linder comes forward]

11 THE COURT: We have a couple of just quick questions.
12 What's come up is a Drug Court issue. And, obviously, I know
13 you're the prosecutor for Drug Court. And there is a
14 defendant, okay, in this -- or a Drug Court participant who is
15 to be a witness in this case. And the witness who was in Drug
16 Court has allegedly discussed his case and an admission with
17 the defendant. Okay?

18 MS. LINDER: Yes, sir.

19 THE COURT: He then reached out to you and said, I've got
20 some information that may be beneficial to the State, or
21 whatever he may have said. But we all know and agree that he
22 reached out to you, as the Drug Court prosecutor. He skipped
23 his attorney, he skipped law enforcement, and just went
24 straight to you. Not saying that's uncommon, just saying
25 that's what happened.

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1 In doing so, the defense wanted to get access to his
2 record to determine what has happened with him in Drug Court.
3 All right? They want to impeach his testimony, that he is
4 trying to save his skin by helping the State, and by doing so
5 he has no immunity agreement with y'all, he's got nothing with
6 the State, but he feels as through if he can create enough
7 good favor with you or the State that y'all will then allow
8 him to stay in Drug Court - not that you've offered that, not
9 that he has any agreement as to that - but that's what his
10 motive is.

11 So the defense wants to cross-examine him as to why he is
12 testifying here today and his motive would be to stay in Drug
13 Court.

14 Two questions. One is do you have that authority to say,
15 hey, even though he's been kicked out and he was a very bad
16 participant in Drug Court I have the authority to overlook
17 that and allow him to stay in Drug Court because he has helped
18 the State of South Carolina, or just because you like the guy.
19 You know, do you have that authority?

20 And the second question is in your experience --
21 different agencies have been doing it differently. And what I
22 mean by that is in Richland County or Lexington County the
23 sentencing judge -- or the plea judge doesn't sentence them.
24 They allow them to come back, if they fail out, and have
25 another huge big sentencing, you know. Yeah. And so in

1 Richland, they don't do it that way.

2 So I inquired does Charleston, judge that takes the plea,
3 do they go ahead and immediately sentence them and in your
4 experience does the judge that ultimately disposes of the case
5 when he comes back just say, Judge Young gave you three years,
6 good luck to you; or do they allow a modification thereof? Or
7 could I have the power to say, no, I'm putting him back in
8 Drug Court?

9 Those are the two issues.

10 MS. LINDER: First thing is he has not actually been
11 terminated yet from Drug Court. We have due-process hearings
12 to see if they get terminated. I, the State, moved for the
13 due-process hearing, which I did for this individual and every
14 other individual.

15 At that time they are taking into custody and held in
16 custody until a hearing can be scheduled in front of a Drug
17 Court judge.

18 That has not taken place at this point yet. We're just
19 waiting. The defense attorney asked for more time -- or the
20 prior defense attorney asked for more time to get things
21 together.

22 So, ultimately, I'm the one who is moving for the due-
23 process termination hearing. I do have the ability to
24 withdraw that. I will say, however, I have never withdrawn
25 that. And I have told his previous defense attorney, Karen

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1 Barker, and I've also told his now attorney, Cris Geel that I
2 will not be withdrawing that.

3 THE COURT: Okay. One issue that the State -- I mean,
4 the defense wanted me to address with you as well, is that
5 there is an application that they all fill out to get into
6 Drug Court. Mr. White obviously has filled out a Drug Court
7 application.

8 And, also, there is -- contained in the probate records
9 is essentially a run sheet of everything that he has done.
10 And I know that you get -- You know, you get made aware of
11 that every single time that they report, whether they had a
12 positive drug screen or whatever the case may be. And, also,
13 there are notes in here that are written by someone. I'm
14 assuming Debbie Walker. I don't know who's writing these
15 notes. But there are notes in there.

16 So the issue has -- that -- a novel issue the defense
17 wants to put on the record is is that that should be
18 discoverable through Brady, that when they ask the State if
19 somebody's in Drug Court, for that information, that it should
20 be provided to them through Brady.

21 I ultimately said, no, that it's not; because it's not
22 readily available to you or to -- I assume maybe the defense
23 attorney could get access to it from their client. But I had
24 to sign a court order, ordering probate court to give me the
25 documents. So I obviously don't feel like it's readily

1 accessible to the Solicitor's Office if I have to get a court
2 order to get it or if I have to sign a court order to have
3 them give it to me.

4 So do you have access? Can you go back there and just
5 pull Mr. Wright's file and start reviewing it if that's what
6 you wish to do?

7 MS. LINDER: No. We get staffing sheets every Wednesday
8 prior to Drug Court. A copy is given to law enforcement,
9 probation, defense attorney, judges, myself, everyone who's on
10 the team. We get those staffing sheets and we go in and we
11 review them, and it has shortened pending notes if there's
12 something that comes up.

13 It does not include all of the day-to-day things that I'm
14 not -- that I'm not a party to. Everybody -- the whole point
15 is that everybody contacts the coordinator. If I have an
16 issue, I contact the coordinator. She decides does that
17 information need to be filtered and to whom.

18 And that same kind of thing happens, testing if there's
19 an issue, whether it's positive or negative or dilute,
20 whatever it is, or if somebody couldn't go to the bathroom,
21 all that information goes to the coordinator.

22 You know, for example, we -- she -- I don't see if it's a
23 negative. Like that's in her records, but I don't even see
24 that in written form at all when I go in there Wednesday's.

25 THE COURT: All right. Mr. Daniels has some questions.

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1 Or you can ask her or you can ask me. It doesn't matter.

2 MR. DANIELS: Okay. For clarification, we're not saying
3 the record; we're saying information, piecemeal information,
4 is accessible.

5 So you discuss what happens in Drug Court, either be it a
6 weekly meetings with other -- with the other Drug Court team
7 members, correct?

8 MS. LINDER: Yeah, staffing occurs every week.

9 MR. DANIELS: And do you discuss any violations and
10 sanctions that go with that?

11 MS. LINDER: Every -- yes. Things are discussed every
12 week, and then the judge makes any determination.

13 MR. DANIELS: Okay. And you come up with recommendations
14 at that point? Each party ---

15 MS. LINDER: Sometimes.

16 MR. DANIELS: --- kind of has recommendations, right?

17 MS. LINDER: Sometimes. A lot of times the coordinator
18 disseminates the information and the judge makes the decision
19 on how it should be addressed, one way or the other.

20 MR. DANIELS: Okay.

21 MS. LINDER: Sometimes I participate. Sometimes I don't.
22 Just like I don't attend every week.

23 MR. DANIELS: I understand. Does somebody from your
24 office always attend?

25 MS. LINDER: Most of the time.

1 MR. DANIELS: Okay. Our office is the same way.

2 No more -- but that information is accessible to you, do
3 you discuss it; as a Drug Court team you would make -- you
4 would discuss that and make a -- make a decision. So that
5 information is there. And what happens to the staffing
6 sheets?

7 MS. LINDER: Mine are all shredded.

8 MR. DANIELS: Is that policy?

9 MS. LINDER: I don't know if there's a policy about it.
10 I don't have staffing sheets.

11 THE COURT: Okay.

12 MR. DANIELS: Okay. Thank you.

13 THE COURT: What -- does Mr. White -- are they, being the
14 participants of Drug Court, aware that you have the authority
15 to withdraw the hearing? Meaning would they know that you
16 could do that?

17 MS. LINDER: I don't know if he knows that. I don't know
18 if any of them really know that. I'm not -- I can't answer
19 that. I'm sorry.

20 THE COURT: Okay. It's not like it's something that's --
21 they all know it and they don't come to you and say, well,
22 this -- you know, she's the one that can withdraw this if you
23 stay clean for six months; it's never anything along those
24 lines?

25 MS. LINDER: No.

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1 THE COURT: No one holds it over their head or anything
2 like that?

3 MS. LINDER: No. And ---

4 THE COURT: Okay.

5 MS. LINDER: It's typically the State, you know, has the
6 ability to move for termination and request a due-process
7 hearing. And once that's done, the person goes into custody,
8 I don't have any communication with them. I never have one-
9 on-one communication with any participants.

10 THE COURT: And has any participant's attorney ever come
11 to you and says, if this, will you withdraw -- if he does
12 this, then will you withdraw; has anyone ever tried to
13 negotiate that with you?

14 MS. LINDER: I would say no. I would say that sometimes
15 the defense attorney will come and say, this is what I intend
16 to tell the Drug Court judge, as far as medications or a
17 different living environment.

18 But as far as I -- I do not have the negotiation with the
19 defense counsel at that point saying, you do A, B, C, and then
20 I am going to withdraw it.

21 THE COURT: Okay. That's all I needed.

22 MS. LINDER: It's notifying each other of what we're
23 going to tell -- they will tell the judge.

24 THE COURT: All right. Fair enough. Mr. Daniels?

25 MR. DANIELS: We're just saying that we think it's

1 reasonable for somebody who's there as often as Ms. Linder is,
2 for a person sentenced to Drug Court to reasonably believe
3 that they can reach out to her to try to -- to try to get
4 help. That's not unreasonable.

5 THE COURT: Right. But your issue is with the
6 information that is kept by the Probate Court as to the
7 participants. And so your issue is is that you are -- you are
8 trying to establish a record that the Solicitor's Office
9 should have provided that through Brady to you and I -- we
10 should not have had to have gotten a court order to get that
11 information.

12 MR. DANIELS: That would -- the reasonableness is
13 approaching the second problem with the analysis that we were
14 doing earlier today.

15 THE COURT: Okay. All right. All right. Here's what
16 I'm going to do. Do you think the -- I don't -- you don't
17 believe that you'll need Ms. Linder to testify or anything
18 along those lines? Certainly not. We have all the
19 information that we currently need that you could cross-
20 examine Mr. White about.

21 Yes, ma'am?

22 MS. LINDER: Just for added clarification, I will say
23 that when Ms. Barker represented Mr. White she talked to me
24 and I was very clear that no way, no how, am I was
25 reconsidering this.

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1 I don't know what communication she has with her client,
2 but I was very clear with her. Mr. Geel has recently been
3 appointed. He called me last week and he asked me, hey, if
4 this guy testifies. And I said, nope, nothing is happening;
5 I'm moving forward no matter what.

6 THE COURT: So it has happened? Someone has tried to
7 negotiate that with you?

8 MS. LINDER: Correct.

9 THE COURT: Okay. That's ---

10 MS. LINDER: And I said absolutely not. And that
11 was Karen months ago and Mr. Geel last week. So whether or
12 not they have communicated that with their client is beyond
13 me.

14 THE COURT: That's everything I needed to know.

15 MR. DANIELS: We think it's going to depend on whether --
16 we'd like to keep her available if we do not get these
17 records.

18 THE COURT: You're going to get the records.

19 MR. DANIELS: Okay.

20 THE COURT: You're free to go, Ms. Linder.

21 MS. LINDER: Thank you.

22 THE COURT: Have a wonderful day.

23 MS. LINDER: Thank you.

24 THE COURT: Thank you.

25 MR. DANIELS: Thank you.

1 THE COURT: All right. Let's take a two-minute break and
2 we'll bring the jury out. Oh, I'm sorry.

3 MR. OSBORNE: I'm so sorry.

4 Just out of an abundance of caution, I want to bring
5 this to the Court's attention. Shameka Smith, who is a
6 paralegal in our office, said that as she was coming in to the
7 elevator today, or coming into the office, she ran by Juror
8 Number 279, who is Denisha Vice. She has known Denisha since
9 high school.

10 I don't know -- I asked her; I said, well, would Denisha
11 have known that you worked for us. And she goes, I really
12 don't know.

13 THE COURT: Do you want me to bring the juror out and ask
14 her anything?

15 MR. DANIELS: Just for safety purposes.

16 THE COURT: Okay. What juror number?

17 MR. OSBORNE: Juror Number 279, Denisha Vice. Ms. Vice.

18 THE COURT: Two seventy-nine.

19 MR. OSBORNE: And they didn't have any communication.

20 THE COURT: Yeah. Sure. Just ---

21 MR. DANIELS: Yeah. We just want this on the record.

22 THE COURT: Yeah. This is not uncommon in Charleston.

23 MR. DANIELS: Yes.

24 And we'll have an opportunity to review those records for
25 Henry White, correct?

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1 THE COURT: Absolutely. When is Mr. White going to
2 testify?

3 MR. OSBORNE: We can wait and do it -- three or four
4 witnesses.

5 THE COURT: Okay.

6 MR. OSBORNE: The pace we are going, probably this
7 morning.

8 THE COURT: All right. For the record, I am only going
9 to give over -- are you going to try to make -- well, you
10 can't make it an exhibit. I can make it a Court's Exhibit, I
11 guess.

12 Yeah. All right. So for the record, I am going to make
13 this Court's Exhibit Number 1. And contained in Court's
14 Exhibit Number 1 will be the Charleston County adult Drug
15 Court application of - what's his whole name - Henry White.
16 Should I -- should I redact his social security number on
17 this?

18 MR. OSBORNE: That's probably safest, Judge.

19 THE COURT: Yeah. I'm going -- I'm just going to scratch
20 it out. All right?

21 [Whereupon, pause for the Court]

22 THE COURT: All right. I've redacted that portion of it.

23 And along with that, I am going to allow them to have
24 access to what essentially is his phased movement and
25 evaluation run sheet. It is four pages.

1 The only remaining documents that were given over to the
2 Court is the results of his drug screens. And for -- I am
3 nervous to give those over right now, just because it's got a
4 lot of medical information on it.

5 So if you need anything further, you can petition the
6 Court. But for right now, I'm going to make this Court's
7 Exhibit Number 1. And then I'll have her mark it and y'all
8 can take a look at it. Okay?

9 MR. OSBORNE: Thank you.

10 [Whereupon, Court's Exhibit Number 1 is marked for
11 identification by the court reporter]

12 MR. OSBORNE: Oh. Judge, I'm so sorry. I misspoke.
13 That juror is in Richard Waring's trial. Sorry.

14 THE COURT REPORTER: I was going to say, she's not with
15 us.

16 THE COURT: Oh. It's not us?

17 MR. OSBORNE: Not us.

18 THE COURT: Perfect. We are good to go. Let's take a
19 two-minute break and we'll come right back. Okay?

20 MR. DANIELS: Judge, we just wanted to clarify. We know
21 that he was positive on one test. Can we get a chance just to
22 look at the other test? We don't necessarily need ---

23 THE COURT: You are correct. You can look at it.

24 MR. DANIELS: Okay.

25 THE COURT: Mr. Osborne, do you have any issue with him

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1 just looking at it? They know he has a positive drug screen
2 or he would not have been kicked out. It just shows that he
3 was positive once. Y'all two can take a look at it.

4 MR. OSBORNE: Okay.

5 THE COURT: It's simply just a positive drug screen.
6 Those pages are exactly the same. It's just repetitive.

7 MR. DANIELS: Okay. Thank you.

8 [Whereupon, break 8/13/19, 10:11 a.m.]

9 [Whereupon, the jury enters the courtroom at 10:19 a.m.]

10 THE BAILIFF: Your Honor, the jury is complete.

11 THE COURT: All right. Thank you so very much.

12 Ladies and gentlemen of the jury, as we indicated -- or
13 as I came in and discussed with you, we have been here this
14 morning essentially going over matters of law that I needed to
15 take up outside of your presence.

16 What we decided to do was go ahead and take them all up,
17 as opposed to just dismissing you throughout the day. And so
18 that's what we've done. We went ahead and took them up. And
19 when I came back there I saw that y'all weren't overly
20 stressed. Someone had a bagel to finish off, so I just said
21 let's go ahead and knock this out while everybody's not too
22 stressed.

23 And so we have accomplished all that, so we will be able
24 to continue with the trial and keep it going at a good pace.
25 All right? So I appreciate your patience. Thank you for

1 everybody being here on time. Just wanted to let you know
2 that we were out here getting everything done for y'all, as
3 well. Okay?

4 All right. The State, call your next witness, please.

5 MR. OSBORNE: Thank you, Your Honor. The State calls
6 Janae Nelson.

7 [Whereupon, Ms. Nelson comes forward]

8 THE COURT: Ms. Nelson, if you'll just come and have a
9 seat in this chair over here, please.

10 MS. NELSON: Okay.

11 THE CLERK OF COURT: Raise your right hand, please.
12 Place your left hand on the Bible.

13 [Whereupon, Ms. Nelson complies]

14 THE DEPUTY CLERK OF COURT: Do you swear or affirm that
15 the testimony that you shall give the Court and the jury in
16 the trial of this case shall be the truth, the whole truth,
17 and nothing but the truth, so help you God?

18 THE WITNESS: Yes.

19 THE CLERK OF COURT: Thank you, ma'am. If you would
20 please have a seat.

21 [Whereupon, the witness takes the witness stand]

22 THE CLERK OF COURT: And for the record, would you please
23 state your full name and spell your last name.

24 THE WITNESS: It's Janae LaPortia Nelson. N-E-L-S-O-N.

25 MR. OSBORNE: All right. Ms. Nelson, thanks for coming

State vs. Allen Fields

1 in this morning. I've only got a couple of questions. Okay?

2 THE WITNESS: Uh-huh.

3 JANAE NELSON, Having Been First Duly Sworn, was Examined and
4 Testified as Follows:

5 **DIRECT EXAMINATION BY MR. OSBORNE OF JANAE NELSON:**

6 Q. All right. Just a little bit about you. Your nickname
7 is NayNay ---

8 A. Uh-huh.

9 Q. -- or a lot of people call you NayNay?

10 A. Yes, sir.

11 Q. Okay. And Christopher Wright, what is his relationship
12 to you?

13 A. That's my baby father.

14 Q. Okay. And you've been in -- been with him I guess for
15 quite a while?

16 A. We been off and on for like three or four years.

17 Q. Okay. And your mom, what's her name?

18 A. Pam. Pam Nelson.

19 Q. Pam Nelson?

20 A. Uh-huh.

21 Q. Okay. And what, if any, is the relationship between the
22 defendant and your mom?

23 A. They used to date.

24 Q. They used to date?

25 A. Yeah.

1 Q. Okay.

2 A. They are no longer together.

3 Q. Okay. Now, back -- and you know what we're talking
4 about. So back in 2016, what was Christopher's phone number?

5 A. I can't remember his number.

6 Q. Okay. Do you remember telling Sergeant Bailey, while at
7 the station on September the 23rd, Lockwood, the City of
8 Charleston, on September the 23rd of 2016 that Christopher's
9 phone number was 5 -- or 843-509-1738?

10 A. No, sir.

11 Q. You don't remember saying that?

12 A. Yeah, I don't even believe that's Christopher number, --

13 Q. What do you ---

14 A. --- that that was his number.

15 Q. What do you think his number was?

16 A. I can't remember, but I don't think it was that number.

17 Q. Okay. So you don't remember ---

18 A. Because we always had like an 803 area code.

19 Q. Okay. So you don't remember talking to Detective Bailey
20 and telling him that?

21 A. Uh-huh.

22 MR. OSBORNE: Your Honor, we're going to play a small
23 clip. And I've marked it as State's 55, from our interview
24 with Sergeant Bailey.

25 MR. DANIELS: Objection.

DIRECT EXAMINATION BY MR. OSBORNE OF JANA E NELSON

1 THE COURT: All right. Stop it real quick.

2 MR. DANIELS: She's right here. Best evidence. He can
3 just ask her.

4 THE COURT: Do you -- do you have any refreshing
5 recollection -- refreshing recollection documents?

6 MR. OSBORNE: I do not. And I'm just straight impeaching
7 her. I'm not even trying to refresh her recollection. She's
8 denied making the statements, and now I'm playing them.

9 MR. DANIELS: This is not a ---

10 THE COURT: Well, you're going to have to determine that
11 she's a hostile witness ---

12 MR. OSBORNE: Not ---

13 THE COURT: --- if you're going to try to ---

14 MR. OSBORNE: I can certainly do that.

15 THE COURT: You can try to go through it.

16 Q. How many times have we tried to talk to you in our
17 office? Do you have any idea?

18 A. Two.

19 Q. Two? Do you remember the last time in our office you
20 stormed out of my office screaming at me?

21 A. Yeah, because of the way I was treated ---

22 Q. I understand.

23 A. --- in your office.

24 Q. I understand. Okay.

25 And do you remember Investigator Fort trying several

1 times to talk to you as well?

2 A. He came to my job.

3 Q. Okay. And him yelling at -- or you yelling at him as
4 well?

5 A. He yelled at me. He throw paper in my face. I don't
6 deserve to get treated like that.

7 Q. Okay. The paper being a subpoena ---

8 A. Yes.

9 Q. --- to try to get you to come in? Okay.

10 And you have a pending charge with our office as well,
11 don't you?

12 A. Yes, I do.

13 Q. Okay. And what is that charge?

14 A. Domestic violence.

15 Q. Okay.

16 A. But that's not about me.

17 Q. I agree.

18 MR. OSBORNE: Your Honor, at this time -- I'm not trying
19 to lead her. I'm just simply trying to impeach her.

20 THE COURT: All right. Hold on. His objection is still
21 outstanding.

22 MR. OSBORNE: And the rule that we're -- referencing is
23 613(b), and I think I've laid a proper foundation for that.

24 THE COURT: Under what premise are you objecting, Mr.
25 Daniels? Under Rule 607 he can impeach his own witness with a

DIRECT EXAMINATION BY MR. OSBORNE OF JANA E NELSON

1 prior statement.

2 MR. DANIELS: Your Honor, 10, that's--- that rule is
3 actually from when they redid the rules because it -- back in
4 2011.

5 The basis of our objection is she's not being
6 uncooperative. She -- we don't think that this is actually an
7 impeachment. She says, no. She's under oath. She's never
8 been under -- I don't think she's ever been under oath any
9 time before. Just because she doesn't agree with how the
10 solicitor's employee is treating her doesn't make her a
11 hostile witness.

12 The 607 we believe is just a -- it's an appendix left
13 over from a bygone age.

14 THE COURT: I understand. But I'm saying that if -- all
15 right.

16 MR. OSBORNE: And, Your Honor, I would just rely on
17 613(b): If a witness does not admit that he or she has made
18 the prior inconsistent statement, extrinsic evidence, no such
19 statement is admissible.

20 THE COURT: I agree.

21 MR. DANIELS: All right. I ---

22 THE COURT: I will overrule your -- do you want to argue
23 as to the 613?

24 MR. DANIELS: We object.

25 THE COURT: All right. It's overruled. You can play the

1 previous statement.

2 MR. OSBORNE: Okay.

3 Q. Do you remember this, Ms. Nelson ---

4 THE COURT: I want you to keep it curtailed to the
5 question and the answer. Okay.

6 Q. That is you, correct?

7 A. Yes, that's me.

8 [Whereupon, Ms. Nelson's statement is played]

9 Q. Did you say 38 or 28?

10 A. Twenty-eight.

11 Q. Okay. All right.

12 MR. OSBORNE: Your Honor, may I approach?

13 THE COURT: Absolutely.

14 Q. Okay. I'm showing you now State's 33 through 42. Can
15 you take a look at those and tell me if you recognize any --
16 or recognize that, or the person depicted on those photos?

17 [Whereupon, the witness reviews documents]

18 A. Yes, I recognize these pictures.

19 Q. Okay. And who are the people that are in the photos?

20 A. Me, my son, and Christopher. We used to live at Value
21 Place.

22 Q. Okay.

23 THE COURT REPORTER: I'm sorry, used to what?

24 THE WITNESS: We used to live there.

25 THE COURT REPORTER: Live there?

DIRECT EXAMINATION BY MR. OSBORNE OF JANA E NELSON

1 THE WITNESS: Yes.

2 MR. OSBORNE: Okay. Your Honor, at this time we would
3 seek to admit State's 33 through 42 into evidence.

4 MR. DANIELS: Object to relevance. This is Christopher
5 Wright.

6 THE WITNESS: Exactly.

7 THE COURT: Hold.

8 MR. OSBORNE: We can leave it for ID for now, Judge.

9 THE COURT: All right.

10 THE COURT: So 33 through what?

11 MR. OSBORNE: Forty-two.

12 THE COURT: For identification purposes only.

13 [Whereupon, State's Exhibit Numbers 33 through 42 were
14 previously marked for identification by the court reporter]
15 Q. Okay. I'm going to show you what's already been marked
16 and admitted as State's 29.

17 MR. OSBORNE: May I approach the witness again, Your
18 Honor?

19 THE COURT: Absolutely.

20 Q. I am going to show you State's 26. Do you know that
21 person?

22 A. No, I do not.

23 Q. You don't know him?

24 A. No.

25 Q. Okay. State's 29, is that your car ---

1 A. Yes, it is.

2 Q. --- or was your car?

3 This is just showing another image it, State's 30. Is
4 that your car?

5 A. [Indicates]

6 Q. I'm sorry. You have to say, speak it.

7 A. Yes, that's my vehicle.

8 Q. Okay.

9 MR. OSBORNE: All right. No further questions, Judge.

10 MR. DANIELS: Good morning, Ms. Nelson. It's good to see
11 you again.

12 THE WITNESS: Good to see you, too.

13 **CROSS-EXAMINATION BY MR. DANIELS OF JANA E NELSON:**

14 Q. You met with me in my office several months ago; correct?

15 A. Yes, sir.

16 Q. And we talked briefly. I want to talk about the Value
17 Place back in September of 2016.

18 A. Uh-huh.

19 Q. Now, that's a rent-by-the-day hotel, motel; correct?

20 A. I'm sorry?

21 Q. That's a rent-by-the-day hotel or a motel?

22 A. Yes.

23 Q. Yeah. And ---

24 A. It's extended stay.

25 Q. Excuse me?

1 A. It's an extended stay inn.

2 Q. Okay. It's extended stay. And so you're paying every
3 day to stay there?

4 A. You can do every day or you can do weekly.

5 Q. Okay.

6 A. Uh-huh.

7 Q. And you were staying there with Christopher Wright?

8 A. Yes, sir.

9 Q. Okay. Christopher Wright is -- was, at that
10 point -- I mean, it's three years ago -- was your long-term
11 boyfriend, off and on?

12 A. Off and on, yeah.

13 Q. Off and ---

14 A. We -- I wouldn't really say he was in like a long-term
15 relationship. It just was like ---

16 Q. Convenience?

17 A. Yeah. You know, ---

18 Q. Well ---

19 A. --- and then for the sake of our son.

20 Q. Excuse me?

21 A. It was the sake of our child then, yeah.

22 Q. Yeah, you really wanted Christopher in your son's life?

23 A. Correct.

24 Q. And back then -- how old was your son back in 2016?

25 A. He was two -- no, he was one. I'm sorry. He was one.

- 1 Q. Oh, so he's itty-bitty?
- 2 A. Yeah, he's a baby.
- 3 Q. You wanted him to have a father?
- 4 A. Uh-huh.
- 5 Q. So you're putting up with a lot for that, aren't you?
- 6 A. Yeah. But trying to fight the boy, but you can't make
- 7 nobody love you.
- 8 Q. I understand.
- 9 A. Uh-huh.
- 10 Q. And, again, Christopher Wright is the father. The room
- 11 was in Chris' name often times, wasn't it? The room that you
- 12 and him ---
- 13 A. It was in me ---
- 14 Q. --- and your son ---
- 15 A. --- and his name.
- 16 Q. It just alternated ---
- 17 A. It just depends, yeah.
- 18 Q. --- different days?
- 19 A. Yeah.
- 20 Q. Okay. And you and Chris would fight sometimes?
- 21 A. Yes, sir.
- 22 Q. And he'd kick you out of the room, wouldn't he?
- 23 A. Yes.
- 24 Q. With your infant son?
- 25 A. Yeah.

1 Q. And you had nowhere else to go? But he'd take you back
2 occasionally?

3 A. Yep.

4 Q. And but -- but you stayed with him for a while?

5 A. Yes, sir.

6 MR. OSBORNE: Objection, Your Honor. Like Mr. Daniels
7 says, this case is not about Christopher Wright.

8 THE COURT: I let you go down that road a little bit, so
9 I will give him some leeway. Mr. Daniels.

10 MR. DANIELS: Thank you.

11 Q. And when do you eventually leave Chris, or does it just
12 kind of fade away?

13 A. We was going through our things when we was at the Value
14 Place. Some days he'd been there, days he wasn't there. He
15 could pay. That don't mean he was staying there.

16 Q. But you wanted -- you wanted to keep him in your life for
17 the sake of your son?

18 A. Yes, sir.

19 Q. All right. And that was your living situation in
20 September, the Value Place?

21 A. Yes, sir.

22 Q. You said you can't make somebody love you. Is that what
23 you said earlier?

24 A. Yeah.

25 MR. DANIELS: You're worth more than that. I'm glad

1 you're on that way. Thank you.

2 THE WITNESS: Thank you.

3 THE COURT: All right. Anything further from the State?

4 MR. OSBORNE: No, Your Honor.

5 THE COURT: All right. Ms. Nelson, thank you so very
6 much for being here. You're free to go. Okay?

7 THE WITNESS: Thank you.

8 THE COURT: Have a wonder day.

9 [Whereupon, the witness is excused and exits the witness
10 stand]

11 MR. OSBORNE: The State calls Levi Singleton.

12 THE COURT: All righty.

13 [Whereupon, Mr. Singleton comes forward]

14 THE CLERK OF COURT: Do you swear or affirm that the
15 testimony that you shall give the Court and the jury in the
16 trial of this case shall be the truth, the whole truth, and
17 nothing but the truth, so help you God?

18 THE WITNESS: Yes.

19 THE CLERK OF COURT: Thank you, sir. If you would please
20 have a seat.

21 [Whereupon, the witness takes the witness stand]

22 THE CLERK OF COURT: And for the record, please state
23 your full name and ---

24 THE WITNESS: Levi Singleton.

25 THE CLERK OF COURT: State your full name and spell ---

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

1 THE WITNESS: Levi Singleton.

2 THE CLERK OF COURT: --- and spell your last name for us.

3 Thank you, sir.

4 THE WITNESS: S-I-N-G-L-E-T-O-N.

5 MR. OSBORNE: Good morning, Mr. Singleton.

6 THE WITNESS: Hey.

7 MR. OSBORNE: We're just going to ask you a couple of
8 background questions. This won't take very long.

9 LEVI SINGLETON, Having Been First Duly Sworn, was Examined and
10 Testified as Follows:

11 **DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON:**

12 Q. Where are you from?

13 A. Right from Charleston.

14 Q. Born and raised?

15 A. Born and raised.

16 Q. Okay. Are you married?

17 A. Yes.

18 Q. For a while now?

19 A. Yes.

20 Q. What have been some of the jobs that you've held
21 throughout your life?

22 A. Mills House, Burger King, Target. Yeah.

23 Q. All right. Let's talk about the defendant a little bit.

24 Do you know him?

25 A. Yes.

- 1 Q. And who is he?
- 2 A. I know him by Bubba.
- 3 Q. Bubba? All right. And who is his father?
- 4 A. Allen Matthews.
- 5 Q. All right. You and Allen, do y'all know each other well?
- 6 A. Yeah, we do.
- 7 Q. Known him your own life?
- 8 A. He used to stay with my mom.
- 9 Q. Okay.
- 10 A. He was like a brother to my mom.
- 11 Q. Okay. And you said Bubba. And so he goes by Bubba or
- 12 Little Bubba; that's how you knew him, I guess?
- 13 A. Yes.
- 14 Q. Okay. Being that you have known Allen pretty much your
- 15 whole life is it fair to say that you saw him, the defendant,
- 16 quite frequently; you saw him a lot?
- 17 A. Sometime he'd come over there, yeah.
- 18 Q. Okay. And does the defendant have any brothers or
- 19 sisters that you know of?
- 20 A. One or either -- yeah, he have a brother and a sister,
- 21 yeah.
- 22 Q. Okay. Sister is Alexis?
- 23 A. Yeah.
- 24 Q. What's his brother's name?
- 25 A. Chris.

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

1 Q. Do you know his last name?

2 A. No, I don't.

3 Q. All right. In reference to Chris --

4 MR. OSBORNE: Your Honor, may I approach?

5 THE COURT: Absolutely.

6 Q. I'm showing you what's been marked as State's Exhibit 54.

7 Do you recognize that? The woman.

8 A. No.

9 Q. You've never seen her before?

10 A. No.

11 Q. Okay. Do you remember speaking to myself, Mr. Zeigler,

12 and Investigator Fort on October the 9th of 2018 at Krispy

13 Kreme?

14 A. Yes.

15 Q. And at that time, do you remember us showing you that

16 photo?

17 A. [No response]

18 Q. And do you remember saying ---

19 MR. DANIELS: Objection. Leading.

20 Q. Do you or do you not, remember saying that you've seen

21 that girl with Christopher a couple of times?

22 [Pause for witness]

23 A. No.

24 Q. Okay. Back in September -- or on September the 13th of

25 2016, where did you live then?

- 1 A. [REDACTED] Drive.
- 2 Q. Okay. Where did Allen live?
- 3 A. Bubba?
- 4 Q. No. His dad.
- 5 A. [REDACTED] Drive.
- 6 Q. Okay. Y'all lived together?
- 7 A. Yeah.
- 8 Q. Okay.
- 9 A. He stayed with my mom.
- 10 Q. Okay. All right. So on that day, did you see the
- 11 defendant?
- 12 A. Yeah, we did.
- 13 Q. Okay. Well, tell the jury how it is that you saw him and
- 14 what happened.
- 15 A. Well, I was in the house looking through the window, and
- 16 they was on the porch. So I really didn't hear nothing they
- 17 said.
- 18 Q. Okay.
- 19 A. But I saw them through the window.
- 20 Q. I'm sorry, that last part?
- 21 A. I saw them through the window.
- 22 Q. Okay. Who did you see through the window?
- 23 A. Bubba.
- 24 Q. Okay.
- 25 A. And Chris.

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

- 1 Q. And Chris. Did you see anyone else?
- 2 A. I didn't know the other dude's name.
- 3 Q. You didn't know his name?
- 4 A. Yeah.
- 5 Q. Okay. So there were three people?
- 6 A. Uh-huh.
- 7 Q. Bubba, the defendant, ---
- 8 A. Uh-huh.
- 9 Q. --- his brother, Chris ---
- 10 A. Uh-huh.
- 11 Q. You're going to have to say yes ---
- 12 A. Yes. I'm sorry.
- 13 Q. And another person who you didn't know?
- 14 A. Yes.
- 15 Q. Do you know -- or did you see how they got there?
- 16 A. Yes.
- 17 Q. And how is that?
- 18 A. A black car.
- 19 Q. A black car?
- 20 A. Yes.
- 21 Q. Okay. I'm showing you State's 29. Does that look like
- 22 the car?
- 23 A. Yes.
- 24 Q. Okay. State's 30. And this is a different picture. The
- 25 right car?

1 A. Yes.

2 Q. Now I'm showing you State's 26. Does that look like the
3 guy that was with him?

4 A. Yes.

5 Q. Do you have any understanding as to who ---

6 MR. DANIELS: Objection. Is 26 in evidence?

7 THE COURT REPORTER: Twenty-six has been marked for
8 identification.

9 MR. OSBORNE: Well, Your Honor, I would ask to admit it
10 into evidence under rule -- as a condition precedent that will
11 meet the relevance requirement through another witness later.

12 THE COURT: And your objection is solely on the fact that
13 it's not in evidence at this point in time?

14 MR. DANIELS: Yes, Your Honor.

15 THE COURT: All right. So what is ---

16 MR. OSBORNE: Under 104(b) I'd seek to admit it into
17 evidence at this time.

18 MR. DANIELS: We also think there might be a relevancy
19 issue.

20 MR. OSBORNE: That's what 104(b) covers.

21 THE COURT: All right. Well, we're going to have to take
22 a look at it.

23 So, ladies and gentlemen of the jury, it's a matter of
24 law that I'm going to have to research and take a look at so
25 we can proceed forward with this witness. If y'all will take

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

1 about a five-minute break, we'll get you back here as soon as
2 possible. All right?

3 MR. DANIELS: Your Honor, we request that they leave
4 their notebooks, not ---

5 THE COURT: Oh, yeah. Sorry. When you go in and out --
6 I forgot to address this yesterday. If you'll just leave your
7 notebooks right here in your seats and they'll be there when
8 you get back. Sorry about that.

9 [Whereupon, the jury exits courtroom 8/13/19, 10:44 a.m.]

10 THE COURT: All right. What is your argument, Mr.
11 Daniels, as -- I believe you made a relevance?

12 MR. DANIELS: I do think it's relevant. It's a third
13 party. We're again here for Mr. Fields. We don't think this
14 pertains.

15 MR. OSBORNE: So, Your Honor, if I may? You know, 104(b)
16 envisions a situation like this. And, I'm sorry, I thought I
17 had admitted it; and so I do apologize.

18 But I think we're still fine. And the reason for that is
19 because you will hear testimony through Detective Richardson
20 that there was an individual who walked from the direction of
21 the Chevrolet Impala after it parked at the gas station.

22 That person then went into the gas station, purchased a
23 beer, then came out and then walked back toward the direction
24 of the Chevrolet Impala.

25 That photograph is coming from the interview that he had

1 with Travis Simmons. He's identified himself as Travis
2 Simmons. The big picture of it all is in his jail call he's
3 saying that they must have talked to the person in the store.
4 And that is the person that Mr. -- Detective Richardson - I
5 was going to say Simmons - this rule kind of precludes the
6 sort of hurdles that we have to do as prosecutors, in that if
7 we followed the standard relevance thing then I would have to
8 re-call Levi as my last witness for the simple purpose of
9 drawing this last connection. 104(b) -- and it doesn't say
10 can; it says shall admit. And we complete the loop later.

11 And what Mr. Singleton just testified to is that on the
12 date of the robbery he saw three people: Christopher Wright,
13 the defendant, and that person in that black Chevrolet Impala.

14 So it all kind of comes full circle. Detective
15 Richardson is going to complete that circle, but this is a key
16 part to it right now.

17 MR. DANIELS: Your Honor, we also have issues with
18 what's going on with Detective Richardson. So this is just
19 creating -- while it envisions a situation where you're
20 not trying to loop another witness in, this isn't just
21 back-dooring.

22 And if that -- and so if -- while we acknowledge the
23 State has the right to prosecute their case the way they want,
24 we think that they should just switch the witness order.

25 THE COURT: No, they get to call it however they want.

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

1 MR. DANIELS: They do, but Simmons doesn't ID himself.

2 So ---

3 THE COURT: Did you ask the witness if he recognized the
4 person in the picture and he said yes?

5 MR. OSBORNE: He said he did. I think it's rele- -- I
6 think it's relevant right now, Judge. I think you can move it
7 into evidence right now saying that he saw those three people
8 come out of that car, which we've established as the getaway
9 car, on the date of the robbery.

10 THE COURT: Right. And you can ask him is this the
11 person that you saw on the date of the robbery.

12 MR. OSBORNE: Yes, sir.

13 THE COURT: And do you know this gentleman.

14 MR. OSBORNE: Yes.

15 THE COURT: And how do you know him, who do you know him
16 as, and did you see him there on that day, and is this a
17 accurate depiction of that person.

18 MR. OSBORNE: And in all fairness, I don't think he's
19 going to know him but he is going to say, yeah, that's the
20 person that I saw.

21 THE COURT: Okay. All right. I'll overrule the
22 objection and allow it to come -- I'm going -- you can go
23 ahead and move to have it entered into evidence. And you want
24 it in under -- I mean, I'm assuming you want it under that
25 same rule, 104(b)?

1 MR. OSBORNE: Yes, sir.

2 THE COURT: Okay. All right. I'll allow it under Rule
3 104(b).

4 All right. You can bring the jury back in.

5 [Whereupon, the jury enters the courtroom 8/13/19, 0:47
6 a.m.]

7 THE BAILIFF: Your Honor, the jury is complete.

8 THE COURT: All right. Thank you very much, Mr.
9 Robinson.

10 You may proceed.

11 MR. OSBORNE: Thank you, Your Honor. At this time we'd
12 seek to admit State's 26 into evidence.

13 THE COURT: All right. It is ---

14 MR. DANIELS: Again, note our objection.

15 THE COURT: All right. And I'm going to allow it over
16 the objection.

17 [Whereupon, State's Exhibit Number 26 is admitted into
18 evidence by the Court]

19 CONTINUED DIRECT EXAMINATION BY MR. OSBORNE:

20 Q. All right. Where we left off, Mr. Singleton, you said
21 this was one of the three people that were in the black
22 Impala?

23 A. Yes.

24 Q. Now, I mean do you know this guy?

25 A. No.

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

1 Q. Okay. Do you know or did you happen to see where he was
2 seated in the vehicle?

3 A. No.

4 Q. Okay. Do you know who was driving the car?

5 A. No.

6 Q. Okay. How long was it that they stayed at the house
7 before they left?

8 A. About thirty minutes.

9 Q. Okay. And do you know, well, about what time it was that
10 they arrived?

11 A. No.

12 Q. Do you remember at the Krispy Kreme, once again, when we
13 sat and talked, that you said that you thought it was around
14 3:00 or 4:00 p.m.?

15 MR. DANIELS: Objection. Leading.

16 THE COURT: Restate -- just restate the question, please.

17 MR. OSBORNE: Okay. I'll lay it ---

18 Q. Do you remember meeting with myself; Lem, Mr. Zeigler;
19 and Investigator Fort?

20 A. Yes.

21 Q. Okay. And do you remember at that time that we did ask
22 you some questions regarding this?

23 A. Yes.

24 Q. And do you remember at that time telling us that it was
25 between 3:00 and four o'clock?

1 MR. DANIELS: Objection. Leading.

2 MR. OSBORNE: I'm trying to impeach the witness again.

3 THE COURT: Just ask him whatever he recalls from the
4 meeting.

5 Q. What do you recall from the meeting?

6 A. That y'all was asking me questions about Bubba and if I
7 had know him and how long I had know him.

8 Q. Okay. And what about the time that we asked, if you
9 remember, that they showed up?

10 A. I can't remember, sir.

11 Q. So you're not admitting that you told us it was between
12 3:00 and four o'clock?

13 MR. DANIELS: Objection. He's, again, leading.

14 THE COURT: Okay. Just rephrase the question.

15 Q. Did you or did you not tell us that they got there at
16 3:00 or four o'clock?

17 A. I can't really remember, sir.

18 Q. That's fine.

19 All right. Prior to leaving, did anyone make any
20 comments that you heard?

21 A. No, sir.

22 Q. How about the defendant, did he say anything?

23 A. No, sir.

24 Q. All right. Going back to Krispy Kreme. At Krispy Kreme
25 do you recall telling us that the defendant said, ---

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

1 MR. DANIELS: Objection.

2 Q. --- Dad, let me borrow a couple of dollars?

3 A. Yes, sir. I remember that. Yes, sir.

4 Q. Okay.

5 MR. DANIELS: Objection. Hearsay.

6 MR. OSBORNE: It's the defendant's statement. It's a
7 hearsay exception.

8 THE COURT: I agree. Overruled. Go ahead.

9 Q. Do you remember -- did you hear what Allen said in
10 response to that?

11 A. No, sir.

12 Q. And what was the next thing the defendant said?

13 A. Well, I wasn't stand -- I stand to that window for a
14 little while. I didn't stand to that window sort of too long,
15 so I didn't hear the whole conversation what they was talking
16 about.

17 Q. Okay. Do you or do you not remember him saying: Don't
18 worry, I'll have some money soon?

19 A. No.

20 Q. Okay. So you didn't tell us that at the Krispy Kreme?

21 A. I can't remember, sir.

22 Q. I know. All right. I'm not trying to -- all right.
23 Okay. And do you remember seeing the news ---

24 A. Yes, sir.

25 Q. --- shortly after that?

1 A. Yes, sir.

2 Q. Okay. And what did you see on the news in reference to
3 this case?

4 A. I saw Bubba, saying that they hold up a bank.

5 Q. Okay. Now, did they -- on the news, as best you can
6 recall, did they say Bubba or did they just have a picture
7 from the bank?

8 A. They just had a picture.

9 Q. Okay. But you knew that was Bubba?

10 A. Yes.

11 Q. Do you remember who drew your attention to watch the
12 news?

13 A. His father, Allen Matthews.

14 Q. Okay. So he told you to watch the news?

15 A. Yes. He was telling my momma to watch the news ---

16 MR. DANIELS: Objection to hearsay.

17 THE COURT: Okay. Don't say what anyone else told you,
18 okay?

19 All right. I'll sustain the objection.

20 Q. Okay. Did you later speak to the police and identify the
21 person on the video on the -- of the bank -- from the bank
22 robbery?

23 A. Yes.

24 Q. And who did you identify him as?

25 A. Bubba.

DIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON

1 Q. Okay. I'm showing you a still screen -- a still shot
2 from State's 47 at 4:45 p.m. Does that look like a screen
3 shot that they showed you; something along those lines?

4 A. Yes.

5 Q. Okay. I'm going to change gears just a little bit, okay?

6 After speaking to the police, did you have the occasion
7 to run into the defendant or see him at a later date?

8 A. No.

9 Q. How about at the Detention Center?

10 A. Yes.

11 Q. Okay. And where was it that -- at the Detention Center,
12 specifically, that you ran into him?

13 A. In the jail on the medical side.

14 Q. Okay. Now, at that point, or when you ran into him, did
15 he have anything to say about this case to you?

16 A. No.

17 Q. Do you recall -- do you or do you not recall him saying
18 anything to you about his aunt, Jacqueline Grant?

19 A. No.

20 Q. At the Krispy Kreme do you remember telling us, do you
21 not remember telling us, ---

22 MR. DANIELS: Objection. Leading.

23 THE COURT: All right.

24 MR. DANIELS: Every time Krispy Kreme comes up, it's
25 leading.

1 MR. OSBORNE: And that's impeachment, Judge. That's at
2 every trial.

3 THE COURT: Just rephrase the question.

4 Q. Do you or do you not recall telling us at the Krispy
5 Kreme that he was going to get his aunt to change her story?

6 MR. DANIELS: Objection. Hearsay.

7 MR. OSBORNE: It's the defendant's statement. It is a
8 hearsay exception.

9 MR. DANIELS: It has not been proven as a defendant's
10 statement.

11 MR. OSBORNE: That goes to the weight, not the
12 admissibility.

13 MR. DANIELS: I think it's ---

14 THE COURT: Hold on. Hold on. Hold on. Just ask the
15 question again. And don't answer, okay, Mr. Singleton? Ask
16 the question again.

17 Q. Do you or do you not recall this defendant telling you
18 that he was going to get his aunt, Ms. Jacqueline Grant, to
19 change her story?

20 THE COURT: It's a statement by the defendant. It's a
21 hearsay objection.

22 You can answer, Mr. Singleton.

23 A. No.

24 MR. OSBORNE: Okay. No further questions.

25 THE COURT: All righty. Mr. Daniels.

CROSS-EXAMINATION BY MR. DANIELS OF LEVI SINGLETON

1 **CROSS-EXAMINATION BY MR. DANIELS OF LEVI SINGLETON:**

2 Q. It's good to see you again, Mr. Levi.

3 A. All right.

4 Q. I know I had to keep interrupting that. But do you
5 remember meeting with me and my investigate, Harry Long, back
6 in March?

7 A. Yes.

8 Q. Yeah. So I want to talk -- first off, I want to talk
9 about your interaction with the police. Okay? Now, you
10 called, on September 14th, the Crime Stopper Hotline; didn't
11 you?

12 A. Yes.

13 Q. You did. And why did you call?

14 A. [No response]

15 Q. Were you looking for a reward?

16 A. Yeah.

17 Q. I understand they've got billboards everywhere. You see
18 those billboards, \$500 for information?

19 A. [Indicates]

20 Q. I need you to say yes.

21 A. Yes.

22 Q. All right. Did you get a reward?

23 A. No.

24 Q. Even though you called?

25 A. Yes.

1 Q. Did they give you a number to get your reward?

2 A. No.

3 Q. Ah. And you're testifying today without a reward?

4 A. Yes.

5 Q. Okay. Now, you called the hotline after seeing that
6 screen-shot on the news that you were discussing with the
7 solicitor; correct?

8 A. Yes.

9 Q. And that's all you had seen?

10 A. Yes.

11 Q. And when you saw that, that flash on the news, you
12 weren't very certain about your identification, were you; you
13 weren't very certain who that was; you thought it might be
14 possibly be Bubba; isn't that correct?

15 A. No.

16 Q. Do you remember when you met with me and with Mr. Harry
17 Long, you said you were about ten percent certain; do you
18 remember saying that?

19 A. I don't remember, sir.

20 Q. Okay. But -- okay. So you've been married a long time?

21 A. Yes, sir.

22 Q. And your wife was there before you called the hotline;
23 correct?

24 A. Yes, sir.

25 Q. Did you discuss this with her?

CROSS-EXAMINATION BY MR. DANIELS OF LEVI SINGLETON

1 A. No, sir.

2 Q. You didn't. So she did not prompt you to call for a
3 reward?

4 A. Yes, sir, she did.

5 Q. She did?

6 A. Yes, sir.

7 Q. Your wife wanted you to get some money?

8 A. Yes, sir.

9 Q. All right. I mean, that's why they have billboards up.
10 And you lived with your mother, right?

11 A. My mother, yes, sir.

12 Q. Yeah, and that's [REDACTED] ---

13 A. Briarcliff.

14 Q. --- Road?

15 A. Yes, sir.

16 Q. Okay. So you lived there and you're married?

17 A. Yes, sir.

18 Q. And it's your mother's house?

19 A. Yes, sir.

20 Q. Okay. And Allen's father, Mr. Matthews, also lives
21 there?

22 A. Yes, sir.

23 Q. Okay. So it's you, your mom, your wife, and Mr.
24 Matthews, all in that same house?

25 A. No, sir, my wife don't live there. Just ---

- 1 Q. Okay. I just wanted to make sure, because there's a lot
2 of moving parts here. Does anybody else live at that house?
- 3 A. My stepfather.
- 4 Q. Your stepfather?
- 5 A. Yes, sir.
- 6 Q. Okay. So it's kind of crowded?
- 7 A. [No response]
- 8 Q. So you called the Crime Stoppers. And then several weeks
9 later you met with the police, correct?
- 10 A. Yes, sir.
- 11 Q. And you met with them at a McDonald's or a Burger King?
12 Which one was it? Where did you discuss with the detectives?
- 13 A. McDonald's.
- 14 Q. McDonald's?
- 15 A. Yes, sir.
- 16 Q. Did they buy you anything to eat?
- 17 A. No, sir.
- 18 Q. Can't get a break.
- 19 So the detectives showed you a similar picture to the one
20 that you saw on the screen; correct?
- 21 A. Yes, sir.
- 22 Q. And that was also similar to the one that you saw on the
23 news?
- 24 A. Yes, sir.
- 25 Q. All right. Did you feel more -- did -- was that in

1 color? Was the photo that you were shown in color?

2 A. I can't remember, sir.

3 Q. Okay. Was it in black and white? I'm just asking to see
4 if you can remember.

5 A. I can't remember, sir.

6 Q. Okay. And do you know if it was on paper?

7 A. It was -- yes, sir.

8 Q. It was on paper?

9 A. Yes, sir.

10 Q. So it was a static image?

11 A. Yes, sir.

12 Q. Okay. And you said that you were the person from Crime
13 Stoppers, didn't you?

14 A. Yes, sir.

15 Q. When you told them that did they discuss a reward with
16 you?

17 A. No, sir.

18 Q. They didn't give you the number, the number to claim?

19 A. No, sir.

20 Q. But you brought up that you called Crime Stoppers?

21 A. Yes, sir.

22 Q. Okay. Now, so you called -- in September, you called
23 Crime Stoppers. Then in about October, November timeframe you
24 meet with the police at McDonald's. And then twenty-five
25 months later, give or take, in about February of 2019, you

1 meet with the solicitors; right?

2 A. Yes.

3 Q. Okay. And you meet with them where?

4 A. Krispy Kreme.

5 Q. Krispy Kreme. They buy you a coffee and a doughnut?

6 A. Yes.

7 Q. Good. It took long enough.

8 So you've seen the screen-shot between that
9 October-November 2016 timeframe and the February-January 2019
10 timeframe, but have you seen that picture since then?

11 A. No.

12 Q. No. So you went almost twenty, twenty-five months.
13 without even seeing this picture?

14 A. Yes.

15 Q. Okay. And I just needed this for clarification, okay.
16 And when you meet with the solicitors they show you a color
17 photo, right; the photo's in color?

18 A. Like I say, I don't remember, sir.

19 Q. Was it on paper?

20 A. Yes, it was.

21 Q. It was not on the computer when you met with the
22 solicitors at Krispy Kreme?

23 A. Yes, it was on computer.

24 Q. It was on a computer?

25 A. Yes.

1 Q. And so it's probably in color. I think that's safe to
2 guess. Was it on an iPad or a laptop?

3 A. A laptop.

4 Q. A laptop. So the clam shell opened up and you couldn't
5 touch it or anything? Did they just show you a static image,
6 or did they show you a video?

7 A. They showed me a picture.

8 Q. A picture?

9 A. Yes, sir.

10 Q. Okay. Now, when we spoke back on March 26th, 2019, you,
11 me, Mr. Long, Investigator Long, we were at [REDACTED] Road
12 sitting under your tree. You were there. You were nice
13 enough to meet with us. And we were watching your three-year
14 old niece play. Do you remember that?

15 A. Yes.

16 Q. Yeah.

17 A. My little girl.

18 Q. Your -- oh, your little girl, not a niece?

19 A. Yes.

20 Q. Okay. And she's playing around under the tree. And you
21 said then that you started out -- now you remembered this
22 meeting, I want to make sure you remember this meeting;
23 correct?

24 A. Yes.

25 Q. And you know you were not under oath then?

1 A. Yes.

2 Q. And you know that you are under an oath now?

3 A. Yes.

4 Q. Okay. And when you spoke with us under that tree, you
5 said you started out when you went to get the award money at
6 about ten-percent certainty; is that correct?

7 A. Repeat, sir.

8 Q. When we met that day, we went through the three
9 interactions you had with the police regarding that photo.
10 And you said you started out when you saw that photo on the
11 news about ten-percent certain that was possible. Do you
12 remember that?

13 A. Yes.

14 Q. Okay. So you were ten-percent certain, and you called;
15 correct? You called the Crime Stoppers?

16 A. Yes.

17 Q. Okay. And then a couple of months go by and you meet
18 with the police at McDonald's and they showed you the photo
19 again, correct?

20 A. Yes.

21 Q. And what you told us was at that point you were about
22 thirty-percent accurate or thirty-percent certain that that
23 was Bubba. You were saying that it was building as you saw
24 it. Do you remember saying that?

25 A. No, sir.

1 Q. Okay. But you saw it at ten percent -- when you called
2 and said that you were at ten percent. You remember that?

3 A. [No response]

4 Q. So you saw -- you saw Bubba in 2017 when you were in
5 jail?

6 A. Yes.

7 Q. And he was in jail?

8 A. Yes.

9 Q. And why were you in jail?

10 A. Probation. Violated probation.

11 Q. Violating probation?

12 A. Yes.

13 Q. What's the underlying charge?

14 A. I don't want to say, sir.

15 Q. Doesn't want to say. I understand. Are you sure it was
16 a probation violation?

17 A. Yes.

18 Q. You're under oath.

19 A. Yes.

20 Q. Okay. The solicitor gave me a copy of your record. And
21 you're certain it was a probation violation?

22 A. Yes.

23 Q. Are you wearing your GPS monitor today?

24 A. Yes.

25 Q. Okay. And why do you have to wear that GPS monitor?

1 A. I was accused of ---

2 MR. OSBORNE: Objection, Your Honor. I'm just -- it's
3 just unduly prejudicial. It's embarrassing, and it's
4 certainly not relevant.

5 THE COURT: I'm going to agree. Move on past this
6 question.

7 MR. DANIELS: I object in that it's ---

8 THE COURT: Well ---

9 MR. DANIELS: I ---

10 THE COURT: All right. Hold on.

11 MR. DANIELS: I acknowledge that ---

12 THE COURT: Well, hold on. If you want to go -- do you
13 want to continue down that line of questioning?

14 MR. OSBORNE: No further questions.

15 THE COURT: All right.

16 MR. OSBORNE: Just two questions, Judge. All right,
17 so -- or two issues I suppose. I am not going to belabor this
18 anymore. Thank you for coming. All right.

19 **REDIRECT EXAMINATION BY MR. OSBORNE OF LEVI SINGLETON:**

20 Q. So if I heard correctly - and just tell me if I'm wrong -
21 based on what Mr. Daniels said, that your first meeting was
22 with this man [indicates] at your house at [REDACTED]?

23 A. Yes.

24 Q. And then you said, hold on, can we go someplace else, and
25 that's when y'all went to McDonald's?

1 A. Yes.

2 Q. And then when we met, you didn't want to meet him on
3 Briarcliff, did you?

4 A. Yes.

5 Q. That's why we met you at Krispy Kreme, right?

6 A. Yes.

7 Q. But when his attorney wanted to meet with you, you were
8 more than happy to meet at Briarcliff; right?

9 A. [No response]

10 Q. I mean you met with him at your house, right?

11 A. Yes.

12 Q. Right there in the front yard for all the world to see?

13 A. Yes.

14 Q. Okay. All right. A silly question. Do you have a
15 black-and-white or a color television?

16 MR. DANIELS: Relevance.

17 MR. OSBORNE: He made it relevant.

18 THE COURT: What's the relevance?

19 MR. OSBORNE: Because the first time he saw the defendant
20 in the bank robbery I'm betting it was a color TV, not a
21 black-and-white one.

22 THE COURT: You opened the door. Ask him -- just answer
23 the question, Mr. Singleton.

24 Q. A color TV or black-and-white?

25 A. I've got a color TV.

1 Q. Okay. So the first time you saw him it was in high-
2 definition color ---

3 MR. DANIELS: I object ---

4 Q. --- robbing that bank, right?

5 MR. DANIELS: Leading. High definition was not brought
6 up.

7 MR. OSBORNE: No further questions.

8 THE COURT: The question was -- if you want to answer,
9 Mr. Singleton, was the first time you saw it, it was on your
10 TV at your home and that is a color TV; is that correct?

11 A. Yes.

12 THE COURT: Okay. I'll give you the opportunity, Mr.
13 Daniels, if you want to recross.

14 MR. DANIELS: No further questions.

15 THE COURT: All right. Mr. Singleton, thank you so very
16 much for being here, and you are free to go. And you are
17 excused. And I hope you have a wonderful day.

18 [Whereupon, the witness is excused and exits the witness
19 stand]

20 THE COURT: Will y'all two approach real quick, please.

21 [Whereupon, an off-the-record bench conference is held]

22 THE COURT: Just so you'll know, ladies and gentlemen of
23 the jury, lunch is going to be here around 12:15, 12:30-ish,
24 so what we're going to do is take our mid-morning break now.

25 And just give us a couple of minutes to stretch our legs

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1 and use the restroom and then we'll come back and we'll just
2 work right up until lunch, if that's okay. All right?

3 Just leave your pads in your seat, if that's okay. And
4 we will call you back out in just a couple of minutes.

5 [Whereupon, the jury exits the courtroom 8/13/19, 11:13
6 a.m.]

7 THE COURT: Yes, sir?

8 MR. OSBORNE: Your Honor, one quick moment and we -- if
9 we've got an idea about where we're headed we might not need
10 to call him, but I did want to call Investigator Fort and ask
11 him a two questions to impeach on extrinsic evidence.

12 And the two questions being: At our meeting at Krispy
13 Kreme what did Levi Singleton say in reference to that car
14 arriving with those three people as far as time-wise?

15 THE COURT: Okay.

16 MR. OSBORNE: And then I believe that Investigator Fort
17 would say between 3:00 and four o'clock.

18 THE COURT: Okay.

19 MR. OSBORNE: And then the second part would be during
20 that meeting with Mr. Singleton did he make any comment in
21 reference to what the defendant said to him while in jail?

22 And then I believe the answer would be something like, he
23 told us the defendant told me, being Levi, that he was going
24 to get his Aunt Jacqueline to change her story and not
25 identify him.

1 Just those two simple questions.

2 THE COURT: Okay.

3 MR. DANIELS: He can call his witnesses how he wants.

4 THE COURT: So you're saying you want to call -- re-call
5 him?

6 MR. OSBORNE: Re-call.

7 THE COURT: Okay. All right.

8 MR. DANIELS: I would also like to put on the record the
9 question I was going to ask Levi Singleton.

10 THE COURT: Okay.

11 MR. DANIELS: The question was was he wearing a GPS
12 monitor because of sex registry -- the sex offender registry
13 violation. Which he was according to the records as given by
14 the State.

15 THE COURT: All right. And for the record, I found that
16 to be not relevant and highly prejudicial to anything that
17 we're -- that he was testifying to. And so that's why I
18 overruled the objection and stopped the line of questioning.
19 All right?

20 All right. We'll take a five-minute break.

21 [Whereupon, a recess is taken 8/13/19, 11:15 a.m.]

22 [Whereupon, the jury enters the courtroom 8/13/19, 11:25
23 a.m.]

24 THE BAILIFF: Your Honor, the jury is complete.

25 THE COURT: Thank you very much. All right. Call your

State vs. Allen Fields

1 next witness.

2 MR. OSBORNE: The State calls Allen Matthews.

3 [Whereupon, Mr. Matthews comes forward]

4 THE DEPUTY CLERK OF COURT: Sir, if you would raise your
5 right hand. You can place your left hand on the Bible.

6 [Whereupon, the witness complies]

7 [Whereupon, the witness takes the witness stand]

8 THE CLERK OF COURT: Thank you. Do you swear or affirm
9 that the testimony that you shall give the Court and the jury
10 in the trial of this case shall be the truth, the whole truth,
11 and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE DEPUTY CLERK OF COURT: Okay. Sir, and if you --
14 Was that loud enough, Your Honor?

15 THE WITNESS: I do.

16 THE CLERK OF COURT: Okay. Thank you, sir.
17 And for the record will you please state your full name?

18 THE WITNESS: Allen Matthews.

19 THE CLERK OF COURT: Can you say it a little bit louder,
20 sir?

21 THE WITNESS: Allen Matthews.

22 THE DEPUTY CLERK OF COURT: And can you spell your last
23 name.

24 THE WITNESS: M-A-T-T-H-E-W-S.

25 THE DEPUTY CLERK OF COURT: Thank you, sir.

1 MR. OSBORNE: All right. Mr. Matthews, thanks for coming
2 in. And you're going to have to really speak up because the
3 court reporter has to hear you and they got to hear you.
4 Okay?

5 THE WITNESS: Okay.

6 MR. OSBORNE: And the microphone is there ---

7 [Pause for adjustment of microphone]

8 MR. OSBORNE: All right. We're not going to take very
9 long at all.

10 ALLEN MATTHEWS, Having Been First Duly Sworn, was Examined and
11 Testified as Follows:

12 **DIRECT EXAMINATION BY MR. OSBORNE OF ALLEN MATTHEWS:**

13 Q. Do you have any children, Mr. Matthews?

14 A. Yeah.

15 Q. All right. And who are they?

16 A. Alexis, Natasha, Christopher, and Allen.

17 Q. Okay. And Allen has -- he is the defendant, Allen
18 Fields?

19 A. Yes.

20 Q. Okay. Christopher Wright?

21 A. Yes.

22 Q. That's his last name? Okay.

23 Do you have any brothers or sisters?

24 A. Have I got any brothers and sisters?

25 Q. Yes, sir.

DIRECT EXAMINATION BY MR. OSBORNE OF ALLEN MATTHEWS

1 A. I got sisters. I ain't got no brothers.

2 Q. Okay. Jacqueline Grant?

3 A. Yes.

4 Q. Okay. All right. I want to go back to September the
5 13th of 2016. Where did you live back then?

6 A. [REDACTED] Drive.

7 Q. Okay. And you still live there today, sir?

8 A. Yes.

9 Q. All right. Let's just -- on that day did you see
10 Christopher and your son Allen?

11 A. I'm trying to think what date that was -- what date it
12 would have been on. I really can't remember the date.

13 Q. Okay. Well, did you have the occasion to see Christopher
14 and the defendant come to your house in a black Chevrolet
15 Impala?

16 A. Yeah.

17 Q. All right. And was there anyone else with them that day?

18 A. There was another fellow.

19 Q. Okay. Do you know the other guy?

20 A. No. I hadn't seen him but one time.

21 Q. All right. I'm going to show you what's been marked and
22 admitted, at this time, as State's 26. Does that look like
23 the guy that was with him?

24 A. I can't really say.

25 Q. You can't say? Okay.

- 1 A. Because I didn't saw him but one time.
- 2 Q. Okay. What kind of car did they arrive in?
- 3 A. I can't remember the name of the car.
- 4 Q. Can't remember the name of the car? I'll show you
- 5 State's 30. Does that look like the car?
- 6 A. Almost looks like it. Now I ain't too sure.
- 7 Q. Okay. State's 29, does that help?
- 8 A. It don't look like the car.
- 9 Q. Okay. When they arrived do you know who was driving the
- 10 car?
- 11 A. Not right off hand.
- 12 Q. Okay. And how long was it that they stayed?
- 13 A. Stayed about thirty-five, forty minutes.
- 14 Q. Okay. About what time of the day was it that they
- 15 arrived?
- 16 A. It might have been after 3:00.
- 17 Q. After 3:00. But I mean, it's not like you were taking
- 18 notes or anything; it was some time in the afternoon,; is that
- 19 fair to say?
- 20 A. It would, yeah.
- 21 Q. All right. Before we go on to what happened next I do
- 22 just want to go back and ask you do you remember meeting with
- 23 Detective Richardson on November the 21st of 2016?
- 24 A. Yeah.
- 25 Q. And that was at your house, [REDACTED]?

DIRECT EXAMINATION BY MR. OSBORNE OF ALLEN MATTHEWS

1 A. Yeah.

2 Q. Okay. Do you remember telling Detective Richardson that
3 Chris was driving, that Allen was in the front passenger seat,
4 and the unknown guy was in the back?

5 A. That was so long ago.

6 Q. I understand.

7 A. Yeah, yeah, so long ago.

8 Q. Okay.

9 MR. DANIELS: Can he repeat that answer.

10 MR. OSBORNE: He said it was so long ago.

11 MR. DANIELS: Okay.

12 Q. All right. And at that time do you remember Detective
13 Richardson showing you a screen shot from the bank robbery or
14 a picture from the bank robbery?

15 A. I think so.

16 Q. And do you remember if he asked you if you knew that
17 person?

18 A. Well, I didn't know him.

19 Q. Okay. You didn't tell him that it was your son ---

20 A. Huh-uh.

21 Q. --- Allen Fields?

22 A. Huh-uh.

23 Q. Okay.

24 THE COURT REPORTER: I'm sorry?

25 MR. OSBORNE: No.

1 THE COURT REPORTER: I heard uh-huh -- I heard huh-uh.

2 I'm sorry.

3 Q. All right. Did you tell him that the person in the bank
4 robbery was your son?

5 A. No, no. No, sir.

6 Q. You never said that?

7 A. No, sir.

8 Q. Okay. Do you remember watching the news later on on the
9 day that the three -- that your -- that your son Allen, the
10 other son Christopher, and the unknown guy came to your house
11 in a car that looked like that; do you remember watching the
12 news ---

13 A. All I knew, what's in the news; but I didn't know what
14 from what.

15 Q. I understand.

16 A. Yeah.

17 Q. So it was later that day?

18 A. Yeah.

19 MR. OSBORNE: Okay. No further questions.

20 **CROSS-EXAMINATION BY MR. DANIELS OF ALLEN MATTHEWS:**

21 Q. Good afternoon, Mr. Matthews.

22 A. Doing all right.

23 Q. Let me come a little bit closer. I had some difficulty
24 hearing, okay. So do you remember meeting with me back in
25 March?

CROSS-EXAMINATION BY MR. DANIELS OF ALLEN MATTHEWS

1 A. Yeah.

2 Q. Okay. And you met with my investigator, Harry Long, over
3 there?

4 A. Yeah.

5 Q. And that was at your house at 22 ---

6 A. Briarcliff.

7 Q. --- Briarcliff Street?

8 A. Yeah. Yeah.

9 Q. Okay. And you and I sat down in your living room when we
10 talked, and that's where you live?

11 A. Yes.

12 Q. Okay. And you only spoke with me once?

13 A. [Nods head]

14 Q. Okay. How many times ---

15 THE COURT REPORTER: I'm sorry. I didn't hear his
16 answer.

17 MR. DANIELS: Oh.

18 Q. You only spoke with me once?

19 A. Yes.

20 Q. And how many times did you speak with the solicitor?

21 A. One time.

22 Q. Okay. And when we sat there in your living room you said
23 that you don't lend your sons money; is that correct?

24 A. That's correct.

25 Q. Because you give them money if you have that?

- 1 A. If I've got it, yeah.
- 2 Q. I couldn't hear you.
- 3 A. If I have it.
- 4 Q. If you have it. Yeah. But you don't want to be the
- 5 bank?
- 6 A. No. No.
- 7 Q. No, you want to give it freely? You don't want to charge
- 8 interest or cause friction between your sons, do you?
- 9 A. No.
- 10 Q. Okay. So did they ask about money that day?
- 11 A. No.
- 12 Q. All right. Levi Singleton lives with you, right?
- 13 A. Yes.
- 14 Q. Okay. And your sister is Jacqueline Grant?
- 15 A. Yes.
- 16 Q. Okay. Ms. Jackie?
- 17 A. Yes.
- 18 Q. Okay. And you speak with her?
- 19 A. Do I speak with her?
- 20 Q. Do you speak to her over the phone?
- 21 A. Yeah, we talk all the time.
- 22 Q. All right. And you talked to her in 2016?
- 23 A. Yes.
- 24 Q. Okay. About a news report?
- 25 A. All she tell me is to look at the news. She had never

1 said what it was about.

2 Q. I understand that.

3 A. Yeah.

4 Q. Yeah. And Levi was in the house?

5 A. When she called me?

6 Q. Yeah.

7 A. He might have been there, might not.

8 Q. Lots of people in that house, right?

9 A. Yes.

10 Q. Okay. So it's hard to have some privacy there?

11 A. No, you can have privacy; but, you know, everybody has
12 got their own room.

13 Q. I understand, sir. Now, you're at home a lot; aren't
14 you?

15 A. Yeah.

16 Q. Yeah. And you hang out with Levi when you're at home?

17 A. Yeah. We'll be outside, sitting down and chillin.

18 Q. Chillin?

19 A. Right.

20 Q. A little drink?

21 A. Well, he don't drink. But I drink.

22 Q. Okay. And just kind of smoke cigarettes?

23 A. Yeah, do that too.

24 Q. Yeah. Just hang out, right?

25 A. Yeah.

- 1 Q. And nobody really gets up too early that -- those days,
2 do they?
- 3 A. No.
- 4 Q. Because you don't really have anywhere to go, do you?
- 5 A. There ain't no where to go.
- 6 Q. Yeah. Why keep track of time, right?
- 7 A. Yeah.
- 8 Q. Yeah. Because -- what do you like to drink?
- 9 A. Huh?
- 10 Q. What do you like to drink?
- 11 A. I drink a little Absolute.
- 12 Q. That's pretty good if you are just drinking just out on
13 the porch or in your garage or, in this case, the carport? It
14 is kind of open-air; it is ---
- 15 A. Yeah, open-area.
- 16 Q. --- like an extended porch, right? And that's where you
17 guys were?
- 18 A. Yeah.
- 19 Q. Just sometime during the day. Did you wear a watch?
- 20 A. No.
- 21 Q. No.
- 22 A. I only wear a watch if I'm going somewhere.
- 23 Q. Yeah. And you weren't going anywhere that day back in
24 September, were you?
- 25 A. No.

CROSS-EXAMINATION BY MR. DANIELS OF ALLEN MATTHEWS

1 Q. All right. Does Levi wear a watch?

2 A. Yeah, sometimes.

3 Q. When he has some place to go?

4 A. I will see him sometimes when he's going and sometimes he
5 don't.

6 Q. Okay. Now, did Christopher grow up with you?

7 A. Not really. But to a certain age.

8 Q. Okay. But Chris and Allen they didn't grow up together?

9 A. No.

10 Q. No. They didn't know each other. Do you know when they
11 met each other?

12 A. That was a long time ago. I can't remember all that.

13 Q. About 2010?

14 A. Can't remember.

15 Q. All right. On that day when you were hanging out with
16 Levi and Chris shows up and Allen shows up and another guy
17 shows up, was Levi involved in the conversation?

18 A. No.

19 Q. Okay.

20 A. He come to visit -- he said he come to see me.

21 Q. They came to see you?

22 A. Yeah.

23 Q. Okay. And then they leave. Do you remember where Allen
24 sat in the car?

25 A. Not off hand.

1 Q. All right. Thank you, sir.

2 A. You are welcome.

3 THE COURT: All righty. Anything briefly?

4 MR. OSBORNE: Briefly, Your Honor.

5 THE COURT: Okay.

6 **REDIRECT EXAMINATION BY MR. OSBORNE OF ALLEN MATTHEWS:**

7 Q. Okay. I'm sorry, sir, I could barely hear you. Did you
8 say that you turned on the TV and watched the news because Ms.
9 Grant told you to watch the news?

10 A. Yeah, she just tell me look at the news. She never said
11 what the --- what the news been about.

12 Q. She just told you to watch the news?

13 A. Watch the news. That's all.

14 Q. And as far as them arriving at your house that day, it's
15 in -- is it your memory that it was sometime in the afternoon
16 around 2:00 to 3:00; something like that?

17 A. Yeah, sometime in the afternoon.

18 Q. Okay.

19 MR. OSBORNE: All right. No further questions.

20 MR. DANIELS: Just one more question.

21 **RECROSS-EXAMINATION BY MR. DANIELS OF ALLEN MATTHEWS:**

22 Q. How is your eyesight?

23 A. Pretty good.

24 MR. OSBORNE: Objection. Beyond the scope.

25 MR. DANIELS: I think he brought it up with watching the

RECROSS-EXAMINATION BY MR. DANIELS OF ALLEN MATTHEWS

1 news on cross -- or redirect, excuse me.

2 THE COURT: All right. Ask your next question and I'll
3 make a decision.

4 MR. DANIELS: No more questions.

5 THE COURT: Okay. All righty. You are free to go. And
6 we appreciate you being here, and I hope you have a great day.

7 THE WITNESS: Same to you, sir.

8 THE COURT: Thank you, sir.

9 THE WITNESS: You're welcome.

10 [Whereupon, the witness is excused and exits the witness
11 stand]

12 MR. OSBORNE: Our next witness, Your Honor, is Jacqueline
13 Grant.

14 THE COURT: All righty.

15 MR. DANIELS: Your Honor, we'd like to renew our motion
16 for sequestration of witnesses. There are multiple witness
17 lists -- multiple witness lists.

18 THE COURT: Okay.

19 MR. OSBORNE: I don't believe any of our witnesses are
20 in here.

21 THE COURT: Will you come up here -- Mr. Osborne, will
22 you come up here, please.

23 MR. OSBORNE: Oh.

24 [Whereupon, an off-the-record bench conference is held]

25 [Whereupon, Ms. Grant comes forward]

1 THE CLERK OF COURT: Raise your right hand, please.

2 Place your left hand on the Bible.

3 [Whereupon, the witness complies]

4 THE CLERK OF COURT: Do you swear or affirm that the
5 testimony that you shall give the Court and the jury in the
6 trial of this case shall be the truth, the whole truth, and
7 nothing but the truth, so help you God?

8 THE WITNESS: Yes.

9 THE DEPUTY CLERK OF COURT: Okay. Ma'am, if you could
10 please speak up just a little bit.

11 THE WITNESS: Yes.

12 THE DEPUTY CLERK OF COURT: Thank you. And would you
13 please state your full name and spell your last name for the
14 record.

15 THE WITNESS: Jacqueline Yvonne Matthews Grant.

16 G-R-A-N-T.

17 JACQUELINE M. GRANT, Having Been First Duly Sworn, was
18 Examined and Testified as Follows:

19 **DIRECT EXAMINATION BY MR. OSBORNE OF JACQUELINE GRANT:**

20 Q. Thank you for coming in, Ms. Grant. I'm not going to
21 belabor this, but I do just want to ask you -- and I realize
22 you just came back from New York, right?

23 A. Yes.

24 Q. So, again, thanks for coming in. Okay. Ms. Grant, were
25 you born and raised in Charleston?

- 1 A. Yes, sir.
- 2 Q. Okay. And do you have any children?
- 3 A. Yes.
- 4 Q. Boy? Or man, now.
- 5 A. I have three living sons.
- 6 Q. And one of those sons is Kelvin Grant?
- 7 A. That's correct.
- 8 Q. Okay. And your brother is Allen Matthews?
- 9 A. That's correct.
- 10 Q. Okay. Allen has a couple of kids?
- 11 A. Yes.
- 12 Q. And who are they?
- 13 A. Latasha, DeAngelo, Alexis, and Christopher.
- 14 Q. Okay. And Allen Fields or Little Bubba?
- 15 A. Allen Fields, yes.
- 16 Q. He is also Allen Matthews some ---
- 17 A. Well, Allen -- yeah, Allen DeAngelo. No, he's not a
- 18 Matthews. He's Allen DeAngelo Fields
- 19 Q. Okay. Different last name?
- 20 A. Yes.
- 21 Q. Okay. And what street do you live on, Ms. Grant?
- 22 A. I'm on Frank Street now. F-R-A-N-K. Frank.
- 23 Q. And that's in West Ashley?
- 24 A. Yes, it is.
- 25 Q. Kind of behind the Domino's, I think it is?

1 A. You can say so.

2 Q. Okay. Or at least it runs the same way as 61, I think.

3 Okay. And you've been there for quite a while?

4 A. No. Well, yeah, been there since about --- well, I've
5 been there about four or five years.

6 Q. Okay.

7 A. But I used to live on Briarcliff, I believe.

8 Q. Okay.

9 A. Uh-huh.

10 Q. So back in 2016 you would have lived on Frank?

11 A. Yes.

12 Q. Now, I want to go to September the 13th of 2016, or
13 thereabouts. Were you watching the news and see a report of a
14 bank robbery?

15 A. You know, I really can't remember. I can't remember.

16 Q. Well, let me ask you this: Did you see a report of a
17 bank robbery on the news any time around September of 2016?

18 A. I don't remember. I had a stroke, and I really don't
19 recall a lot of things.

20 Q. Okay. So you wouldn't remember meeting with Yolanda --
21 Detective Yolanda Brown and Detective Richardson on September
22 the 29th and telling them that you saw the bank robbery on the
23 news?

24 A. No.

25 Q. You don't remember that? Okay. And then you don't

DIRECT EXAMINATION BY MR. OSBORNE OF JACQUELINE GRANT

1 remember then, after watching it on the news, calling your
2 brother Allen Matthews and telling him to watch the news?

3 MR. DANIELS: Objection. Leading.

4 A. No. No.

5 MR. OSBORNE: Your Honor, I'm going to play a portion of
6 her interview with Detective Yolanda Brown and James
7 Richardson. And for the record, I've marked this as State's
8 53.

9 MR. DANIELS: Objection. It's not in evidence.

10 THE COURT: Hold on. That must have been the same
11 objection that you had previous -- I mean, the same ---

12 MR. DANIELS: This witness is available.

13 MR. OSBORNE: We're going back to the impeachment rule,
14 Your Honor. I'm simply impeaching this witness with a prior -
15 - with extrinsic evidence, prior inconsistent statement. The
16 rule doesn't require that -- it simply means -- the rule
17 simply states that if she does not admit.

18 MR. DANIELS: We also have an objection to this recording
19 under 403, prejudicial concerns. We would request that the
20 Court review it before making a decision.

21 THE COURT: All right. Ladies and gentlemen of the jury,
22 there is a matter of law that they are asking me to take up,
23 and so we will just take a quick break and we will invite you
24 back in in just a little bit.

25 [Whereupon, the jury exits the courtroom 8/13/19, 11:37

1 a.m.]

2 THE COURT: All right. Mr. Daniels, what's your
3 objection?

4 MR. DANIELS: The full length of this interview, there is
5 lots of talk that is prejudicial, accusations of the use of
6 cocaine and smoking other things in this. It's easily
7 confused whether or not they're meeting with Chris -- whether
8 she's speaking about Christopher or Allen.

9 Furthermore, the whole interview isn't on the -- on the
10 recording. We think that for the parts that are better -- the
11 better option to get it in is through transcript.

12 THE COURT: Well, what portion of the video do you intend
13 on playing?

14 MR. OSBORNE: The only -- well, I'm going to have -- I
15 have got a feeling I am going to have another portion. So we
16 could address that now.

17 The portion that I'm playing right now goes -- Grant
18 says, oh, my God, I heard about this. Richardson says, what
19 did you hear about. Grant says, through the TV, yeah, yeah.
20 Richardson said, what did y'all hear about from the TV. Grant
21 says, the news; you know, somebody went in the bank, yeah,
22 over here by the mall.

23 THE COURT: Over here by the what?

24 MR. OSBORNE: By the mall.

25 THE COURT: Mall. Okay.

DIRECT EXAMINATION BY MR. OSBORNE OF JACQUELINE GRANT

1 MR. OSBORNE: The second part, which, you know, I guess
2 we're kind of going ahead a little bit. I had a series of
3 questions. Namely, when they showed her a screen shot did she
4 identify her nephew as being the individual who robbed the
5 bank, the person that she saw on the news.

6 She told them she did. She signed the identification,
7 which is up there, State's -- I can't remember. But, anyway,
8 it's the part that I would seek to play would go Detective
9 Brown - and Richardson was standing right there - do you
10 recognize him? Grant says, yep, yeah, I do. Richardson said,
11 who is that? Grant said, that's my nephew. Richardson says,
12 who's your nephew? Grant says, um, I always call him Little
13 Bubba. What's Bubba's name? And someone else in the room,
14 who is going to be Kelvin, her son, says Allen. And then
15 Grant says, yeah, Allen DeAngelo Fields.

16 MR. DANIELS: I think this raises an issue of whether or
17 not it's impeachment or an unavailable witness due to medical
18 issues previous due to the stroke and memory accessibility.

19 MR. OSBORNE: And we've covered that ---

20 MR. DANIELS: And ---

21 MR. OSBORNE: --- by my competency questions at the
22 beginning.

23 THE COURT: Well, ---

24 MR. DANIELS: Well, I ---

25 THE COURT: --- I guess my question is is how is this any

1 different by playing the recording because normally they would
2 have like a refresh-your-recollection document, which would
3 be, okay, you have someone who said they don't remember it,
4 take a look at this, does this refresh your recollection, and
5 they will say yes or no. And, unfortunately, they're stuck
6 with the answer at that point in time whether they are.

7 How is this different if he simply plays the video and
8 then asks those same type of refreshing questions, which is is
9 that you, do you remember saying that.

10 And if she says -- then he's stuck with the answer. I
11 mean, whatever she says after that, he's stuck with it.

12 MR. DANIELS: Right, but ---

13 MR. OSBORNE: Well, I -- I don't agree, Your Honor, only
14 in that I think if she deny -- if she does not admit making
15 the statement. That's the way the rule -- under 613(b),
16 extrinsic evidence of a prior inconsistent statement. So the
17 prior statement is going to be inconsistent to what she's
18 testified to here today.

19 Now, it says, if a witness does not admit that he or she
20 has made the prior inconsistent statement, extrinsic evidence
21 of such statement is admissible. This is the extrinsic
22 evidence.

23 What Mr. Daniels is asking me to do is to refresh her
24 memory. That's a completely different rule with what I would
25 say would be a witness who wants to remember.

DIRECT EXAMINATION BY MR. OSBORNE OF JACQUELINE GRANT

1 I have a witness who doesn't want to remember. That is a
2 separate rule. That is impeachment. Impeachment is simply
3 saying I think she does remember and here is the evidence that
4 shows if she does and she is not saying that.

5 I'm not trying to refresh her memory.

6 THE COURT: Okay.

7 MR. OSBORNE: I don't think her memory can be refreshed.

8 THE COURT: Okay.

9 MR. DANIELS: Well, if he doesn't think that her memory
10 can be refreshed, part of that is due to a stroke, which
11 she's ---

12 MR. OSBORNE: That's competency.

13 MR. DANIELS: She's competent now to speak about anything
14 presented before her. That's why the memory refresher is so
15 important. But if she can't go back and I can't ask her about
16 things that happened in 2016, she's an unavailable witness and
17 I don't get to cross-examine her. And she's already given
18 medical -- she's already said medically I've had a stroke, I
19 can't remember.

20 THE COURT: Well, what is your contention that you can't
21 cross-examine her?

22 MR. DANIELS: I can't ---

23 THE COURT: She's right there.

24 MR. DANIELS: I don't think that I can -- I object. I
25 don't think I can cross-examine with any -- with any

1 relevancy, if due to a biological issue she has deteriorated
2 memory.

3 MR. OSBORNE: Your Honor, the only time that memory
4 became an issue is when we started talking about the bank
5 robbery. And this is a competency issue. This isn't an
6 unavailable issue.

7 And I'm looking for the rule now, and I can pull it up in
8 a second there. There are very few rules that follow
9 unavailability or they are very few circumstances. A
10 witnesses inability to remember does not fit one of the
11 unavailability requirements.

12 MR. DANIELS: And medically unavailable.

13 THE COURT: Here's what I'm going to do. I'm going to --
14 same as before, I am going to allow the video to come in as an
15 inconsistent statement for impeachment purposes, as to what
16 she can remember.

17 You are going to be stuck with the answer, of course, as
18 to whether she remembers it or not. You -- we all understand
19 that. I certainly don't think that this is ever going to fall
20 under an unavailability or medically-unavailable witness.
21 She's sitting right there. You can ask her anything you want
22 on cross-examination. You have every opportunity, you know,
23 to ask her any questions that you want. And what she
24 remembers and what she doesn't remember, that's the witness
25 that will be -- we are presented with here today.

DIRECT EXAMINATION BY MR. OSBORNE OF JACQUELINE GRANT

1 So let's go ahead and bring the jury back in, please.

2 [Whereupon, pause awaiting jury]

3 [Whereupon, jury enters the courtroom 8/13/19, 11:45
4 a.m.]

5 THE BAILIFF: Your Honor, the jury is complete.

6 THE COURT: All right. Thank you so very much.

7 Q. All right. Ms. Grant, we left off with you not
8 remembering telling Detective Richardson and Detective Brown
9 at your house on September the 29th of 2016 that you had saw
10 the news of the bank robbery; is that correct?

11 A. Yes.

12 MR. OSBORNE: Okay. I'm playing, for the record, State's
13 53 from 3:23 to 3:45.

14 [Whereupon, State's Exhibit Number 53 is published for
15 the jury]

16 Q. Was that Kelvin in the background?

17 A. I can't answer that.

18 Q. Okay.

19 A. I don't remember, no.

20 Q. Okay. So I guess it's fair to say then that on the day
21 of the bank robbery you don't remember the defendant, Chris,
22 or someone else coming to your house?

23 A. No.

24 Q. Okay.

25 A. I don't. No. I didn't even know that they came, if they

1 said they came.

2 MR. OSBORNE: Okay. Your Honor, may I approach?

3 THE COURT: Sure.

4 Q. I'm showing you what's been marked as State's Exhibit
5 Number 43. Do you recognize that?

6 A. I don't have my glasses. I don't have my glasses.

7 Q. You don't have your glasses?

8 A. No. Not with me. Out in the car.

9 Q. Who?

10 A. It's out in the car in the ---

11 Q. In the car? Okay.

12 A. No, it's in the hall. Right ---

13 Q. It's in the hallway?

14 A. Yes.

15 Q. Is it -- can I ask my investigator to go get someone ---

16 A. Yes.

17 Q. --- to get -- who should he ask?

18 A. For Kelvin.

19 Q. Who?

20 A. Kelvin.

21 Q. Kelvin?

22 A. Uh-huh.

23 MR. OSBORNE: Just a second.

24 Q. Is it in your purse?

25 A. Yes.

DIRECT EXAMINATION BY MR. OSBORNE OF JACQUELINE GRANT

1 Q. Do you -- is that okay if he goes and gets it?

2 A. Yes.

3 Q. Okay.

4 MR. OSBORNE: Beg the Court's indulgence.

5 THE COURT: Take all the time you need.

6 [Off the record momentarily to provide glasses]

7 Q. Okay. Ms. Grant, I'm showing you now State's 43. Do you
8 recognize that?

9 [Whereupon, the witness reviews document]

10 A. No, I -- no, I don't.

11 Q. Okay. You don't recognize the handwriting on there,
12 either?

13 A. No, (inaudible) ---

14 THE COURT REPORTER: I'm sorry, ---

15 MR. OSBORNE: I'm sorry, you're ---

16 THE COURT REPORTER: --- I can't hear that.

17 MR. OSBORNE: -- going to have to speak up.

18 A. Not really.

19 Q. Say it again. I'm sorry.

20 A. Not really.

21 Q. Not really. Okay. So you don't recognize the
22 handwriting, either?

23 A. It could be mine, but I'm not sure.

24 Q. Okay. All right. So I guess then it's fair to say that
25 you don't remember Detective Richardson and Detective Brown

1 showing you that photograph?

2 A. No.

3 Q. And you don't remember signing it?

4 A. Huh-uh.

5 Q. You don't remember indicating that that was your nephew?

6 A. No.

7 Q. Okay.

8 MR. OSBORNE: Your Honor, at this time, for the record,
9 again back to State's 53. And this time we're going to play
10 two minutes thirty-seven seconds to three minutes and nineteen
11 seconds.

12 THE COURT: All right.

13 [Whereupon, portion of State's Exhibit Number 53 is
14 published for the jury]

15 MR. OSBORNE: All right. No further questions.

16 THE COURT: All right. Mr. Daniels?

17 MR. DANIELS: Hi, Ms. Grant. I'm going to come a little
18 bit closer just so I can hear you. Okay?

19 THE WITNESS: That's fine.

20 MR. DANIELS: All right. It's good to see you again.

21 **CROSS-EXAMINATION BY MR. DANIELS OF JACQUELINE GRANT:**

22 Q. I met you back in March of 2019; do you remember that?

23 A. [No response]

24 Q. We sat at your dining-room table. I believe it was March
25 21st, with my detective -- or, excuse me, my investigator,

1 Harry Long, over there. Do you remember any of that?

2 A. I'm sorry, but I don't even remember your face.

3 Q. I've got that type of face. It has -- and if you do
4 remember, John was there. Do you remember any meeting with
5 John that happened with me and my detective -- or my
6 investigator at your dining-room table? You had just -- I
7 think you had just had a birthday. You had a balloon up.

8 A. [Nods head]

9 Q. Okay. Well, I know -- I know it's difficult; and I don't
10 like asking medical questions, but I am going to have to. Did
11 you suffer a stroke?

12 A. A brain bleed, yes.

13 Q. A brain bleed. When did that happen?

14 A. Oh, Jesus. Alexis, do you remember?

15 Q. You can't ask him.

16 A. Oh. I think 2016. I'm not sure, but I think. My
17 granddaughter died in 2016, and I know shortly after that I
18 had the stroke. So ---

19 Q. Okay. Well ---

20 A. I think. I'm ---

21 Q. Do you remember ---

22 A. --- not sure.

23 Q. Right. And I understand. And I'll take everything
24 through that lens. Do you remember when your granddaughter
25 died? And, again, I don't like asking these questions. But

1 when did she die?

2 A. In 2016.

3 Q. Okay. About August? July or August?

4 A. I can't remember.

5 Q. Okay. Do you remember if you had a wake at your house
6 for her?

7 A. I guess we did.

8 Q. Okay. And do you know Christopher Wright? Chris?

9 A. Yeah, that's my nephew.

10 Q. He's not allowed at your house, is he?

11 A. No, sir.

12 Q. No, he's not. And that's because he's disrespectful?

13 A. [Nods head]

14 Q. I need you to say yes or no.

15 A. Yes.

16 Q. And he's disrespectful specifically to you?

17 A. Yes.

18 Q. And you had to throw him out of your house at the wake,
19 correct? If you can remember.

20 A. I did?

21 Q. I'm getting back away from that, because I can't testify;
22 you have to confirm what I'm saying.

23 But Christopher is not allowed at your house? You
24 haven't let Christopher in your house for quite a long time,
25 have you?

1 A. [Nods head]

2 THE COURT: You have to say yes or no, ma'am; because she
3 has to take everything down, okay?

4 A. Yes. Yes.

5 Q. I mean, we're talking years; right?

6 A. Yes.

7 Q. You even had a restraining order taken out against him?

8 A. Yes.

9 MR. OSBORNE: Your Honor, I'm going to object. I'm not
10 hearing half these questions but I think they're all about
11 Christopher Wright and that's not relevant to this case.

12 MR. DANIELS: Your Honor, it is -- it is relevant if
13 they're saying three people show up at her house, which he
14 tried to do on direct, and one of them is Christopher Wright.

15 THE COURT: I agree. I'll overrule the objection.

16 MR. DANIELS: Thank you. I'll speak louder.

17 Q. So Christopher just doesn't show up at your house, does
18 he?

19 A. No.

20 Q. He knows he's not welcome?

21 A. That's right.

22 Q. He got -- he got notice of the restraining order to stay
23 away from Jacqueline Grant, correct?

24 A. Yes.

25 Q. All right. And I know it's difficult, but I need you to

1 think back, back to 2016 at the time that we're talking about.
2 Do you often invite police officers into your house?
3 A. Repeat that, please.
4 Q. Do you often have police officers in your house?
5 A. No.
6 Q. No. And in your house, you live; correct?
7 A. Yes.
8 Q. And John, your son, lives?
9 A. Yes.
10 Q. And you have a roommate that lives there?
11 A. No.
12 Q. Okay.
13 A. I have a eighty-two-year-old sister that lives with me.
14 Q. Okay. You have a sister. And does anybody else live at
15 that house?
16 A. No.
17 Q. And it's a two-bedroom house?
18 A. Three.
19 Q. Three-bedroom. So everybody has their own room?
20 A. Uh-huh.
21 Q. Okay.
22 THE COURT: Is that a yes or a no, ma'am?
23 A. Yes.
24 Q. And so when the police met with you -- when the police
25 met with you in Sept- -- in 2016, do you remember where they

1 met with you in the house?

2 A. No, I can't remember.

3 Q. Okay. Do you remember how many officers were there?

4 A. No, sir. I can't remember.

5 Q. You don't normally have officers at your house?

6 A. No.

7 Q. Would it put you -- would it make you uncomfortable if
8 the police just showed up to your house?

9 A. Yes, it would.

10 Q. And you'd be uncomfortable if they just started asking
11 you questions?

12 A. Yes.

13 Q. You wouldn't like that?

14 A. No.

15 Q. You'd try to get them to leave, wouldn't you; answer
16 their questions and tell them to leave?

17 A. Yes.

18 Q. All right. It's just a comfort thing?

19 A. [No response]

20 Q. It's just a comfort thing? You wouldn't want police in
21 your house?

22 A. No.

23 Q. Okay. So in 2018, you met with the Solicitor's Office --
24 the solicitors. Do you remember that? These gentlemen here
25 [indicating]?

1 A. I don't remember.

2 Q. Okay. So listening to that recording, you don't remember
3 anything about that day?

4 A. No, sir.

5 Q. Okay. And this is -- this is really important. You
6 asked, was it John, to get your glasses?

7 A. When?

8 Q. Just a few moments ago.

9 A. No.

10 Q. Okay.

11 A. I really was looking at Alexis.

12 Q. Okay. Okay. But you needed your glasses to look at a
13 photo?

14 A. Yes.

15 Q. And you've worn glasses for years?

16 A. I need them to -- to see -- to read, small prints and ---

17 Q. Yeah. And you've worn them for decades? You have lots
18 of pairs of glasses?

19 A. I have quite a few, I believe.

20 Q. And when we met with you, you said that you like to keep
21 pairs of glasses throughout your house; is that right; that
22 way, you don't have to worry about remembering where you put
23 your glasses?

24 A. [Nods head]

25 THE COURT: Yes -- yes or no, ma'am?

1 A. Yes. Yes.

2 Q. I don't wear my glasses all the time, either. So you
3 strategically place them where you might need them?

4 A. Uh-huh.

5 Q. Okay. Now, you don't remember what happened in 2016?
6 You don't?

7 A. No.

8 Q. Nothing. And if you were not wearing glasses, you could
9 not look at that photo, could you?

10 A. That's correct.

11 Q. And without your glasses you wouldn't be able to see
12 anything that's going on in that photo?

13 A. That's correct.

14 Q. It'd just be a blur?

15 A. Yes.

16 Q. In your front room where you met with the detectives, you
17 have two windows; correct?

18 A. Yes.

19 Q. They face the street?

20 A. Yes.

21 Q. Okay. And you usually have your blinds down?

22 A. Yes.

23 Q. Because it faces the street and you don't want people
24 looking in, do you?

25 A. The sun.

1 Q. The sun. Okay. Because you want to keep it dark?

2 A. Yes.

3 Q. Now, how many lights are in your front room?

4 A. Three.

5 Q. Three? Do you keep them on all the time?

6 A. [Shakes head]

7 Q. So you don't?

8 A. No.

9 Q. Okay. So if you didn't have your glasses and you were in
10 the front room and it was dark, you don't believe that you'd
11 be able to look at a photo and see anything from it; would
12 you?

13 A. That's correct.

14 Q. It'd just be a blur?

15 A. That's correct.

16 Q. And if an officer or a detective showed up at your house
17 it would be -- excuse me -- you would not be at ease; correct?

18 A. Repeat that, please.

19 Q. If police officers or detectives showed up to your house
20 you would not be at ease?

21 A. No, I wouldn't.

22 Q. Okay. And you don't remember being in a front room
23 without your glasses and meeting with the detectives and them
24 showing you photos and you sounding panicked like you did in
25 that video? You don't remember that?

CROSS-EXAMINATION BY MR. DANIELS OF JACQUELINE GRANT

1 A. No.

2 MR. DANIELS: No further questions.

3 THE COURT: All right. Ms. Grant, you are excused. And
4 thank you so very much for being here, and have a wonderful
5 day. Okay?

6 THE WITNESS: Thank you.

7 THE COURT: You're welcome.

8 [Whereupon, the witness is excused and exits the witness
9 stand]

10 MR. OSBORNE: The State calls Kelvin Grant.

11 [Whereupon, Mr. Grant comes forward]

12 THE CLERK OF COURT: Please, sir, if you'll place your
13 right hand on the Bible and raise your right hand.

14 [Whereupon, the witness complies]

15 THE CLERK OF COURT: Do you swear or affirm that the
16 testimony that you shall give the Court and the jury in the
17 trial of this case shall be the truth, whole truth, and
18 nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 THE CLERK OF COURT: Thank you, sir. If you would please
21 have a seat.

22 [Whereupon, the witness takes the witness stand]

23 THE CLERK OF COURT: For the record, please state your
24 full name and spell your last name.

25 THE WITNESS: Kelvin Grant. G-R-A-N-T.

1 MR. OSBORNE: Thanks for coming in, Mr. Grant.
2 Appreciate your patience. I know you've been out there for a
3 little minute. But -- all right.
4 KELVIN GRANT, Having Been First Duly Sworn, was Examined and
5 Testified as Follows:
6 **DIRECT EXAMINATION BY MR. OSBORNE OF KELVIN GRANT:**
7 Q. Just a little background. Your mom is Jacqueline?
8 A. Correct. Yes.
9 Q. Okay. And do y'all live on Frank's?
10 A. [REDACTED] Street, uh-huh.
11 Q. Okay. And what is your relationship to the defendant?
12 A. That is my cousin.
13 Q. Okay. Do you know him as any nicknames; Bubba,
14 Little ---
15 A. Yeah, ---
16 Q. --- Bubba?
17 A. --- uh-huh.
18 Q. Okay. And you are going to have to say yeah, because
19 she's writing -- or no.
20 A. Yes.
21 Q. Okay. All right. Frank's, where y'all live, it's on 61
22 behind Dominos?
23 A. Correct.
24 Q. And I think there's a Walgreen's now across the street?
25 A. Correct.

DIRECT EXAMINATION BY MR. OSBORNE OF KELVIN GRANT

1 Q. All right. So let's get into September the 13th -- well,
2 let me ask you. So did you hear about the robbery on the
3 news, or to see it?

4 A. No, I didn't see it. I heard about it -- well, later on
5 that day I did.

6 Q. Okay. Earlier that day ---

7 A. Uh-huh.

8 Q. --- did -- well, did anyone come to your house?

9 A. As of who?

10 Q. In reference to this case. Namely, Christopher.

11 A. Yeah, Chris came by ---

12 Q. Okay.

13 A. --- earlier that day.

14 Q. And who was with him?

15 A. It just was him, like.

16 Q. Okay. The defendant wasn't with him?

17 A. No, I didn't see him.

18 Q. And nobody else was with him?

19 A. No, I didn't see.

20 Q. Okay. Do you remember meeting with myself and
21 Investigator Fort ---

22 A. Uh-huh.

23 Q. --- and telling us that it was the defendant and
24 Christopher came and you told him he couldn't park his Impala
25 there?

1 A. Yes.

2 Q. Okay.

3 A. Chris. Uh-huh.

4 Q. And the defendant?

5 A. No. Chris. Chris got out of the car. And when I walked
6 outside Chris was coming towards the house.

7 Q. Okay.

8 A. And I told him you know you are not welcome here so you
9 have got to leave.

10 Q. So are you testifying here today that you didn't see the
11 defendant in the car, or that you don't know if the defendant
12 was in the car?

13 A. I didn't -- he wasn't -- I didn't see him in the car.

14 Q. You didn't see him in the car. Okay. But that's not
15 what you told us earlier, correct?

16 A. What did I told you?

17 Q. You told us that the defendant was in the car. Do you
18 remember that?

19 A. You are saying Chris.

20 Q. Okay.

21 A. Chris came out -- the car was coming towards the house,
22 and I was walking outside. And I asked him what is he doing
23 here, you know you don't belong here, we just had a family
24 little stretch scene with him.

25 Q. Okay.

DIRECT EXAMINATION BY MR. OSBORNE OF KELVIN GRANT

1 A. He was not welcome.

2 Q. Okay. Nobody else in the car?

3 A. No.

4 MR. OSBORNE: Okay. No further questions.

5 THE COURT: All righty. Mr. Daniels?

6 **CROSS-EXAMINATION BY MR. DANIELS OF KELVIN GRANT:**

7 Q. Mr. Grant, I've never met you; that's correct?

8 A. No. I -- no.

9 Q. Okay. You look like a man of style. I wish I could
10 dress that snappy. I like your beard.

11 A. Appreciate it.

12 Q. What's the style called?

13 A. It was just a beard.

14 Q. Just a beard?

15 A. No style. No style.

16 Q. You just grow it out a little bit longer on the chin?

17 A. Uh-huh.

18 Q. All right. I like that. Maybe one day I'll get there.

19 So were you present at the house when your mom was
20 interviewed by two police -- two detectives in 2016?

21 A. I wasn't.

22 Q. You were not?

23 A. When I came -- when I came they were there.

24 Q. Okay. When you came, they were there. What room were
25 they in?

- 1 A. The front room, I believe it was.
- 2 Q. Okay. Was the light on?
- 3 A. I can't remember.
- 4 Q. I know it's an odd question.
- 5 A. Yeah.
- 6 Q. Is your front room usually dark?
- 7 A. It is because keep the blinds closed or something around
- 8 that time of the season, the sun being there.
- 9 Q. Okay. And I know this is very odd. Was your mom wearing
- 10 glasses?
- 11 A. Was she wearing glasses?
- 12 Q. Yeah.
- 13 A. Oh, I can't recall.
- 14 Q. I understood. That's quite a detail. Now, you live with
- 15 your mom?
- 16 A. Uh-huh.
- 17 Q. It sounds like you like to protect her house?
- 18 A. Oh, yeah, of course.
- 19 Q. I mean, that's your castle? You want to care of your
- 20 mom, don't you?
- 21 A. Correct.
- 22 Q. So when you see Chris come up ---
- 23 A. Uh-huh.
- 24 Q. --- your first reaction is, no; right?
- 25 A. Right.

1 Q. You're not welcome. Does Chris often come by your house?

2 A. No, not like that. Not since we had that dispute.

3 Q. That dispute?

4 A. Yeah. Uh-huh.

5 Q. Okay. You know -- and that's all based no disrespect
6 from ---

7 A. Uh-huh.

8 Q. --- your mom and Chris; right?

9 A. Right.

10 Q. And you are aware of that ---

11 A. Uh-huh.

12 Q. --- because you live in the house and you are involved in
13 the fights?

14 A. Right.

15 Q. Right. Okay. I need to ask about your mom's health in
16 2016. When did she have the stroke?

17 A. I can't recall ---

18 Q. Okay.

19 A. --- what month it was.

20 Q. Okay. Well, I am going to -- it was in -- it was in late
21 2016, wasn't it? So, I mean, I'm going to build you a
22 calendar and see if you can place it there. Okay?

23 A. I can't remember what exactly month it was that she had
24 the stroke.

25 Q. Unfortunately ---

1 A. She was bleeding ---
2 Q. --- you had a wake --
3 A. --- in the brain.
4 Q. Excuse me?
5 A. Yeah. She was bleeding on the brain, yeah.
6 Q. Yeah. That's a stroke. There was a wake in your house
7 in about August 2016 for your niece?
8 A. You say a ---
9 Q. A wake. It's ---
10 A. Yeah. Yeah.
11 Q. Okay.
12 A. Uh-huh.
13 Q. She had just died?
14 A. Uh-huh.
15 Q. And the family got together; and that was about August,
16 two thousand -- I need you to say yes or no. I'm sorry.
17 A. Okay. Yes.
18 Q. It happened ---
19 A. No. She died in -- that was in July, it was.
20 Q. July. Okay.
21 A. It was July.
22 Q. Okay. So in the summertime?
23 A. Uh-huh.
24 Q. All right. And you had the wake. Family and ---
25 A. Uh-huh.

1 Q. --- friends came over? Again, yes or no?

2 A. Yes.

3 Q. Okay. And as part of that, Chris showed up; correct?

4 A. If I can recall, yes, he was there.

5 Q. And that did not go over well, did it?

6 A. No. That's when we had the dispute was around that time.

7 It was just ---

8 Q. The dispute was ---

9 A. Yes.

10 Q. --- around that time?

11 A. Uh-huh.

12 Q. At a family function ---

13 A. Yes.

14 Q. --- where emotions are already hot?

15 A. Yes.

16 Q. People were not doing well with the loss of the niece,
17 were they?

18 A. No, they weren't.

19 Q. And Chris shows up. Did you take part in that dispute?

20 A. Well, I actually pulled up and it was going on and I
21 asked -- going like -- like someone what happened.

22 And Chris was -- him and my mom was going at it. And I
23 told him, you know, basically, get the you know what out and
24 you have got to go. And said some words back to him. Getting
25 in his vehicle and he left.

1 Q. And ---

2 A. Then I found out what actually went down with him.

3 Q. And that was in July?

4 A. It was disrespect words he said to my mom. Put it like
5 that.

6 Q. Okay. We'll keep it simple here. We don't want to quote
7 Chris.

8 A. Right.

9 Q. But that was in July of 2016? Thereabouts?

10 A. Somewhere around that time.

11 Q. Okay. But he definitely knew in September that
12 Christopher was not welcome in Jackie's house?

13 A. Oh, no, no.

14 Q. He was on notice?

15 A. No.

16 Q. You were watching out for her? Stay away?

17 A. Correct.

18 Q. Because you love your mom?

19 A. Does Chris love my mom?

20 Q. You love your mom?

21 A. Oh, with all my heart. I would die for her.

22 MR. DANIELS: No further questions. Thank you.

23 THE WITNESS: Uh-huh.

24 MR. OSBORNE: Briefly, Judge.

25 **REDIRECT EXAMINATION BY MR. OSBORNE OF KELVIN GRANT:**

REDIRECT EXAMINATION BY MR. OSBORNE OF KELVIN GRANT

1 Q. When Chris came by to your house - I'm going to show you
2 State's 29 in a second - was he driving that car [indicating]?

3 A. I can't remember what kind of car he was driving.

4 Q. Okay.

5 A. I told him he needed to leave. That's all.

6 Q. Okay. So Chris is not welcomed at your house, but is the
7 defendant welcomed at your house?

8 A. Yes.

9 Q. Oh, okay.

10 MR. OSBORNE: No further questions.

11 THE COURT: All right. Mr. Grant, you are excused.

12 You're free to go. Have a great day.

13 [Whereupon, the witness is excused and exits the witness
14 stand]

15 MR. OSBORNE: One quick witness.

16 THE COURT: Okay.

17 MR. OSBORNE: Investigator Fort.

18 THE COURT: Okay. All right. Investigator Fort, if you
19 will come up, please.

20 [Whereupon, Investigator Fort comes forward]

21 THE CLERK OF COURT: Do you swear or affirm that the
22 testimony that you shall give the Court and the jury in the
23 trial of this case shall be the truth, the whole truth, and
24 nothing but the truth, so help you God?

25 THE WITNESS: I do.

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT

1 THE DEPUTY CLERK OF COURT: Thank you, sir. If you will
2 please have a seat.

3 [Whereupon, the witness takes the witness stand]

4 THE DEPUTY CLERK OF COURT: And for the record, please
5 state your full name and spell your left name.

6 THE WITNESS: Jeffrey Fort. F-O-R-T.

7 JEFFREY FORT, Having Been First Duly Sworn, was Examined and
8 Testified as Follows:

9 **DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT:**

10 Q. All right. Investigator Fort, you were in here when Mr.
11 Singleton, Levi Singleton, testified?

12 A. I was.

13 Q. And my question to him went something like: If you can
14 recall, what time do you -- if you can remember, did the black
15 Impala come by [REDACTED] with three people in the car?

16 And he said he couldn't remember. Do you remember that?

17 A. I do recall that question.

18 Q. Do you remember what he told us on October the 9th of
19 2018?

20 A. He said it was around three o'clock p.m.

21 Q. Okay. And I also asked him about if he had any
22 encounters with the defendant at the jail. He said he didn't
23 remember. Do you remember what he told us on October 9th of
24 2018?

25 A. He said that he was in the infirmary with the defendant.

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT

1 Q. And what did the defendant tell him?

2 A. Basically, he said the defendant approached him, they
3 were talking about it, they were in medical for about a
4 month ---

5 MR. DANIELS: Objection. This is hearsay. It's not
6 specific.

7 Q. Specifically what did the defendant tell Levi? Just
8 that.

9 A. That he was trying to reach out to Ms. Jacqueline Grant
10 in order to have her sign a letter which would give him an
11 alibi.

12 MR. DANIELS: Objection. Again, limited in impeachment
13 to what he said.

14 THE COURT: All right. I will sustain the objection.
15 Just -- obviously Mr. Osborne is asking you very specific
16 questions. Just stick to the specificity of what he's asking
17 you.

18 THE WITNESS: Yes. Yes, Your Honor. I'm sorry.

19 Q. Just simply -- not basically, simply, what did the
20 defendant tell Levi?

21 A. That he was trying to reach out to his aunt.

22 Q. For what purpose?

23 A. He wanted her to sign the letter.

24 Q. Like a welcome letter, an invitation to a party; what
25 type of letter?

- 1 A. Just one moment, please.
- 2 [Whereupon, the witness reviews documents]
- 3 A. That she didn't know that it was him.
- 4 Q. Okay. All right. And on that same day, do you remember
- 5 meeting with Kelvin, Kelvin Grant?
- 6 A. The same day that we met with Mr. Singleton?
- 7 Q. Yes. Later that day.
- 8 A. That would have been October 9th.
- 9 Q. Yeah. All right. And when we met with Mr. Grant -- and
- 10 you heard him testify that he said it was just Christopher in
- 11 the car. Did he have a different account on who was in the
- 12 car when he talked to us?
- 13 A. He did.
- 14 Q. And who was in the car?
- 15 A. He said that when he arrived to the home, he said that
- 16 Chris was in the car as well as the defendant.
- 17 Q. The defendant?
- 18 A. Yes.
- 19 Q. Was there anybody else?
- 20 A. He didn't acknowledge that there was a third person or
- 21 not.
- 22 Q. Okay. But he did acknowledge that it was Chris and the
- 23 defendant?
- 24 A. That's correct.
- 25 Q. Okay.

DIRECT EXAMINATION BY MR. OSBORNE OF JEFFREY FORT

1 MR. OSBORNE: All right. No further questions.

2 MR. DANIELS: Okay?

3 THE COURT: Yes, sir. Absolutely.

4 **CROSS-EXAMINATION BY MR. DANIELS OF JEFFREY FORT:**

5 Q. Real quick, Mr. Fort. You met with Levi Singleton on
6 what day?

7 A. That would have been October 9th.

8 Q. And that was the same day that you met with Mr. Grant?

9 A. That's correct.

10 Q. Okay. How many people were with you?

11 A. It was myself, Investiga- -- or Solicitor Osborne, and
12 Solicitor Zeigler.

13 Q. Okay. Were you wearing suits?

14 A. I'm sorry?

15 Q. Were you wearing suits?

16 A. Normally, yes.

17 Q. Okay.

18 A. We normally wear suits every day.

19 Q. All right. I understand. The three of you approached
20 him?

21 A. Approached who?

22 Q. Approached Mr. Grant.

23 A. I believe we went to the front door of Ms. Grant's house
24 on Frank Street.

25 Q. Where did he speak with him?

1 A. On the front doorstep.

2 Q. On the front doorstep. Did he let you in?

3 A. We spoke on the front doorstep in the doorway.

4 Q. Okay. So you were on the porch?

5 A. Ms. -- Mr. Grant was outside on the porch already.

6 Q. Okay.

7 A. He was actually was smoking a cigarette.

8 Q. All right. Did you have a computer with you?

9 A. Personally, no.

10 Q. Okay. Did one of the solicitors?

11 A. I believe they may have had.

12 Q. Okay. They may have. But you had ---

13 A. We had one at the Krispy Kreme earlier that day. I can't

14 recall if we had it at Ms. Grant's house or not. I think we

15 had our binders and our files.

16 Q. All right. Is Krispy Kreme where you bought Mr.

17 Singleton a coffee?

18 A. We didn't buy Mr. Singleton anything.

19 MR. DANIELS: Okay. No further questions.

20 THE COURT: All right.

21 MR. OSBORNE: No, nothing further.

22 THE COURT: All right. Thank you very much, Investigator

23 Fort.

24 [Whereupon, the witness is excused and exits the witness

25 stand]

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1 THE COURT: All right. Ladies and gentlemen of the jury,
2 I'm afraid that your cold subs are getting cold. So we're
3 going to go ahead and take our lunch break now.

4 And what I'm going to ask y'all to do is take your time.
5 There's no real specified amount of time that we need out of
6 y'all. Just whenever y'all are finished with your lunch and
7 you've had a chance to just relax a little bit, just let Mr.
8 Robinson or the other bailiff know and we will bring you back
9 out and resume the trial. Okay?

10 So we'll give you about thirty, forty minutes. Okay?
11 Sound good? All right. Enjoy your lunch.

12 MR. DANIELS: Again, the notebooks, Your Honor. The
13 notebooks, Your Honor.

14 THE COURT: Oh, yeah. Leave your notebooks.

15 [Whereupon, the jury exits the courtroom 8/13/19, 12:21
16 p.m.]

17 THE COURT: All right. So for scheduling purposes, we
18 have three witnesses left from the State; is that correct?

19 MR. OSBORNE: That's correct, Your Honor.

20 THE COURT: All right. And at the close of that what is
21 your anticipation as to a defense; do y'all want to talk about
22 that over lunch and let's address it later?

23 MR. DANIELS: I think that would be best, Your Honor.

24 THE COURT: All right. What I'm going to do, also, is
25 when y'all come back I'm going to give you our charge, just

1 kind of what we have been putting together. Take a look at
2 it.

3 Do y'all foresee us being finished by the end of the day?

4 MR. OSBORNE: Yes.

5 THE COURT: Or from the State's position?

6 MR. OSBORNE: I do, Your Honor.

7 THE COURT: If we start back -- it's 12:30. We're
8 going -- you know, we won't start for another forty-five
9 minutes, you know, to an hour. So that'll be 1:20, 1:30-ish.
10 So how long do you think you'll go till? Just y'all. I
11 understand the defense has to do the cross but.

12 MR. OSBORNE: So I would anticipate White would probably
13 from our perspective would probably be about twenty or thirty.
14 Based on this, maybe about the same. Clay Simmonds about the
15 same. And then we should be able to get to Richardson.
16 Richardson is going to be -- he's carrying a heavy load.
17 That's going to take a while. But I think we should get him
18 through today.

19 THE COURT: Okay. So we're not going to argue and charge
20 the jury this afternoon. That will be four o'clock at that
21 point. So what we'll do then at that time is -- well, I think
22 out of efficiency I would like to have the charge conference,
23 you know, this afternoon, you know, so we can have everything
24 ready to go so in the morning we can just, you know, go right
25 through it. So how about this -- has it printed?

State vs. Allen Fields

1 [Court confers with law clerk]

2 THE COURT: Yeah, she is going to email it to both of
3 y'all here. So while you're at your desk just take a look at
4 it.

5 It's pretty -- it's pretty standard. Just briefly, just
6 if something jumps out at you, just let me know. I've done
7 duties of jury and trial judge. Presumption of innocence is
8 next. Direct and circumstantial evidence. Reasonable doubt,
9 y'all are going to need to talk about that one, because
10 everybody always wants to fight about reasonable doubt.
11 Credibility of witnesses, identification, intent, then into
12 armed robbery. And we have cleaned it all up from when it
13 talks about toy guns and BB guns.

14 And I assume that there's no issue as to robbery being a
15 lesser included of armed robbery, I mean, based on -- yeah.
16 So I've taken all that out. Robbery out. So it's just armed
17 robbery.

18 And I have specified and indicated in there what can be a
19 dangerous instrument. And then possession of a weapon during
20 the commission of a violent crime. The indictment is not
21 evidence.

22 And then I -- y'all can talk about this, fight about it
23 with me. It's all fine by me. It doesn't hurt my feelings.
24 But the old school ritual and procedure has always been to not
25 give them a copy of the charge. There seems to be a

1 disconnect right now between the young guys and the older
2 guys. They just say, we've never done it that way but it
3 seems like a good idea. Some of the older guys, meaning when
4 we go to these conferences and we talk, they've adopted it in
5 the civil world. Only a couple of circuit court judges have
6 adopted it in the criminal world. I'm one of them.

7 So if y'all want to fight about it, let's fight about it.
8 But for right now, I have every intention of sending the
9 charge back to the jury, as well. All right.

10 So y'all think about it, you know, talk it over with some
11 other people, bat some ideas around it. If you come up with
12 something good and I buy it, I may not send it back. But
13 right now I'm very inclined to send it back.

14 MR. OSBORNE: No, I think that's awesome. I think it
15 should go back.

16 THE COURT: It just -- it just saves so many questions.

17 MR. OSBORNE: Agreed.

18 THE COURT: And they don't understand what intent is or
19 what reasonable doubt is and they sit back there,
20 unfortunately, and they fight for three hours as to what they
21 recall what reasonable doubt or intent is, as to just saying,
22 well, let's just read the four sentences.

23 THE BAILIFF: Amen.

24 THE COURT: So I ---

25 MR. DANIELS: We will have our fight at the end.

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1 THE COURT: Okay. That's fine. Let's fight about it
2 then. But I just wanted to let you know that's where I'm
3 headed.

4 MR. OSBORNE: For the record, every jury questionnaire
5 that comes back, they're confused about the law.

6 THE COURT: That's right.

7 MR. OSBORNE: Every single one.

8 THE COURT: That's right. So we're not going to have
9 that in my trials. But I want you to keep your record clean.
10 Okay? All right. So we'll email it to you. All right?

11 MR. OSBORNE: I need expert witnesses. I plan on
12 qualifying Clay, so ---

13 THE COURT: Okay, so -- all right. Then thank you so.
14 So we will add expert in there. Okay. Because if Clay is
15 going to qualify as an expert we have got to put it in there.
16 All right.

17 [Whereupon, a recess is taken 8/13/19, 12:30 p.m.]

18 [Whereupon, resume 8/13/19, 1:31 p.m.]

19 THE COURT: Mr. Osborne, are y'all going to submit a
20 proposed verdict form, or do you want us to prepare one?

21 MR. OSBORNE: You can just prepare one ---

22 THE COURT: Okay.

23 [Whereupon, the jury enters the courtroom 8/13/19, 1:32
24 p.m.]

25 THE BAILIFF: Your Honor, the jury is complete.

1 THE COURT: All right. Thank you so very much.
2 All right. I hope everyone enjoyed their lunch. We will
3 resume the trial at this time.
4 MR. OSBORNE: The State calls Henry White.
5 THE COURT: All right.
6 [Whereupon, Mr. White comes forward]
7 [Pause awaiting witness]
8 THE CLERK OF COURT: Sir, if you will raise your right
9 hand, place your left hand on the Bible.
10 [Whereupon, the witness complies]
11 THE CLERK OF COURT: Do you swear or affirm that the
12 testimony which you shall give the Court and the jury in the
13 trial of this case shall be the truth, the whole truth, and
14 nothing but the truth, so help you God?
15 THE WITNESS: Yes.
16 THE CLERK OF COURT: And, sir, if you would please have a
17 seat.
18 [Whereupon, the witness takes the witness stand]
19 THE CLERK OF COURT: For the record, please state your
20 full name and spell your last name.
21 THE WITNESS: Henry Bernard White. W-H-I-T-E.
22 HENRY WHITE, Having Been First Duly Sworn, was Examined and
23 Testified as Follows:
24 **DIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE:**
25 Q. Good afternoon, Mr. White.

DIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE

1 A. Hello.

2 Q. Before we get into why you are wearing that attire let's
3 just talk a little bit about yourself and your background,
4 okay.

5 Where are you from?

6 A. Mount Pleasant, South Carolina.

7 Q. Mount Pleasant?

8 A. Yes, sir.

9 Q. So born and raised in the Charleston area?

10 A. Yes, sir.

11 Q. Okay. Did you go to high -- well, where did you go to
12 high school?

13 A. Wando High School.

14 Q. Graduate?

15 A. Yes, sir.

16 Q. What type of jobs have you had throughout your life?

17 A. Landscaping, restaurant, and at the Port.

18 Q. Okay. You were in the military?

19 A. I was.

20 Q. Honorably discharged?

21 A. Honorably discharged.

22 Q. What branch?

23 A. Army.

24 Q. Okay. Obviously, you're in a little bit of trouble now?

25 A. Yes, sir.

1 Q. Let's talk about that for a second. So what are your
2 pending charges?

3 A. Contempt of Drug Court.

4 Q. Okay. So just for the jury's edification, what does that
5 mean? Like, what is Drug Court and how do you get into Drug
6 Court?

7 A. Drug Court is a program for transitioning addicts looking
8 to stay clean, get clean and stay clean. It's a program of
9 accountability. Very -- kind of very strict rules, drug
10 tests, classes, court every week. It's a a real structured
11 program.

12 Q. Okay. So it's a program -- is it fair to say -- and you
13 tell me. Is it fair to say, from your understanding, that
14 it's a program that's basically designed for addicts?

15 A. Yes.

16 Q. To try to keep them out of jail?

17 A. Yes.

18 Q. To try to help them with their addiction?

19 A. Yes.

20 Q. And to get into Drug Court, you're basically pleading
21 guilty to crimes that you committed; correct?

22 A. Correct.

23 Q. And you pled guilty, if I'm correct, on August the 8th of
24 2018, to possession of crack?

25 A. Yes.

DIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE

1 Q. And also a shoplifting property offense enhancement?

2 A. That's correct.

3 Q. Now, when you pled guilty in Drug Court, so am I fair --
4 is it fair to say that you're sentenced but that sentence is
5 sort of held in abeyance until you have finished your Drug
6 Court program?

7 A. That's correct.

8 Q. But if you mess up, then you're going to get -- then you
9 potentially could get sentenced to whatever it is you were
10 sentenced to?

11 A. Potentially.

12 Q. And go to prison?

13 A. Potentially.

14 Q. And so what are you looking at if -- well, in the
15 program, what do you have hanging over your head? How much
16 time?

17 A. Seven years.

18 Q. Seven years. Okay.

19 Now, you know, I'm going to be careful about how I ask
20 this. But as part of the Drug Court program, you have to take
21 drug tests; correct?

22 A. Correct.

23 Q. And this year you took a drug test and that came back
24 reported as positive, right?

25 A. A hair test. Yes.

- 1 Q. A hair test?
- 2 A. Yes.
- 3 Q. Positive for what, Cocaine I imagine?
- 4 A. Cocaine.
- 5 Q. Okay. Now, so you still need to get sentenced for that
- 6 violation; that's still holding; that's still pending?
- 7 A. That's pending.
- 8 Q. Pending. And you have Mr. Chris Geel is representing
- 9 you?
- 10 A. Yes, sir.
- 11 Q. Okay. Do you know when that court date is?
- 12 A. I do not.
- 13 Q. Okay. Now, at some point -- so once you -- once you
- 14 tested positive you were arrested; is that right?
- 15 A. Correct.
- 16 Q. So -- and for the violation of testing positive?
- 17 A. Correct.
- 18 Q. Prior to that, you were out?
- 19 A. I was.
- 20 Q. Okay. When you got arrested and you went to the jail, do
- 21 you remember what cell you were in?
- 22 A. Not specifically.
- 23 Q. B2H, does that sound ---
- 24 A. B2H; that's correct.
- 25 Q. Okay. And don't let me put words in -- is that just ---

DIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE

1 A. Yes.

2 Q. Do you remember that?

3 A. I remember that.

4 Q. Okay. All right. So when you got to jail did you meet
5 the defendant?

6 A. I did.

7 Q. Okay. And did you have conversations with him?

8 A. I did.

9 Q. And over what period of time; like are we talking about
10 days or are we talking about weeks, months?

11 A. From B2H until now, some months.

12 Q. Some months?

13 A. Yes.

14 Q. And during that time, is it -- I mean, like how would you
15 describe your relationship with him; ---

16 A. It was casual.

17 Q. --- was it friendly?

18 A. Casual.

19 Q. Casual. All right. Now, before we get into some of that
20 conversation, let me ask you this. Has anyone from my office
21 made any promises to you ---

22 A. No.

23 Q. --- that if you come in here and testify a certain way
24 that we are going to help you out?

25 A. No.

1 Q. Do you know Assistant Solicitor Stephanie Linder?

2 A. I do.

3 Q. And she runs the Drug Court I guess from her office?

4 A. She does.

5 Q. Okay. Do you know who makes the final decision in
6 reference to whether you get violated or not?

7 A. To my understanding, it's up to the judge.

8 Q. It's up to the judge?

9 A. Yes, sir.

10 Q. Okay. But it is fair to say, while no promises have been
11 made - and I'm not trying to put words in your mouth - is it
12 fair to say that you are at least hoping that by coming in
13 here talking, that it's going to help you, that the judge will
14 take that into account?

15 A. I hope so.

16 Q. Okay. All right. So let's get into some of what the
17 defendant told you. Did he talk to you about his pending
18 charge at all?

19 A. He did.

20 Q. Okay. Did he indicate to you at all -- well, just go
21 ahead and tell the jury. What is it that he told you?

22 A. When we spoke, he told me that he was in there for a bank
23 robbery. He told me that there was about \$5,600 that he took.
24 I asked him did he present a note or -- he said he held up his
25 shirt and showed the bank teller a gun.

DIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE

1 I asked him about the serial numbers on the bills. And
2 he told me that he was casually going to different clubs,
3 spending the money and getting change back, breaking the bills
4 down.

5 What else? Told me that there was a black Impala
6 involved, that an aunt was upset because he didn't share the
7 money with her.

8 Q. All right. Let me stop you right there for one second
9 about the black Impala. Do you remember if he told you who
10 the black Impala belonged to?

11 A. He told -- he mentioned that it was his brother's
12 girlfriend's car.

13 Q. All right. Now back to the aunt. Did he make any
14 mention -- well, what else did he have to say about the aunt?

15 A. The aunt was like a hideout place to go to after the
16 incident took place. His aunt was supposedly upset because he
17 didn't, quote, unquote, break bread with her, give her -- give
18 her some of the money. And there was a stepson, his father's
19 girlfriend's son, that called the tip in and he wanted reward
20 money as well. That's pretty much what he was telling me.

21 Q. Did he say anything about trying to influence his aunt's
22 testimony at all?

23 A. Not that I remember.

24 Q. Nothing about trying to get her to back out of her
25 testimony?

1 A. He just said he called home and they were willing to not
2 testify, the aunt and the father were willing to not testify.

3 Q. The aunt and his dad?

4 A. Yes. At first he said that the father was going to
5 testify but that he spoke to him and he was thinking about
6 backing out.

7 Q. Okay. Did he mention where the robbery happened?

8 A. Not that I remember.

9 Q. Okay. Do you remember telling Detective Simmonds -- I
10 know you spoke to detectives, too. Do you remember telling
11 him that he said it happened downtown?

12 A. That sounds about right.

13 Q. Okay.

14 A. But I mean the wording, that sounds right.

15 Q. Okay. So you weren't -- you said that he had went to a
16 house to lay low. Do you remember whose house he said it was?

17 A. Supposedly the aunt.

18 Q. And any names; do you remember his cousin's name?

19 A. A cousin named Kevin, I believe.

20 Q. A cousin named Kevin?

21 A. Kevin, yeah.

22 Q. Did he mention at all that Chris -- his brother Chris,
23 was he involved in the robbery at all?

24 A. Supposedly Chris was driving the car.

25 Q. All right. All right. So let me -- okay. Let me ask

DIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE

1 you this. You are familiar with -- I mean, you've been --
2 you've been arrested before and ---

3 A. I have.

4 Q. --- you've been in the system, in and out. Drugs, stuff
5 like that?

6 A. Uh-huh.

7 Q. Yes?

8 A. Yes.

9 Q. Okay. So you've been to prison; you've been to
10 prison ---

11 A. I have.

12 Q. Okay. So let me ask you this. You're familiar with
13 discovery?

14 A. I am.

15 Q. Now, so just tell the jury what -- you know, in your
16 terms, what does discovery mean?

17 A. Discovery is basically the evidence that the lawyer
18 presents to his or her client on what the State has, all the
19 evidence that -- you know, basically what went on, pictures,
20 statements; stuff like that.

21 Q. So the -- you said what the police have. So the police
22 conduct their investigation, they get all their reports, and
23 things of that nature?

24 A. Right.

25 Q. And give it to the State?

1 A. Right.

2 Q. And then we then turn it over to the defense?

3 A. The defense, to the client.

4 Q. But a lot of times, you know -- and it's not -- nothing
5 wrong with this. You will see individuals in the jail going
6 through their discovery, right?

7 A. That's correct.

8 Q. Becoming familiar with their case?

9 A. That's correct.

10 Q. Okay. Did he have his discovery, his paperwork?

11 A. He did.

12 Q. Okay. Did you ever go through that paperwork?

13 A. I did not.

14 Q. You never snuck into his cell and read through the
15 papers?

16 A. Never have.

17 Q. With his conversations through you, I mean did he leave
18 any doubt in your mind that he's the one that committed a
19 robbery?

20 A. He left no doubt in my mind.

21 MR. OSBORNE: Nothing further.

22 THE COURT: Ms. Norris?

23 **CROSS-EXAMINATION BY MS. NORRIS OF HENRY WHITE:**

24 Q. Mr. White, you're not a stranger to the criminal justice
25 system, obviously; right?

CROSS-EXAMINATION BY MS. NORRIS OF HENRY WHITE

1 A. No, ma'am.

2 Q. All right. Your first time in prison was twenty years
3 ago?

4 A. About that, yes, ma'am.

5 Q. And just in the last ten years - and I'm not going to
6 talk about everything - but just in the last ten years, in
7 April of 2009 you were convicted of financial transaction card
8 fraud?

9 A. That's correct.

10 Q. Forgery?

11 A. That's correct.

12 Q. Burglary third?

13 A. That's correct.

14 Q. September, 2010, property offense, third or ---

15 A. That's correct.

16 Q. --- subsequent?

17 A. That's correct.

18 Q. October of 2012, shoplifting enhanced?

19 A. That's correct.

20 Q. Breach or obtained a signature of property fraudulently?

21 A. That's correct.

22 Q. Financial transaction card theft?

23 A. That's correct.

24 Q. April, 2013, shoplifting ---

25 A. That's correct.

1 Q. --- enhanced? October of 2014, felony, breaking into an
2 auto?

3 A. That's correct.

4 Q. And at that point you learned how to try to help
5 yourself, right? Or maybe you knew it before. But let me be
6 more specific. At that point, you offered to be a
7 confidential informant for the police; correct?

8 A. At which point?

9 Q. In 2014, after you got arrested for breaking into a motor
10 vehicle.

11 A. That's correct.

12 Q. All right. And the police -- you signed an agreement
13 with the police, right?

14 A. That's correct.

15 Q. That you would help them make drug arrests, right?

16 A. That's correct.

17 Q. And in exchange for that you got paid?

18 A. I did.

19 Q. All right. And so in essence, the police at that point
20 were paying you to commit crimes for them and then testify;
21 right?

22 A. That's -- if you want to call it that.

23 Q. Well, what would you call it?

24 A. I mean, it was controlled buys. If I'm breaking the law
25 for the policeman I wouldn't say I was breaking the law for

1 the policeman, I would say that these controlled buys were to
2 get bad guys off the street.

3 Q. All right. And you were doing that to help yourself,
4 right?

5 A. That's correct.

6 Q. And, in fact, your felony charge got dropped down to a
7 misdemeanor; right?

8 A. That's correct.

9 Q. And as part of your dealing with the cops you agreed
10 -- well, let's talk about how much you got paid. You got \$40
11 every time you made a controlled buy, right?

12 A. That's correct.

13 Q. All right. And a couple of times, when it was a big
14 operation, you got as much as two or \$300 dollars for this?

15 A. The most I ever got was about a hundred bucks.

16 Q. A hundred?

17 A. Yes, ma'am.

18 Q. All right. So if I've got paperwork from the State that
19 said two or three hundred, that would be wrong?

20 A. I don't remember getting two or \$300.

21 Q. All right. But you don't deny it?

22 A. I don't deny it.

23 Q. All right. And as part of your agreement with police you
24 agreed not to commit any additional crimes yourself, right?

25 A. That was the understanding.

1 Q. Well, it wasn't just an understanding; you signed a piece
2 of paper saying I won't commit anymore crimes, right?

3 A. Yes.

4 Q. While the police department is paying me to work for them
5 I won't commit any crimes.

6 A. Correct.

7 Q. And you got kicked out of that job because you lied to
8 the cops, right?

9 A. I got kicked out of that job because after forty buys I
10 relapsed and tried to keep a piece of the drug that I
11 bought -- that I bought, yes.

12 Q. Oh, so you kept some of the drugs ---

13 A. Yes.

14 Q. --- and you lied about it?

15 A. Yes.

16 Q. And they kicked you out ---

17 A. Yes.

18 Q. --- as being an informant?

19 A. That's correct.

20 Q. And then more recent -- well, let me ask this. Did you
21 also do drug buys for Berkeley County and SLED?

22 A. Not Berkeley County. SLED.

23 Q. All right. How about Charleston County?

24 A. Charleston County.

25 Q. And did they kick you out as well?

CROSS-EXAMINATION BY MS. NORRIS OF HENRY WHITE

1 A. I only got kicked out once and from one agency, and that
2 was Charleston County.

3 Q. All right. But the others stopped using you, right?

4 A. I stopped calling them.

5 Q. All right. So more recently, I believe you told the
6 solicitor in November 2017, you picked up another felony
7 charge, larceny property enhancement; correct?

8 A. That's correct.

9 Q. All right. And then in December of 2017, possession of
10 cocaine, correct?

11 A. That's correct.

12 Q. And January of 2018, shoplifting?

13 A. That's correct.

14 Q. You've got those arrests. And you've already tried the
15 CI route; so this time Drug Court, right?

16 A. That's correct.

17 Q. And as part of Drug Court you have to admit to being a
18 drug addict, correct?

19 A. That's correct.

20 Q. And you have to agree that you're -- that you're guilty
21 of these charges?

22 A. That's correct.

23 Q. And you get your sentence but your sentence is deferred
24 while you get your drug treatment, correct?

25 A. That's correct.

1 Q. And as part of the program you get counseling and
2 therapy, drug treatment?

3 A. That's correct.

4 Q. And you also have to take drug tests?

5 A. Yes, ma'am.

6 Q. And not just recently, but in October, 2018, you came up
7 positive on three different drug tests; right?

8 A. Yes, ma'am.

9 Q. And then you were locked up from October, 2018, until
10 February of 2019; right?

11 A. I was in a -- in a program in the jail called DAODAS.
12 Yes, ma'am.

13 Q. All right.

14 A. Yes, ma'am.

15 Q. And I assume in there you don't have any access to drugs?

16 A. No, ma'am.

17 Q. All right. So when you got out in, when, February, 2019?

18 A. February, 2019.

19 Q. All right. And in March, 2019, you came up positive on
20 this hair test ---

21 A. On the hair ---

22 Q. --- for drugs?

23 A. On the hair test, yes, ma'am.

24 Q. All right. And that's when you said that you were --
25 they locked you up, you were picked up, put in jail; right?

1 A. Yes, ma'am.

2 Q. And that's when you came into contact with Mr. Fields?

3 A. Yes, ma'am.

4 Q. He's pending these charges. And, now, when you -- how
5 did you approach the State about testifying in this case?

6 A. I reached out to Detective Richardson and explained that
7 I had conversations with Mr. Fields.

8 Q. All right. You wrote a note up saying, I want to talk to
9 Detective Richardson; right?

10 A. Well, I mean, it wasn't a note. I reached out to one of
11 the officers at the county jail and they in turn did whatever
12 they had to do to contact the detective.

13 Q. Let me show you this document and ask you if you
14 recognize that handwriting.

15 A. Yes, ma'am.

16 Q. All right. Is that your handwriting?

17 A. That's my handwriting.

18 Q. And is that a note that you wrote out saying, I want to
19 talk to Detective Richardson?

20 A. Yes, ma'am.

21 Q. And you knew it was Detective Richardson because you saw
22 it on the paperwork, right?

23 A. Yes, ma'am.

24 Q. All right. So you did, in fact, see Mr. Fields'
25 paperwork?

1 A. I saw one sheet.

2 Q. One sheet?

3 A. Yes, ma'am.

4 Q. All right.

5 A. I saw one sheet. Supposedly, it was his father's
6 statement. And I saw the detective's name at the top. And he
7 also showed me a picture of him standing at the counter in the
8 bank.

9 Q. All right. And was his father's statement and the
10 picture on the same sheet?

11 A. No, ma'am.

12 Q. So you saw more than one sheet?

13 A. Yes, ma'am.

14 Q. All right. And, now, when you sent the statement out
15 they brought you over to City Hall to talk to the North
16 Charleston police; correct?

17 A. That's correct.

18 Q. All right. And once you got over there did you
19 immediately tell the officers that you were in Drug Court, you
20 had a dirty hair test, and you needed them to call Stephanie
21 Linder for you?

22 A. Yes, ma'am.

23 Q. So before you ever said anything about Allen Fields,
24 Bubba, what he said, you were asking them to help you; right?

25 A. That's correct.

1 Q. And you are also asking for a cigarette, right?

2 A. That's correct.

3 Q. And over there at the jail, you can't smoke; right?

4 A. That's correct.

5 Q. And I used to be a smoker myself, so I'm not picking on
6 smokers. But when you need some nicotine, you're Jonesing for
7 that stuff; right?

8 A. That's correct.

9 Q. All right. So while you're out there, you want to help
10 yourself and get a smoke too?

11 A. That's correct.

12 Q. And you asked them for some coffee too?

13 A. Asked me if I wanted coffee, and I said yes.

14 Q. But you can't get caffeine and coffee at the jail,
15 either; right?

16 A. You can get coffee.

17 Q. Oh. You can?

18 A. You can.

19 Q. Oh. All right. So when they came over and you talked to
20 them you said that Mr. Fields told you that a black Impala was
21 used, right?

22 A. That's correct.

23 Q. And his brother Chris was driving?

24 A. Yes.

25 Q. It was Chris' girlfriend's car?

- 1 A. That's what he said.
- 2 Q. Got over \$5,000?
- 3 A. That's correct.
- 4 Q. And all of that was in his paperwork, right?
- 5 A. I have no idea.
- 6 Q. You have no idea?
- 7 A. Right.
- 8 Q. All right. But he also specifically told you that he had
- 9 a gun, right? I think you said something about he pulled up
- 10 his shirt ---
- 11 A. Oh, yeah ---
- 12 Q. --- pulled up his shirt, ---
- 13 A. That's right.
- 14 Q. --- showed him a gun?
- 15 A. Yes, ma'am.
- 16 Q. He said that more than once?
- 17 A. I don't remember if he said it more than once. I
- 18 remember he said it.
- 19 Q. Called it a piece, called it a gun; but you were clear it
- 20 was a gun?
- 21 A. From the way he -- from the way he explained it, he said
- 22 I held up my shirt and showed her. To me, that wouldn't have
- 23 been a note.
- 24 Q. I'm not --- I'm not asking about a note. Did he say a
- 25 gun -- did he say a gun; did he use the word gun?

CROSS-EXAMINATION BY MS. NORRIS OF HENRY WHITE

1 A. I believe he did.

2 Q. Did he use the word piece?

3 A. I don't recall.

4 Q. All right. And he told you that this robbery was
5 downtown, right?

6 A. I believe so.

7 Q. All right. And you grew up in this county, right?

8 A. Ma'am?

9 Q. I said you grew up in this county, right?

10 A. I did.

11 Q. Downtown is here on the peninsular where we are?

12 A. I grew up in Mount Pleasant.

13 Q. All right. Well, downtown isn't Mount Pleasant; right?

14 A. Right.

15 Q. Downtown isn't West Ashley, right?

16 A. Right.

17 Q. It's not North Charleston; downtown is right here on the
18 peninsula?

19 A. Right.

20 Q. And that's where that man [indicates] told you he
21 committed this robbery that we're in court for today?

22 A. I believe I asked him which bank it was and he told me it
23 was a bank in the [sneeze in audience] city.

24 THE COURT REPORTER: I'm sorry?

25 A. A bank in the city.

- 1 Q. A bank in the city?
- 2 A. Yes.
- 3 Q. Did he use the word downtown?
- 4 A. I don't recall.
- 5 Q. All right. Well, downtown is what you told the cops;
- 6 right?
- 7 A. Okay. I don't remember.
- 8 Q. Do you want me to show you the transcript?
- 9 A. Not necessarily.
- 10 Q. You're not denying that you used the word downtown?
- 11 A. No.
- 12 Q. Okay. And he wasn't just talking to you; you were asking
- 13 him questions, right?
- 14 A. Correct.
- 15 Q. You were affirmatively trying to pull out information?
- 16 A. We were having a conversation. I had questions.
- 17 Q. You had questions?
- 18 A. Yes, ma'am.
- 19 Q. Because you wanted to help yourself by coming into this
- 20 courtroom and testifying, right?
- 21 A. Yes, ma'am.
- 22 Q. All right. And as part of your questions you asked him
- 23 if the police had surveillance of that Impala leaving; do you
- 24 recall that?
- 25 A. I don't recall.

CROSS-EXAMINATION BY MS. NORRIS OF HENRY WHITE

1 Q. All right. And, now, you met with the police,
2 specifically Detective Richardson and another detective, on
3 April the 29th, 2019; correct?

4 A. Correct.

5 Q. And that day you were moved to a different unit at the
6 jail?

7 A. Correct.

8 Q. And since then, you still have this Drug Court pending
9 over you?

10 A. That's correct.

11 Q. So right now as you sit there today, if you get kicked
12 out of Drug Court you are looking to do that seven years?

13 A. Potentially.

14 Q. Potentially.

15 A. Yes, ma'am.

16 Q. Well, it would happen; if you get kicked out of Drug
17 Court you are going to do that time; right?

18 A. That would be up to the judge.

19 Q. Well, you've already been sentenced; haven't you?

20 A. That would still be up to the judge.

21 Q. And the person who caused you to get rearrested and asked
22 for the hearing in Drug Court, that's Stephanie Linder in the
23 prosecutor's office; right?

24 A. She's the prosecutor over Drug Court, yes.

25 Q. All right. So she also gets to make a recommendation?

1 A. She does.

2 Q. And you're hoping that this solicitor [indicating] will
3 let her know about your cooperation and that your probate
4 judge or your Drug Court judge will know that; right?

5 A. I'm hoping so. I'm hoping so.

6 MR. NORRIS: Give me just a second.

7 I don't have any other questions, Mr. White. Thank you.

8 THE COURT: All right. Thank you so very much.

9 MR. OSBORNE: Briefly, Your Honor.

10 **REDIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE:**

11 Q. Ms. Norris asked you about reading paperwork; I think she
12 said so you got that from the paperwork, meaning the
13 defendant's discovery in essence?

14 A. The one sheet I saw, yes.

15 Q. And did you read his paperwork?

16 A. Other than that one sheet, no.

17 Q. The sheet that he showed you?

18 A. I wasn't reading it. He was showing it to me. I didn't
19 even have my reading glasses on. But I saw Richardson at the
20 top.

21 Q. Okay. I guess what I'm getting at -- well, let me ask
22 you this. Before being moved to the other unit, when you were
23 in the unit with him how many people were there in that unit?

24 A. Roughly about sixty, sixty-five people.

25 Q. Is it favorable -- through all of your experience and in

REDIRECT EXAMINATION BY MR. OSBORNE OF HENRY WHITE

1 and out of jail, in and out of prison, is it favorable to be
2 going through and reading another inmate's discovery?

3 A. That's not favorable at all.

4 Q. That would be really frowned upon, wouldn't it?

5 A. That would be frowned upon.

6 Q. People might start thinking you were a snitch if you did
7 that, ---

8 A. Correct.

9 Q. --- wouldn't they?

10 A. Correct.

11 Q. And you don't want that label, do you?

12 A. No, I don't.

13 Q. That's not a good thing. But you are now. And I'm not
14 saying that ---

15 A. I am.

16 Q. --- in a disparaging way. I mean, that's what you've
17 been battling with for a long time now ---

18 A. I've been battling addiction, yes.

19 MR. OSBORNE: All right. No further questions.

20 **RECROSS-EXAMINATION BY MS. NORRIS OF HENRY WHITE:**

21 Q. And the very day that you made this statement, you got
22 moved to a different unit so that other folks wouldn't know
23 you were a snitch; right?

24 A. I got moved to the other unit so there wouldn't be a
25 conflict between me and Mr. Fields.

1 Q. All right. You were concerned that he would be aware and
2 that others in your unit would be aware that you were a
3 snitch, right?

4 A. That was -- that was -- that's correct.

5 MS. NORRIS: Thank you.

6 THE COURT: All right. Mr. White, you may be excused.
7 Thank you so very much.

8 [Whereupon, the witness is excused and exits the witness
9 stand]

10 MR. OSBORNE: The State calls Agent Clay Simmonds.

11 THE COURT: All right. Come on up here, Agent Simmonds.

12 [Whereupon, Mr. Simmonds comes forward]

13 THE CLERK OF COURT: Do you swear or affirm that the
14 testimony which you shall give the Court and the jury in the
15 trial of this case shall be the truth, the whole truth, and
16 nothing but the truth, so help you God?

17 THE WITNESS: Yes, sir.

18 THE CLERK OF COURT: Please be seated.

19 THE WITNESS: Thanks.

20 [Whereupon, the witness takes the witness stand]

21 THE CLERK OF COURT: Please state your name and spell
22 your last name for the record, please.

23 THE WITNESS: Robert Clayton Simmonds. S-I-M-M-O-N, D as
24 in David, S.

25 MR. OSBORNE: One second, Agent Simmonds.

DIRECT EXAMINATION BY MR. OSBORNE OF WALTER SIMMONDS

1 WALTER CLIFTON SIMMONDS, Having Been First Duly Sworn, was
2 Examined and Testified as Follows:

3 **DIRECT EXAMINATION BY MR. OSBORNE OF WALTER SIMMONDS:**

4 Q. Okay. Thanks for coming in.

5 A. Yes, sir.

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. Where are you employed?

9 A. I'm a supervisory special agent with the FBI here in
10 Charleston. I supervise the southeast region of a group of
11 agents who analyze cell phone records, called the Cellular
12 Analysis Survey Team, or the acronym of CAST.

13 Q. And you've been with the FBI for how long now?

14 A. A little over seventeen years.

15 Q. Okay. What is your educational background?

16 A. I majored in business and accounting here at the College
17 of Charleston. I became a police officer afterwards. Left
18 the Charleston Police Department and went to graduate school
19 at Clemson. And then 911 took place and I joined the FBI
20 shortly after that.

21 Q. How long were you with the City of Charleston, again?

22 A. Five years.

23 Q. All right. Now, you had mentioned that you were
24 supervisor of the CAST unit and you had mentioned that
25 acronym. Can you expand on that a little bit and then talk

1 about what the CAST unit does and what service you provide to
2 law enforcement?

3 A. Sure. So I'm a supervisor over the CAST unit, the
4 Cellular Analysis Survey Team. It's a group of specialized
5 trained agents who basically take historical call detail
6 records or phone records that provide us towers and sectors
7 that the phones utilize at the time calls took place, and we
8 basically give you a visual depiction of those records. Can
9 tell you phone numbers that were contacted, how many times
10 they contact, how many times the target phone was contacted by
11 particular numbers. And we basically draw a visual depiction
12 of the activity of the phone over the period of time that
13 we're asked to analyze.

14 Q. Okay. And to become a member of the CAST unit do you
15 have to receive any specialized training?

16 A. Sure. To be certified by the FBI as a CAST agent we go
17 through approximately 400 hours worth of training. The first
18 week of training is basically what are call detail records,
19 what are -- what are the records that the phone companies can
20 provide, what do they look like, what information is obtained
21 from them, and how do you gather -- lawfully gather that
22 information.

23 The second phase of training is what we call an advanced
24 CAST, basic CAST class, where we have some sort of anomalies
25 within the -- within the records. The records are presented

1 in Greenwich Mean Time, or UTC time. We have to convert the
2 time. Maybe some information that you've got to go search for
3 in other data bases to go find it. And we look at those
4 records, have scenarios and map those out. And we're graded
5 at the end of those scenarios.

6 We then will go through a teaching kind of course. We
7 spend a week learning how to teach to adults. Because one of
8 the requirements of being a CAST member is that you have to
9 teach this technique to other individuals who are interested
10 in learning it. So we spend a week doing that.

11 We have a two-week tracking course where we go down to
12 Florida and for two straight weeks all we do is track cell
13 phones. We look at cell phone records. We analyze where we
14 think they're going to be; tell the truck operators, the cell-
15 cite simulator operator, where to go. He turns it on. We
16 capture that phone and move on to the next one and do that for
17 two straight weeks.

18 Then we go into having our certification class. It's two
19 two-week sessions. So the first two weeks we spend a week
20 learning about RF frequency, how it works, how it's applied to
21 the cellular network, why cell phones need it to communicate
22 with the towers; things of that nature.

23 And then in the second week we spend that week talking to
24 every major service provider, Verizon, AT&T, T-Mobile, Sprint,
25 and U.S. Cellular, with their law enforcement relations

1 personnel, their engineers; how's your network set up, how
2 does it work, what records are available, how do we get those
3 records.

4 At the end of that week we take a tour of a tower and a
5 switch. So we see where all that information comes from the
6 tower into the switch and processes it out to all of our
7 phones and other devices that we have so we understand the
8 makeup of the cellular network.

9 And then after you're finished with that you go through
10 another two-week session where the first week is spent
11 learning how to be an expert witness. We give you pointers
12 and tips, what you -- what you're allowed to say, what you
13 can't say when you testify as an expert witness.

14 We then give you a practical problem to solve. We teach
15 you how to use specialized equipment to drive-test the
16 networks so you can get the actual footprint of everybody's
17 network out there.

18 Then you compile all of that information and make a
19 presentation, like I'll do later here today. And then we have
20 moot court where we will bring in attorneys from all across
21 the country where they play prosecutors, defense attorneys and
22 judges; and they basically let us -- let us go through a moot
23 session of court where -- in the same situation where we
24 have a prosecutor asking questions and then a defense
25 attorney -- a person playing a defense attorney gets to ask me

DIRECT EXAMINATION BY MR. OSBORNE OF WALTER SIMMONDS

1 a lot more questions than what usually happens in court. It's
2 a kind of a pressure fact situation.

3 If you make successful grades throughout the entire
4 certification process then you will be certified as a CAST
5 agent for the FBI.

6 Q. All right. So, well, let's get into then what is
7 historical cell cite analysis. What does that mean?

8 A. So call detail records -- when we look at phone records,
9 we're looking at what we call call detail records. They're
10 very similar to -- if at any time y'all remember getting --
11 when they charged you by the minutes, how much -- how much
12 time you used on your phone for a month, it's basically that
13 same bill. It gives you the date, the time, the duration of
14 each phone call, a number called or what number called you
15 throughout then. They might have told you, hey, what city and
16 state the call took place in.

17 But with call detail records they give us one bit more of
18 information where they give us the switch, which is basically
19 a group of towers that cover a particular area. And then the
20 tower, which is kind of what tower was utilized. And then
21 what side of that tower or what sector was used for that call
22 to take place.

23 So when you get -- receive a call or a text message and
24 you make a call or a text message and you press that green
25 button, the phone is -- before you do that, the phone is

1 constantly looking in its environment to find what tower
2 provides the clearest, strongest signal for that.

3 So when you want to make a call or a text or receive a
4 call or a test and you press that green button the phone says,
5 hey, I see this tower and this side of the tower as my
6 clearest phone signal. And when resources are granted to
7 complete that call or text message or data session, whatever
8 it is, that's when the call detail records are populated and
9 that's the information that we gather. And then we take that
10 information and then visually depict it on a map for you.

11 Q. Okay. Throughout your career, I guess mostly in the CAST
12 unit, how many times would you estimate that you have
13 performed historical cell cite analysis and on what type of
14 cases?

15 A. I've done it hundreds if not thousands of times. I look
16 at phones every single day. In the last five years since I've
17 been certified I can't recall a day that I haven't looked at
18 phones, unless I was off.

19 We look at cases ranging anything from homicides, rapes,
20 missing children, fugitives, robberies, whether it's like a
21 situation of this or it's a bank robbery or robberies of
22 stores, robbery of individuals, any state, local or federal
23 trial agency can ask us for assistance.

24 I know of others -- I've never been asked, but I know of
25 other CAST agents who have been asked by defense attorneys to

DIRECT EXAMINATION BY MR. OSBORNE OF WALTER SIMMONDS

1 look at records to verify any analysis that was conducted,
2 which has also been used to benefit that defense person,
3 subject, at the time.

4 Q. Okay. Have you ever testified in court before?

5 A. Many times. Several times here in Charleston County.
6 I've testified as an expert in Charleston County, Horry
7 County, Aiken County, Berkeley County. Testified in federal
8 court in the middle district of Florida. Testified about cell
9 phone records in the eastern district of Tennessee. Testified
10 as an expert in the Superior Court in Washington, D.C. I
11 think that's about it.

12 MR. OSBORNE: Okay. Your Honor, at this time we would
13 offer Agent Simmonds as an expert in the field of historical
14 cellular telephone record and data analysis.

15 MR. DANIELS: No objection.

16 THE COURT: All right. Ladies and gentlemen, I'm going
17 to certify Agent Simmonds as an expert. What that means is
18 that -- lay witnesses are not allowed to give their opinion.
19 Experts are. So if he is asked for an opinion he is allowed
20 to give it because I have certified and designated him as an
21 expert in -- I'm going to let him say it again, just for the
22 record. He will be an expert in?

23 MR. OSBORNE: Historical cellular telephone record and
24 data analysis.

25 THE COURT: All right. Agent Simmonds, you can give your

1 opinion.

2 THE WITNESS: Thank you.

3 MR. OSBORNE: All right. Your Honor, may I approach?

4 THE COURT: Absolutely.

5 Q. All right. So were you asked to analyze some cell --
6 call detail records in this case?

7 A. Yes, sir.

8 Q. All right. I am going to start by showing you, for
9 identification purposes only, State's 66.

10 A. Yes. These are a disk containing the call detail records
11 for telephone number 843-509-1738, which is a Verizon phone.

12 Q. Okay. And now I'm showing you State's 63 and 64. Can
13 you take a look at those and tell me if you recognize those.

14 [Whereupon, the witness reviews documents]

15 A. Sixty-three is a physical -- or a hard copy of the
16 analysis that I conducted, the Power Point presentation that
17 I -- that I created for the phone records of 843-509-1738 for
18 September 13th, 2016.

19 And State's Exhibit 64 is just the disk. And I recognize
20 it, one, because I can see this one. And I initialed the
21 first two disks that were presented to me.

22 MR. OSBORNE: Okay. Your Honor, at this time we would
23 seek to admit State's 63 and 64 into evidence.

24 MR. DANIELS: We are going to object on relevance to
25 this. And also misleading the jury, possible confusion. This

DIRECT EXAMINATION BY MR. OSBORNE OF WALTER SIMMONDS

1 isn't Allen's phone. There's a lack of foundation, I believe,
2 too.

3 THE COURT: All right. Ladies and gentlemen of the jury,
4 we're going to have to take up a matter of law real briefly.
5 If you don't mind we'll just take a quick minute break and
6 we'll get you right back in here. Okay?

7 [Whereupon, the jury exits the courtroom 8/13/19, 2:11
8 p.m.]

9 THE COURT: All right. Mr. Daniels, your objection is
10 for relevance because you are indicating that that's not the
11 defendant's phone; is that correct?

12 MR. DANIELS: Yes. His phone number came up once at one
13 point, there's a possibility, through his statement not even
14 in court. And the phone is not his according to that one
15 statement.

16 THE COURT: What statement?

17 MR. DANIELS: It was through Janae Nelson.

18 THE COURT: When we went through ---

19 MR. OSBORNE: And that is correct. And we are not at all
20 contending that this is the defendant's phone. In fact, the
21 subscriber on the phone is coming back -- it's one of those
22 prepaid phones.

23 But how it is relevant is it is Christopher Wright's
24 phone. And that's what Janae testified to. And the relevance
25 here is that we have witness testimony that puts them together

1 before the robbery and after the robbery. And if we can put
2 Christopher in a location then we can then put, we would
3 argue, the defendant in a location.

4 So it goes to corroborating a lot of what our previous
5 witnesses have told. And that's the relevance of it.

6 THE COURT: All right.

7 MR. DANIELS: And we disagree with the after-the-robbery
8 portion. And we also believe that that is helping bolster, if
9 that's why this went forward. And we believe that there's
10 significant potential for confusion.

11 THE COURT: What is that?

12 MR. DANIELS: This phone is Allen's, not Chris's phone.

13 THE COURT: Are you going -- are you going to argue at
14 any point in time or ask Agent Simmonds at any point in time
15 who the phone is registered to?

16 MR. OSBORNE: No, Your Honor.

17 THE COURT: Okay. So -- but, Mr. Daniels, this is a
18 circumstantial case. I mean, he's building his blocks. He's
19 already admitted that he has no direct evidence, he has no
20 direct evidence that that's going to be the defendant's phone,
21 that circumstantially there's been testimony that this phone
22 number was a -- not a codefendant but an accomplice, per se,
23 with the defendant and there has been testimony in the record
24 that that accomplice would be Mr. Wright; correct?

25 MR. OSBORNE: Yes, sir.

DIRECT EXAMINATION BY MR. OSBORNE OF WALTER SIMMONDS

1 THE COURT: And so I think to build -- the building
2 blocks of a circumstantial case, that it's more than relevant.

3 MR. DANIELS: I've got to still say my objection.

4 THE COURT: I certainly understand that. The objection
5 is overruled and we'll allow Agent Simmonds to continuing
6 testifying.

7 Will you go get the jury for me, Mr. Robinson? Thank you
8 very much.

9 [Whereupon, State's Exhibit Numbers 63 and 64 are
10 admitted into evidence by the Court]

11 [Whereupon, the jury enters the courtroom 8/13/19, 2:15
12 p.m.]

13 THE BAILIFF: Your Honor, the jury is complete.

14 THE COURT: Thank you so very much. Mr. Osborne?

15 MR. OSBORNE: Thank you, Your Honor.

16 THE COURT: Yes, sir.

17 Q. Let me just ask you a couple of other quick preliminary
18 questions now.

19 Before, you identified State's 66 as being the call
20 detail records to 843-509-1738?

21 A. Yes, sir.

22 Q. And so -- and you kind of explained this a little bit
23 before. But what type of information, as pertained on that
24 CD, that assisted you in preparing this presentation you're
25 about to show?

1 A. So, again, call detail records show us the dates and
2 times that calls took place, the duration of those calls, what
3 numbers dialed into the target phone, what numbers the target
4 phone dialed, and then it also provides us a switch, which is
5 a group of towers that provide service to an area, then the
6 actual tower itself, and then what side or what we call the
7 sector of that tower, when those calls took place.

8 Q. And your presentation here covers the time on September
9 the 13th, 2016, from 3:00 p.m. to 6:00 p.m.; does that sound
10 about right?

11 A. Yes, sir.

12 Q. Okay. I think I've given you a clicker; so I'll just
13 kind of turn it over to you. And I might ask you a few
14 questions here and there.

15 A. Sure. So this first slide or first page is just an
16 overview of who I am, what organization I work for, what
17 number I was asked to analyze, the date that I completed this
18 analysis.

19 This slide here ---

20 MR. DANIELS: Objection. Isn't the format for this
21 proper that he responds to questions, not just here's a
22 report?

23 THE COURT: No, I think he can present his presentation.

24 MR. DANIELS: Okay.

25 A. So this second -- the second slide is basically what --

1 generally what cell towers look like. We've seen them driving
2 up and down the road, whether it's on the highway to or from
3 work, to or from, you know, family members' houses.

4 This is basically -- so this is what a tower looks like
5 and how they're divided into sector one. Or some engineers
6 will call Alpha, sector two, Beta, or sector three, Gama.

7 And so the way a cellular network is set up is they are
8 set up kind of like a sprinkler system. You want one tower
9 positioned in one spot and another tower in another spot, and
10 you kind of want them to overlap a little bit so when you
11 drive from tower to tower you don't lose that cell signal.

12 Back in the early days of cell phones you would always
13 get to that spot and you go, hey, I'll call you back in a
14 minute, because you knew you got to a dead spot and you are
15 going to lose cellular service.

16 Well, the companies are a billion-dollar industry yearly.
17 They know that upsets customers and they want to keep their
18 customers and keep the revenue flowing, so they set them up
19 kind of like a sprinkler system.

20 So you have the towers overlapping each other, kind of
21 like you would a sprinkler. You have one head over here
22 [indicating] and one head over there [indicating] and they
23 overlap a little bit so you don't have dead grass in the
24 middle of your yard or farm or wherever you're trying to
25 water. Same concept with cell towers.

1 So when we have information for us to draw this visual
2 depiction of the records on there, we have to have information
3 from the tower records that are supplied by each service
4 provider.

5 And so when I say the phone used a particular side of a
6 tower, they give us what they call the azimuth, which is
7 basically the angle or the direction that that signal is
8 coming from at its strongest point.

9 And then whatever that azimuth is, we draw it 60 degrees
10 to the right, 60 degrees to the left, to give us kind of a
11 120-degree wedge for three sides of a tower, to give us 360
12 degree coverage.

13 So this slide shows us an example of what that would be.
14 So if the records show that sector one is at a zero azimuth,
15 that's about twelve o'clock on a clock. We draw -- and every
16 hour is about 30 degrees. We draw it at 10:00, 2:00, for that
17 sector; and then so forth and so on as the records indicate.

18 This is just a background of what I was asked to do and
19 who asked me to analyze the records, what number I was asked
20 to analyze, which was 843-509-1738, for the time period of
21 September the 13th of 2016.

22 Our methodology, that I got call detail records, I got a
23 tower list, I combined them together; and we'll draw these
24 visual depictions that you'll see on later slides, and then
25 the conclusions that I could make from it.

DIRECT EXAMINATION BY MR. OSBORNE OF WALTER SIMMONDS

1 So this slide just shows what the illustrations will look
2 like on the map. So when we draw out these sectors -- in
3 radio frequency world it is not a perfect pie-wedge shape. It
4 basically just represents the side of the tower that was used.

5 And in this area right here [indicating], this
6 highlighted area here, that is the direction that the RA
7 frequency is coming from. It does not necessarily mean that
8 the phone was in that highlighted area. It could be anywhere
9 in between these two arms that are depicted there. So I don't
10 want you to think when you see that, that the phone had to be
11 in that red highlighted area.

12 This [indicating] is an overview of the Verizon network
13 for the Charleston area and local points of interest for this
14 particular case.

15 Each one of the red dots represents a Verizon tower. The
16 red flag or icon is the crime scene of 852 Orleans Road in
17 Charleston, South Carolina. The residence was -- that was of
18 interest to the investigators in this case was [REDACTED]
19 Drive, Charleston, South Carolina, and then another location
20 at [REDACTED] Street in Charleston, South Carolina. Those are
21 all visually depicted on this map.

22 Q. And, Agent, just so the jury -- and I really didn't
23 clarify this. I mean, is it fair to say that other than
24 analyzing these call detail records, you don't know the
25 significance of any of these addresses?

1 A. Yeah, I mean the only one that is significant to me is
2 the crime scene. Because I need to have that piece of
3 information to know whether or not a phone utilized towers
4 that would provide service to that area.

5 The other locations are information that I gather from
6 the investigators when they make the request. They will say,
7 hey, I want to see if the phone was in this area and they will
8 give me the address and I just -- I put it on the map for
9 them.

10 So this [indicating] is an overall view of all the towers
11 that were used by this phone between three o'clock and 5:57
12 p.m. on September 13th, 2016.

13 So at approximately three o'clock and fifty-one seconds,
14 this phone started off down here [indicating]. It looks like
15 to be in the peninsula area of downtown Charleston at three
16 o'clock and then eventually started moving into this kind of
17 northwesterly that this arrow on the map is showing. And
18 finishing off up here in this Ashley Forest Knightsville area
19 at 5:57 at this particular tower, which is marked 405. And
20 the dash one is sector one of that particular tower.

21 And the next slide is a closer view of that phone between
22 the hours of 4:44 and 4:54 p.m. It looks like the phone was
23 using these two towers, which either one of them could provide
24 service to the crime scene and also to this address here and
25 the residential address down below.

1 Q. All right. So -- and let me just stop right here for a
2 second.

3 Now, I know we're kind of looking at this from a -- from
4 a, you know, an overhead view. But can you say that the
5 phone -- at 4:44 it looks like it is just outside of that
6 little arrow right there [indicating]. Do you have any
7 opinion as to whether it could have been at the crime scene
8 or -- is that really that accurate or how can you ---

9 A. Sure. Again, I told you earlier that we draw these out
10 to be 120 degrees perfect little pie wedges. Radio frequency
11 is not that way; it is a amoeba-shaped footprint. It goes
12 kind of everywhere. And what affects that is the range of the
13 other towers.

14 And so, again, we want to have that overlap area so when
15 you move from tower to tower you don't drop your -- you don't
16 drop your calls.

17 So between this time with the phone going back and forth
18 between these two towers it would be my opinion that the phone
19 would be in that overlap area between those two towers and
20 sectors at those times that are displayed on the map.

21 Q. And at 4:44 and 4:45 it's hitting at this tower right
22 here [indicating]; am I correct?

23 A. Yes, sir, Tower 369, Sector 2, which is ---

24 Q. Yes.

25 A. --- which is here [indicating].

1 Q. And is it accurate to say that there is no closer tower
2 to the crime scene than that tower?

3 A. No, the towers that are depicted are the towers that are
4 there with the any other towers around that.

5 Q. And about ten minutes later it's hitting off of Tower
6 419-3?

7 A. Yes, sir. It had to move over kind of in the easterly
8 area to start using this ---

9 Q. Okay.

10 A. --- tower here [indicating].

11 Q. And is it also fair to say that -- and you had a legend
12 for JG earlier on Frank Street. Is it fair to say at 4:54
13 those two hits on that tower there's no closer tower to JG
14 than that Tower 419-3?

15 A. Yeah. If I recall correctly, I did -- I think I did the
16 measurements and that tower provided the -- is the closest
17 tower that provided the strongest, clearest signal for service
18 at that location.

19 And I believe that's it.

20 MR. OSBORNE: Okay. No further questions. Thank you.

21 THE WITNESS: Thanks.

22 THE COURT: All righty. Mr. Daniels?

23 **CROSS-EXAMINATION BY MR. DANIELS OF CLAY SIMMONDS:**

24 Q. This stuff's pretty new; but it tracks the device, right?

25 A. Yeah, it's ---

1 Q. Yeah.

2 A. So when I speak, I'm talking just about the phone.

3 Q. Yeah. So if I leave my phone here but I go somewhere
4 else, it's going to say this phone is here?

5 A. Because that's where the phone is.

6 Q. Yeah. I'm just ---

7 A. Right.

8 Q. --- clarifying.

9 A. Right.

10 Q. I want to make sure.

11 A. Right.

12 Q. And it says phone. It doesn't let you know who has the
13 phone? You're ---

14 A. I -- that's not my role in this -- in this. It's just to
15 sit up there and tell you where the phone -- what towers the
16 phone -- and sector that the phone used at the time that I was
17 asked. So I don't know who was using the phone at the time.

18 Q. Right. Thank you.

19 A. Yes, sir.

20 THE COURT: All right. Anything else?

21 MR. OSBORNE: No, Your Honor.

22 THE COURT: All right. Agent Simmonds, thank you so very
23 much for being here; and have a great day.

24 THE WITNESS: Thank you. You, too.

25 THE COURT: Yes, sir. Thank you.

1 [Whereupon, the witness is excused and exits the witness
2 stand]

3 MR. OSBORNE: The State calls Detective James Richardson.

4 [Whereupon, Mr. Richardson comes forward]

5 THE CLERK OF COURT: Do you swear or affirm that the
6 testimony you shall give the Court and jury in the trial of
7 this case shall be the truth, the whole truth, and nothing but
8 the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK OF COURT: Please be seated.

11 [Whereupon, the witness takes the witness stand]

12 THE CLERK OF COURT: Please state your name and spell
13 your last name for the record, please.

14 THE WITNESS: I'm Detective James Richardson. My last
15 name is R-I-C-H-A-R-D-S-O-N.

16 JAMES RICHARDSON, Having Been First Duly Sworn, was Examined
17 and Testified as Follows:

18 **DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON:**

19 Q. All right. Detective Richardson, where are you employed?

20 A. I'm employed with the City of Charleston Police
21 Department at 180 Lockwood Boulevard.

22 Q. How long have you been with CPD?

23 A. I've been with CPD for a total of ten years.

24 Q. All right. During your time with CPD, what have been
25 some of your various assignments?

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 A. My various assignments have, of course, been patrol
2 units. From there, I graduated over to a field training
3 officer's position where I trained local officers for the
4 Charleston Police Department, specifically the Team Four in
5 West Ashley area.

6 From there I earned my way into a role into
7 investigations at the team level, specifically in the West
8 Ashley area. I was inevitably put in and chosen for the
9 robbery and assault unit, which I was a part of at the onset
10 of this investigation.

11 I'm currently assigned to a violent crime unit which
12 investigates homicides and suspicious deaths.

13 Q. Okay. And did you have the occasion to become involved
14 in this robbery investigation?

15 A. Yes, sir.

16 Q. And what role?

17 A. I was assigned as the lead case agent, the next following
18 day after the report was taken for this incident.

19 Q. Okay. So did you respond to the scene on the day of the
20 incident?

21 A. No, sir.

22 Q. And so you were assigned the case the following day, you
23 said?

24 A. Yes, sir.

25 Q. Now, well, so as a case agent, you know, what are some of

1 your duties and responsibilities as opposed to responding to
2 the scene?

3 A. Got you. Read over the initial reports taken by the on-
4 scene officers as they respond to the scene. Read through
5 supplemental reports. Join in and assist the detectives that
6 respond to such scenes. Try and review any captured video
7 surveillance. See if any suspects were developed or persons
8 of interest to further the investigation.

9 Q. Okay. And did you do that in this case?

10 A. Yes, sir.

11 Q. All right. Now, when you're reviewing those incident
12 reports and witness statements and whatnot -- and you said
13 you're looking for a suspect. So what are some of the things
14 that you're looking for from the initial on-scene
15 investigation to help you develop a suspect?

16 A. From the initial on-scene investigation, interviews with
17 victims and witnesses, taking that into account; canvass the
18 area for any video surveillance. Anything outside of that
19 location that could have produced a possible lead, i.e., a
20 vehicle fleeing the scene. Things of that nature.

21 Q. Okay. And I imagine physical evidence at the scene to
22 see if you can develop a suspect, that might be another thing
23 you're interested in early on?

24 A. Yes, sir. With the assistance of crime scene technicians
25 we look for fingerprints, any areas to follow up on, for

1 instance, contact DNA and to that sort.

2 Q. All right. Well, let's start talking about the physical
3 evidence or the attempt to recover physical evidence from the
4 scene. Were there any fingerprints recovered from this
5 incident?

6 A. Yes, sir, there was.

7 Q. Okay. And, well, walk the jury through that and what the
8 results were of checking those fingerprints.

9 A. Okay. The first onset of the area canvassed for
10 fingerprints is naturally going to be the front door of the
11 establishment.

12 We noticed specific areas where there appeared to be
13 fingerprints on the doors - access was limited to that - in
14 lieu of processing by crime scene technicians where one
15 fingerprint was available and lifted by crime scene tech Jeff
16 Miller.

17 Q. Okay. And did that come back to a man or a woman?

18 A. That came back to a woman.

19 Q. To a woman?

20 A. Yes, sir.

21 Q. Okay. So you say that, you know, you had one print. Is
22 it -- is it fair to say you had one print that could be
23 compared, one comparable print?

24 A. Correct.

25 Q. Okay. So there was other prints but they couldn't do

1 anything with them?

2 A. Correct.

3 Q. And this was from the front door to the bank?

4 A. Yes, sir. The common area.

5 Q. All right. Let's talk about touch DNA. Did y'all make
6 any attempts to recover any touch DNA from the scene?

7 A. Yes, to include the front-door handles -- if you'll
8 excuse me, I'll refer to my forensic lab report.

9 [Whereupon, the witness reviews documents]

10 A. The areas processed are going to be the interior right-
11 door handle, the interior left-door handle, left-teller
12 window, right-teller window, fence line to the bank leading
13 onto the gas station property, right-exterior door handle and
14 left-exterior door handle of the bank itself.

15 Q. Okay. Was there enough DNA substance recovered from any
16 one of those areas that enabled you to compare it to someone?

17 A. There was not enough DNA to delineate one specific
18 person.

19 Q. Okay. They tried, but no luck?

20 A. Correct.

21 Q. What about did you review the video from the TD Bank
22 itself?

23 A. Yes, sir, I did.

24 Q. Okay. Now, other than the actual suspect who committed
25 the robbery itself, after viewing the video was there a person

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 of interest or at least someone you were interested in?

2 A. Yes, sir. Reviewing the interior video surveillance --
3 so you'll understand, it's the video point from behind the
4 tellers, facing forward. When you look at the left-teller
5 window you see at that point an unidentified black male at --
6 excuse me, female, that walks in and immediately sits down at
7 the table area right next to where the banking section is,
8 just across.

9 MR. OSBORNE: All right. Give me one second. Beg the
10 Court's indulgence.

11 [Display on ELMO monitor]

12 Q. Okay. Is this the individual that -- the woman you were
13 talking about, here?

14 A. Yes, sir.

15 Q. All right. Now, did you ever have the occasion or the
16 opportunity to identify who that person was?

17 MS. NORRIS: Objection. Calls for hearsay. It's
18 irrelevant.

19 THE COURT: I'm sorry. What's your objection?

20 MS. NORRIS: Calls for hearsay and it's irrelevant to
21 this defendant.

22 THE COURT: Restate your question.

23 Q. Through your investigation did you have the opportunity
24 to identify this individual?

25 A. Yes.

1 THE COURT: He can testify as to the identification of
2 the individual. He's not saying what she said.

3 MS. NORRIS: He only knows an identification through
4 hearsay.

5 THE COURT: Through his investigation? Hold on.

6 [Whereupon, Ms. Norris and Mr. Daniels confer]

7 MR. DANIELS: May we approach?

8 THE COURT: Yeah.

9 [Whereupon, an off-the-record bench conference is held]

10 THE COURT: All right. Ladies and gentlemen of the jury,
11 there's a matter of law that we need to take up briefly. Why
12 don't we just go ahead and take a quick five-minute break, let
13 you stretch your legs, use the restroom, and we'll bring you
14 right back in. Okay? Don't forget to leave your notepads for
15 us.

16 [Whereupon, the jury exits the courtroom 8/13/19, 2:35
17 p.m.]

18 THE COURT: All right. So I'm going to go ahead and let
19 you state your objection and as to why you feel like it's
20 hearsay, of everything that we were just discussing up at the
21 bar. And then I'll let Mr. Osborne respond. And then I'll
22 make a ruling.

23 Yes, ma'am, Ms. Norris.

24 MS. NORRIS: Your Honor, my objection specifically is
25 that they're going to ask this detective to testify that he

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 knows who this woman is.

2 He only knows that because somebody told him that. That
3 somebody has not testified in this courtroom. The one witness
4 that they asked did you say this, do you know who this woman
5 is, said no.

6 Even if they identify her there is no connection
7 whatsoever established between that woman, whoever she is, and
8 this defendant. It's all irrelevant to him.

9 What -- and Mr. Osborne, of course, will speak for
10 himself. But what I gathered is he's saying, you know, that
11 they can draw, from his investigation, a connection between
12 her and Christopher Wright.

13 Again, Christopher Wright is not on trial. It's not
14 relevant to him. It's more -- it's more prejudicial than
15 probative.

16 THE COURT: All righty. So it's a hearsay under 403.
17 Mr. Osborne, what would you like to respond?

18 MR. OSBORNE: So Mr. Singleton testified. And I
19 understand that he denied it. But extrinsic evidence for
20 impeachment purposes is evidence, and it is admissible.

21 And once I showed it to him he denied knowing this
22 individual. But we did impeach him in that he did say that,
23 yes, I've seen State's 54, this woman -- or at least he had
24 told investigators on two previous occasions.

25 MS. NORRIS: The solicitor said that, Judge. Nobody

1 testified to that. Not a single witness has gotten up there
2 and said that that Mr. Singleton identified this woman as
3 whoever. That picture is not in evidence.

4 THE COURT: I agree. He's saying that -- that he didn't
5 testify to it. He's saying that he -- that Singleton said it
6 to an investigator, not in the courtroom here today.

7 In the courtroom he denied it; correct?

8 MR. OSBORNE: Yeah.

9 THE COURT: Okay. Keep going.

10 MR. OSBORNE: So that was just for identification
11 purposes.

12 Now, this witness, the case agent, has testified that
13 whenever he was watching the surveillance video there was a
14 woman of interest to him. That woman was -- the doors were
15 locked by the bank employees and she was not allowed to leave.

16 So she was identified at that point by Shaniqua -- as
17 Shaniqua Williams. This detective did not have the
18 opportunity to speak to her, but he did want to speak to her
19 again.

20 He -- and in doing so, he pulled up her DMV photograph,
21 saw that that was the same person that was in the bank. So
22 that ties the two -- that ties the two together, Levi saying
23 that I've seen this person with Christopher Wright before,
24 this detective then saying that I've identified this person as
25 Shaniqua Williams.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 THE COURT: So did the detective arrive on the scene and
2 she was still -- he was on the scene and she was still in the
3 bank?

4 MR. OSBORNE: Other officers arrived on the scene and she
5 was still in the bank.

6 THE COURT: And they reviewed -- did they speak to her?

7 MR. OSBORNE: Yes.

8 THE COURT: So they ---

9 MR. OSBORNE: They identified her.

10 THE COURT: They identified her?

11 MR. OSBORNE: Yeah.

12 THE COURT: And said -- did they get her name?

13 MR. OSBORNE: Yeah.

14 THE COURT: And then as the case agent, he had her name,
15 pulled her up on the DMV records, looked to see if she -- that
16 was her in the bank, and then sought to speak to her
17 concerning the robbery?

18 MR. OSBORNE: That's correct.

19 And I -- and I don't want to misspeak. But I was -- did
20 you actually -- is it okay -- did you actually ---

21 THE COURT: You can -- you can proffer him as long as
22 they are not in here.

23 PROFFER BY MR. OSBORNE

24 Q. Detective, did you actually speak to Ms. Williams?

25 A. I made several efforts in an attempt to go speak to her

1 at her address at [REDACTED] Drive but was met with several
2 efforts to where she was avoiding me all together and for a
3 follow-up statement.

4 MR. OSBORNE: So my question would go: Through your
5 investigation, did you identify the person? Yes, I did. Is
6 this the person that was in the bank through your
7 investigation? Yes, it is. Did you make any attempts to try
8 to identify or speak to her? Several attempts, wasn't able to
9 talk to her.

10 THE COURT: And how are you going to tie her in to
11 Christopher Wright?

12 MR. OSBORNE: Well, when I asked Levi -- and this morning
13 is turning into a bit of a haze as to what came out on the
14 stand and what happened outside. But it was my recollection
15 that when I asked Levi, well, didn't you tell investigators
16 that you had seen this person with Christopher Wright before,
17 that he said yes. If I'm wrong about that, then I -- I
18 thought he said yes. I know he denied it. But when I showed
19 it to him, he said yes.

20 MS. NORRIS: Your Honor, could we ask the court reporter
21 to go back to that? My recollection -- I'm not -- I'm not
22 disputing that he's saying that in good faith, it's just my
23 recollection is different. I think he denied saying it.

24 THE COURT: Well, that's ---

25 MR. OSBORNE: But I -- you know, as an ---

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 THE COURT: But I agree -- I mean I understand what she's
2 saying. And I tend to agree to the extent that if he -- if he
3 testified that -- if he looked at -- it wasn't into evidence,
4 for identification purposes only, and said, yes, I've seen him
5 with them, then that would change things.

6 MR. OSBORNE: Yes.

7 THE COURT: I would think that it would be more probative
8 than prejudicial.

9 MR. OSBORNE: And the only other alternative argument
10 that I would make is that if you watch the video, I mean it
11 looks -- she looks suspicious. I mean, her behavior is
12 awfully suspicious.

13 Now, as a case agent he has a duty to try to investigate
14 these individuals. Does it go towards this person's guilt?
15 No. But it certainly goes toward a complete investigation.
16 Which I am sure if we don't elicit that testimony they will
17 have a lot to say about that in closing.

18 THE COURT: All right. So we have in our notes that
19 State's Exhibit 54, a picture was shown to Shaniqua -- of
20 Shaniqua Williams to Levi, he says he doesn't know her.
21 Subsection, when he met with detectives though at Krispy
22 Kreme, they showed him her photo and he does not remember
23 telling them he saw her. So let's see if the court reporter
24 has anything different.

25 Is there a way for you to go back to that? No?

1 MR. OSBORNE: Well, then ---

2 THE COURT REPORTER: I mean you can give me some time to
3 look -- I can, you know, pull up ---

4 THE COURT: It's okay.

5 THE COURT REPORTER: --- parts of where ---

6 MR. OSBORNE: It's really not -- and I am going to argue
7 my alternative argument, and it's a complete investigation to
8 show -- the video is obviously evidence.

9 You're looking at the video. You see suspicious behavior
10 by an individual. If we don't -- if I don't elicit testimony
11 that shows that he at least tried to follow up on that, then
12 you're leading the jury to think that he didn't do a complete
13 job. Which is more than certain what I am sure they're going
14 to argue in their closing.

15 THE COURT: Well ---

16 MS. NORRIS: We are not going to ask that, Judge. We're
17 not going to challenge him for not looking at this woman.
18 There's just no relevance to this woman and this defendant.
19 Sure she's suspicious.

20 MR. OSBORNE: All right. Then I won't ---

21 MS. NORRIS: It's got nothing ---

22 MR. OSBORNE: --- move it in.

23 MS. NORRIS: --- to do with this defendant.

24 MR. OSBORNE: --- move it in. I'll just ask the
25 questions.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 THE COURT: So that's fine. You don't have to move it
2 into evidence.

3 But are y'all still going to object as to the line of
4 questioning as to -- what are you going to indicate, that it's
5 a suspicious person in the bank?

6 MR. OSBORNE: Yeah. It's a ---

7 MS. NORRIS: That's already been covered. We've seen
8 her ---

9 MR. OSBORNE: That's ---

10 MS. NORRIS: --- on the video ---

11 THE COURT: Well, no, I am going to let it --- I mean,
12 this is the case agent. I mean ---

13 MR. OSBORNE: Yeah.

14 THE COURT: Yeah. He can cover it all he wants. But I
15 don't want to have to keep going over objections, objections,
16 objections. If we're going to go down the line of testimony
17 as to what investigation he did as to the suspicious girl
18 inside the bank, are y'all going to continue to object to
19 that?

20 MS. NORRIS: If all he's going to establish is that he
21 looked into her and he got an ID on her, he attempted to
22 interview her and he couldn't and that's it, fine.

23 THE COURT: All right. Let's go down that road.

24 Let's take a two-minute break. Let's everybody use the
25 restroom. We'll come right back so we can ---

1 MS. NORRIS: As long as we are not going to then try to
2 take the next step and say there's some connection here.
3 Because there isn't -- there isn't a connection, that I know
4 of, to this defendant.

5 THE COURT: All right. We're off the record.

6 [Whereupon, a recess is taken 8/13/19, 2:46 p.m.]

7 [Whereupon, resume 8/13/19, 2:52 p.m.]

8 THE COURT: All right. Ms. Norris, I want to back to
9 your point that you were stating on the way out. Well, he is
10 going to try to connect it. I mean, that's the whole point of
11 a circumstantial case.

12 So if you're going to continue to object about this line
13 of questioning as to who the suspicious individual is and the
14 connection that he may have to your client, you're going to
15 need to put that on the record. And let's deal with it now.
16 Because I'm telling you that's what he's attempting to do.

17 MS. NORRIS: And to my knowledge, there's no evidence
18 connecting her to my client.

19 THE COURT: Okay. And but -- correct. But I am giving
20 you the -- I mean, you could obviously cross-examine him on
21 any of this information that they're trying to elicit.

22 But the fact that there was a suspicious individual
23 inside of the bank that later a officer, who turned it over to
24 the case agent, who looked at the video, was able to figure
25 out who she was based on an investigation of officers, and he

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 follows up with it and has no opportunity to speak to her,
2 never has spoken to her and he's going to testify he never
3 spoke to her, I mean, I don't -- I mean, that's relevant.

4 I don't -- again, it's not anything that's overly
5 damaging to your client. He found out who the lady was. Now,
6 how he's going to be able to connect the dots, we'll just wait
7 and see. I mean it's great cross-examination and closing
8 argument information for you.

9 So all right. I'll let you just go down that line of
10 questioning. Okay?

11 All right. Bring the jury back in.

12 [Whereupon, the jury enters the courtroom 8/13/19, 2:56
13 p.m.]

14 THE BAILIFF: Your Honor, the jury is complete.

15 THE COURT: All right. Thank you so very much. Mr.
16 Osborne?

17 MR. OSBORNE: Thank you, Your Honor.

18 CONTINUED DIRECT EXAMINATION BY MR. OSBORNE OF JAMES
19 RICHARDSON:

20 Q. All right. So we left off and I had showed you, for
21 identification purposes only, State's 54. And we also left
22 off with talking about this woman who was in the bank that
23 you, in your investigation, showed was behaving suspiciously.

24 [Whereupon, photo displayed on ELMO]

25 Q. Is that the same person?

1 A. Yes, sir.

2 Q. Did you make any attempts to try to speak to her?

3 A. Yes, sir.

4 Q. And what attempts did you make?

5 A. I physically tried to get her on the phone in reference
6 to a phone follow-up to get a statement over the phone for
7 convenience purposes. So she does look well underway into
8 pregnancy.

9 When I had no luck in reaching her on the phone on four
10 separate occasions I then chose to drive out to her residence,
11 which I was able to find through the local South Carolina DMV
12 data base.

13 Upon reaching over to the house, I could see that it was
14 occupied. The vehicle in the driveway which was also
15 registered to her, was in the driveway. I was met with no
16 contact at the door, which incited another follow up the next
17 day where I just so happened to pull up at the residence where
18 a vehicle then pulled into the driveway, occupied by the
19 driver who was the person pictured in front of me, who then
20 abruptly made a U-turn and then sped out of the neighborhood
21 at a high rate of speed. Being out of jurisdiction and having
22 no criminal charge, I didn't pursue any kind of vehicle chase
23 at that point.

24 Q. Okay. I'll take that back.

25 (WHEREUPON, document returned to Mr. Osborne.)

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 Q. All right. So is it fair to say that with the initial --
2 with the bank part, the crime scene part of the investigation,
3 that you hadn't developed any persons of interest or any
4 suspects? I mean, other than the bank robber. But you didn't
5 have any persons of interest?

6 A. Correct.

7 Q. That were identified?

8 A. Correct.

9 Q. All right. Did the investigation stop there?

10 A. No. After -- of course, all the statements we have. And
11 there was a canvass for video as according to the sighting of
12 a vehicle was seen in the adjacent gas station parking lot.
13 The next follow up would be the Sonoco gas station, which is
14 next door, next to the adjacent fence line, this location.

15 Q. Okay. Before we talk about, you know, what you did at
16 the Sonoco, I just want to ask you a question here, something
17 that came up earlier.

18 Now, you know, as a detective and a case agent, if when
19 you investigate the initial crime scene, if you -- so you're
20 saying you kept going on and you kept looking for evidence
21 outside of the crime scene. I mean, why do you do that; if
22 you can't identify the guy, why don't you just stop right now?

23 A. Because in the course of conducting investigations if you
24 were just to go off of what you see you are not going to
25 further an investigation.

1 Canvassing, getting out, talking to people, looking for
2 video, is what's going to help you in the progression of such
3 a case. And it doesn't merely stop at talking to victims and
4 witnesses.

5 Q. Okay. So if the victim or witness doesn't know the
6 person that committed the crime against them, you won't stop
7 there?

8 A. Correct.

9 Q. All right. Let's take a look at this Sonoco video. I'm
10 showing you now State's 16.

11 Now, through your investigation, what time do you
12 estimate the bank robbery occurred?

13 A. Approximately 4:45 p.m. to 4:46 p.m.

14 [Whereupon, State's Exhibit Number 16 is played for the
15 jury, during questions by Mr. Osborne]

16 Q. All right. Now, I'm playing from 4:35:30. Tell the jury
17 anything of significance that you notice when watching this.

18 A. Okay. The black-in-color sedan that pulls into the
19 parking lot initially does a loop-through. And at this point
20 it's going to turn back out to Sam Rittenberg at the top-right
21 portion of the screen here [indicates].

22 Q. And that's the vehicle that you're referring to there
23 [indicating]?

24 A. Yes, sir. And as it turns back out to Sam Rittenberg you
25 will see that it travels back into the parking lot, making a

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 looping effort where it inevitably will be captured over to
2 the right-hand side of the white construction-style truck at
3 the top right of the screen.

4 Q. Basically taking a left onto Sam Rittenberg, looping back
5 around?

6 A. Yes, sir.

7 Q. It'll come back into the frame here in just a second.
8 Just bear with me. This program is a little temperamental.
9 Okay.

10 A. And there it is backing in.

11 Q. All right. Now, just to orient -- and that's what you
12 mean backing into the space next to the construction truck?

13 A. Yes, sir.

14 Q. Okay. And just to orient the jury -- and I think you can
15 still touch on that screen right there. Where would the bank
16 be from here?

17 A. The bank, which I will signify with a solid line, is
18 going to be right here on this side [indicating].

19 Q. Okay.

20 [Whereupon, publication of State's Exhibit Number 16
21 concludes]

22 MR. OSBORNE: Okay. May I approach, Your Honor?

23 THE COURT: Absolutely.

24 MR. OSBORNE: Well, while I'm there I'll go ahead and get
25 a couple out of the way here.

1 Q. I'll show you 17 through 20. Can you take a look at
2 those and tell me if you recognize those?

3 A. Sure.

4 [Whereupon, the witness reviews documents]

5 A. Yes, sir.

6 Q. All right. What is 17 and 18?

7 A. Seventeen is going to be the approach of the vehicle as
8 it is passing in front of the Sonoco.

9 Exhibit 18 is going to be the same vehicle traveling in
10 the same direction towards the white utility truck that's seen
11 in the top right.

12 Q. Okay. And 18 and 19?

13 A. State's Exhibit 19 is going to be an individual that
14 enters the Sonoco. Upon viewing this video surveillance
15 you'll see him come from the direction of where that car just
16 backed in.

17 And State's Exhibit 20 will be the same subject on exit
18 from the said convenience store.

19 Q. Okay. So those are screen shots, basically, of what
20 we're -- what we're looking at?

21 A. Yes, sir.

22 Q. Is that fair to say?

23 A. Yes, sir.

24 [Whereupon, State's Exhibit Number 16 is played for the
25 jury, with questions from Mr. Osborne]

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1 Q. All right. So you said that there was an individual
2 walking from the direction of the Impala where it backed in.
3 Point that person out to the jury when you first see him.

4 A. Here [indicates].

5 Q. Okay. So the first image we have of him is walking right
6 from behind that [indicating]?

7 A. Yes, sir.

8 Q. Okay.

9 A. Yes, sir.

10 MR. OSBORNE: All right. Let's see if this will
11 cooperate, and I will try to add what's happening on the other
12 side.

13 Q. Okay. That's picking him up coming inside?

14 A. Yes, sir.

15 Q. This whole time, do you see the Impala leave that -- the
16 area from which it parked?

17 A. No, sir.

18 MR. OSBORNE: I am going to try to fast-forward it one
19 minute. Okay.

20 Q. Is that him at the register now, by the camera?

21 A. Yes, sir.

22 Q. All right. And now walking out?

23 A. Yes, sir.

24 Q. Were you able, through your investigation, to determine
25 what he purchased?

1 A. It appeared that he purchased a Ice House forty-ounce
2 beer from the cooler section in the back of the store.

3 Q. Okay.

4 So this is the person walking away over here
5 [indicating]?

6 A. Yes, sir.

7 Q. Back toward the same direction?

8 A. Yes, sir.

9 Q. Okay. Now I am going to skip ahead here to 4:45.

10 MR. OSBORNE: This is truly the hardest program I've ever
11 seen. You're just going to have to bear with me for thirty
12 seconds.

13 Q. Now, while we're waiting for this to come up, what is it
14 over this next image that we're looking at here that you
15 thought was of interest?

16 A. Very subtly where you're going to see the construction
17 vehicle several minutes after, of course pre-approaching the
18 Chevy Impala, you're going to see an individual from that same
19 direction walk out towards Sam Rittenberg towards what is
20 referred to as the driveway of that business just next to the
21 bank.

22 Q. I it right there?

23 A. It can be seen in the very long -- right there
24 [indicating].

25 Q. Okay. Now that subject walks away; is that fair to say?

1 A. Yes, sir.

2 Q. When that subject walked away, through your investigation
3 what was happening at that time?

4 A. At that point you're going to see that at the 4:45 hour
5 that the bank is being robbed at that point.

6 Q. The car is still parked there?

7 A. Yes, sir.

8 Q. And I think we've already covered this, but I'll ask it
9 now while we're waiting: The -- where the car is parked, is
10 the chain-link fence adjacent to that?

11 A. Yes, sir.

12 Q. All right. So now we see the black car pulling out?

13 A. Yes, sir.

14 Q. And where it stops there, is that near the fence?

15 A. Yes, sir.

16 [Whereupon, State's Exhibit Number 16 concludes]

17 MR. OSBORNE: Okay. Your Honor, I think these were just
18 ID'd. If they were, I would request State's 17 through 20 to
19 be moved into evidence.

20 THE COURT: All right. Any objection?

21 MS. NORRIS: No objection.

22 THE COURT: All righty, 17 through 20 without objection.

23 [Whereupon, State's Exhibit Numbers 17 through 20 are
24 admitted into evidence by the Court]

25 Q. All right. Showing you 17. And this is when the car,

1 the black Impala, first loops through?

2 A. Yes, sir.

3 Q. Eighteen, loops through again?

4 A. Yes, sir.

5 Q. Okay. Now this is a image of the individual who walked
6 into Sonoco; is that correct?

7 A. Yes, sir.

8 Q. And what are we looking at in 20?

9 A. We are looking at a frontal view of the same subject
10 after making a purchase at one of the registers inside.

11 Q. Okay. I probably could have just did this instead of
12 sitting through that video but -- all right.

13 So was this guy a suspect in the robbery?

14 A. No, sir.

15 Q. And why is that?

16 A. Because he did not meet the physical descriptors. And in
17 one camera, y'all can see, he has salt-and-pepper hair.

18 Q. Okay. And -- well, let's go back to the car for a
19 minute. Now -- and we'll get back to him. But when dealing
20 with this car once it left out of that area, were you trying
21 to find any other surveillance video where you could capture
22 him in any place else and try to get additional information
23 about that car?

24 A. Yes, sir.

25 Q. All right. So just go through some of the areas that you

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1 looked for surveillance video around the area of Seven and
2 Orleans.

3 Q. Got you. Harold Square, there is a shopping plaza over
4 there that really affords no opportunity for any video
5 surveillance. If you are familiar with Orleans Road and Sam
6 Rittenberg, the video surveillance it appears that the vehicle
7 turns right onto Sam Rittenberg.

8 Being adjacent to I-526 we also got -- canvassed, excuse
9 me, CresCom Bank, to include the adjacent businesses of
10 Charleston Smiles, as well as the golf store over there as
11 well.

12 We did, however, get luck at the A-1 grocery store at the
13 corner of Hazelwood Drive and Orleans Road, which was
14 producing them through other investigations to afford a camera
15 angle front and back, meaning oncoming and outgoing traffic,
16 on the roadway Orleans Road.

17 MR. OSBORNE: Okay. Your Honor, may I approach?

18 THE COURT: Sure.

19 Q. I am showing you 21 and 22. Can you take a look at those
20 and tell me if you recognize them?

21 [Whereupon, the witness reviews documents]

22 A. Yes.

23 Q. All right. What is 21?

24 A. Twenty-one is going to be a Google Earth image map of the
25 above intersection, Sam Rittenberg and Orleans Road.

1 Q. And 22?

2 A. Twenty-two is going to be the A-1 grocery store video
3 captured from that day.

4 MR. OSBORNE: All right. Your Honor, at this time we
5 would seek to move 21 and 22 into evidence.

6 THE COURT: All righty. Any objection?

7 MS. NORRIS: No objection.

8 THE COURT: All right. Without objection, 21 and 22 are
9 admitted.

10 [Whereupon, State's Exhibit Numbers 21 and 22 are
11 admitted into evidence by the Court]

12 Q. All right. While I'm trying to get this video set up,
13 why don't you go ahead and start orienting the jury on the
14 Elmo where is the bank, where did the car come out, and where
15 you were looking for video.

16 A. Okay. This is kind of the aerial view. But right
17 [indicating] in here is going to -- where the bank is at. Or
18 excuse me, the gas station.

19 The bank is going to be at this location right here
20 [indicating]. The vehicle, according to the video
21 surveillance, turns out this way [indicating] onto completion.
22 Where inevitably we move up further to the A1 Grocery Store --
23 A-1 Grocery Store, excuse me, which is going to be right her
24 [indicating].

25 The video captured from that area shows this vehicle

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1 [indicating] passing that intersection.

2 Q. Okay. Now I'm showing you State's 22. All right. Is
3 that what you saw?

4 A. Yes, sir.

5 Q. I am showing it from another angle.

6 A. There [indicating].

7 Q. Okay. Now, do you remember the times? Again, you said
8 the bank robbery happened at about 4:45, 4:45?

9 A. Yes, sir.

10 Q. Did you find out anything about the time of this video, -
11 this is showing 4:47 - about its accuracy?

12 A. Okay. So the next day when I was assigned as the case
13 agent I was privy to this location affording the camera angle
14 and responded out there along with management to -- when you
15 get video you have to of course understand that not everybody
16 diligently keeps up with their camera system and there can be
17 a thing called time difference or time stamp on such video.

18 On that video, on this particular day, I noted that this
19 camera was approximately two minutes faster than normal
20 recording time, in that meaning you subtract two minutes from
21 the given time and you'll have the correct real time for
22 recording purposes.

23 Q. Okay. And so the real time, even though the image is
24 showing 4:47 real time, it would be 4:45?

25 A. Yes, sir.

1 Q. And you put the bank robbery around 4:44 or 4:45?

2 A. Yes, sir.

3 Q. All right. Was this image [displaying image] -- or more
4 importantly, this image [displaying image], strong enough for
5 you to make an ID? Like could you read the license plate or
6 anything?

7 A. Could not read their license plate. But there was
8 distinguishable feature -- features, excuse me, on the vehicle
9 that would yield in the way where we could identify that it
10 was a Chevy Impala.

11 Q. I mean, was it good enough to where you could zoom in
12 and, you know, see who was in the car and identify who was in
13 the car?

14 A. Brought on by Hollywood, technology is not advanced
15 enough to clear up such video. It's a fallacy that at times
16 that a video can be manipulated in such a way as to make it
17 clearer. We had no such ability to do that. And what camera
18 angle we have is what you're seeing right now.

19 Q. Okay. But it is -- it is fair to say, I guess, that this
20 is probably a better image than what you had to work with at
21 the Sonoco?

22 A. Of course.

23 MR. OSBORNE: All right. Your Honor, may I approach?

24 THE COURT: Absolutely.

25 Q. I am showing you State's 23. And what are we looking at

1 here?

2 A. This is a screen shot that I was able to take which
3 afforded me the ability to look at some characteristics on the
4 car that I took to the Rick Hendrick Chevy located at 1500
5 Savannah Highway. And I spoke to Michael Oglesby to help
6 render a year, make and model for the identification of this
7 vehicle.

8 MR. OSBORNE: Okay. Your Honor --

9 Q. And these are your personal notations?

10 A. Yes, sir. It's my handwriting.

11 MR. OSBORNE: Your Honor, at this time we would seek to
12 admit State's 23 into evidence.

13 THE COURT: Any objection?

14 MS. NORRIS: None, Your Honor.

15 THE COURT: All right. State's 23, without objection.

16 [Whereupon, State's Exhibit Number 23 is admitted into
17 evidence by the Court]

18 Q. All right. So let's talk about some of the identifiers
19 in this car. All right. So I see you have got an antenna up
20 there at the top?

21 A. Yes, sir.

22 Q. The Flex fuel sticker?

23 A. Yes, sir.

24 Q. And what other notations do you make?

25 A. The exhaust system in the back, as well as the silver

1 trim lining on the back trunk area. Questionable about any
2 window tint.

3 To the right-hand side typically what you will find on
4 those vehicles is the Chevy Impala emblem. And as you can
5 see, there's a question mark left there due to camera quality.

6 There's no spoiler, there's no sunroof. And it's going
7 to be an LS model.

8 Q. Okay. And this car also had hubcaps -- or no hubcaps?
9 It didn't have wheels; correct?

10 A. No hubcaps.

11 Q. At least -- you know. All right. So you said that based
12 on these identifiers you had narrowed it down to a 2007 to
13 2010 Chevrolet Impala?

14 A. Yes, sir.

15 Q. LS model?

16 A. LS. Yes, sir.

17 Q. All right. With that information, is it fair to
18 say -- and we're going into what now, in the second day of the
19 investigation?

20 A. This is the second day, yes, sir.

21 Q. All right. Fair to say that this is a vehicle of
22 interest and you are trying to find that car?

23 A. Correct.

24 Q. All right. So what did you do; what was your next steps
25 in the investigation?

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1 A. The next step at that point, ordered these camera angles
2 and opportunities so as to draft out what we would refer to as
3 a BOLO. BOLO is a Be On The Lookout. So essentially what you
4 would see in the media for a request for information on the
5 part of the police is a form of a BOLO.

6 The subject in the Sonoco we wished to identify was a
7 subject of such a BOLO. The -- of course the suspect inside
8 of the bank as well, and as well as a BOLO was disseminated
9 for this vehicle ---

10 Q. Okay.

11 A. ---for an attempt to locate it.

12 Q. All right. And as a result of that did you develop any
13 persons of interest?

14 A. Through the course of the investigation we were able to
15 develop one Travis Jerome Simmons as the individual in the
16 Sonoco, as well as the defendant Allen ---

17 MS. NORRIS: Objection. This calls for hearsay, Your
18 Honor.

19 THE COURT: On what grounds?

20 MS. NORRIS: I believe that the detective is testifying
21 to what someone else told him, which is by definition hearsay.

22 MR. OSBORNE: We actually are not testifying to what was
23 told to him. What we're test- -- what he's testifying to is
24 where the investigation led him.

25 THE COURT: Okay.

1 MR. OSBORNE: We are not eliciting that hearsay
2 testimony.

3 THE COURT: Ask him through his investigation how he was
4 able to ascertain that information.

5 MR. OSBORNE: Well, let me just -- let me try this.

6 THE COURT: Okay.

7 Q. If -- is it fair to say at some point in the
8 investigation you developed the name of Allen Fields as a
9 potential suspect?

10 A. Yes, sir.

11 Q. Okay. And once you got that name, then what did you do?

12 A. From that point, of course we were making attempts to try
13 and locate a good quality photo to make a comparison to the
14 subject who met the physical descriptors of what we could see
15 for the suspect in the bank, TD Bank robbery.

16 Q. Okay. And what -- or what programs or what efforts did
17 you take to try to locate a name or a person by that name?

18 A. Okay. We did a query search through the Charleston
19 County Detention Center ---

20 Q. I guess I'm referring more specifically to Facebook.

21 A. To Facebook. Okay. Yes, sir. Facebook search was
22 conducted. At that point we were able to locate two Facebook
23 accounts associated to the defendant.

24 Q. Okay.

25 MR. OSBORNE: All right. Your Honor, may I approach?

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1 THE COURT: Sure.

2 Q. I'm showing you State's 24 and 25. Can you take a look
3 at those and tell me if you recognize those?

4 [Whereupon, the witness reviews documents]

5 A. Yes.

6 Q. And what are they?

7 A. State's 24 is going to be a screen shot that I had gotten
8 from the Bubba Fields' Facebook profile.

9 State's 25 is going to be a screenshot of that same image
10 in comparison to interior bank footage from TD Bank at the
11 time of the robbery.

12 Q. Okay. And just for clarification purposes, did you use
13 any sort of police tactics or investigative techniques to get
14 to those photographs; did you use fake names or anything like
15 that, or was this open for the public?

16 A. This was an open publically viewable Facebook profile.
17 It took no technique or anything special to open or look at
18 it.

19 Q. Okay.

20 MR. OSBORNE: Your Honor, at this time we would seek to
21 admit 24 and 25 into evidence.

22 THE COURT: All right. Any objections?

23 MS. NORRIS: No.

24 THE COURT: All right, 24 and 25 without objection.

25 [Whereupon, State's Exhibit Numbers 24 and 25 are

1 admitted into evidence]

2 Q. All right. So after you get this name, you research
3 Facebook and you see this image. And I know it's a little
4 dark here. But you see this image [indicating]; is that
5 correct?

6 A. Yes, sir.

7 Q. And then you put this together?

8 A. Yes, sir.

9 Q. So what was it about the image -- I think it's obvious
10 looking at it. But what was it about the image that struck
11 your interest?

12 A. The hat worn in the right side of the photo was worn and
13 is similar to the suspect's hat in the photo on the right.

14 Q. Okay. Now, as a detective, is that enough for you to go
15 out and get a -- draft an arrest warrant?

16 A. No.

17 Q. Did you notice anything else of interest while going
18 through some of these Facebook photographs?

19 A. I noticed that the subject in the TD Bank had what
20 appeared to be a noticeable goatee growing off the base bottom
21 of his chin. Also, the fact that the Facebook profile on the
22 left of Bubba Fields had not only a goatee but also some gold
23 teeth, which I found interesting to the investigation.

24 Q. MR. OSBORNE: Your Honor, may I approach?

25 THE COURT: Sure.

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1 Q. I'm showing you 48 through 50. Can you take a look at
2 those and tell me if you recognize those?

3 [Whereupon, the witness reviews documents]

4 A. Yes, sir.

5 Q. All right. What's 48?

6 A. Forty-eight is going to be a screenshot from within the
7 same profile of Bubba Fields.

8 Q. Forty-nine?

9 A. Forty-nine is going to be an interior screenshot from the
10 video surveillance obtained from TD Bank.

11 Q. And 50?

12 A. That is going to be another screenshot that was taken
13 from the Bubba Fields' Facebook profile.

14 Q. Okay.

15 MR. OSBORNE: Your Honor, at this time we would seek to
16 admit 48, 49 and 50 into evidence.

17 THE COURT: All right. Any objection?

18 MS. NORRIS: No objection.

19 THE COURT: All right, 48, 49 and 50 without objection.

20 [Whereupon, State's Exhibit Numbers 48, 49 and 50 are
21 admitted into evidence by the Court]

22 Q. Okay. I'll start with 50. And, again, did you use any,
23 you know, police tactics or strategies to try to obtain this?

24 A. No, sir.

25 Q. And what Facebook profile was this recovered from?

1 A. Bubba Fields.

2 Q. And I am showing you now 48. Who are those individuals?

3 A. On the right-hand side is going to be the defendant, and
4 on the left-hand side is Christopher Wright.

5 Q. All right. Now, you said after reviewing -- I'm showing
6 you 49 now. After reviewing the surveillance video, and it's
7 kind of hard to see here, what observations did you make?

8 MS. NORRIS: Objection. The picture speaks for itself.

9 THE COURT: Overruled. You can answer the question.

10 A. It would be hard to identify him if you did not know him,
11 based off of the fact that he had the hat on as well as a pair
12 of sunglasses.

13 Q. Did you notice anything particular about his teeth?

14 A. Yes. He had a gold tooth, which is prominently displayed
15 in the photo.

16 Q. And that's what brought you to the significance of 50?

17 A. Yes, sir.

18 Q. Okay. Now, you had mentioned earlier that you had a name
19 of Travis Simmons tied into the Sonoco. Did you do -- what
20 did you do with that information?

21 A. Sergeant Thomas Bailey and I, my supervisor at the time,
22 made efforts to locate Travis Jerome Simmons and located him
23 in the area of [REDACTED] Lane, North Charleston.

24 At that point in locating him we attempted to approach
25 him for an interview, at which time he was not cooperative

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1 with the investigation, which ultimately led to just a brief
2 encounter with him at that time.

3 Q. Okay. But you did have a brief encounter with him?

4 A. Yes, sir.

5 Q. All right. Showing you now State's 26. Who is that?

6 A. That is Travis Jerome Simmons.

7 Q. Did you take that -- was that picture taken when y'all
8 talked to him?

9 A. Yes, sir.

10 Q. Okay. Now, you said that -- what address did you speak
11 to him at again?

12 A. It's going to be out front of [REDACTED] Lane, North
13 Charleston.

14 Q. Okay. Did you notice anything significant about the
15 outside of the house while you were speaking to Mr. Simmons?

16 A. Mr. Simmons wished to speak to us through -- of course,
17 through the front side of the residence. And immediately
18 noticing the fact of walking over at that residence, I noticed
19 that the numeric for the residence was [REDACTED]. It appeared to be
20 missing an additional number. This house also had a yellow
21 tint to it, yellow siding; and I felt as if I've seen this
22 house before.

23 Q. Okay.

24 MR. OSBORNE: Your Honor, may I approach?

25 THE COURT: Sure.

1 Q. Showing you State's 27. Can you take a look at that and
2 tell me if you recognize it?

3 A. Yes.

4 Q. What is that?

5 A. This was a Facebook live video from the Bubba Fields
6 Facebook, where it was momentarily paused, where a screen
7 capture captured the numeric [REDACTED]. And it appeared to be
8 missing a numeric, as well.

9 MR. OSBORNE: Okay. Your Honor, at this time we would
10 seek to admit State's 27 into evidence.

11 MS. NORRIS: No objection.

12 THE COURT: No objection? No objection?

13 MS. NORRIS: No objection.

14 THE COURT: Okay. All right.

15 [Whereupon, State's Exhibit Number 27 is admitted into
16 evidence by the Court]

17 Q. All right. So, again, looking at State's 27, this is a
18 screenshot from a video that was taken from the Facebook
19 profile of Bubba Allen -- Bubba Allen Fields?

20 A. Yes, sir.

21 Q. All right. Now, the [REDACTED]0 -- or this was Travis' house?

22 A. This house ---

23 Q. Or [REDACTED] blank?

24 A. 19 -- yes. Yes, sir. It's going to be [REDACTED]. And it was
25 actually determined belong to a Benjamin Simmons, the uncle to

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1 Travis Simmons.

2 Q. Oh, I see. Okay. But he lived there?

3 A. Yes.

4 Q. Okay. All right. So now we have these three people of
5 interest. But let's go back to the car, because
6 investigations they are not always linear, right; you have got
7 a bunch of things going on at once?

8 A. Correct.

9 Q. All right. So let's change gears and then go back to the
10 car. Where we left off, you had a car and you had a picture
11 with a whole bunch of indicators on it; ---

12 A. Yes.

13 Q. --- and you had a potential year, 2007 to 2010?

14 A. Yes, sir.

15 Q. All right. What's going on with that information while
16 you're running with this?

17 A. So through the ability and the assistance of the South
18 Carolina Law Enforcement Division I requested that all of the
19 vehicles of that make, year and model, 2007 to 2010, which
20 black-in-color Chevy Impala, be generated on Excel
21 spreadsheets in order for me to physically review through an
22 ALPR system for identification.

23 Q. All right. So let's talk about ALPR and what that means.
24 Go ahead. Automated License Plate Reader?

25 A. Yes, sir. So it's essentially going to be a system which

1 is run by the State of South Carolina - the primarily law
2 enforcement agency is going to be SLED - that has
3 prepositioned cameras at fixed points throughout the city, to
4 include the state, that captures and reads license plates in
5 an effort to locate stolen vehicles and assist local law
6 enforcement in locating such vehicles in fugitive
7 apprehensions.

8 Q. Okay. So you can -- so all right. So just for
9 clarification, there are cameras out throughout all -- many of
10 the roads, and especially in the tri-county area, ---

11 A. Uh-huh.

12 Q. --- and they're taking pictures of license plates; is
13 that fair to say?

14 A. Correct.

15 Q. And they're entering that information into a database
16 that is kept by SLED?

17 A. Correct.

18 Q. And so you, as a detective, can submit to SLED a request
19 for all vehicles matching certain indicators?

20 A. Yes.

21 Q. And you did that in this case?

22 A. Yes, sir.

23 Q. About how many vehicles did they give back to you that
24 matched the specific indicators that you were asking for?

25 A. One hundred twenty-five in the Tri-state county area --

1 Tri-county area. Excuse me.

2 Q. Now, you've got over 125 vehicles. What do you start
3 doing then?

4 A. Tediously entering each vehicle plate into ALPR in order
5 to generate a photo of that vehicle associated with that tag.

6 Q. All right. So let me -- let me correct myself, then,
7 what I -- the way I asked that. SLED can only give you the
8 years and the make and the model; you have to go through, pull
9 them up and see if the indicators match; ---

10 A. Correct.

11 Q. --- is that correct?

12 A. Correct. Yes, sir.

13 Q. And you've got 125 to do that?

14 A. Yes, sir.

15 Q. When you went through all that 125, did you find any
16 vehicles that matched all the indicators that you had from the
17 Al Grocery Store?

18 A. Yes, sir.

19 Q. How many?

20 A. One.

21 MR. OSBORNE: Your Honor, may I approach?

22 THE COURT: Sure.

23 Q. All right. I am showing you State's 28. Do you
24 recognize that?

25 A. Yes, sir.

1 Q. And what is that?

2 A. That is a general readout of for South Carolina plate
3 MKP823, meeting the criteria of what I was searching for.

4 Q. And this is a -- this is a typical type of ALPR
5 photograph that you would go through?

6 A. Yes, sir.

7 MR. OSBORNE: Okay. Your Honor, at this time we would
8 seek to admit State's 28 into evidence.

9 THE COURT: Any objection?

10 MS. NORRIS: No objection.

11 THE COURT: All right. Twenty-eight, without objection.

12 [Whereupon, State's Exhibit Number 28 is admitted into
13 evidence by the Court]

14 Q. All right. So after going through about 125 pictures
15 that looked like this [indicating], this was the one car that
16 came back matching with all the indicators that you had
17 mentioned earlier?

18 A. Yes, sir.

19 Q. Okay. And who is that vehicle registered to?

20 A. That vehicle was registered to one Janae Laporshe Nelson,
21 I believe 1510 Calvin Street at the time.

22 Q. Okay. So you had the SLED stuff going on with the ALPR
23 giving you those vehicles, you're going through all that,
24 you're doing that research over there getting Allen Fields,
25 Christopher Wright, Travis Simmons. Do you find a connection?

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 A. Yes. The search through DMV actually yielded an address
2 of [REDACTED] Lane as an address that was associated with
3 one -- excuse me, Janae Nelson, as well as one Christopher
4 Wright. That address is locally located within the same row
5 of houses as [REDACTED] Lane.

6 Q. Simmons, the house that Simmons lives at?

7 A. Correct.

8 Q. So that puts Wright and Simmons as being neighbors?

9 A. Correct.

10 Q. Okay. With that in mind, then, what is the next step in
11 the investigation? You've got a vehicle. You know who the
12 registered owner is. What do you do next?

13 A. We attempt to locate the vehicle owner in order to
14 conduct an interview with her.

15 Q. With Ms. Nelson?

16 A. Yes, sir.

17 Q. Okay. And does she come into the station and you talk to
18 her?

19 A. Detective Sergeant Bailey was able to talk to her. She
20 did come in.

21 Q. And when she came in, she was driving State's 29?

22 A. Yes, sir.

23 Q. Okay. And we've already heard Agent Simmonds talk,
24 but -- give his testimony. But after you spoke to Ms. Nelson
25 what was your next step in the investigation?

1 A. Okay. Information gained was to determine where they
2 would have been staying at. Specifically her, as well as
3 Christopher Wright. And locating a phone number for
4 Christopher Wright, as well.

5 Q. And once you got that phone number, what did you do?
6 Just kind of bring it full circle.

7 A. Okay.

8 MS. NORRIS: Object to relevance.

9 THE COURT: What was the question?

10 MR. OSBORNE: I said once you got the phone number what
11 did you do. And this just ties in to how the phone number got
12 to Agent Simmonds, and he did the presentation.

13 THE COURT: All right. I'll overrule it. I'll allow it.

14 Q. All right. So once you had that phone number of
15 interest, what did you do then?

16 A. Confirmed the subscriber information as well as executed
17 a lawful search warrant for the call detail records and cell
18 site information for that phone.

19 Q. Okay. And that's what was provided to you by the phone
20 company in State's 66?

21 A. Correct.

22 Q. And that was given to Agent Simmonds and asked to map
23 those -- that -- that call detail records for a certain time
24 period?

25 A. Correct.

1 Q. Okay. Did you have the occasion to go to Value Place?

2 A. Yes. At that point what I was wanting to do was to
3 locate this vehicle, as well as try and associate or find out
4 the whereabouts of this vehicle at that timeframe, which took
5 the signing and execution of the search warrant to obtain
6 resident information as well as video surveillance.

7 Q. Okay. And Value Place being the place that Janae lived?

8 A. Correct.

9 Q. All right. I'm now showing you State's 33 through 42.
10 Tell me if you recognize those.

11 [Whereupon, the witness reviews documents]

12 A. Yes, sir.

13 Q. All right. What are they?

14 A. These are going to be ---

15 MS. NORRIS: Objection. Relevance.

16 THE COURT: She objected as to relevance. What's the
17 relevance?

18 MR. OSBORNE: He was actually going to answer that
19 question.

20 These are from the Value Place where Janae stayed at.
21 And these are ---

22 MS. NORRIS: Objection to the solicitor testifying.
23 Could we ...?

24 THE COURT: All right. Ladies and gentlemen, we're going
25 to take about a five-minute break. I'll take up the

1 objection, the matter of law, and we'll get you right back in
2 here in just a little bit. Just stretch your legs, and we'll
3 get you back in.

4 [Whereupon, the jury exits the courtroom 8/13/19, 3:40
5 p.m.]

6 THE COURT: All right.

7 MR. OSBORNE: All right. Your Honor, these -- if I could
8 just explain. These screenshots here -- I think we've
9 established now - at least we would argue we've established
10 now - that Janae Nelson's vehicle is the getaway vehicle.

11 So what these screenshots here show is this detective's
12 efforts to corroborate whether the vehicle was in Janae's
13 possession during the timeframe of the robbery.

14 And when you put these screenshots together, what you see
15 or what we would argue you see, is the vehicle leaving and not
16 returning.

17 THE COURT: On the day of the ---

18 MR. OSBORNE: On the day of the robbery.

19 THE COURT: --- robbery?

20 MR. OSBORNE: And the other thing of significance is that
21 this detective has identified the person shown in 38 as being
22 Christopher Wright. And he does that because he met with
23 Christopher Wright and spoke to him. So he can say it
24 certainly looks like him. But more so than that, he's wearing
25 the exact same tee-shirt.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 THE COURT: And where -- these screenshots were taken
2 from the surveillance cameras of Value Place?

3 MR. OSBORNE: Of Value Place. And I will also note that
4 Janae did at least identify all of these photographs as
5 photographs of her and her child's father, Christopher Wright.

6 THE COURT: Right. Who took the screenshots?

7 MR. OSBORNE: He did.

8 THE COURT: All right. Yes, ma'am?

9 MS. NORRIS: We don't dispute any of that, Your Honor.
10 But Christopher Wright is not sitting next to me. This
11 gentleman [indicates] was not at the Value Place. He is not
12 in those screenshots. There's no allegation that he ever was
13 there. There's no allegation that he ever drove that car.

14 THE COURT: All right.

15 MS. NORRIS: It is not relevant.

16 THE COURT: All right. I'll note your objection for the
17 record. But I find it to be relevant. More probative than
18 prejudicial.

19 And, Ms. Norris, if I'm going to ask him a question, he's
20 going to answer it. I don't need to send the jury out every
21 time when I'm going to ask Mr. Osborne a question, okay?

22 MS. NORRIS: I understand, Your Honor. It's just ---

23 THE COURT: I understand what he's doing. And I've got
24 it. But I don't need to keep sending the jury out every time.
25 When I ask him -- he can answer it. He knows how to do it.

1 All right? Thank you very much.

2 We'll take about a two-minute break. Okay?

3 [Whereupon, a recess is taken 8/13/19, 3:43 p.m.]

4 [Whereupon, resume 8/13/19, 3:47, p.m.]

5 THE COURT: Mr. Osborne.

6 MR. OSBORNE: Your Honor, at this time the State would
7 seek to admit State's 33 through 42 into evidence.

8 THE COURT: All right, 33 through 42 over the objection.

9 [Whereupon, State's Exhibit Numbers 33 through 42 are
10 admitted into evidence by the Court]

11 Q. All right. I'm going to go through these -- well, let me
12 just ask you, 33 through 42, did you take these screenshots?

13 A. Yes.

14 Q. And so you went to the Value Place and you -- you looked
15 at the video yourself?

16 A. Yes.

17 Q. Okay. All right. So showing you State's 33. What are
18 we looking at here?

19 A. That's the back-rear stairwell of the facility. You can
20 see the time parameter 10:16 a.m.

21 Q. Okay. And this is September the 13th, 2016. That's the
22 date of the robbery?

23 A. Yes, sir.

24 Q. And who is this individual [indicating]?

25 A. This individual is going to be Christopher Wright.

1 Q. All right. State's 34, the same date. What are we
2 looking at?

3 A. Okay. That's going to be the backdoor entrance. And the
4 subject in the lower-left corner is going to be Janae Nelson.

5 Q. Okay. And you were in here when Ms. Nelson testified and
6 she identified these photographs as being her and Christopher
7 as well, correct?

8 A. Correct.

9 Q. All right. State's 35?

10 A. That's going to be the same angle. And that's going to
11 be at 11:48 a.m. And that's going to be Janae Nelson leaving.

12 Q. All right. Now State's 36?

13 A. Okay. That's going to be the front-door entrance, just
14 adjacent to the front desk. And you can see that a vehicle is
15 pulling into the lot in that camera view.

16 Q. And what's the time?

17 A. And that timeframe is going to be 1:07 p.m.

18 Q. State's 37?

19 A. That's the same camera angle, and that is a rear view of
20 that vehicle in transition in the parking lot.

21 Q. Okay. Now, just about forty seconds later, State's 38?

22 A. Okay. That's going to be the same camera angle, and that
23 can be Christopher Wright coming in through the front door.

24 Q. All right. State's 39?

25 A. And that is the same camera angle, and he's walking down

1 the hallway inevitably to the front desk just off to his
2 right.

3 Q. Forty?

4 A. That's the front-desk camera angle, and the reception
5 area just adjacent to that front door.

6 Q. All right. And, now, about twenty seconds later, it
7 looks like, State's 41?

8 A. Okay. That is the front door, and that is Christopher
9 Wright exiting to the parking lot.

10 Q. All right. The black vehicle that appears to be the
11 Chevrolet Impala pulls up, forty seconds later Christopher
12 Wright comes in, about a minute later Christopher Wright
13 leaves. Do you see the Chevrolet Impala leave?

14 A. No, sir.

15 Q. Because this angle is showing cars coming in?

16 A. Correct.

17 Q. Is there other ways to get out of the Value Place?

18 A. There's a main entrance, but there's a parking lot that
19 surrounds that area right there [indicating].

20 Q. Okay. Now, this is at 1:09, and now it's one-oh-ten. So
21 this is about forty seconds later. What are we looking at in
22 State's 42?

23 A. Okay. That's Janae Nelson, and that's Christopher Wright
24 handing off one of the children to her as she's entering the
25 facility.

1 Q. Okay. And would this -- so you said entering. This
2 image is showing entering the facility?

3 A. Correct.

4 Q. Or the apartments, I guess?

5 A. Apartments.

6 MR. OSBORNE: May I approach, Your Honor?

7 THE COURT: Absolutely.

8 Q. Now, you had said that through your investigation that
9 you knew that individual to be Christopher Wright. I am
10 showing you now State's 69. What is that?

11 A. That is a photo of Christopher Wright in Interview
12 Room A, at the central investigation division of the
13 Charleston Police Department, on October 4th, 2016.

14 Q. Okay. And what is -- what is significant about his
15 clothing?

16 A. He's wearing the exact same clothing as pictured in the
17 Value Place hotel.

18 MR. OSBORNE: Your Honor, at this time we would seek to
19 admit State's 69 into evidence.

20 MS. NORRIS: Object to relevance.

21 THE COURT: Let me -- it's not on my list. Let
22 me ---

23 MR. OSBORNE: Oh, I'm sorry.

24 THE COURT: All right. I'll let it in over the
25 objection.

1 [Whereupon, State's Exhibit Number 69, photo, marked for
2 identification]

3 [Whereupon, State's Exhibit Number 69 is admitted into
4 evidence by the Court]

5 Q. All right. So now we're looking at -- let's kind of put
6 them side-by-side here a little bit, as best I can. Is this
7 what you're referring to looking at State's 40 and State's 69?

8 A. Yes, sir.

9 Q. All right. The date of the robbery was September the
10 13th?

11 A. Yes, sir.

12 Q. Now, the photograph on the left is October the 4th?

13 A. Yes, sir.

14 Q. When you were interviewing Christopher did you notice
15 that he had a long goatee?

16 A. Yes, sir.

17 Q. And he still had that goatee on October the 4th?

18 A. Yes, sir.

19 Q. You can barely see it on State's 40. Is that fair to
20 say?

21 A. Yes, sir.

22 Q. Okay. So is it fair to say at this point in the
23 investigation that the defendant is a suspect for committing
24 the robbery?

25 A. No, sir.

1 Q. It's not?

2 A. He's not.

3 Q. Okay. What's the next step that you do in the
4 investigation?

5 A. At that point what we try to do is establish through
6 Facebook. We could see that he was in association to the
7 defendant, Allen Fields. From there we try to tie the
8 connection as to how they would have known each other.

9 They did not appear estranged in relationship. The
10 address for Christopher Wright came back to a [REDACTED],
11 which we followed up at, inevitably which led us to 22
12 Briarcliff where we made contact with the homeowner at that
13 address.

14 Q. Okay. We're not going to get into what was said to
15 you -- well, tell me who you spoke to.

16 A. Allen Matthews.

17 Q. Okay. Well, I haven't asked you that then. When you met
18 with Allen Matthews did you show him a screenshot of the bank
19 robbery?

20 A. Yes, sir.

21 Q. And did he say he knew the person?

22 A. Yes, sir.

23 Q. And who did he say it was?

24 A. Bubba.

25 Q. His son?

1 A. His son Bubba.

2 Q. All right. With that in mind, was he a suspect as a bank
3 robber then?

4 A. Yes, sir.

5 Q. With everything else that you had?

6 A. Yes, sir.

7 Q. Did you meet with the -- well, did you meet with the
8 victims, or did you present them a photographic lineup?

9 A. Yes, sir.

10 Q. Okay. So let's tell -- we heard a little bit about that.
11 So let's tell the jury what exactly is a photographic lineup?

12 A. So a photographic lineup is going to be an array of
13 photographs, and in these photographs there's going to be a
14 total of six photos.

15 In these six photos, there's going to be one photo of a
16 person that you've associated or developed as a suspect. The
17 other five photos are going to be what you refer to as fill-
18 ins, individuals of same likeness and appearance of -- this
19 photographic lineup is in an attempt to identify a suspect at
20 that point.

21 Q. Okay. Now, is it fair to say -- you're not trying to
22 trick anyone by putting twins in there, but you do have them
23 all sort of looks similar like another person; you don't put,
24 you know, five African-Americans and one white guy in the
25 lineup and the white guy be a suspect?

1 A. Correct.

2 Q. You try to make them look somewhat similar?

3 A. Correct.

4 Q. And did you present lineups to Ms. Wilson and Ms. Muller?

5 A. Yes.

6 Q. What was the process with Ms. Muller; how did that go
7 about?

8 A. When I established contact with Ms. Muller over the phone
9 I learned that she was actually in California on a previously
10 scheduled engagement.

11 Due to the swiftness of the investigation I requested
12 that she be available to view a six-pack photo lineup. The
13 procedure that I followed in doing that is I took a screenshot
14 of our admonition form, which is read, as a disclaimer to
15 anyone who reads -- or views, excuse me, a six-pack photo
16 lineup. And I took an additional photo of the six-pack lineup
17 itself, sending that information to Ms. Muller for viewing
18 purposes, as I initiated an audio recording with her on the
19 phone as we talked through the process for identification.

20 Q. Okay. And we heard a little bit of this. With her
21 looking at her phone and looking at these six photographs, I
22 believe she ended up picking out somebody else, not the
23 defendant?

24 A. Correct.

25 Q. And Ms. Wilson was shown a lineup?

1 A. Yes.

2 Q. The other clerk?

3 A. Yes, sir.

4 Q. Or teller. And she wasn't able to pick out anyone?

5 A. Correct.

6 Q. Okay. Did that necessarily surprise you as a detective?

7 A. No, sir, not at all. It's actually common for something
8 like that to happen during the course of the investigation.

9 It's a tool, not merely probable cause.

10 Q. Okay. Did you -- well, did you ever do a physical
11 lineup, like have -- sometimes you see in the movies and
12 whatnot, you have an array of people, usual suspects, standing
13 up and then, you know, she can look at them. Did you do that?

14 A. Procedurally, that has -- that has not been done. It's
15 the purpose of the six-pack photo lineup is out of convenience
16 and timing. The old way of doing a physical lineup was
17 tedious in itself and it's not procedural and it's
18 insufficient these days and times to follow such a way of doing
19 things.

20 Q. Well, even more so than that do you -- does the
21 Charleston Police Department even have a setup with a one-way
22 mirror to do a physical lineup?

23 A. No, we do not even have a procedure and policy of that in
24 place.

25 Q. Were you aware they had one in the '60s?

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 A. I bet they did.

2 Q. Okay. Did -- okay. So did you receive any information
3 that sent you to another address, other than Briarcliff, in
4 this investigation?

5 A. We developed that the residence at [REDACTED] Street had
6 information that could help further the investigation.

7 Q. Okay. And did you go there and meet with those
8 individuals?

9 A. Yes. Detective Yolanda Brown who assisted us in the
10 investigation and one of my partner detectives went along with
11 me over to that address where we were able to establish
12 communication with one John Grant, Kelvin Grant, and
13 Jacqueline Grant, at that address.

14 Q. Okay. And did you speak with Jacqueline Grant, the --
15 and the aunt? The lady who testified here tonight -- the aunt
16 of the defendant? I'm sorry.

17 A. Yes, sir, I did.

18 Q. Okay. All right. So we heard a little bit of testimony.
19 I mean, was this a contentious or adversarial meeting with
20 them?

21 A. Not at all. We were invited into the house. We were
22 afforded a place to sit in the front room, which was actually
23 in the living room. And we were able to sit down in a
24 comfortable environment with all three individuals present.

25 It was very cordial. We introduced ourselves. We were

1 offered coffee, actually. And it was a very comfortable
2 environment. We did not get the feeling of any contention
3 while being there.

4 Q. Did you get the feeling that she was stressed out or
5 didn't want you there or anything like that?

6 A. Not at all.

7 Q. When you met with her did you go through that same sort
8 of procedure and show her a still frame of the individual who
9 committed the robbery?

10 A. Yes.

11 Q. Did she indicate that she knew who it was?

12 A. Yes.

13 Q. And what did she say?

14 A. She said, that's Little Bubba. From there, she was able
15 to say that that is her nephew and that he is an estranged
16 member of the family. And inevitably, the name Allen Fields
17 came under the course of the interview.

18 MR. OSBORNE: Okay. Your Honor, may I approach?

19 THE COURT: Sure.

20 Q. I am showing you State's 43. Can you take a look at that
21 and tell me if you recognize that?

22 A. Yes.

23 Q. And what is that?

24 A. That's a screenshot that was shown to Jacqueline Grant on
25 that follow-up at that day at Frank Street.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 Q. Okay. And you were present when that screenshot was
2 shown?

3 A. Yes, sir.

4 Q. Whose handwriting is that?

5 A. That is going to be Jacqueline Grant's handwriting.

6 Q. Okay. And were you there -- I mean did you witness her
7 write that?

8 A. I saw her put it down on the coffee table and write it.

9 Q. Okay.

10 MR. OSBORNE: Your Honor, at this time we'd seek to admit
11 State's 43 into evidence.

12 THE COURT: All right.

13 MS. NORRIS: No objection.

14 THE COURT: All right. Without objection, 43 will be in
15 evidence.

16 [Whereupon, State's Exhibit Number 43 is admitted into
17 evidence by the Court]

18 Q. Did you tell Ms. Grant what to write down?

19 A. No, sir.

20 Q. Did you offer Ms. Grant any money or whatever, if she
21 were to just say that was Bubba?

22 A. No, sir.

23 Q. Okay. What did you do after speaking to her?

24 A. After that, after sufficiently feeling the fact that an
25 identification was made and we could associate that moniker,

1 Little Bubba, with the defendant Allen Angelo -- DeAngelo
2 Fields, I secured arrest warrants for armed robbery, as well
3 as possession of a knife during the commission of a violent
4 crime, which I inevitably presented to the Charleston County
5 Magistrate, Judge Rawl, for signing.

6 It was later entered into NCIC, which is the nationwide
7 database for awareness, where it was placed in as an active
8 warrant. Should he be located or sought, he would be
9 immediately placed under arrest at that point.

10 Q. Okay. Now, I'm going to take another little pause here
11 for a second. Before we get back into the investigation. So
12 you got an arrest warrant for the defendant. Did you get an
13 arrest warrant for Christopher Wright?

14 A. No.

15 Q. Why not?

16 A. Because we felt as if we had enough information to put
17 Christopher in possession of the car or put Christopher as the
18 driver of the car, but the pitfall that we were coming across
19 was the fact if he had knowledge that this incident was to
20 take place. And the burden of proof in doing that prohibited
21 us as to further developing him as a codefendant in this case
22 for the armed robbery.

23 Q. Okay. I mean, it's close; isn't it? He backed into a
24 spot right next to the bank?

25 A. Yes, sir.

1 Q. What about Travis Simmons, did you charge him?

2 A. No, sir, because we inevitably came across the same
3 pitfall. We had to prove that he had intimate knowledge and
4 participation and knew that this was going to take place, and
5 we had nothing to show for that. He had fell short.

6 Q. Okay. Travis, I see he went into the Sonoco. He put
7 himself on camera. His face and all. Buys a beer?

8 A. Correct.

9 Q. All right. So let me ask you kind of an off-the-wall
10 question - it might seem like it. But did you document
11 anywhere in your reports -- you're familiar with the reports.
12 Did you document anywhere that Chris was the getaway driver?

13 A. Yes.

14 Q. All right. And how many times?

15 A. One time.

16 Q. And are we talking about like, you know, a page of
17 documentation that Chris was the getaway driver or are we --
18 what are we talking about?

19 A. Mentioned in a single sentence.

20 Q. In a single sentence?

21 A. Single sentence.

22 Q. How many pages of reports came with this investigation?
23 I'm talking about all of it. Not just supplemental reports.
24 Everything. What would you estimate?

25 A. I would say roughly over 100 pages.

1 Q. And one sentence mentioned Chris being the getaway
2 driver?

3 A. Yes, sir.

4 Q. Or suspected, I suppose?

5 A. Yes, sir.

6 Q. All right. So now we'll get back to the investigation.
7 All right. Did you do anything else in reference to Frank
8 Street to try to corroborate maybe some information you had or
9 any other follow-up?

10 A. Okay. So immediately upon leaving Frank Street we noted
11 that at the time there was a Rite Aid, specifically, a
12 Walgreen's. Again, having worked the Team Four area as an
13 investigator, I commonly would get cases of shopliftings and
14 the like and was privy to information about the camera system
15 at the Walgreen's pharmacy right there.

16 It afforded a vantage point of the roadway from a camera
17 that was affixed to the building. So upon viewing the camera
18 footage I could successfully see a vehicle that travels in
19 that intersection.

20 And Rite Aid, unfortunately, offered no vantage point of
21 significance for me. Walgreen's did.

22 MR. OSBORNE: All right. I'm sorry. May I approach the
23 witness, Judge?

24 THE COURT: Sure.

25 [Whereupon, State's Exhibit Number 61, photo, marked for

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 identification]

2 Q. I am showing you State's 61. Can you take a look at that
3 and tell me if you recognize that?

4 A. Sure.

5 [Whereupon, the witness reviews documents]

6 A. Yes. It's going to be the Walgreen's video.

7 Q. Okay. And you are actually the detective who secured
8 that video?

9 A. Yes.

10 Q. Okay.

11 MR. OSBORNE: Your Honor, at this time we would seek to
12 admit State's 61 into evidence and publish for the jury.

13 THE COURT: All righty. Any objection?

14 MS. NORRIS: What number is this?

15 THE COURT: Sixty-one.

16 MS. NORRIS: No objection.

17 THE COURT: All right, 61 in evidence without objection.

18 [Whereupon, State's Exhibit Number 61 is admitted into
19 evidence by the Court]

20 MR. OSBORNE: All right. Playing 61.

21 [Whereupon, State's Exhibit Number 61 is played for the
22 jury, with questions from Mr. Osborne]

23 Q. Okay. Is this the image, right here, of significance?

24 A. Yes, sir.

25 Q. All right. Which direction is that vehicle headed

1 toward?

2 A. That vehicle is heading on Savage Road through the
3 intersection of Paul Cantrell, just after it turns from
4 Highway 61. Domino's Pizza is what I like to use as a
5 reference. It is heading in that direction, crossing over the
6 intersection of Savage Road.

7 [Whereupon, State's Exhibit Number 61, video, concludes]

8 Q. All right. All right. So let's just go ahead and go
9 back to 21 and just sort of put everything into perspective
10 here. Okay? So can you put an X on where Walgreen's is?

11 A. [Witness complies] So here is Savage. And Walgreens
12 would be right here [complies with X].

13 Q. Okay. And an X where the Al's Grocery would be?

14 A. Al's Grocery is going to be right here [complies with X].

15 Q. And an X where [REDACTED] would be.

16 A. That's going to be slightly off screen, but it's going to
17 be in this vicinity up here [complies with X].

18 Q. And where the bank is.

19 A. The bank is going to be right here [complies with X].

20 Q. Okay. And so with directional arrows, point where the
21 car was, starting from the center lane.

22 A. [Witness complies] Left on Sam Rittenberg, Orleans Road,
23 Savage Road, right on Savage, Paul Cantrell, crosses over
24 Savage Road onto Frank Street.

25 Q. All right. Now I'm sorry, let me just go back super

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 quick. The Walgreen's video showed 4:48 p.m. Did you have
2 the opportunity to verify the accuracy of that time?

3 A. The accuracy on that video is going to be correct. It
4 was real recording time when I viewed it with management.

5 Q. Okay. So we're talking about two or three minutes after
6 we last saw it on ours ---

7 A. Correct.

8 Q. --- to make that distance?

9 A. Yes, sir.

10 Q. All right. I know we're kind of jumping back and forth.
11 I am trying to go chronologically through your investigation.

12 So spoke to those people in there. The arrest warrants
13 are out. At a certain point did you learn that the defendant
14 had been arrested?

15 A. Yes.

16 Q. All right. And what date was that?

17 A. It was going to be October 4th, and it was going to be in
18 the area of Ashley Phosphate. I was immediately contacted.

19 A TFO, which is a task force officers, referred to as a
20 Charleston detective on loan to a federal agency, this
21 particular detective was working with as a U.S. Marshall
22 representative at the time and was assigned such cases. When
23 warrants are assigned they promptly go out and find these
24 people.

25 Q. Okay. Did you see him whenever he was arrested? Just

1 see him?

2 A. I wasn't physically present when he was arrested.

3 Q. Well, I mean on the date of his arrest did you see him?

4 A. Yes.

5 Q. Okay.

6 MR. OSBORNE: Your Honor, may I approach?

7 THE COURT: Sure.

8 [Whereupon, State's Exhibit Number 70, photo, marked for
9 identification]

10 Q. I am showing you State's 70. Does that photograph fairly
11 and accurately depict the way the defendant appeared on the
12 date that you saw him on October the 4th, 2016?

13 A. Yes, sir.

14 Q. Okay.

15 MR. OSBORNE: All right. Your Honor, at this time we'd
16 seek to admit State's 70 into evidence.

17 THE COURT: All righty. Any objection?

18 MS. NORRIS: No objection.

19 THE COURT: All righty, 70 in without objection.

20 [Whereupon, State's Exhibit Number 70 is admitted into
21 evidence by the Court]

22 Q. Okay. At the time of his arrest was the defendant found
23 to be in possession of a phone?

24 A. Yes, sir.

25 Q. Did you later obtain cell phone records for that phone?

1 A. Yes, sir.

2 Q. Was there anything of use on the call detail records
3 around the timeframe of the robbery?

4 A. No, sir. What we could see on the call detail records
5 was a call at 3:38 p.m. and a call at 5:42 p.m.

6 Q. Okay. And the robbery was at 4:44?

7 A. Yes, sir.

8 Q. All right. So nothing to match?

9 A. Correct.

10 Q. At least during the timeframe of the robbery. Now, there
11 was some -- well, I think you mentioned that there was some
12 news attention to this case?

13 A. Yes, sir.

14 Q. Was it significant?

15 A. The amount of media attention wasn't any different than
16 any other crime that would have occurred in the City of
17 Charleston on Live-Five News. It's a regular media update.
18 Nothing of significance. Just that an incident happened which
19 was under police investigation.

20 Q. Okay. So was anything released to the media or was
21 anything broadcasted in reference to Christopher suspected as
22 being the getaway driver?

23 A. No, sir.

24 Q. Or where they drove after the robbery?

25 A. No, sir.

1 Q. Okay. Did you have the occasion to listen to some jail
2 calls ---

3 A. Yes.

4 Q. --- in this case?

5 A. Yes, sir.

6 Q. Okay.

7 MR. OSBORNE: Your Honor, may I approach?

8 THE COURT: Yes.

9 Q. I am showing you 57 and 58. Can you take a look at those
10 and tell me if you recognize them?

11 A. Yes, sir.

12 Q. And what are they?

13 A. Fifty-seven is going to be one disk of jail phone calls
14 for the defendant who was housed at the Charleston County
15 Detention Center. And Disk 58 is an abbreviated two-clip
16 segment from this audio recording.

17 Q. Okay. So 57 are all of the calls from a certain time
18 period?

19 A. Yes, sir.

20 Q. And 58 is clips, two clips, from one call?

21 A. Yes, sir.

22 Q. Okay.

23 MR. OSBORNE: Your Honor, at this time we would seek to
24 admit 58 into evidence.

25 THE COURT: All righty.

DIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON

1 MS. NORRIS: We renew our objection.

2 THE COURT: Absolutely. Yes, ma'am.

3 [Whereupon, State's Exhibit Number 58 was previously
4 admitted into evidence by the Court]

5 Q. All right. Now before, you know, I publish this for the
6 jury, Ms. Mitchum testified that - and I suppose through your
7 experience as a detective you're familiar that - inmates can
8 switch pins. Is that fair to say?

9 A. Yes, sir.

10 Q. And that's sort of -- that pin number is sort of how that
11 call is logged, right?

12 A. Correct.

13 Q. Now, you've had the occasion to listen to not just these
14 small clips, but you have listened to the entire call; is that
15 fair to say?

16 A. Correct.

17 Q. So I want to ask you, you know, just a couple of
18 questions. Did you believe this to be the defendant?

19 A. Yes.

20 Q. Did it sound like him?

21 A. Yes.

22 Q. Did he make specific mentions throughout the entire call
23 about this case, about ---

24 MS. NORRIS: Objection. The call speaks for itself.

25 MR. OSBORNE: Not the parts I'm not playing.

1 THE COURT: Well, then we're not going to get into them.

2 MR. OSBORNE: Okay.

3 THE COURT: So I'll sustain the objection.

4 MR. OSBORNE: Okay. All right.

5 [Whereupon, State's Exhibit Number 58 is published for
6 the jury]

7 Q. Okay. Did you meet with a person and show them a picture
8 from the bank robbery and that person identified him as the --
9 or as the robber?

10 A. Yes, sir.

11 Q. And that was his dad?

12 A. It's going to be Ms. Jacqueline Grant.

13 Q. Okay. And when you met with his father, didn't you show
14 him a DMV photograph as well?

15 A. Yes, sir.

16 Q. Okay. Now, at this point -- this is the night of his
17 arrest, correct; the date is October the 4th ---

18 A. Correct.

19 Q. --- 2016?

20 A. Correct.

21 Q. When he -- when he goes to the Detention Center do y'all
22 serve him with the arrest warrant?

23 A. He is served with the arrest warrant prior to
24 transportation to the Detention Center.

25 Q. Okay. Now, on here he's saying things like somebody

1 identified him. Did y'all mention in the arrest warrant who
2 identified him?

3 A. No, sir. That is at the discretion of the Court.

4 Q. Did y'all have Facebook photographs of him that y'all
5 were using to identify him?

6 A. Yes, sir.

7 MR. OSBORNE: All right. Play clip two.

8 [Whereupon, State's Exhibit Number 58 is played for the
9 jury]

10 Q. Bubba Fields' girlfriend is who?

11 A. Pamela Nelson.

12 Q. And that's NayNay's mom?

13 A. Yes.

14 Q. Okay. Now, did y'all ever get the license -- get a
15 license plate based on surveillance video?

16 A. No.

17 Q. And was there a person in a store who was relevant in
18 this case that you tried to speak to?

19 A. Yes.

20 Q. Travis Simmons?

21 A. Yes, sir.

22 MR. OSBORNE: No further questions, Your Honor.

23 THE COURT: All righty. Ms. Norris, will you be doing
24 the cross?

25 MS. NORRIS: Yes, sir.

1 THE COURT: All right. Do y'all mind coming up here real
2 quick?

3 [Whereupon, an off-the-record bench conference is held]

4 THE COURT: All right. Whenever you're ready, Ms.
5 Norris. Take your time.

6 MS. NORRIS: Thank you, Your Honor.

7 THE COURT: Yes, ma'am.

8 **CROSS-EXAMINATION BY MS. NORRIS OF JAMES RICHARDSON:**

9 Q. All right. Detective Richardson, let's just pick up
10 where we left off there with the jail call. Those clips were
11 from October 4th, 2016; is that correct?

12 A. Yes, ma'am.

13 Q. And that is the day that Mr. Fields was arrested?

14 A. Yes, ma'am.

15 Q. And that is the day that he was handed a copy of the
16 arrest warrant; correct?

17 A. Yes, ma'am.

18 Q. All right. And you drafted the affidavit for that arrest
19 warrant?

20 A. Yes, ma'am.

21 Q. And in that, it refers to all the evidence that you had
22 to establish probable cause; correct?

23 A. Correct.

24 Q. All right. So, for example, it has -- do you have a copy
25 with you?

1 A. [Indicating]

2 Q. All right. So ---

3 A. Yes, ma'am.

4 Q. --- it has in there that there were multiple calls to
5 911?

6 A. Uh-huh.

7 Q. About a suspect who brandished a knife; right?

8 A. [Nods head]

9 THE COURT: Say yes -- say yes or no, please.

10 A. Yes.

11 THE COURT: Okay.

12 Q. And while we're on that, you never had any information
13 that the suspect had a gun; correct?

14 A. Correct.

15 Q. And there's more information. I'm just skipping across
16 some of this. Information is in there, there on the bottom,
17 an internal audit of each cash drawer indicated \$5,356 taken;
18 correct?

19 A. Correct.

20 Q. And then on the second page it has in there the suspect
21 was seen entering into the rear-passenger-side door of an
22 awaiting black Chevy Impala, correct?

23 A. Correct.

24 Q. And there is information about the description you had,
25 that you had information indicating that this suspect was the

1 suspect. That was your information. That's why you arrested
2 him, correct?

3 A. Correct.

4 Q. And you refer to Facebook information, essentially what
5 you've testified to in court today, what you found; correct?

6 A. Correct.

7 Q. All right. So all of that information from the jail call
8 about what the State has, was information that was right in
9 your affidavit; correct?

10 A. Could be.

11 Q. All right. And, now let's talk about Christopher Wright.
12 I believe -- do you have all of your reports there?

13 A. Yes, ma'am.

14 Q. All right. And I believe you testified that you only
15 referred to Christopher Wright driving the Chevy Impala once
16 in your report; is that correct?

17 A. To my knowledge, yes, ma'am.

18 MS. NORRIS: All right. And may I approach, Your Honor?

19 THE COURT: Absolutely.

20 Q. How do you -- which numbers on this document can I refer
21 to to point you to which page? Because what I have is a
22 discovery copy here.

23 A. Okay.

24 Q. All right.

25 A. It's going to be based on how it was printed out,

1 obviously. If there's -- at the time if there's 38 pages,
2 that's number 38. It doesn't necessary go in the ---

3 Q. All right. So you have Page 38 at the bottom?

4 A. Give me a date and time and I'll ---

5 Q. All right.

6 A. --- get that.

7 Q. The date and time is October 5th, 2016, 12:58:01.

8 A. October 5th?

9 Q. Yes.

10 A. Okay. One second.

11 [Whereupon, the witness reviews documents]

12 Q. Let me make -- let me make this easier. Let me just let
13 you ---

14 A. Yes.

15 Q. --- look at that copy I have in my hand.

16 A. Please. Yes, ma'am.

17 [Whereupon, Ms. Norris proffers documents to the witness]

18 A. Thank you.

19 Q. At the bottom of that first page of that report and the
20 top of the next page.

21 A. Okay.

22 Q. All right. In there you're discussing essentially
23 Christopher Wright, the Chevy Impala, the information you've
24 testified about at the Value Place; is that fair?

25 A. Give me one second.

1 [Whereupon, the witness reviews documents]

2 A. I see what you're saying. Bottom page, top page.

3 Q. All right. It's just discussing Christopher Wright in
4 the context of that car and the Value Place?

5 A. Correct.

6 Q. All right. And the next report is September 27th, 2016,
7 at 10:10; and I'll just show you my copy to make it easy,
8 where I've circled there, you again reference Christopher
9 Wright in connection with the Impala; correct?

10 A. Dating Janae Nelson, registered under a 2008 Chevy
11 Impala. Yes, ma'am.

12 Q. All right.

13 MR. OSBORNE: Can I -- can I just see what he -- what she
14 is him?

15 THE COURT: Sure.

16 Q. And the next one is October 5th, 2016, 8:38. And
17 again ---

18 THE COURT: Ms. Norris.

19 Q. Again I have circled it, referencing Christopher Wright
20 as a suspected getaway driver; correct?

21 THE COURT: Can you -- can you show him what you're
22 referencing, because he doesn't have a copy of it. Or just
23 tell him what page.

24 [Whereupon, Ms. Norris and Mr. Osborne confer]

25 Q. Have you had a chance to look at that one?

1 A. Yes, ma'am. It's Detective Jerrell's report.

2 Q. Oh, I'm sorry.

3 A. Yeah.

4 Q. But it is a report that was part of the case
5 investigation?

6 A. Yes, ma'am.

7 Q. Oh ---

8 A. And I was the one that brought up what I would have
9 written. I'm sorry.

10 THE COURT REPORTER: I'm sorry, you are the one that
11 brought -- I didn't hear you.

12 A. I was referring to when I would have mentioned it in the
13 report. Sorry.

14 Q. All right. And, Detective, to your knowledge -- and if
15 you don't know, you can just say you don't know. To your
16 knowledge, all of these pictures, for example -- for example,
17 17, 18, 31, 36, 37, and all those are in evidence ---

18 A. Okay.

19 Q. --- and those are just various shots that we've seen of a
20 Chevy Impala; correct?

21 A. Yes, ma'am.

22 Q. All right. My question is: To your knowledge, all of
23 those photos that the State has in evidence that you use in
24 your case file, all of that gets provided to the defense
25 lawyers; correct?

1 A. Yes, ma'am.

2 Q. And to your knowledge, it's provided to our clients?

3 A. As it should be.

4 Q. All right. So all over this paperwork, there's
5 references and pictures of the Chevy Impala? That's just all
6 I'm getting at.

7 A. Okay.

8 Q. And the information about -- correct me if I'm wrong.
9 But you personally went to Jackie Grant's house and
10 interviewed her and Kelvin Grant, and I believe you mentioned
11 John Grant; correct?

12 A. Yes, ma'am.

13 Q. And you wrote a report about that, correct?

14 A. Yes, ma'am.

15 Q. And in that report it would have information about what
16 they said?

17 A. Correct.

18 Q. So none of this that you've come in and testified is not
19 somewhere in your reports?

20 A. Every effort undertaken in an investigation is
21 documented.

22 Q. All right. So it's in the paperwork?

23 A. Correct.

24 Q. All right. And I believe you mentioned about that
25 interview with Jackie Grant and Kelvin Grant. Was it Allen

1 Fields that they were estranged with, or was it Christopher
2 Wright?

3 A. It was going to be both of them.

4 Q. And you're aware that's not what they testified to
5 earlier?

6 A. Just merely what I've come across during the course of
7 the investigation.

8 Q. All right. And just to be clear, the two tellers at the
9 bank that we saw in the video being robbed, that was Allison
10 Wilson; ---

11 A. Correct.

12 Q. --- correct? And Katherine Muller?

13 A. Katherine Lucy Muller. Yes, ma'am.

14 Q. All right. And specifically with Ms. Muller, you
15 personally did the photo lineup, although, again, she was in
16 California and it was by phone; correct?

17 A. Correct.

18 Q. And she specifically identified someone other than Allen
19 Fields as the person?

20 A. Correct.

21 Q. But Allen Fields' photo was in that photo lineup?

22 A. His South Carolina DMV photo, yes, ma'am.

23 Q. Okay. And, likewise, Ms. Wilson could not identify
24 anybody; correct?

25 A. Correct. But, again, it would be difficult if you had

1 not known him to identify him with a hat and sunglasses on.
2 And we took that into consideration during the course of the
3 investigation.
4 Q. And the video that you obtained from the bank ---
5 A. Uh-huh.
6 Q. --- the time established the suspect was in the bank only
7 about a minute, correct?
8 A. Approximately. It may have been a minute to a little
9 over a minute.
10 Q. And, now, you testified -- and was the crime scene tech
11 Mr. Miller?
12 A. Jeff Miller. Yes, ma'am.
13 Q. You and Mr. Miller, as I recall, both told us that you
14 attempted to get fingerprints from every spot known that the
15 suspect touched; correct?
16 A. The day of his response I was not present. But in his
17 effort, he processed areas at the direction of on-scene
18 detectives having viewed the video surveillance for areas best
19 possible to collect specimens and fingerprints.
20 Q. All right. And the suspect that you see in the video is
21 not wearing gloves, correct?
22 A. Correct.
23 Q. All right. But you were unable to develop any
24 fingerprint identifying any person as touching that door,
25 correct?

1 A. Not through the common-area door where there were
2 multiple customers come in and out of each day.

3 Q. All right. Not just the common-area door, but also the
4 two teller windows; correct?

5 A. Where customers frequent. Yes, ma'am.

6 Q. And the chain-link fence where the suspect jumped across;
7 correct?

8 A. Correct. Correct.

9 Q. All right. And I believe you testified that on the DNA,
10 there wasn't enough. Did you -- you're actually the person
11 that sent it off to SLED; correct?

12 A. I secured the search warrant for the retrieval of a
13 buccal swab sample from the defendant. Yes, ma'am.

14 Q. All right. And you're the person that asked SLED to do
15 the testing, correct?

16 A. Independent lab testing of any specimens obtained from
17 the scenes to establish further evidence.

18 Q. And it was your name, as the case agent, that SLED
19 directs the report back to; correct?

20 A. Yes, ma'am.

21 Q. All right. And do you have that report in front of you?
22 [Whereupon, the witness reviews documents]

23 Q. Okay. Is that dated September 8th, 2017?

24 A. Yes, ma'am.

25 Q. All right. And my question, just for example, item two,

1 that first one, the result listed is a DNA profile there's a
2 mixture of at least four individuals; correct?

3 A. Correct.

4 Q. And below that, no further interpretation; correct?

5 A. Correct.

6 Q. So it's not that there wasn't enough there, it's that
7 they can't tell us who it was?

8 A. Technology as myself by speaking, a lot of technicians --
9 as a homicide detective, the technology at this point did not
10 exist to delineate differentiations in DNA profiles at this
11 time. So no interpretation could be offered as a result of
12 that.

13 Q. But they specifically -- that item one right above that
14 is a buccal swab, which is basically you take -- it's a Q-Tip
15 like thing that you run inside someone's mouth to get the
16 saliva to get the DNA, correct?

17 A. Correct. A saliva sample, which is going to contain a
18 DNA sample. It is what is referred to by technicians as a
19 buccal swab.

20 Q. And so when SLED was doing this DNA testing they were
21 specifically looking to see if they could tell us whether
22 Allen Fields' DNA was at any of these points?

23 A. If the samples collected at the scene are subject for
24 interpretation and the ability to be compared to the
25 defendant. Yes, ma'am.

1 Q. And those swabs' tests from the scene, again, were from
2 the door, the two teller windows, and the fence; correct?

3 A. Correct.

4 MS. NORRIS: Just a second.

5 Q. And, Detective Richardson, to your knowledge -- and I
6 believe you testified you have it there in front of you. Does
7 your name appear on the arrest warrant?

8 A. Yes, ma'am.

9 Q. All right. And do you recall how many different reports
10 you wrote in this case?

11 A. Many.

12 Q. At least ten?

13 A. If not more.

14 Q. So as the case agent, your name is all over the
15 paperwork; correct?

16 A. You own it. Yes, ma'am.

17 MS. NORRIS: Thank you, Detective. I don't have anything
18 further, Your Honor.

19 THE COURT: Thank you very much.

20 MR. OSBORNE: Very briefly, Judge.

21 THE COURT: All right.

22 **REDIRECT EXAMINATION BY MR. OSBORNE OF JAMES RICHARDSON:**

23 Q. Okay. So I think we're saying the same thing. The DNA
24 profile is a mixture of at least four individuals is what came
25 back from the DNA profile?

1 A. Yes, sir.

2 Q. From -- what's that?

3 A. I was answering. I'm sorry. Go ahead.

4 Q. No. Go ahead.

5 A. What I see in the lab report, what SLED reported for the
6 DNA analysis which took place September 8th, 2017, for the
7 swabs from the foyer side, interior-right door handle, the DNA
8 profile is a mixture of at least four individuals. Due to the
9 inability to calculate a statistic, no further interpretation
10 can be offered.

11 Q. Okay. So from a door handle from a bank, in which
12 customers were coming in constantly, they could tell at least
13 four people touched it but there's not enough to develop a
14 profile; is that ---

15 A. Correct.

16 Q. Is that correct?

17 A. Yes, sir.

18 Q. Okay. And so we kind of see the same verbiage from the
19 left-interior door handle; is that -- is that fair?

20 A. Yes, sir.

21 Q. The same verbiage from the swabs from the left-teller
22 window?

23 A. [No response]

24 Q. And, of course, you know, there is a mixture of
25 individuals and all of that. But I am more talking about

1 there not being enough DNA substance to develop a profile; ---

2 A. Correct.

3 Q. --- is that fair?

4 A. Yes, sir.

5 Q. The same for the right-teller window. And then six just
6 says -- it's just -- and this is from the fence. There's a
7 partial DNA profile; it's just insufficient for
8 interpretation?

9 A. Correct.

10 Q. Same thing from the right-exterior door handle. Same
11 thing from the left -- so I think we're saying -- it's the
12 same thing, it's just not enough there to develop a profile?

13 A. Correct.

14 Q. So even though you had his DNA, there was nothing to
15 compare it to?

16 A. Yes, sir.

17 Q. Or at least there was nothing to be recovered to compare
18 it to?

19 A. There's a difference between blood, and there's a
20 difference between touch DNA.

21 Q. Touch DNA, contact DNA; things like that?

22 A. Yes, sir.

23 Q. All right. Well, last question. Do you have the arrest
24 warrant up there?

25 A. Yes, sir.

1 Q. I just want to clarify one point. Ms. Norris asked you
2 everything that was mentioned in the jail calls, you detailed
3 in your arrest warrant. And I might be missing it. I know it
4 was a two-page arrest warrant. Do you see anywhere in there
5 mentioning an individual going into the Sonoco coming from the
6 direction of the car, purchasing a beer; anything like that?
7 Anything in those two pages that mention anything about an
8 interest of a person who went into the Sonoco?

9 [Whereupon, the witness reviews documents]

10 A. No, sir.

11 MR. OSBORNE: No further questions, Your Honor.

12 THE COURT: Yes, ma'am.

13 **RECROSS-EXAMINATION BY MS. NORRIS OF JAMES RICHARDSON:**

14 Q. It does refer in that arrest warrant to the suspect
15 produced a white plastic bag identified to be a white Sonoco
16 shopping bag, correct?

17 A. Yes, ma'am. First page, first paragraph.

18 Q. All right. And on the next page it refers specifically
19 to the suspect jumped the chain-link fence adjacent to the
20 parking lot at a Sonoco gas station located at 1987 Sam
21 Rittenberg Boulevard?

22 A. Yes, ma'am.

23 Q. So anybody looking at this arrest warrant would know that
24 the Sonoco is part of this investigation, correct?

25 A. I believe so.

1 Q. And on the SLED stuff, regardless of the technical
2 stuff -- I understand you're not an expert.

3 A. Right.

4 Q. From your perspective as a homicide detective, there's no
5 fingerprint, there's no DNA, there's no physical evidence that
6 connects that gentleman [indicates] to that bank, the TD Bank,
7 at 825 or 852 Orleans Road?

8 A. It was insufficient amounts; but, no.

9 Q. So the answer is no?

10 A. No.

11 Q. There's no physical evidence?

12 A. No physical evidence.

13 MS. NORRIS: All right. Thank you, Detective.

14 THE COURT: All right. Thank you very much. You may
15 step down. You're excused.

16 [Whereupon, the witness is excused and exits the witness
17 stand]

18 [Whereupon, an off-the-record bench conference is held]

19 THE COURT: All right. Call your next witness.

20 MR. OSBORNE: The State rests, Your Honor.

21 THE COURT: All right. That'll be it for today. I need
22 to entertain some matters of law. And so what we're going to
23 do is similar to how we did yesterday. Again, I'm not going
24 to tell anybody where you are for the next, you know,
25 forty-five minutes to an hour. And we will resume the

1 proceedings tomorrow at 9:30.

2 And, again, I appreciate y'all being on time. We're
3 going to stay here late tonight and hopefully get everything
4 that needs to get done so we don't encounter anything like we
5 did this morning.

6 So I promise you we'll stay here as late as we need so we
7 can start first thing tomorrow morning at 9:30. All right?
8 Thank y'all so very much. Have a great evening.

9 And, again, leave your pads. And, again, of course,
10 don't discuss anything about the case with anyone or do any
11 research or anything along those lines. All right? Have a
12 wonderful evening.

13 [Whereupon, the jury exits the courtroom 8/13/19, 4:42
14 p.m.]

15 THE COURT: All right. Anything further from the State?

16 MR. OSBORNE: No, Your Honor.

17 MOTION FOR A DIRECTED VERDICT

18 THE COURT: Anything from the defense?

19 MR. DANIELS: There's a motion for a directed verdict.

20 THE COURT: All right. Yes, sir?

21 MR. DANIELS: We don't think that there is any -- enough
22 evidence here for any reasonable juror to decide that this was
23 Allen Fields.

24 The detective himself said no person could identify
25 that -- the robber in such a short amount of time. He harped

1 on that throughout his testimony this afternoon. He kept
2 saying, you could not identify him if you didn't know him.

3 In this case we have a very, very large issue about Ms.
4 Muller making an in-court identification that we believe is
5 improper. That happened yesterday, I believe it was
6 afternoon, very quickly right out of the -- right out of the
7 gate.

8 She's made that. That was improper. We were led to
9 believe that it wasn't there. Additionally, the detective is
10 confirming that. That seems to be the strongest piece of
11 evidence.

12 Additionally, for the domestic vio- -- excuse me -- for
13 the directed verdict motion there's circumstantial that is
14 very thin. And we understand that. We don't think that a
15 reasonable juror can meet that burden.

16 THE COURT: All righty. Yes, sir?

17 MR. OSBORNE: You know, I didn't want to oversell it in
18 the opening because I didn't know what we were going to get,
19 but I think we actually did get direct evidence that he is
20 involved.

21 We got the jail call in where he says they have pictures
22 of me in the bank robbery. We've got Henry White saying that
23 he admitted to him, in essence, that he did the bank robbery.

24 We have Jacqueline Grant identifying him. And I know
25 what she said on here, but through detectives she did identify

1 him. The father identified him.

2 I mean, I'm not really concerned about the Katherine
3 Muller ID, because I think that is kind of weak. But
4 circumstantially we can pull that in together through the cell
5 phones. We have all three of those individuals in the car
6 before. And through the out-of-court statement by Mr. Grant
7 that I had to impeach him on, we have them in the car after.
8 And the cell phone records that put Christopher at the scene
9 and after.

10 I think that circumstantially and direct evidence points
11 you to his guilt.

12 THE COURT: All righty. Yes, sir?

13 MR. DANIELS: I'd like to address some of that.

14 THE COURT: Sure.

15 MR. DANIELS: I don't believe any of the family under
16 oath identified Mr. Fields. And that continues throughout.
17 So that is, again, lower statements.

18 We are concerned -- we will be moving for a mistrial
19 based off of the identification in court that we find
20 unreliable but we will be handling next. But that is the
21 level that we're at.

22 THE COURT: All right. All righty. From the beginning
23 this has been coined as a circumstantial case. And as much as
24 the State may believe that they have entered in some direct
25 evidence, I still think it's a circumstantial case and I find

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1 that there's significance factual evidence to send the case to
2 the jury. So I am going to deny the motion.

3 MOTION FOR A MISTRIAL

4 THE COURT: What is your next motion?

5 MR. DANIELS: My next motion is the mistrial motion based
6 off of the Katherine Muller in-court identification. We
7 addressed that at the time. We do not think that, given the
8 whole, the leniency in cross was curative. There is
9 significant issue with that. It's unreliable. It's -- it has
10 blown out everything that's come since then just due to that
11 level. We think ---

12 THE COURT: Have you taken a look at the charge on
13 identification that we sent over?

14 MR. DANIELS: I have not had a chance, Your Honor. I had
15 a short lunch and I was working on something for this
16 afternoon.

17 THE COURT: Let's do this. I'm going to give you an
18 opportunity to argue it now. But what I would like for you
19 both to do is we're going to have a little bit of -- if you
20 haven't taken a look at them then we're going to have the
21 charge conference in the morning. Because I want to give you
22 more than ample time.

23 See if that cures it. If you don't feel like it does,
24 I'm going to hold that motion in abeyance and we'll deal with
25 it first thing in the morning. Okay?

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1 MR. DANIELS: Okay.

2 THE COURT: All right. Take a look at it and see if that
3 identification instruction cures any of that. If not, then
4 I'll entertain it at that time.

5 MR. DANIELS: All right. And we, of course, renew all of
6 our objections. There have been a lot.

7 THE COURT: All right. All the objections throughout are
8 renewed.

9 Anything further?

10 MR. OSBORNE: No, Your Honor.

11 THE COURT: I am going to talk to Mr. Fields before we're
12 done today. I just didn't know if there's any other motions
13 that you have.

14 MS. NORRIS: That was it, Your Honor.

15 THE COURT: Yeah, Mr. Fields, if you will stand.

16 [Whereupon, Mr. Fields complies]

17 THE COURT: All right. Thank you, sir. Would you raise
18 your right hand.

19 [Whereupon, Mr. Fields complies]

20 THE COURT: Do you swear to tell the truth, the whole
21 truth, and nothing but the truth?

22 MR. FIELDS: Yes, sir.

23 THE COURT: All right. Mr. Fields, I'm going to go over
24 something with you and then I am going to ask you some
25 questions in the morning. But I want to give -- you can put

1 your hand down.

2 [Whereupon, Mr. Fields complies]

3 THE COURT: You can relax. I just wanted to give you the
4 opportunity to think about this overnight.

5 MR. FIELDS: Okay.

6 THE COURT: All right. And if you do have any questions
7 in the morning, we'll address them at that time.

8 MR. FIELDS: Yes, sir.

9 THE COURT: All right. Mr. Fields, at this time I am
10 going to explain to you certain of your rights. If you do not
11 understand anything I say, please let me know. If you want me
12 to explain anything in more detail, please let me know. Do
13 you understand that?

14 MR. FIELDS: Yes, sir.

15 THE COURT: All righty. We have now reached the stage of
16 the trial where you may present your defense. You have the
17 right to claim the protections give to you by the Fifth
18 Amendment to the Constitution of the United States of America.

19 This amendment states, in part, no person shall be
20 compelled in any criminal case to be a witness against
21 himself. This means that you cannot be required to testify in
22 this case. You have the right to testify on your own behalf.
23 However, no one can make you testify. This is a personal
24 right and no one can waive this right except for you.

25 If you decide to testify, you will be subject to the same

1 rules that govern other witnesses and you may be examined and
2 cross-examined on any relevant issue in this case.

3 In addition, if you have any convictions involving
4 dishonesty or false statement or for crimes punishable by
5 imprisonment for more than one year and this Court determines
6 that the probative value of admitting this evidence outweighs
7 its prejudicial effect to you, the solicitor will be able to
8 introduce your record to attack your credibility. Do you
9 understand this?

10 MR. FIELDS: Yes, sir.

11 THE COURT: All right. And if you decide to testify,
12 this decision on your part must be freely, voluntarily, and
13 intelligently made with knowledge of the protections given to
14 you by the Fifth Amendment and the consequences of your
15 decision to testify.

16 If you decide not to testify, I will then instruct the
17 jury that they cannot give the fact that you did not testify
18 any consideration whatsoever, that there is to be absolutely
19 no prejudice to you because you did not testify.

20 It is left entirely up to you whether or not you testify.
21 You may talk with your attorney, your family, friends, or
22 anyone else; but the final decision will be left entirely up
23 to you.

24 Do you understand what I've explained to you?

25 MR. FIELDS: Yes, sir.

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1 THE COURT: All right. Do you have any questions about
2 what I've explained to you?

3 MR. FIELDS: No, sir.

4 THE COURT: All right. In the morning I am going to ask
5 you these three questions. Okay. You don't need to answer
6 them now. The first will be have you discussed with your
7 lawyers whether you should or should not testify, do you wish
8 to talk to your lawyer anymore at this time, and do you wish
9 to testify. I will ask you those three questions in the
10 morning and we'll proceed forward. Do you understand that?

11 MR. FIELDS: Yes, sir.

12 THE COURT: All right. I hope you all have a wonderful
13 evening.

14 Anything else from the State?

15 MR. OSBORNE: Your Honor, the only thing I would say that
16 might help, you know, with their decision-making process: His
17 arrest history, the only thing I would seek to impeach him on
18 is a 2010 giving false information.

19 THE COURT: All right. And that is a crime of moral
20 turpitude and that would come in. Do you understand that,
21 sir?

22 MR. FIELDS: Yes, sir.

23 THE COURT: All right. Anything else from the defense?

24 MR. DANIELS: No.

25 THE COURT: Anything else from the State?

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1 MR. OSBORNE: No, Your Honor.

2 THE COURT: All right. Here's what we're going to do.
3 The charge conference shouldn't take long. This is not an
4 overly complicated, you know, legal and factual case.

5 Take a look at it. It's fairly straightforward. We've
6 added everything that we think we needed to add. We ended up
7 adding the expert witness because they qualified Agent
8 Simmonds.

9 I can't really think of anything else. I've condensed
10 the armed robbery down, taken out all the extraneous stuff.
11 So it should be good to go. We've also attached the verdict
12 form. Let's take a look at that.

13 So if it's okay, let's be back in here about 9:15. If
14 you have no objections to it, we'll go right into arguing and
15 charge. If you do have some objections, we'll kind of discuss
16 them then.

17 All right. The last thing I want y'all to think about --
18 and I know the defense said that they may have an issue with
19 it during the charging. You're more than welcome to research
20 it. Whatever your case -- whatever the case may be. But I am
21 extremely inclined to send the charge back.

22 MR. DANIELS: I think that's reasonable on that, and I
23 think we're going to be okay with it. I just want to look
24 over the charge, and we'll give a final answer tomorrow.

25 THE COURT: Okay. Absolutely. Take all the time you

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1 need. But I just wanted to let you know that there's a --
2 unless you can find me something that says I'm doing something
3 that's extremely wrong or is going to be prejudicial to your
4 client, again, I find it to be extremely helpful.

5 I've done it in every case I've had thus far and I've --
6 the only question I've had thus far is how long do we have to
7 eat our lunch. So I think it's working.

8 All right. We'll see y'all at 9:15 in the morning. Have
9 a great evening.

10 [Whereupon, jury trial adjourns for the evening 8/13/19,
11 5:52 p.m.]

12 [Whereupon, resume 8/14/19, 9:35 a.m.]

13 THE COURT: All righty. So we still have to take up the
14 motion for the mistrial. And I want to have the charge
15 conference, so we can go into that after closing arguments.

16 CHARGE CONFERENCE

17 THE COURT: First let's do the charges. Is there any
18 objection from the State as to the charges that we submitted
19 and emailed to y'all last night?

20 MR. OSBORNE: No, Your Honor. No.

21 THE COURT: All right. All right. How about from the
22 defense?

23 MR. DANIELS: We request that in your general charge -
24 I'm not sure we got a copy of that - that if there's a general
25 charge that you make sure that it's spelled out that

1 statements of attorneys are not evidence. I didn't see this
2 in this packet. Most judges normally give a charge like that
3 just when they generally -- before and after they -- tell the
4 jury before and after arguments -- if we're going to send it
5 back, we want it clear.

6 THE COURT: You want me to just charge the jury before
7 closing statements just to say I want to remind you that
8 statements by attorneys is not evidence and this is just a
9 summation of what they feel like the evidence has shown?

10 MR. DANIELS: And we also want that in writing that ---

11 THE COURT: In the charge?

12 MR. DANIELS: --- you're sending back.

13 THE COURT: I don't think you have any objection. I am
14 going to say it now, anyway.

15 All right. We'll put it in there.

16 MR. DANIELS: Okay.

17 THE COURT: All right.

18 MOTION FOR A MISTRIAL

19 THE COURT: All righty. Mr. Daniels, be happy to
20 entertain your motion for a mistrial.

21 MR. DANIELS: Thank you, Your Honor.

22 Again, we're renewing our motion for a mistrial. This
23 was discussed yesterday at length. Nobody saw that in-court
24 identification coming. That was incredibly unreliable,
25 incredibly prejudicial. We think that alone this is grounds

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1 for a mistrial. We were operating under the idea that there
2 was no in-court identification coming. We had no idea that
3 that was coming, and we were told by the statement.

4 THE COURT: All righty. Yes, sir, Mr. Osborne.

5 MR. OSBORNE: Okay. So, first, I'll kind of work
6 backwards.

7 The remedy here that I would cede is that they would say
8 or they would argue, I suppose, that if we had known that she
9 was going to say, yeah, that's the guy, in court, they would
10 have asked for a Biggers hearing.

11 And the purpose of a Biggers hearing, as I understand it,
12 is for the Court to suppress an out-of-court identification if
13 it's unduly suggestive. Okay?

14 We don't have an out-of-court identification here. When
15 the lineup was shown by Detective Richardson on a phone to the
16 witness she picked somebody out -- somebody else out. So
17 there's no out-of-court identification.

18 So even if we were to rely on this, even if you were to
19 grant a mistrial, there would never be a Biggers hearing
20 because there's no out-of-court identification.

21 Now, what happened during trial, they said that they
22 weren't on notice. Well, the State wasn't on notice, either.
23 We can't know what we don't know.

24 The woman has never seen this defendant in person. This
25 is the first time that she -- other than the bank robbery,

1 this is the first time that she's ever seen him other than
2 back to that day.

3 When you go back and you look at the record, you can see
4 that my line of questioning are setting up the inevitable
5 answer in that you won't be able to identify him again. When
6 I got to that question, she said, oh, I can.

7 If we don't ask the next question, well, do you see him
8 in the courtroom, that's going to leave the jury with the
9 impression that we're hiding something from them or that we
10 don't want to hear the answer to the next question.

11 So now if we were to rewind this and you were to grant
12 this mistrial, there will be no Biggers hearings because
13 there's not an out-of-court identification, and I don't know
14 any mechanism that would allow a trial judge to instruct a
15 witness to not answer that question.

16 She sees him in the courtroom, she recognizes him as the
17 person that committed the robbery. There is no way that I can
18 put them on notice because I don't have a mechanism to allow
19 that to occur.

20 And as far as its reliability, you have covered that in
21 the identification charge that you're going to instruct the
22 jury. It goes on and on and on again about if the jury feels
23 that it is unreliable then they can disregard that
24 identification.

25 There's certainly plenty of fodder here for the defense

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1 to argue. This goes to the weight and not the admissibility,
2 and certainly not granting a mistrial.

3 THE COURT: Yes, sir?

4 MR. DANIELS: Your Honor, the Court's function is a
5 gatekeeper to keep out -- keep out things that are so
6 prejudicial. This is exactly that case. We didn't -- we
7 didn't see that question coming but we didn't ask that
8 question.

9 That question took away your function as the gatekeeper
10 for guarding something, again, so prejudicial, like an in-
11 court identification, an unreliable court identification.
12 That's -- that's our stance.

13 THE COURT: All righty.

14 MR. OSBORNE: And I will just -- all evidence. That's
15 why we're presenting it. Because it's prejudicial. The
16 reliability factor goes to the weight. And the Biggers is
17 that hearing that's established to -- for you, to be that
18 gatekeeper, to suppress that identification when it's unduly
19 suggestive, that out-of-court ID.

20 Double purpose. I mean, it makes sense. If he goes and
21 he, the detective, presents a lineup and that procedure is
22 unduly suggestive, her memory then is tainted so you, then, as
23 the Court, can then suppress or not allow that in-court
24 identification.

25 That did not happen in this case because there was no

1 out-of-court identification. The first identification we all
2 heard was in court, and he can certainly attack the
3 credibility of that.

4 MR. DANIELS: I think we're going to be both fighting
5 over the last word in this. But, again, the role of the Court
6 is the gatekeeper. That question didn't have to be asked.
7 That line of questioning didn't have to go through. It could
8 have been approached differently.

9 THE COURT: All right. I researched this last night at
10 length, and I do agree with the State that there was never any
11 ability to have the Court be a gatekeeper of an unreliable or
12 overly prejudicial out-of-court identification coming in
13 because there was no out-of-court identification. And I agree
14 with that.

15 So, therefore, we didn't have a Biggers hearing to bring
16 her in, to have her then have the opportunity to see the
17 defendant and then say, well, maybe then I didn't see him but
18 I see him now and I can identify him. But we didn't need to
19 have to that hearing because, again, we didn't have an out-of-
20 court statement.

21 And, again, I agree with the defense in the sense that at
22 that point in time we would have addressed whatever we needed
23 to address. But even if she would have come in after the
24 hearing and said that, it's still the jury -- it is an issue
25 of fact, and that's to be left to the jury.

1 I have to rule on issues of law. And, again, there was
2 nothing that was unnecessarily and unduly suggestive on the
3 lineup. And that's where I would have been the gatekeeper in
4 a Neil v. Biggers hearing.

5 But, again, that's a -- that's something for the jury to
6 consider as an issue of fact. I think that the charge gives
7 them the -- them, being the jury, the opportunity to take her
8 ID into consideration - and, again, I agree with the State on
9 that's the weight - and give it whatever weight that they want
10 to give it. And I think that's the responsibility and role of
11 the jury.

12 For the record, I do agree that the prosecutor was
13 surprised by what she stated in court. I don't think that
14 that was anything that he attempted to elicit or formulate any
15 surprise to the defense. I believe that the prosecution would
16 agree with me that they were just as surprised as y'all were,
17 as I was, when she did it.

18 But, again, that's for the -- I think it's a question of
19 fact for the jury to determine and they can give it whatever
20 weight that they want to give it.

21 So for those reasons, I'm going to deny the motion for a
22 mistrial.

23 Is the State ready to proceed for closing arguments?

24 MR. OSBORNE: I am, Your Honor.

25 THE COURT: All right. Are y'all read to proceed for

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1 closing arguments?

2 MR. DANIELS: We're ready, Your Honor.

3 THE COURT: But, I mean I am saying we still need to go
4 through the colloquy and everything ---

5 MR. DANIELS: Yes.

6 THE COURT: I'm just saying is everybody ready if we
7 start moving along.

8 MR. DANIELS: Yes.

9 THE COURT: All right. So let's do this. All right. Mr.
10 Fields, if you'll stand up for me, please, sir.

11 [Whereupon, Mr. Fields complies]

12 THE COURT: Mr. Fields, yesterday I read you a ---

13 MR. DANIELS: Your Honor?

14 THE COURT: --- or I asked -- yes, sir?

15 MR. DANIELS: May I address a question my client just
16 brought to me ---

17 THE COURT: Take all the ---

18 MR. DANIELS: I just think this is ---

19 THE COURT: Mr. Fields, you can take all the time you
20 need, okay, with your attorney.

21 MR. DANIELS: May I speak with him in the booth?

22 THE COURT: Absolutely.

23 MR. DANIELS: Thank you.

24 [Off the record 8/14/19, 9:44 a.m.]

25 [Whereupon, resume 8/14/19, 9:53 a.m.]

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1 THE COURT: I am going to tell them [jury] that we are
2 working on something. Are you all right with that, Ms.
3 Norris?

4 MS. NORRIS: Yes.

5 THE COURT: I am not going to tell them what we are
6 working on. I am just going to say we're working in court so
7 they don't think we're in here just like we're playing.

8 MS. NORRIS: Okay.

9 MR. OSBORNE: Thank you, Judge.

10 [Whereupon, break 8/14/19, 9:54 a.m.]

11 [Whereupon, resume 8/14/19, 10:28 a.m.]

12 THE COURT: All right. Mr. Daniels, are y'all ready to
13 proceed?

14 MR. DANIELS: Yes, Your Honor.

15 THE COURT: All righty.

16 MR. OSBORNE: Thank you, Your Honor. Just, if I may,
17 just one quick thing. The State -- I don't know where we left
18 off on the record. The State is not prepared to extend an
19 offer in this case. And I did just want to put this on the
20 record: I think State v. Lewis, 363 S.C. 37 is directly on
21 point in reference to the denial of the Neil V. Biggers
22 hearing and why it's not necessary.

23 And the language that I think is on point is that at the
24 end of this section the Supreme Court said: Accordingly, we
25 conclude Neil v. Biggers does not apply to a first-time

1 in-court identification because the judge is present and can
2 adequately address relevant problems. The jury is physically
3 present to witness the identification rather than merely
4 hearing testimony about it, and cross-examination offers
5 defendants an adequate safeguard or remedy against suggestive
6 examinations.

7 And I think we've covered that in this case, and I
8 believe you have already made several findings of record to
9 establish that.

10 THE COURT: All righty.

11 MR. DANIELS: I would like to just address that to
12 clarify for the record. For appellate purposes, ours is not a
13 Biggers. We don't think it's -- we don't think that anything
14 short of a mistrial is curative.

15 THE COURT: All righty. All right. Thank you so very
16 much.

17 Is the State ready to proceed?

18 MR. OSBORNE: We are, Your Honor.

19 THE COURT: All right. Is the defense ready to proceed?

20 MR. DANIELS: We are, Your Honor.

21 THE COURT: All right. Mr. Fields, if you would stand up
22 for me, please, sir.

23 [Whereupon, the witness complies]

24 THE COURT: Mr. Fields, if you remember yesterday, we
25 went over a long colloquy concerning your right to put up a

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1 defense and your right to testify on your own behalf. But
2 also the right not to testify and I would instruct the jury
3 that they could not hold that against you. Do you remember
4 that?

5 MR. FIELDS: Yes, sir.

6 THE COURT: Do you have any questions concerning that?

7 MR. FIELDS: No, sir.

8 THE COURT: All right. And I told you yesterday that I
9 would give you the entire evening to think about it, talk
10 about it with your family, discuss it with your attorneys.
11 But then I instructed you that at the end it's ultimately your
12 decision. And so I will hear only from you as to that
13 decision.

14 It is -- for the record, it is 10:34 and we have been
15 going for -- y'all have been discussing other issues, or
16 whatever the case may be, for about an hour now. And so do
17 you need any more time with your attorney?

18 MR. FIELDS: No, sir.

19 THE COURT: All right. Have you discussed with your
20 lawyer whether you should or should not testify?

21 MR. FIELDS: Yes, sir.

22 THE COURT: All right. And do you wish to talk to your
23 lawyer at this time?

24 MR. FIELDS: No, sir.

25 THE COURT: All right. Do you wish to testify?

1 MR. FIELDS: No, sir.

2 THE COURT: All right. Thank you very much. You may be
3 seated.

4 [Whereupon, Mr. Fields complies]

5 THE COURT: All right. So do you want me -- do you want
6 to rest in front of the jury, obviously?

7 MR. DANIELS: Yes, Your Honor.

8 THE COURT: All right. And then we will just go
9 straight into closing arguments. Okay? We're going to go --
10 we can get through it all, because I've got the charge here.

11 THE COURT: Just to let y'all know, just so you can see,
12 the verdict form says the State of South Carolina versus Allen
13 Fields, references the indictment numbers. And it says as to
14 Indictment Number 2017-GS-10-02131, armed robbery, we, the
15 jury, unanimously find the defendant, Allen Fields, not guilty
16 or guilty. As to the defendant number -- or Indictment Number
17 2017-GS-10-02132, possession of a weapon during the commission
18 of a violent crime, we, the jury, unanimously find the
19 defendant, Allen Fields, not guilty or guilty, foreperson, and
20 dated today.

21 Any objection to that?

22 MR. OSBORNE: No, Your Honor.

23 THE COURT: From the defense?

24 MR. DANIELS: No, Your Honor.

25 THE COURT: Oh, and we are going to put the failure of

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1 the defendant to testify charge in now, because I didn't know
2 whether he was going to testify until now. It's the standard
3 charge.

4 It's the same thing I just read to you, as well, Mr.
5 Fields. It just instructs the jury that they cannot hold that
6 against you. Okay?

7 MR. FIELDS: Yes, sir.

8 THE COURT: All right. Bring in the jury, please.

9 [Whereupon, the jury enters the courtroom 8/14/19, 10:33
10 a.m.]

11 THE COURT: All right. Good morning, ladies and
12 gentlemen of the jury. I hope you are doing well.

13 As I indicated to you in jury qualification -- I don't
14 know if y'all remember this. I'm new to this job but not new
15 to a courtroom. I was a prosecutor and a defense attorney and
16 was always practicing, and I tried a lot of cases. And I
17 always swore -- and I always wondered while judges hustled me
18 and worked so late and then inevitably the next morning, we'd
19 have something else come up and we'd leave the jury back
20 there. And I swore I wouldn't do it. And, look, I have
21 failed y'all. I have only been on the job for five months.

22 So it's inevitable. I just need to go with it, learn it.
23 I try to keep y'all apprised of what we're doing. I never
24 want y'all to think that we are just not doing anything. I
25 promise you we are working, working, working. Okay?

1 It's just issues that we have to address outside your
2 presence, and it's just the nature of the beast. So I
3 apologize for the delay. I'll accept responsibility for it.
4 I'll fall on the sword for it.

5 And just to let you know that we have been working and
6 everybody's been here -- everybody was here this morning at
7 8:30 and we started this morning around that time.

8 So, anyway, I apologize.

9 And at this point in time, we'll resume the trial. Mr.
10 Daniels?

11 MR. DANIELS: The defense rests.

12 THE COURT: All right. Ladies and gentlemen of the jury,
13 that concludes the testimonial portion of the trial. We will
14 go now into closing arguments.

15 As I indicated at the beginning of the trial, any
16 arguments that are made by the defense in opening essentially
17 is just to tell you what they think the evidence will show.
18 In closing arguments they are essentially going to tell you
19 what they believe that the evidence has shown you. Anything
20 stated by the attorneys is not evidence. This is just their
21 argument as to what they believe that the evidence has shown
22 in this case. All righty?

23 Mr. Osborne.

24 MR. OSBORNE: Thank you, Your Honor.

25 **CLOSING ARGUMENT BY MR. OSBORNE:**

CLOSING ARGUMENT BY MR. OSBORNE

1 When this defendant entered the TD Bank armed with a
2 knife, concealing himself with the shades with the mirror lens
3 and his hat, he thought that he would get a big score. And he
4 did. He got away with over \$5,300.

5 He thought that he had covered his tracks. But that's
6 where he was wrong. Because of some pretty hard work and
7 tenacious work by that man [indicates], Detective James
8 Richardson, he didn't get away with it.

9 Now, before I start going through the evidence in this
10 case and start showing you how the State believes it's
11 relevant, I want to talk to you about something that's very
12 important.

13 And this is for you. This is credibility, and this is
14 really all yours. As juries or jurors you can believe some,
15 none, or all of what a witness tells you. This is all for
16 you.

17 What I would suggest is you look at what fits and look at
18 what doesn't. And most importantly - and this is really
19 important in this case in particular - corroborate it.
20 Corroborate what a witness tells you with what another witness
21 tells you, other evidence; and when there's a difference ask
22 yourself why.

23 And lastly, use your common sense. You're not required
24 to check your common sense in the door -- at the door when you
25 go into the deliberation room.

CLOSING ARGUMENT BY MR. OSBORNE

1 All right. Now, at the beginning I told you that this
2 was a circumstantial case. And it still is. Now, what Mr.
3 Daniels said in his opening and what I said in my opening and
4 what I said or what I am saying right now or what Mr. Daniels
5 says, is not evidence. And that's just what the judge just
6 told you. The only evidence is coming from what you hear on
7 the stand, what you hear on the witness stand.

8 Now, the judge is going to instruct you on the law.
9 And -- once I get finished and once Mr. Daniels gets finished.
10 And he's going to tell you about circumstantial and direct
11 evidence. And I would bet that you're going to hear something
12 like the law gives no greater weight to circumstantial
13 evidence or direct evidence. And you'll have the law with you
14 when you go back there, the jury instructions, so you can see
15 for yourself.

16 But I do want to just give you one quick example. We use
17 those terms all the time in criminal court: circumstantial
18 evidence and direct.

19 Okay. So a classic example, and this is a real simple
20 example, is if, you know, a person would come into this court
21 right now soaking wet with a raincoat, with an umbrella and
22 wet, if I were to ask you is it raining outside, well, you
23 would probably say, yeah. But you don't have any direct
24 evidence of that. What you're looking at is circumstantial
25 evidence that it's raining outside. You put those pieces of

CLOSING ARGUMENT BY MR. OSBORNE

1 the puzzle pretty quickly together. That's a simple example.

2 And I am going to show you what the pieces are in this
3 case and hopefully convince you of the defendant's guilt.

4 Now, first, Detective Richardson, like any detective, is
5 going to start backwards. All right? He's going to look at
6 what do we have at the bank. He reviewed the statements, he
7 reviewed the surveillance video. And when he looked at Ms.
8 Muller and Ms. Wilson's statements, he saw that after the guy
9 that robbed the bank, the defendant, went out and took a left,
10 he then went toward the gas station. So both Ms. Muller and
11 Ms. Wilson looked out the window and they looked at the chain-
12 link fence, and they saw him jump the fence.

13 Now, of course Detective Richardson didn't stop the
14 investigation there. He went where the evidence took him. So
15 he went to the gas station looking for that black car
16 somewhere on the video, as to what Ms. Wilson and Ms. Muller
17 said he -- the suspect got into after the robbery.

18 And this is what he found: He found an image of a black
19 car matching that description, circling the gas station. It's
20 the first -- the first image, and just a few minutes later,
21 circling again and then backing into a spot directly next to
22 the bank where the chain-link fence is right behind that white
23 construction van.

24 And let me just say right now, before I forget when you
25 go back there you are going to have all of the evidence here.

CLOSING ARGUMENT BY MR. OSBORNE

1 You should have a computer back there, and your computer
2 should play all of that video if you want to play it.

3 Some of them, as you saw, had their own proprietary
4 program; so you might have a little bit of a hard time getting
5 them to play. If you do, just write a note to the bailiff and
6 say we'd like to see a certain video again. We'll bring you
7 right back out and I can play it again. That's why I took a
8 lot of screenshots.

9 All right. After the car parked there is only one person
10 that comes from the direction of that car, and that's this guy
11 [indicating]. He comes from the direction of the Impala, then
12 he goes into the Sonoco; he purchases a beer, then he goes
13 back out and he goes back toward the direction of the Impala.

14 So who is that guy? Well, that's Travis Simmons. Travis
15 Simmons, the same guy who has a pending charge for entering
16 the bank with the intent to steal. It's the same man that
17 Investigator Fort tried over and over again to subpoena to get
18 him to come in here, with no luck.

19 So what is the evidence that shows this is Travis
20 Simmons? And more importantly, why does it matter? Well, the
21 defendant himself tells you why it matters.

22 Bear with me one second.

23 [Off the record momentarily to attempt publication of
24 video]

25 MR. OSBORNE: Okay. Sorry about that.

CLOSING ARGUMENT BY MR. OSBORNE

1 [Whereupon, phone clip published for the jury]

2 MR. OSBORNE: All right. So it matters that Travis
3 Simmons is in the store because he tells you it matters
4 because in his mind what he's doing right now is he's trying
5 to backtrack and trying to figure out how is it that Detective
6 Richardson got to him. Well, they must have talked to Travis
7 and then Travis ran his mouth. And then once they talked to
8 Travis and Travis ran his mouth, he gave them NayNay. Once
9 they get to NayNay, they get to Pam. Pam is NayNay's mom.
10 Pam is his girlfriend. And once they got to Pam, they then
11 get to him.

12 Now, as it turns -- and you'll have that back there. And
13 you can listen to that again yourself, hopefully without some
14 of the glitches. But you'll hear that. And you heard through
15 your evidence, as that turns out, that's not how Detective
16 Richardson got to him. So let's take a look and just
17 backtrack how is it that he did get to him.

18 All right. The red X is the crime scene. That's the TD
19 Bank. On the video you can see the black Chevrolet Impala
20 taking a right.

21 Now, from here, Detective Richardson had a few options.
22 The car could have kept going on Sam Rittenberg towards 526,
23 could have took a right, could have took a left on Orleans.
24 So he had to get video from various businesses, look at it,
25 see if he could find that Impala anywhere.

CLOSING ARGUMENT BY MR. OSBORNE

1 We know that car took a right on Orleans because he was
2 able to pick up that image right there [indicating], from the
3 Al's grocery store, right on Orleans Road. And this image was
4 taken seconds later from the image that was at the Sonoco.

5 Now, this image on the right [indicating] is really the
6 big break in the case. It wasn't Travis Simmons running his
7 mouth. It was that image right there.

8 He wanted to know, the defendant wanted to know, how they
9 got to NayNay. Well, let me tell you. So when Detective
10 Richardson got that image -- this is where some good old-
11 fashioned police work comes into play. He took that image.
12 He went down to Rick Hendricks. He met with mechanics. The
13 mechanics -- and asked them. You know, he's not a mechanic.
14 So he asked the mechanic what is it that you can tell me about
15 this car. So with the help of the mechanic he started making
16 several distinguishing indicators from this image right here
17 [indicating]. He also learned that this is a 2007 to 2010
18 Chevrolet Impala, model LS.

19 But he didn't stop there. Once he learned that, he asked
20 SLED to give him all of the ALPR images from the Tri-county
21 area from 2007 to 2010 Chevrolet Impala LS's. He ends up
22 getting well over a hundred images. He has to painstakingly
23 go through every single image. And when he does, there is
24 only one car that has all of those indicators; and that's the
25 car that's registered to Janae Nelson.

CLOSING ARGUMENT BY MR. OSBORNE

1 Okay. Janae Nelson's longtime on-again/off-again
2 boyfriend is the man on the left, Christopher Wright. They
3 have a child together in common. Christopher Wright is this
4 defendant's brother.

5 If I heard him right, I think Mr. Daniels said in his
6 opening that they were estranged. They certainly don't look
7 estranged here. And Detective Richardson also told you that
8 on Facebook he saw numerous photographs of the two individuals
9 together. It certainly appears as though they were getting
10 along just fine.

11 All right. But what information or what evidence do you
12 have that ties the defendant and his brother -- he certainly
13 tied them to the car, but what evidence ties them to Travis
14 Simmons?

15 Well, Detective Richardson told you that, you know, once
16 he identified him he wanted to talk to him. So he went to
17 his house and tried to speak to him.

18 And when he spoke to him, he noticed something peculiar
19 about his house. Yes, the defendant and his brother both live
20 on Burton, and Travis Simmons lives on Burton as well. But
21 there was something else. He noticed that whenever he was
22 standing on Travis Simmons' front porch, that he had seen
23 the -- that [REDACTED], with nothing behind it, before.

24 He saw it on a video captured from the defendant's
25 Facebook account. This is the defendant, or we would argue,

CLOSING ARGUMENT BY MR. OSBORNE

1 of Allen Fields standing on Travis' front porch. So they're
2 more than just neighbors, and they know each other.

3 Okay. So it ties the defendant, Christopher, and Travis
4 to the car. It ties -- and Travis being a person that you
5 saw, just minutes before the robbery, come from the direction
6 of the getaway car into the Sonoco and then walk back towards
7 the getaway car from the Sonoco.

8 But how do you know that this defendant and his brother
9 were actually in the Impala at the time of the robbery? And
10 that's what brings us to the phone records.

11 Let me first talk about -- and I know we -- we gave you a
12 ton of information in a short period of time. But when the
13 defendant was arrested he was in possession of a phone. Now,
14 Detective Richardson told you he did the same thing with his
15 phone that he did with Mr. Wright's phone, the brother; he did
16 a search warrant, got call detail records, and he found out
17 that they really don't help much for the investigation because
18 during a two-hour period he's not using his phone.

19 Agent Simmonds told you -- and I know, you know, there
20 was a lot. But Agent Simmonds told you have to use the phone
21 because that's what hits onto a tower, that's what records the
22 information, that's how you know where the phone was. If he's
23 not using the phone then it really wasn't much evidence or
24 much help in the investigation.

25 Christopher's phone is different. This robbery happened

CLOSING ARGUMENT BY MR. OSBORNE

1 at about 4:44 p.m. You see here Christopher at 4:44 and 4:45
2 is pinging at the tower that is closest to the bank. There is
3 no other tower closer. But that only puts Christopher there,
4 right? I'm sure Mr. Daniels is going to say that.

5 So let's look at the evidence that actually puts the
6 defendant there. First, you've heard testimony that the
7 defendant, Christopher, and Travis were at Briarcliff Drive
8 before the robbery.

9 And if y'all aren't familiar with Briarcliff, it's in the
10 Ardmore Subdivision. It's in West Ashley. You'll have the
11 PDF back there from Agent Simmonds' presentation. On that
12 PDF, you'll see an orange house that is not labeled. That's
13 the Briarcliff house. So you'll see it's in West Ashley.

14 All right. But you know this, that they were there, from
15 Levi Singleton. Levi Singleton testified that he saw all
16 three there on the day -- he saw the news that night of the
17 bank robbery. Earlier that day, he saw all three there. He
18 identified Travis, he knew Christopher, and of course he knew
19 the defendant.

20 Now, you know, I know on the stand he said he didn't know
21 what time it was, all he knew that it was in the afternoon.
22 But Investigator Fort testified that, when we spoke to him he
23 said it was around 3:00 or 4:00.

24 Now, how do you corroborate what Levi told you? Well,
25 you corroborate that from what his dad told you, Allen

CLOSING ARGUMENT BY MR. OSBORNE

1 Matthews. Allen said: Saw the bank robbery on the news;
2 earlier that day my two sons, Christopher and the defendant,
3 came by my house.

4 There was another guy with them, an older guy. He
5 couldn't identify him because he didn't know him.

6 And the father also said that they stayed there for about
7 thirty minutes or so.

8 And both Allen and Levi stated that when they showed up
9 they didn't just show up in any car, they showed up in the
10 getaway car, Janae's car.

11 All right. The defendant, Christopher, and Travis were
12 at Franks Drive immediately after the robbery. Now, that
13 information came from Kelvin, Kelvin Grant, the defendant's
14 cousin. That information was told to Investigator Fort.

15 Now, I realize ---

16 MR. DANIELS: Objection.

17 MR. OSBORNE: --- when he was on the stand ---

18 THE COURT: Hold on. He's ---

19 MR. DANIELS: Objection. That's misstating evidence. He
20 did not say that.

21 MR. OSBORNE: I said that he said that to Investigator
22 Fort.

23 MR. DANIELS: Not under oath, not in this courtroom.

24 THE COURT: All right. All right. We'll note the
25 objection. Just move along.

CLOSING ARGUMENT BY MR. OSBORNE

1 MR. OSBORNE: Yes.

2 But - and this was going to be my next statement - while
3 under oath on the stand, while facing the defendant, he
4 changed his story. He said it was only Christopher that was
5 in the car and not the defendant.

6 So what evidence do you have that corroborates that the
7 Impala and Christopher, maybe not the defendant, were at
8 Frank's house immediately after the robbery? You don't have
9 to just believe Kelvin. There's more.

10 Now, Detective Richardson had that information, too. So
11 Detective Richardson then went and did more follow-up. And he
12 said, well, you know, he thought that if they did go to
13 Frank's, then maybe on one of those surveillance videos, the
14 Domino's, the Rite Aid, the Walgreen's, everything on Savage
15 Road, maybe somewhere I could capture that car headed towards
16 Frank's.

17 And he does. This is the Walgreen's video. This is just
18 a minute, two minutes tops, right after the Al's Grocery
19 screenshot. And keep in mind, that the Al's is two minutes
20 fast, so you're going to have to take two minutes off on that.

21 And just to kind of put it all together, here's where we
22 left off. The car came out of Sonoco. Took a right. You
23 next pick it up on the Al's video going up Orleans Avenue.
24 There's Frank's at the yellow X. There's the Walgreen's.
25 That car would have been headed in that direction just

1 minutes, two minutes tops, after the Al's Grocery.

2 Is it possible, okay, is it possible, that during that
3 two-minute period from Al's Grocery on Orleans to the
4 Walgreen's crossing 61, is it possible that Chris then dropped
5 off the defendant and dropped off Travis somewhere along the
6 area and then picked up again on that video? It's possible.
7 I mean, sure. I suppose so.

8 But you've heard a lot of testimony from Kelvin, brought
9 out by the defense, that there is animosity between Chris and
10 Kelvin.

11 In his opening, Mr. Daniels conceded that Chris was the
12 getaway driver. If you believe that Chris went to that house
13 by himself, then you would have to believe that he went there
14 looking for safe haven in an unwelcomed house. The only
15 person that was welcome there was that man [indicating], the
16 defendant. Because Kelvin didn't know Travis.

17 And there's even more evidence. On Christopher's phone
18 at 4:54 he is pinging on the tower which is closest to
19 Jacqueline Grant's house; 4:54. Kelvin said that when Chris
20 showed up, he walked outside and ran him off. Did he run him
21 off, or did they hang out for a minute?

22 All right. It's kind of a key that the defendant
23 committed the robbery. You know the person that committed the
24 robbery jumped in the getaway car. You know the getaway car
25 is Janae's car. You know the defendant was in that car along

CLOSING ARGUMENT BY MR. OSBORNE

1 with two other individuals before the robbery. And you have
2 evidence to suggest that he was in that car after the robbery.

3 But how do you know? We know the car is involved. We
4 know the three guys are there. But how do you know that it
5 was the defendant and not Chris or Travis that actually did
6 the robbery?

7 And, again, and that's why -- that's why it's important
8 that you know that what I am telling you and what Mr. Daniels
9 is telling you is not evidence. He did say in the opening
10 that Chris was the getaway driver. That's not evidence, and
11 you can ignore that. I think it's probably right, though.
12 It's what the evidence shows.

13 All right. First, let's take a look at the robber
14 himself. I mean you can tell he's kind -- he's a stocky guy.
15 Travis is a thin guy. Travis has a salt-and-pepper beard.
16 Travis is an older guy. The robber doesn't have a salt-and-
17 pepper beard.

18 And next we have Chris. I mean Chris is a skinny guy
19 too, like Travis. He's not a thicker guy.

20 And you can barely see it here, but you heard
21 testimony -- and you will have some of the images back there,
22 and they will probably appear better when you are looking at
23 it. Chris has a long goatee. It's probably about two or
24 three inches long. So that does sort of match what you're
25 looking at there with the defendant. And this was on October

CLOSING ARGUMENT BY MR. OSBORNE

1 the 4th, almost three weeks later. He still had that goatee.

2 But you know who didn't have the goatee on October the
3 4th? The defendant. He wanted to make sure that he didn't
4 have that goatee, because he saw the news too. He saw the
5 guy, the images that were on the news, had that long goatee.

6 Chris could care less, because he knows he wasn't in the
7 bank. That's why he kept his.

8 But there's more. And I kind of -- we went through this
9 kind of quickly. I mean, you can look at the two individuals
10 and tell their body structure is the same, nose structure is
11 the same, the same goatee. And then you have that upper right
12 gold teeth -- gold tooth on both the robber and the defendant.

13 When going through the Facebook pages Detective
14 Richardson also noticed another thing. The robber has a hat
15 with a little piece of cloth hanging out on the back. The
16 defendant has a photograph of himself wearing a similar type
17 hat.

18 All right. So now I want to talk to you a second about
19 Henry White. Henry White was the jailhouse snitch. And let
20 me -- let me tell you this about snitches. You don't believe
21 a word that they tell you unless you can corroborate it,
22 especially not a guy that's got seven years hanging over his
23 head, especially not a guy that's -- I mean, he's been a CI
24 before, so he's kind of familiar with the system. So I don't
25 -- don't bank on anything he told you unless you can

CLOSING ARGUMENT BY MR. OSBORNE

1 corroborate it.

2 The first -- and Henry told you a lot. I mean he had a
3 lot of information. So I would suggest to you that there's
4 really only three ways, if you really think about it, that he
5 could have gotten that information.

6 One, he could have saw it on the news. As Detective
7 Richardson told you, I mean, this was a bank robbery. But it
8 wasn't any like a super high-profile bank robbery. It was
9 kind of low key. So the intimate details concerning the
10 investigation weren't broadcast on the news. I mean, it just
11 wasn't that interesting.

12 The second way is through discovery. We talked about
13 this a little bit. Discovery is when, you know, he makes an
14 arrest, writes reports, he gives it to the State, we then give
15 it to the defense, presumably then the defense then gives it
16 to his -- to their client.

17 While sitting in jail, presumably, he then -- he would
18 then have that paperwork, over a hundred pages or so, at his
19 disposal so he can go through the case, as he should.

20 And the last way is simply, well, the defendant told him.

21 All right. So let's look at some of what Henry said the
22 defendant told him. All right. First, that he got away with
23 \$5,600. That's not in discovery. It wouldn't have been on
24 the news. The discovery would have had it at about \$5,300 and
25 change.

CLOSING ARGUMENT BY MR. OSBORNE

1 It is a black Impala. It was used as the getaway car.
2 It belonged to a brother. The brother is Chris. And it's
3 really his brother's girlfriend. That's in discovery. But he
4 definitely could have read that.

5 Dad picked him out. That's in the discovery. Definitely
6 would have read that.

7 But now willing to back out. That couldn't be in the
8 discovery. No one knew that.

9 Aunt picked him out. Definitely in the discovery. He
10 could have seen that.

11 But now willing to back out. Couldn't have known that.
12 That wouldn't have been in discovery. Or at least he couldn't
13 have read it in discovery.

14 These last two, we saw that unfold right here for the
15 first time. And that's why we put Ms. Mitchum on the stand,
16 the jailhouse custodian. The whole point to that was that
17 Henry and the defendant were together. That's what she --
18 that's what she testified to. And that Levi and the defendant
19 were together. If we don't present that evidence to you, I
20 mean, and rightfully so, Mr. Daniels should say there's no
21 evidence to show they were even together. So that's why we
22 present that.

23 Okay. Next, he said he used a gun. Well, the first page
24 of discovery said robbery with a knife. Every single page
25 says a knife, not a gun. He didn't get that from the

CLOSING ARGUMENT BY MR. OSBORNE

1 discovery.

2 And it happened downtown. All over the discovery, from
3 the arrest warrants to pages to the front page, it's West
4 Ashley, it's not downtown. He didn't get that information
5 from discovery.

6 And the next two I think are kind of really the most
7 telling ones. Chris, the defendant's brother, was the getaway
8 driver. It's mentioned in two various passages in over a
9 hundred pages worth of discovery, and it's explicitly
10 mentioned in one line in over a hundred pages of discovery,
11 that they believe Chris to be the getaway driver.

12 After the robbery, they went to Kevin's house to lay low.
13 Kevin is their cousin. This is what Henry told you the
14 defendant told him.

15 It's not Kevin. It's Kelvin. Was that in the discovery?
16 Yeah. They spoke to him one time. If you believe that he got
17 that from discovery, what you have to believe is that Henry
18 went into this defendant's cell, went through all of those
19 hundred pages of discovery and read them carefully and made
20 mental notes of small little lines and little details like
21 this, all with sixty-four inmates looking at him.

22 He told you what it means to be a snitch, and what --
23 more importantly, what it means to go through another inmate's
24 discovery.

25 But you know he didn't do that. And I'll tell you how.

CLOSING ARGUMENT BY MR. OSBORNE

1 Because if he did that, if he read it that closely and was
2 that familiar with discovery, he sure wouldn't have messed up
3 the first two. He'd a got that right.

4 But you have more than that. You can hear it from the
5 defendant's own mouth.

6 [Whereupon, tape plays]

7 MR. OSBORNE: Me in the bank robbery. Not the person in
8 the bank robbery, not some guy from the bank robbery, they
9 showed the pictures of me in the bank robbery.

10 All right. So like I said, this is going to be the last
11 time that I get to talk to you. Mr. Daniels is going to talk
12 now, or is going to talk after I get finished. So I'm going
13 to try to address some points that I think that he might make
14 to you and also maybe address some of the concerns that you
15 might have.

16 Now, I heard Mr. Daniels say in his opening that this was
17 a miss-ID case. This is not an identification case. The
18 identifications are just pieces to the puzzle. They're
19 chains. They're links in a chain.

20 The judge is going to charge you on identification.
21 You're going to have that back there with you so you can
22 actually read the law on identification for yourself. And
23 you're going to see something on there that says something
24 along the lines of, I would bet, it is going to say if you
25 have any doubt, if you have any doubt, to the accuracy of the

CLOSING ARGUMENT BY MR. OSBORNE

1 identification, then you must find the defendant not guilty.

2 That's true. That is not bad at all. That's true. But
3 that's only in cases in which that's all we're relying on.
4 We're not relying on identifications.

5 If the only evidence that we had in this case was Ms.
6 Muller getting up here on the stand three years later saying,
7 yeah, that looks like the guy, or Levi, a lifelong friend,
8 saying, yeah, that's the guy I saw on the news wearing
9 glasses, or the dad saying, yeah, that's my son, I know him,
10 or the aunt telling police, yeah, that's -- if that was all
11 the evidence that we have, this wouldn't be tried. Those are
12 just chains, just links in a chain, and that's it.

13 And there was a lot made about Detective Richardson
14 turning away from the bank and going into other places. Well,
15 that's what an investigation is. There's no investigation
16 that stops at the scene of the crime. Every investigation
17 leads to other things and you keep going. If he didn't do
18 that, you sure would have heard about that.

19 You speak to witnesses, whether they're motivated or not.
20 You listen to what they have to say. It's your job to
21 corroborate it. And he corroborates it too, but ultimately
22 that's up to y'all.

23 And then, you know, yes, the defendant has waited three
24 years for this. But we've waited, too. These cases are
25 called from oldest to newest, okay. You've just got to wait

1 your turn.

2 But you know who else has waited? The victims have
3 waited. Ms. Muller has waited over three years, Ms. Wilson
4 has waited over three years for this day too.

5 All right. So I do want to talk to you -- you'll have it
6 back there with you, but I do want to give you the important
7 points regarding the law.

8 And it's important to know that if I say anything
9 different from what Judge Price instructs you, or Mr. Daniels
10 for that matter, you are to follow his instruction and ignore
11 what we say. Armed robbery: The elements are exactly what
12 you think they would be. It's the taking of property; if not
13 for violence or prevented by fear they would have kept the
14 property, the victims.

15 There's no other reason here for them to surrender that
16 money except for they were scared. And you heard that from
17 both of their testimony. They were so scared they didn't even
18 hit the panic button, didn't give them bait money, didn't give
19 them the dye packs. They just wanted to give him the money
20 and get him out of there.

21 Permanently deprive the owner of the property and keep
22 for the defendant's own use: There is no evidence to suggest
23 he had any intention on returning it. And now we must prove
24 either that the defendant was armed with a deadly weapon or
25 the defendant alleged he was armed with a deadly weapon.

CLOSING ARGUMENT BY MR. OSBORNE

1 [Mr. Osborne confers with video technician]

2 MR. OSBORNE: I just want to show you this one more time,
3 because this one I think probably will be hard for you to play
4 it when you are back there.

5 [Mr. Osborne confers with video technician]

6 MR. OSBORNE: It just froze up. Just shut it off. I am
7 not going to sit there and restart that and make everybody
8 wait.

9 [Mr. Osborne confers with video technician]

10 THE OSBORNE: The next charge that you are going to have
11 is possession of a weapon during the commission of a violent
12 crime. Armed robbery is a violent crime. A knife is a deadly
13 weapon.

14 If you believe that he was armed with a knife or
15 something that Ms. Muller and Ms. Wilson reasonably believed
16 to be a knife, then you have the option of convicting him of
17 that as well.

18 All right. Proof beyond a reasonable doubt. This is our
19 burden. It's proof that leaves you firmly convinced of the
20 defendant's guilt.

21 The law does not require that we overcome every
22 conceivable doubt, just reasonable doubt. There are few
23 things in life that we know to an absolute certainty. This
24 is a high burden. It should be a high burden. It's one
25 we welcome. But do not believe that it is an impossible

CLOSING ARGUMENT BY MR. OSBORNE

1 burden.

2 I heard Mr. Daniels say hesitate to act, in the opening.
3 So I do just want to address that. I think he said something
4 about if you hesitate to hit the button during your -- then
5 that's hesitation. I've also heard some defense attorneys say
6 that if you go back there and you hesitate then you should
7 find him not guilty. That's not what the law says. If you go
8 back there and you start deliberating, that's what that is.
9 That's not hesitation, that's deliberating.

10 I want you to go back there - I'm sure Mr. Daniels does
11 too - deliberate, talk about it, go through the evidence.
12 That's not hesitation, that's deliberation.

13 And I'll end it with this. All right. So when
14 this defendant entered the bank with the shades and the
15 hat, he thought that he had concealed his appearance. But
16 after watching the news in 2016 his family sure knew it was
17 him.

18 But there's more than that. Detective Richardson put all
19 those pieces to the puzzle together and he proved it was him.

20 Now I'm asking you to hold this defendant accountable and
21 convict him for armed robbery and possession of a weapon
22 during the commission of a violent crime.

23 Thank you.

24 **CLOSING ARGUMENT BY MR. DANIELS:**

25 The solicitor just put a lot of words in my mouth just

CLOSING ARGUMENT BY MR. OSBORNE

1 then, trying to talk a lot about stuff that I'm going to be
2 saying. That's because he's worried about what I'm going to
3 be saying. Because this is a case of misidentification. They
4 got the wrong guy. That's misidentification.

5 On Monday I asked you to examine every witnesses agenda,
6 every witnesses motivations, every witness' interest, because
7 I wanted you to assess who was relying, how does their motive
8 affect how they act in identification.

9 To be honest with you, I was a bit worried about that.
10 Because that's pretty extract. How could somebody's interest
11 eventually lead to them saying it's the wrong person? So I
12 asked you to look at that. I was worried. And then Ms.
13 Muller took the stand. Katherine Muller, Lucy, she got up on
14 that stand and she gave you a firsthand key-step of how
15 somebody's motivation can lead all the way down to picking the
16 wrong person.

17 Let's walk through this. Lucy sat right where she is now
18 during opening arguments. She heard the State start off with,
19 we have no direct evidence, all circumstantial.

20 You don't know the legal definition of circumstantial
21 evidence because you're not lawyers. But if somebody comes up
22 to you on the street and says, well, it's all circumstance,
23 that's a red flag.

24 So Ms. Muller is sitting there, Lucy's sitting there, a
25 bank employee, brought in from out of state, brought in by the

CLOSING ARGUMENT BY MR. DANIELS

1 State. Her motivation became clear: I've got a job to do,
2 I've got to save this case, I've got to appease the solicitor.

3 She got up on that stand, under oath, 1,042 days after
4 she was approached by a robber. A robber that she says --
5 that she identified previously. And we will come back to
6 that. She looked across the courtroom and she said, Allen.

7 So -- don't want to spill my water -- I asked her, you
8 made an identification a thousand -- a thousand days ago?
9 Yes. Does your memory typically get better with age? Well,
10 with some -- no, she said yes.

11 I am not a scientist. I can't tell you how unlikely that
12 is that suddenly you remember everything clearly over a
13 thousand days, than seven days after the incident. So I know
14 that Ms. Muller kind of crouched down.

15 I saw what she saw [indicating toward counsel table
16 seats], a white male, white male, white male, empty seat but
17 white male, Allen, white female. Is that a reliable
18 identification?

19 I told her, you knew it was somebody of a different
20 color, didn't you? Yep.

21 So think about that again. Lucy sitting on that stand,
22 under oath, and there were five African-American males sitting
23 where I was sitting, do you think she'd be able to pick him
24 out? No.

25 The evidence already is there. She had that opportunity,

CLOSING ARGUMENT BY MR. DANIELS

1 that six-pack. You heard Detective Richardson going through
2 it in detail. A six-pack of people that look similar. She
3 picked somebody out. Somebody, not Allen.

4 And now she is saying it is him a thousand days later,
5 almost three years. And not only that, she goes into great
6 detail: I got a good look at the robber. I got a good look
7 at the robber because when I saw him come in I had had a bad
8 feeling.

9 His baseball hat was in some great detail, a rounded
10 brim, cloth hat.

11 His shirt, oh, no, that wasn't two shirts, that was --
12 that was definitely a two-toned baseball cap. However you
13 describe that. I am not a fashion guy.

14 His sunglasses are openly-styled. They are mirrored,
15 they are sitting high up on his face. She goes into great
16 detail. But what does she tell you about the actual robbery?
17 African-American male. That's the only thing that she said.
18 And look at who is in the courtroom.

19 Furthermore, she had a thousand days. I am doing some
20 quick math. But at least 1,035 days - because the
21 identification took a week after the robbery - where she could
22 talk with Detective Richardson.

23 We know that she could call up Detective Richardson,
24 because he texted her. Over those thousand days if at any
25 point she had any question, if she wanted to amend her

CLOSING ARGUMENT BY MR. DANIELS

1 statement, if she wanted to say, you know what, I really
2 didn't like that identification, the one I have access to at
3 any point on my phone that I can zoom in and out of and look
4 at it as long as I want.

5 She has a direct alignment. Did she call? Did she amend
6 her statement? No. Is this reliable? She's encased that,
7 somebody with their own motive. She decided she had a job to
8 do and she was going to make an identification. She was going
9 to help the State. Right there.

10 So I feel better. I can start explaining other motives,
11 because you now understand how all those things interplay.

12 Now compare that -- and I also do want to point out,
13 Detective Richardson's own testimony undermines Ms. Muller
14 when Lucy tried to help them out. Well, we're going to come
15 back to what Mr. Richardson said. Because he undercuts her,
16 too.

17 Okay. So compare Lucy to the other teller that
18 testified, Allison Wilson. Allison Wilson couldn't make an
19 identification in 2016. Allison Wilson didn't make an
20 identification this time. She didn't have the personal
21 objective. She took seriously the oath that she took before
22 she got on that stand, I am here to honestly answer your
23 questions to the best of my ability.

24 The woman who was in the bank that day, the woman was
25 handed the robber money, the woman who sat on that chair mere

CLOSING ARGUMENT BY MR. DANIELS

1 feet from Allen, she didn't make an identification then. She
2 doesn't make an identification now. Even though she was put
3 in the exact same situation Lucy was, minutes before. It's
4 interesting.

5 And that's everyone you heard from in the bank that day.
6 We know from Officer Lenihan, she got up on that stand and she
7 said, my team, my officers, as the first to respond, my
8 officers interviewed every bank employee, every bank customer
9 that was there in the bank.

10 You heard from two, one of which was incredibly self-
11 motivated, as you saw. Why didn't you hear from more? The
12 State is saying it's circumstantial evidence because they've
13 got to try to keep this chain together that they were
14 following.

15 So we're going to walk through that chain.
16 Circumstantial evidence -- once one part starts to wobble the
17 whole thing starts.

18 Much like the police turned away from that pool of
19 potential witnesses and that potential source of information,
20 we're going to turn to our conversation with Levi Singleton.

21 You saw Levi hem and haw while I was asking him
22 questions. I have a lot of respect for Levi Singleton because
23 he eventually realized he needed to tell the truth. And he
24 did: I'm here for money.

25 Levi Singleton called the Crime Stopper Hotline, and he

CLOSING ARGUMENT BY MR. DANIELS

1 eventually confirmed that he called the Crime Stopper Hotline
2 for a reward. But not just that. He confirmed how uncertain
3 he was the person he saw on his TV was Allen. Ten percent
4 certainty. That is a slot machine. Maybe he'll get picked.
5 He did it at the urging of his wife. Probably hit up for
6 money. And if they don't live together and Levi is living
7 with his mom and his -- I think his mom's renter and whoever
8 else is in that house. Roll the dice, maybe I'll get
9 something. A ninety percent uncertainty.

10 He meets with Detective Richardson at McDonald's.
11 Couldn't give you an exact estimate how uncertain he was or
12 how certain he was, but he said -- he confirmed, yeah, I went
13 from that ten percent to slightly more certain.

14 Slightly more certain than ten percent. That's slightly
15 more certain, so just a little bit under ninety percent
16 uncertainty. That doesn't even buy you a cheeseburger. He
17 didn't get one. Much like he didn't a reward. He didn't get
18 anything until 2019 when he got a cup of coffee from the
19 Solicitor's Office. He seemed pretty relieved about that.

20 Then they put their detective on the stand. And one of
21 the things he focused on was we didn't buy him a cup of
22 coffee, because you don't reward that type of uncertainty. I
23 guess if you can't get to a hundred percent certainty you
24 don't get that reward.

25 So let's turn to Jacqueline Grant. Ms. Grant, I feel --

CLOSING ARGUMENT BY MR. DANIELS

1 she had a stroke some time after she spoke with the police,
2 the bleeding of the brain that she spoke about and that her
3 son Kelvin spoke about.

4 You saw her getting up there. She's important. She
5 couldn't answer a lot of questions that were about specifics
6 in the past. A stroke is brain damage. It affects how your
7 brain operates. The State impeached her. They played a
8 recording. They said that she was faking.

9 MR. OSBORNE: Objection. Those are facts not in
10 evidence.

11 THE COURT: I'll note the objection. Move along.

12 MR. DANIELS: She cried. She had tears of frustration.
13 And she sat there and she couldn't answer basic questions
14 about the wake of her niece that happened in July, 2016,
15 months before this whole incident happened. That's an
16 important day, the wake of your niece held at your house. She
17 couldn't answer her question. She couldn't answer any
18 questions about 2016. She couldn't tell you if she had
19 glasses.

20 But she could tell you how she would react. So she
21 said -- I want to make sure I get this right: She was
22 uncomfortable around the police. She would be nervous if the
23 police came to her house. She would want them to leave. She
24 keeps her front room dark. She wears glasses. She's
25 uncomfortable around police.

CLOSING ARGUMENT BY MR. DANIELS

1 She has a motive, that benign motive I talk about on
2 Monday. She just wanted them to get out of the house. She
3 was panicked. What would you say in that situation,
4 particularly when how detectives do their job? They don't
5 walk up to you and say do you know this guy, sit down.
6 They talk with you about this guy. They prime the pump.
7 Do you remember the time you saw so-and-so, do you see them
8 often, is this him, or what about this picture. That's
9 priming the pump. That's called cognitive bias, reason for
10 bias. It's a psychological term. A lot of you have heard it.
11 It's also a statistical term.
12 But what it means is it means something is brought to the
13 forefront of your mind. It's brought to the forefront. If
14 you're thinking about that, you're going to see things through
15 that shade like we talked about, that nonobjective lens.
16 You also met Kelvin Grant, Mr. Fashion. He wore the
17 bow-tie and he had a goatee. Longer on the chin. Not a
18 unique style. You've seen almost every male in all of these
19 photos that have that. That might not be common in your
20 demographic, but it's one of the oldest beard styles there is.
21 You've all studied history at a second grade level.
22 My textbook had Mr. Copious, King Tut on it. A similar beard.
23 Kelvin testified under oath that he saw Christopher
24 Wright the day of the robbery. He testified. He took the
25 oath. He was pretty clear with his motive. He wants to keep

CLOSING ARGUMENT BY MR. DANIELS

1 his mom safe. He wants to keep Christopher Wright away. He
2 said he saw Christopher in a black car that day; you have got
3 to leave. He raised his hand. Honest and truthful. Threat
4 of perjury.

5 You met Allen Matthews, his father. He can't move fast.
6 He can see. He wanted to make sure -- I mean he's hard to
7 hear too. We were all kind of leaning in when he was talking.
8 But he can see. He does not wear glasses. I said that wasn't
9 Bubba. No recording, no written statement, nothing that goes
10 against that. Huh.

11 You met Ja- -- excuse me. I always mess up her name.
12 Janae NayNay Nelson, mother of Christopher's son, young son,
13 in two thousand seven- -- in 2016, long-term mom, again, on-
14 again girlfriend, 2007 to 2016. Until Janae, in her own
15 words, realized you can't force somebody to love you. She
16 moved on. Good for her.

17 She says that she owns a black Chevy Impala, the one that
18 Chris drives. She gives you Chris' phone number. Chris'
19 phone number leads to Agent Simmonds giving his presentation.

20 Mr. Simmonds presenta- -- or excuse me, Agent -- or
21 Special Agent Simmonds, his presentation takes you on a tour
22 of Chris' cell phone.

23 Great. Chris isn't on trial. The government doesn't
24 think that they can meet the burden -- excuse me -- meet the
25 elements for Chris to be at trial. But I think you heard

1 Chris' name more yesterday than you did Allen's, so I want to
2 make sure that you know that we're talking about Allen.

3 Allen's cell phone is off; that's what they're saying?
4 You've seen Facebook pictures. They're in evidence. That man
5 loved to post when he had a cell phone. When was the last
6 time you were driving around, particularly a passenger in a
7 car [indicating]. That's a stretch.

8 Keep in mind though, Janae left no doubt; 2016, she was
9 trying to keep Christopher in her life. Anything she said in
10 2016 was motivated by that. Everything through that lens.

11 Before we talk -- before we talk about Detective
12 Richardson, we've got to talk about Henry White. Henry White
13 -- or -- yeah, it is Henry White, Inmate White, was brought in
14 front of you, the jumpsuit. Man of goals. He's a jailhouse
15 hero, according to him. He's mad. He's self-aggrandized
16 himself, well, I spent several years with the Charleston
17 Police Department getting drugs off the street. As a
18 professional snitch. As a professional -- as a professional
19 confidential informant, who gets paid between \$40 and \$100.
20 According to him, \$140 to \$100 per buy. That's not Robin
21 Hood. That's what he's trying to tell you.

22 And he couldn't keep that job, because while on the
23 police's payroll he stole drugs. Is he a reliable witness?
24 No. He started -- the solicitor is talking about the
25 information that he says that came in. A lot of this ties in

CLOSING ARGUMENT BY MR. DANIELS

1 with Detective Richardson's testimony about the jail calls.
2 Because while all -- there is all this information that is
3 really unique: (a), he's a addict. Who knows how that has
4 addled his brain. And, (b), it's very likely that the piece
5 of paper that he saw -- even though he said he saw one piece
6 of paper and then that turned into, well, I saw one piece of
7 paper and then I saw one piece of paper and then I saw one
8 piece of paper, I don't think those were the same page. What
9 if those were the warrant? Mr. Richardson talked about the
10 warrant. It had outlines and details of the case. It has
11 Richardson name on it. It's usually at the front of every
12 discovery packet my office has gotten.

13 Again, going through what White said, that hero, coming
14 down here, trying to keep himself out of prison. Up front. I
15 told you not everybody's hiding their agendas.

16 He didn't want to be known as a snitch. That was his
17 job. He said that -- he kept talking about a gun. You're
18 dealing with sixty-seven people. Sixty-seven people, things
19 are boring. They're in jail. There's no privacy.

20 What's he doing to pass the time? He's trying to turn
21 things to his advantage because he's in jail trying to avoid
22 prison. So if he saw something, like possibly a warrant for
23 armed robbery, I can assume that as well.

24 The solicitor said that you don't trust a snitch, you
25 verify him. Or you rely on them, if that's the case.

CLOSING ARGUMENT BY MR. DANIELS

1 Finally, the last person you met, Detective Richardson.
2 There's a lot here. Detective -- I want to talk about
3 Detective Richardson's role. Because he came at the end case,
4 so I don't want it to be confusing. Detective Richardson was
5 an encapsulation. He summarized their entire case. Rather
6 than having an outline for you at the beginning, this was kind
7 of the end notes, the Cliff Notes -- not the Cliff Notes, but
8 the end notes that went through everything that you heard up
9 until that point.

10 So let's start. Detective Richardson tries to be a man
11 of precise words. You heard him talking. And those precise
12 words got him into trouble. He said, trying to bol- -- trying
13 to strengthen the testimony of White, Inmate White, he said,
14 oh, well, Chris is the getaway driver, only appeared once.

15 And then my co-counsel got up here and started handing
16 him sheets of paper: I'm sorry, I misspoke; I meant that --
17 and then he walks that back. He was adamant in that one time.
18 He walked that back. What else is there on their detective?

19 Now, you heard the jail call. The jail call doesn't give
20 you a lot of context. Detective Richardson did.

21 This is what you need to know to think about back in your
22 deliberations: October 4th. On October 4th Allen is
23 arrested. Allen is given the warrants for his charges. They
24 say the charges against him because you have the right to know
25 that. They outline your case.

CLOSING ARGUMENT BY MR. DANIELS

1 He gets on the phone with his family. He doesn't have a
2 lawyer. Pretrial detention. He doesn't know what's happening
3 in his -- in this case. He starts trying to explain why he's
4 in jail, what's going on.

5 All he has are his warrants, his vital warrants form.
6 They are telling him what his future is going to look like.
7 And he knows what happened when he was arrested.

8 As Detective Richardson said, Janae was with him.
9 Nothing out of the ordinary there. But if you walk through
10 the warrant, like my co-counsel did with Detective Richardson,
11 everything in that call in those segments is accounted for.
12 He's not adding new information. He's trying to figure out
13 what's going on with him.

14 I think he even exact phrases from the affidavit, or it
15 looked to. Because he was talking in a manner most people
16 don't talk. You wouldn't know that. Excuse me.

17 On Monday I again -- you know, I am going to come back to
18 things I said on Monday. On Monday I asked you to examine
19 everyone's motive, analyze everyone's agenda. I meant Allen.
20 Because we have a tendency to think that when police warrant
21 that they are above the rest of us.

22 It's nice to think that the police are motivated simply
23 by going out, find a criminal, arrest them, keep us safe.
24 Police officers and detectives are employees of the counties
25 and the cities that pay them. They have pressures to perform

CLOSING ARGUMENT BY MR. DANIELS

1 in employment; pressures of the job, pressures like you have
2 at your job where you work. The difference is is they address
3 those pressures through arrests. You know how they do it.
4 Sometimes they have to make a decision on questionable
5 information, misidentification. That's why you're here.

6 Take one of the things that Richardson said yesterday,
7 for example: It would have been difficult to identify him if
8 you did not know him. This is a very troubling statement.

9 For starters, if he's talking about -- for starters, it
10 arose to credibility of Lucy's in-court identification. He
11 says: With that time when you were looking at the robber I
12 don't think you could have done it unless you knew who the
13 robber was.

14 That's a troubling standard. Undermines Lucy. Just
15 erodes that right out from under her, on top of everything
16 else.

17 But then it causes problems with people who do know about
18 this. If you can only identify him if you knew him if, that's
19 a lot of if's. What about Levi Singleton, the man who wasn't
20 certain enough to get a cheeseburger?

21 And furthermore, the solicitor pointed this out --

22 [Mr. Daniels confers with video technician]

23 MR. DANIELS: Technology. You can see it here. You will
24 get a look at it when you deliberate. Do not hesitate.
25 Deliberate.

CLOSING ARGUMENT BY MR. DANIELS

1 Look at the person on Item 27. They said that that's
2 Allen. We had a lot of photos that day. Look at 27. That's
3 not Allen. They're confused, too.

4 So what's the standard? Well, it is the standard is a
5 man who calls -- well, he might not know him well enough to
6 really identify him, but I know him well enough to identify
7 him. And then the attorney stands up and holds up a picture
8 that's obviously not Allen. What's the standard? The
9 standard, the highest standard that we have in the court
10 system, the beyond a reasonable doubt standard that we talked
11 about Monday.

12 The judge is going to instruct you in a few minutes --
13 because I'm wrapping up and you're going to go deliberate.
14 The judge is going to instruct you about what reasonable doubt
15 is. We talked about it Monday. It's not hesitation. It's
16 hesitation that you can name; it's knowing what the solicitor
17 found: I don't trust that identification. I think there
18 should be some direct evidence. It's a pretty unique shirt,
19 it's a pretty unique knife; why haven't I seen it?

20 This whole thing just doesn't add up. Those are all
21 reasonable doubt examples. Hesitation. Then you can demand.
22 If you have hesitation you can find that the State hasn't met
23 its burden, that important burden.

24 As I said Monday, I paraphrase that quote again, jury
25 duty is the highest duty one can do for their country in times

1 of peace. Because jurors stand between us and the awesome
2 power of the State to deprive one of their life or their
3 liberty. That's a terrifying power. The reason we have that
4 high standard. The reason Allen has been waiting for you.

5 That reasonable doubt. Reasonable doubt, another example
6 that can even come in, when discussing the car that shows up
7 at Ms. Jackie's house, the Grant household; maybe not the
8 defendant in the car. You heard that before I started
9 talking.

10 Circumstantial evidence. That doesn't mean that there
11 wasn't direct evidence or that efforts should have been made
12 to present that to you. Analyze her DNA, analyze her
13 fingerprints. Bust.

14 Was there an attempt to discover? I heard about a search
15 warrant that involved Allen, and it was on his phone.
16 Christopher Wright, in all of those photos, is wearing the
17 same tee-shirt. We're not talking about people with a lot of
18 worldly good.

19 You know, from one of the first witnesses, where Allen
20 lived. Was there a search warrant for that shirt? Was there
21 a search warrant for that knife? I didn't hear one. Why?

22 The police have those tools. The police had that pool of
23 direct witnesses. And they turned. They turned away and they
24 went to questionable sources.

25 Phrase it however you want. This is a case of

CLOSING ARGUMENT BY MR. DANIELS

1 misidentification. So you go to go to your jury room and you
2 are going to deliberate. Not just hesitation. To deliberate
3 and think about and put names to things that are slowing you
4 down.

5 Use the tools you brought with you. Use common sense.
6 Use your knowledge of how the world actually works outside of
7 a courtroom. Employment pressures, things that don't add up,
8 and that experience. You'll find that Allen is not guilty of
9 armed robbery.

10 THE COURT: All right. Ladies and gentlemen of the jury,
11 now is the time for me to charge you on the law. Does anyone
12 need a break before we do that, because it's a little bit of
13 an extensive process -- I can tell. We're going to take a
14 five-minute break. Okay?

15 [Whereupon, the jury exits the courtroom 8/14/19, 11:51
16 a.m.]

17 [Whereupon, the jury enters the courtroom 8/14/19, 12:00
18 p.m.]

19 THE BAILIFF: Your Honor, the jury is complete.

20 THE COURT: All right. Thank you so very much.
21 Actually, I needed a break. I just blamed y'all, so -- that's
22 true.

23 All right. Ladies and gentlemen, now is the time, as I
24 indicated before, that I am going to charge you on the law of
25 which you are to apply to the facts of this case. As I

CHARGE OF LAW BY THE COURT

1 indicated earlier, that is my job; and your job is the sole
2 trier of the facts.

3 Also at that time I am going to go over the verdict form,
4 the role of Madam Forelady. And we were going to order lunch
5 but y'all have already done that. All right. We ordered you
6 pizza, but they were closed. So sorry about Jimmy John's
7 twice.

8 But I'm going to come down there and do it. It's just
9 easier for you to be able to hear me. And then obviously I'll
10 need to be able to go over the verdict form with you, okay.
11 So I'll just come down.

12 CHARGE OF THE LAW

13 THE COURT: The defendant in this case has pled not
14 guilty to these indictments, and that plea puts the burden on
15 the State to prove the defendant guilty. A person charged
16 with committing a criminal offense in the State of South
17 Carolina is never required to prove himself innocent.

18 I charge you that it is an important rule of the law that
19 the defendant in a criminal trial, no matter what the
20 seriousness of the charge may be, will always be presumed to
21 be innocent of the crimes for which these indictments were
22 issued unless guilt has been proven by evidence satisfying you
23 of that guilt beyond a reasonable doubt.

24 This presumption of innocence does not end when you begin
25 your deliberations but it accompanies the defendant throughout

CHARGE OF LAW BY THE COURT

1 the trial and until you reach a verdict of guilt based on
2 evidence satisfying you of that guilt beyond a reasonable
3 doubt.

4 The presumption of innocence is like a robe of
5 righteousness placed about the shoulders of the defendant
6 which remains with the defendant until it has been stripped
7 from the defendant by evidence satisfying you of the
8 defendant's guilt beyond a reasonable doubt.

9 The presumption of innocence is not mere legal theory.
10 It is not just a legal phrase. It is a substantial right to
11 which every defendant is entitled to; entitled, unless you the
12 jury are satisfied from the evidence of the defendant's guilt
13 beyond a reasonable doubt.

14 I instruct you and emphasize that the fact the defendant
15 did not testify is not a factor to be considered by you, in
16 any way, in your deliberation and in your consideration on the
17 question of the guilt or the innocence of the defendant. It
18 must not be considered by you in any manner whatsoever.

19 A defendant has the constitutional right to remain
20 silent, and the assertion of this right must not be considered
21 by you in your deliberations.

22 I repeat, under your oath you are to draw no conclusion
23 whatsoever from the fact that the defendant in this case did
24 not testify. The fact that this defendant did not testify
25 should not even be discussed in the jury room whatsoever.

CHARGE OF LAW BY THE COURT

1 The burden of proof, as I have stated to you, is on the
2 State. The defendant is not required to prove his innocence.
3 The burden of proof remains on the State to prove guilt beyond
4 a reasonable doubt.

5 I remind you that during this trial you and I have
6 certain duties to perform. As the trial judge it is my
7 responsibility to preside over the trial of this case. And I
8 also have the duty to rule on the admissibility of the
9 evidence offered during this trial.

10 You are to consider only the competent evidence before
11 you. If there was any testimony ordered stricken from the
12 record in this case, during this trial, you must disregard
13 that testimony. You are to consider only the testimony which
14 has been presented from the witness stand, any exhibits which
15 have been made a part of the record in this case, and any
16 stipulations made by counsel.

17 I have the additional duty to charge you the law
18 applicable to this case. As the presiding judge, I am the
19 sole judge of the law of this case; and it is your duty as
20 jurors to accept and apply the law as I now state it to you.

21 If you already have any idea as to what the law is or
22 what the law ought to be and it does not agree with what I now
23 tell you the law is, you must abandon this idea because you
24 are sworn to accept the law and apply the law exactly as I
25 state it to you.

CHARGE OF LAW BY THE COURT

1 In every case tried in this Court before a jury, the jury
2 becomes the sole exclusive judge of the facts in a case. A
3 trial judge cannot intimate, state, comment on, or make any
4 statement to a trial -- to a trial jury about the facts in a
5 case.

6 Since you, the jury, are the sole judge of the facts of
7 this case you are not to infer from what I have said during
8 the progress of this trial, in ruling upon the admissibility
9 of evidence, or otherwise, or anything that I say now during
10 the course of this instruction to you, that I have any opinion
11 about the facts in this case. The law does not allow me to
12 have an opinion about the facts in this case. This is a
13 matter solely for you, the jury, to determine. As jurors, it
14 is your duty to determine the effect, value, weight, and truth
15 of the evidence presented to you during this trial.

16 There are two types of evidence which are generally
17 presented during a trial: Direct evidence and circumstantial
18 evidence.

19 Direct evidence is the testimony of a person who claims
20 to have actual knowledge of a fact, such as an eyewitness.

21 Circumstantial evidence is proof of a chain of facts and
22 circumstances indicating the existence of a fact. The law
23 makes absolutely no distinction between the weight or value to
24 be given to either direct or circumstantial evidence, nor is a
25 greater degree of certainty required of circumstantial

1 evidence than of direct evidence. You should weigh all the
2 evidence in the case.

3 After weighing all the evidence, if you are not convinced
4 of the guilt of the defendant beyond a reasonable doubt, you
5 must find him not guilty.

6 There are two types of evidence which are generally
7 presented -- sorry for that -- during the trial. The direct
8 evidence and circumstantial evidence. The direct evidence
9 directly proves the existence of a fact and does not require
10 deduction. Circumstantial evidence is a proof of chains of
11 facts of circumstances indicating the existence of a fact.

12 Crimes may be proven by circumstantial evidence. The law
13 makes no distinction between the weight or value to be given
14 to either direct or circumstantial evidence. However, to the
15 extent the State relies on circumstantial evidence, all of the
16 circumstances must be consistent with each other and when
17 taken together point conclusively to the guilt of the accused
18 beyond a reasonable doubt. If these circumstances merely
19 portray the defendant's behavior as suspicious, the proof has
20 failed.

21 The State has the burden of proving the defendant guilty
22 beyond a reasonable doubt; and this burden rests with the
23 State regardless of whether the State relies on direct
24 evidence, circumstantial evidence, or some combination of the
25 two.

CHARGE OF LAW BY THE COURT

1 What is reasonable doubt? A reasonable -- reasonable
2 doubt is the kind of doubt that would cause a reasonable
3 person to hesitate to act. The State has the burden of
4 proving the defendant guilty beyond a reasonable doubt.

5 And some of you may have served as jurors in civil cases
6 where you were told that it is only necessary to prove that a
7 fact is more likely true than not true, such as by a greater
8 weight of the -- or preponderance of the evidence.

9 In criminal cases, the State's proof must be more
10 powerful than that. It must be beyond a reasonable doubt.
11 Proof beyond a reasonable doubt is proof that leaves you
12 firmly convinced of the defendant's guilt.

13 There are very few things in this world that we know with
14 absolute certainty, and in criminal cases the law does not
15 require proof that overcomes every possible doubt. If based
16 on your consideration of the evidence you are firmly convinced
17 that the defendant is guilty of the crime charged, you must
18 find the defendant guilty. If, on the other hand, you think
19 there is a real possibility that the defendant is not guilty,
20 you must give the defendant the benefit of the doubt and find
21 him not guilty.

22 Necessarily, you must determine the credibility of
23 witnesses who have -- who have testified in this case.
24 Credibility simply means believability. It becomes your duty
25 as jurors to analyze and to evaluate the evidence and

CHARGE OF LAW BY THE COURT

1 determine which evidence convinces you of its truth.

2 In determining the believability of witnesses who have
3 testified in this case you may believe one witness over
4 several witnesses or several witnesses over just one witness.
5 You may believe a part of the testimony of a witness and
6 reject the remaining part of the testimony of that same
7 witness. You may believe the testimony of a witness in its
8 entirety, or reject the testimony of a witness in its
9 entirety. You may consider whether any witness has exhibited
10 to you any interest, bias, prejudice, or other motive in this
11 case. You may also consider the appearance and manner of a
12 witness while on the witness stand.

13 Normally a person cannot give opinion testimony; and
14 normally when a person testifies they must testify as to what
15 they either saw, heard, or sensed by smell or something of
16 that nature.

17 However, there is an exception; when someone is qualified
18 because of education or experience they are permitted to give
19 their opinion in certain areas if the Court qualifies them
20 that way. This witness will be qualified in the area of --
21 this witness in this case was qualified in the area of
22 historical cellular telephone record and data analysis and
23 could give his opinion testimony in that area. That does not
24 mean that you must accept the opinion, but it is evidence for
25 you to use in any way you see fit and give the weight and

CHARGE OF LAW BY THE COURT

1 credibility you believe is appropriate.

2 An issue in this case is identification of the defendant
3 as the person who committed the crime charged. The State has
4 the burden of proving identity beyond a reasonable doubt. You
5 must be satisfied beyond a reasonable doubt of the accuracy of
6 the identification of the defendant before you may convict the
7 defendant.

8 Identification testimony is an expression or belief or
9 impression by a witness. You must determine the accuracy of
10 the identification of the defendant and you must consider the
11 believability of each identification witness in the same way
12 as any other witness.

13 You may consider whether the witness had an adequate
14 opportunity to observe the offender at the time of the
15 offense. This will be affected by things like how long or
16 short a time was available, how far or close the witness was,
17 the lighting conditions, and whether the witness had the
18 chance to see or know the person in the past.

19 Once again, I instruct you the burden of proof on --
20 proof on the State extends to every element of the crime
21 charged and this specifically includes the burden of proving
22 beyond a reasonable doubt the identity of the defendant as the
23 person who committed this crime.

24 If after examining the testimony you have a reasonable
25 doubt as to the accuracy of the identification, you must find

1 the defendant not guilty.

2 In this case in order to establish criminal liability,
3 criminal intent is required. For example, the mental state
4 required to be proven by the State for a particular crime
5 might be purpose, intent, knowledge, recklessness, or criminal
6 negligence.

7 Criminal intent must be proven by the State beyond a
8 reasonable doubt. Criminal intent is always a matter that
9 must be determined by the jury from the circumstances
10 surrounding the situation.

11 There is no way to prove intent to a mathematical
12 certainty, there is no way medical science can dissect a
13 person's brain and determine what the person had in mind; so
14 the law says that criminal intent may be inferred from the
15 circumstances shown to have existed. This is how you make a
16 determination of whether or not the element requiring intent
17 was present.

18 It is not necessary to establish intent by direct and
19 positive evidence; but intent may be established by inference
20 in the same way as any other fact, by taking into
21 consideration the acts of the parties and all the facts and
22 circumstances of this case.

23 Criminal intent is a mental state, a conscious
24 wrongdoing. It is up to you, the jury, to determine what the
25 defendant intended to do based on the circumstances shown to

CHARGE OF LAW BY THE COURT

1 have existed. Criminal intent can arise from actions or a
2 failure to act. It may arise from negligence, recklessness,
3 or an indifference to duty or to consequences that is
4 considered by the law to be the equivalent of criminal intent.

5 The indictments in this case allege several different
6 offenses against the defendant. The charges are armed robbery
7 and possession of a weapon during the commission of a violent
8 crime.

9 Each indictment charges a separate and distinct offense.
10 You must decide each indictment separately on the evidence and
11 the law applicable to it, uninfluenced by your decision as to
12 any other indictment.

13 The defendant may be convicted or acquitted on any or all
14 of the offenses charged. You will be asked to write a
15 separate verdict of guilt or not guilty for each indictment.

16 The defendant is charged with armed robbery. In order to
17 prove this offense, the State must first prove beyond a
18 reasonable doubt that the defendant took personal property
19 from the person or presence of another.

20 Property is in the presence of a person if it is the
21 person's reach, inspection, observation, or control, so that
22 the person could, if not overcome with violence or prevented
23 by fear, actually keep possession of the property.

24 The State must also prove beyond a reasonable doubt that
25 the defendant carried the property away intending to

1 permanently deprive the owner of the property and to keep the
2 property for the defendant's own use. The slightest removal
3 of the property or the complete possession of the property,
4 even for an instant, by the defendant is sufficient to show a
5 taking and carrying away of the property.

6 The taking and carrying away of the property must have
7 been done with violence or by putting the owner of the
8 property in fear of violence.

9 Finally, the State must prove beyond a reasonable doubt
10 that the defendant was armed with a deadly weapon during the
11 robbery. A deadly weapon is any article, instrument, or
12 substance which is likely to cause death or great bodily
13 injury.

14 Whether an instrument has been used as a deadly weapon
15 depends on the facts and circumstances of each case. The
16 following are examples of instruments which may be deadly
17 weapons: A pistol, a shotgun, a rifle, a dirk, a dagger, a
18 knife, a slingshot, metal knuckles, a razor, gasoline, a
19 firebomb or Molotov cocktail, and lighter fluid. A gun may be
20 a deadly weapon even if it is not operating.

21 The defendant is also charged with possession of a weapon
22 during the commission of, or attempt to commit, a violent
23 crime. The State must prove beyond a reasonable doubt that
24 the defendant was in possession of a knife during the
25 commission of a violent crime.

CHARGE OF LAW BY THE COURT

1 A knife means an instrument or tool with a sharp-cutting
2 blade, whether or not fastened to a handle, which can be used
3 to inflict a cut, slash, or wound.

4 In order to find the defendant guilty of possession of a
5 weapon during the commission of a violent crime, you must
6 first find the defendant guilty of either committing a violent
7 crime or attempting the commit -- to commit a violent crime.
8 Armed robbery is a violent crime.

9 The State must prove beyond a reasonable doubt that the
10 weapon furthered, advanced, or helped in the commission of the
11 crime.

12 Ladies and gentlemen of the jury, I want to remind you,
13 as I stated previously, that the statements of the attorneys
14 cannot be considered as evidence.

15 The indictments charges the defendant with armed robbery
16 and possession of a weapon during the commission of a violent
17 crime. And I want to remind you that the fact that the
18 defendant was arrested, charged, and indicted in this case is
19 not evidence and cannot be considered by you as evidence of
20 guilt in this case nor does it create any presumption or
21 inference of guilt. This document simply is the formal
22 written instrument which contains the charges made against the
23 defendant. It is the formal document by which this case is
24 brought into this courtroom.

25 I will give you a copy of these instructions in written

CHARGE OF LAW BY THE COURT

1 form. During your deliberations you may refer to the
2 instructions to guide your decision-making. You must consider
3 the instructions as a whole and not follow some and ignore
4 others. Please return the instructions to the Court at the
5 time your verdict is rendered.

6 Ladies and gentlemen of the jury, that is the charge on
7 the law. And I want to remind you that in just a couple of
8 moments I am going to allow you to retire to the deliberation
9 room. And I want to remind you of a couple of things.

10 One, your verdict must be unanimous. All right? And in
11 doing so, Madam Forelady has some responsibilities. All
12 right?

13 Madam Forelady, I charge you with a couple of tasks. The
14 first is you will conduct and assist in the deliberation.
15 What do I mean by that? She is simply going to allow everyone
16 to participate. Okay? Everyone must participate.

17 If someone goes to the restroom, excuses themselves, or
18 has to take a phone call, go outside, please stop
19 deliberations. All right? Everyone needs to participate
20 fully and wholly. Make sure everyone is heard and make sure
21 everyone is understood. All right?

22 If there is a question or you need to ask the Court a
23 question or you need to see anymore evidence, or you have
24 something that you need me to clarify, simply just write a
25 note out, -- you'll do it, Madam Forelady -- give it to the

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1 bailiffs. They'll bring it to me, and I will address your
2 questions. All right?

3 In just a couple of moments I am going to ask you to
4 return to the jury room. But I don't want you to begin
5 deliberations. We're going to go through all of the evidence
6 to make sure everything has been placed in and that we have
7 all -- everything that we need. All right?

8 At that time, I will give everything to the bailiff.
9 They will come back there, and at that time they will instruct
10 you to begin deliberations. So at this point in time, please
11 don't begin any deliberations. All righty?

12 The verdict form. Madam Forelady, this will be in your
13 purview to keep with you. It simply is just The State of
14 South Carolina versus Allen Fields. These are simply just the
15 indictment numbers that I have referenced throughout the
16 trial.

17 And this is just the verdict form. It says: As to the
18 indictment number, armed robbery, we, the jury, unanimously
19 find the defendant, Allen Fields, not guilty or guilty. As to
20 Indictment Number 2017-GS-10-02132, possession of a weapon
21 during the commission of a violent crime, the jury unanimously
22 finds the defendant, Allen Fields, not guilty or guilty.

23 Madam Foreperson -- Forelady, you will sign it and date
24 it. And, again, it doesn't mean any difference as to which
25 one we put in order. One simply has to become one before the

1 next.

2 So at this point in time, I am going to ask you to retire
3 to your jury room. And if you will just wait on the bailiffs
4 to bring everything back, at that time you can begin your
5 deliberation. And your lunch will be given -- no, you just
6 leave the notepads in your seat. All right.

7 Thank you very much.

8 [Whereupon, the jury exits the courtroom 8/14/19, 12:18
9 p.m.]

10 THE COURT: All right. Any objection as to the jury
11 charge or review of the verdict form?

12 MR. OSBORNE: No, Your Honor.

13 THE COURT: From the State?

14 MR. OSBORNE: No.

15 THE COURT: From the defense?

16 MR. DANIELS: No, Your Honor.

17 THE COURT: All righty. If y'all would, the only two
18 things that you're going notice that I put the charge in there
19 and the verdict form. And myself and the court reporter have
20 gone over everything. And it should still be there unless
21 y'all grabbed something out of it.

22 MR. DANIELS: I did -- I did move it. I think I put it
23 back in place. Item Number 27.

24 THE COURT: Yes. Let's just make sure that they're all
25 there before we send it back, and y'all let me know when y'all

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1 agree on it.

2 MR. OSBORNE: We do have -- we do have an issue with
3 the - is it 57 - on the jail calls.

4 MS. NORRIS: Is it just the clip on the disk?

5 MR. OSBORNE: Yeah, 58 was ---

6 THE COURT: Fifty-seven didn't go in.

7 MR. OSBORNE: Okay. That's right.

8 THE COURT: Fifty-eight went in as the clip from the
9 bigger one. He didn't put 57 in.

10 MS. NORRIS: And the 911 is just the -- just the one that
11 was played, is it not?

12 MR. OSBORNE: Yeah, let me double-check on that.
13 Fourteen should be in.

14 THE COURT: Fourteen is in.

15 MR. DANIELS: And, Your Honor, can they have their
16 notebooks for deliberation?

17 THE COURT: We're going to have to -- that's what we're
18 going to have to talk about.

19 MR. DANIELS: Oh, okay.

20 MR. OSBORNE: I am fine with that.

21 [Court reporter lists exhibits marked for ID and not
22 going to the jury: State's 53, 54, 55, 57, 59, 60, 66, 67]

23 [Counselors review exhibits]

24 THE COURT: All right. You can take it to them and tell
25 them to begin deliberations and let them know ---

1 THE LAW CLERK: What about the alternates?

2 THE DEPUTY CLERK: Those two alternates, yes.

3 THE COURT: Okay. Bring them to me.

4 THE LAW CLERK: What about the notebooks?

5 THE COURT: Well, hold on real quick.

6 What's y'all's position as to the notebooks?

7 MR. OSBORNE: I am fine with them having notebooks.

8 MR. DANIELS: If they're allowed to have them, they
9 should have them in deliberation.

10 THE COURT: All right. Collect the notebooks and take
11 them back to them and tell them that they can begin their
12 deliberation.

13 MR. DANIELS: For -- since they are all scattered, if
14 they can't be matched can they just be given to the -- so the
15 foreperson can hand them out? Is that ---

16 THE COURT: What I would do is this. Start here
17 (motioning), go that way (motioning), start at the top and go
18 that way (motioning). And tell them where they sat, this will
19 be your book.

20 If you sat in the last one of the front row, this is your
21 book. Make -- and then you can just go down and they'll tell
22 you who sat next to who. Make it easy on you.

23 LAW CLERK: And don't take the alternates'.

24 THE COURT: Bring me the -- just bring me the alternates.

25 [Whereupon, the jury begins deliberations at 8/14/19,

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1 12:23 p.m.]

2 [Whereupon, alternates dismissed by the court]

3 [Whereupon, a recess is taken in this case, 8/14/19,
4 12:26 p.m. to hear other court matters]

5 [Whereupon, resume 8/14/19, 1:32 p.m., for jury
6 questions.]

7 [Whereupon, defendant enters courtroom]

8 QUESTION FROM THE JURY

9 THE COURT: All righty. The jury has submitted three
10 questions. The first is please provide a copy of the
11 detective's interview, Richardson, with Allen Matthews and
12 Jackie Grant in 2016. Richardson testified about these.

13 Second, please provide the court transcript of Allen
14 Matthews' testimony.

15 Three. Can't get Sonoco video to play on TV.

16 All right. Let's go one by one. I am not sure what
17 they're asking for in number one. What did Detective
18 Richardson testify to as to Allen Matthews and Jackie Grant?

19 MR. OSBORNE: Well, they're asking for the audio-recorded
20 interview of those two individuals; and that's not in
21 evidence.

22 THE COURT: All righty. So that answers that one.

23 And number two is fairly easy. Please provide the court
24 transcript of Allen Matthews' testimony. I will simply just
25 instruct them that we don't -- they have to take what they

1 heard from the witness stand and that we don't provide
2 transcripts of any testimony, they have to rely on their own
3 recollection of what was testified to on the stand.

4 MR. OSBORNE: And sometimes we've played it if they
5 wanted to come out ---

6 MS. NORRIS: Your Honor, there is the option of bringing
7 them back in and just playing it back for them.

8 THE COURT: Okay. And who can help them get the Sonoco
9 video to play on TV?

10 THE DEPUTY CLERK: I can go back there and see what's
11 going on. I told them -- it's probably like a technology
12 issue. So I'll go back there and --

13 THE COURT: Okay. All right. Will you bring the jury
14 in, please.

15 THE BAILIFF: Bring them in?

16 THE COURT: Yes, sir.

17 MR. OSBORNE: Can I just -- that -- that is a
18 proprietary program. It might not play.

19 [Whereupon, off-record discussions regarding technology
20 and playback in courtroom if necessary]

21 [Whereupon, break awaiting jury]

22 [Court reporter informs the Court of the length of time
23 Allen Fields was on the witness stand]

24 [Whereupon, the jury enters the courtroom 8/14/19, 2:07
25 p.m.]

1 THE BAILIFF: The jury is seated.

2 THE COURT: All righty. Thank you so very much.

3 So I have received your note and have reviewed it. The
4 first question is: Could you please provide a copy of the
5 detective's interview, Richardson, with Allen Matthews and
6 Jackie Grant, 2016. Richardson testified about these.

7 Those are not into evidence. All right. They are not
8 submitted into evidence. All right, and so those will not be
9 available. Okay.

10 Number two is please provide the court transcript of
11 Allen Matthews' testimony.

12 We don't create a transcript. Madam Court Reporter does
13 that at a later date. The only thing that we could make
14 available to you is she can actually que it back up and play
15 that testimony. We have reviewed it and it's thirteen minutes
16 long. That is -- if that's what y'all would like, we're happy
17 to do it that way. But there's no way for us to make you a
18 transcript. All right?

19 And then the third one is can't get Sonoco video to play
20 on TV. Cameron is going to try to go in there and see if he
21 can get it to play.

22 All right. Do y'all want opportunity to discuss amongst
23 yourselves about playing back the testimony of Allen Matthews
24 outside the Court's presence?

25 THE FOREPERSON: Yes, sir.

1 THE COURT: All right.

2 [Whereupon, the jury exits the courtroom 8/14/19, 2:10
3 p.m.]

4 [Whereupon, a recess is taken to handle matters in
5 another trial]

6 [Whereupon, resume trial. The jury enters the courtroom
7 8/14/19, 2:44 p.m.]

8 THE BAILIFF: Jurors are all seated, Your Honor. They
9 have a question.

10 THE COURT: All right.

11 JURY FORELADY: We don't all have great vision, and so we
12 were hoping to be able to watch this in the juror room but we
13 had some technical difficulties. We are wondering if we can
14 get closer to the television to watch it, just stand if
15 preferable.

16 THE COURT: You can do whatever you would like.

17 JURY FORELADY: Okay.

18 MS. NORRIS: Your Honor, may we approach before we do
19 that?

20 THE COURT: Sure.

21 [Whereupon, an off-the-record bench conference is held]

22 THE COURT: All righty. They're prepared. They've got
23 it all queued up and ready for y'all to watch, so if y'all
24 will just position yourself whatever is most convenient for
25 y'all. You are free to move anywhere you would like.

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1 [Whereupon, pause for jurors to reposition in courtroom
2 near displays]
3 [Whereupon, begin playback of video for the jury]
4 [Whereupon, additional monitor positioned in front of
5 jury box]
6 JUROR: Can we -- can we keep playing on this view?
7 MR. OSBORNE: Yes. Any objection?
8 MR. DANIELS: No objection.
9 THE COURT: I didn't hear it.
10 MR. DANIELS: For the record, juror asked if the video
11 could keep playing on this view.
12 THE COURT: Gotcha.
13 [Whereupon, view continues to play for jury]
14 [Whereupon, video concludes]
15 THE COURT: All right. Has everyone in the jury had
16 ample capabilities of viewing the video? All right. I will
17 send you back to the jury room to continue your deliberations.
18 Thank you so very much.
19 [Whereupon, the jury exits the courtroom 8/14/19, 3:00
20 p.m.]
21 THE COURT: All right. Anything from the State?
22 MR. OSBORNE: No, Your Honor.
23 THE COURT: Anything from the defense?
24 MR. DANIELS: Just for the record. The clerk of court
25 moved a small monitor in front of the jury so that way he was

1 able to address any ADA issues.

2 THE COURT: All righty. We'll be in recess.

3 [Whereupon, the jury exits the courtroom]

4 [Whereupon, a recess by the Court 8/14/19, 3:03 p.m. to
5 handle another trial matter]

6 [Whereupon, resume this trial 8/14/19, 4:21 p.m.]

7 THE COURT: All right. We have another question.

8 QUESTION FROM THE JURY

9 THE COURT: Number one: Please provide State's Exhibit
10 Number 57. This is the entire jail phone call. We already
11 have the abbreviated version, Number 58.

12 We know the answer to that, which is 57 is not in
13 evidence. All right?

14 Number two: Is there a written translation of the jail
15 call?

16 I don't know the answer.

17 MR. OSBORNE: Well, I mean, we had a transcript; but that
18 is something that we prepare. And I think it's the same
19 answer, it is not in evidence.

20 MR. DANIELS: And it's ---

21 THE COURT: The only -- I mean, we would have to just
22 play it for them again.

23 MR. DANIELS: If that's what they want, yes.

24 THE COURT: I mean, I think that's our only remedy.
25 Would you agree?

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1 MR. OSBORNE: I would.

2 THE COURT: Agree?

3 MR. DANIELS: Yep. Yes, sir. But they have -- they have
4 access to that in their ---

5 MR. OSBORNE: Assuming that's playing for them.

6 THE COURT: Ah, that's the -- I can't answer that
7 question without bringing them out here. I've got to bring
8 them out here anyway.

9 So I forgot to tell the bailiffs. They are getting
10 drinks.

11 [Whereupon, pause awaiting jury]

12 [Whereupon, the jury enters the courtroom 8/14/19, 4:25
13 p.m.]

14 THE BAILIFF: Your Honor, the jury is complete.

15 THE COURT: Thank you so very much, Mr. Robinson.

16 All right. Ladies and gentlemen of the jury, I have
17 received your note. And the first question is: Please
18 provide State Exhibit Number 57. This is the entire jail
19 phone call. We already have the abbreviated version, Number
20 58.

21 Number 57 was not put into evidence.

22 All right. Number two: Is there a written translation
23 of the jail call?

24 There was no written translation of the jail call placed
25 into evidence.

1 Are you -- you have the written -- I mean you have the
2 jail call. Have you been able to play it?

3 FOREPERSON: Yes.

4 THE COURT: Okay. Do you need us to play it?

5 FOREPERSON: No.

6 THE COURT: Okay. There was no -- there was no written
7 translation of the jail call placed into evidence. All right?
8 Does that answer your questions?

9 THE FOREPERSON: Yes, sir.

10 THE COURT: All right. Please return to the jury room
11 and continue your deliberation. And let me know if you need
12 anything further.

13 THE FOREPERSON: Thank you.

14 THE COURT: Thank you.

15 [Whereupon, the jury exits the courtroom 8/14/19, 4:27
16 p.m.]

17 THE COURT: All right. Anything or objection from the
18 State or the defense?

19 MR. OSBORNE: None, Your Honor.

20 MR. DANIELS: None, Your Honor.

21 THE COURT: All righty. We'll be in recess. Thank you.

22 [Whereupon, a recess is taken from 4:27 p.m.]

23 [Whereupon, Court's Exhibit Number 2, 3, and 4, jury
24 notes, marked for identification]

25 [Whereupon, the jury enters the courtroom at 4:36 p.m.]

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1 THE BAILIFF: Your Honor, the jury is complete.

2 VERDICT

3 THE COURT: All right. It's my understanding that you
4 have a verdict; is that correct?

5 THE FOREPERSON: [Nods head]

6 THE COURT: All right. If you'll give it to the bailiff,
7 please.

8 [Whereupon, the foreperson proffers verdict to the
9 bailiff. The bailiff proffers verdict to the Court]

10 [Whereupon, the Court reviews verdict]

11 THE COURT: All right.

12 [Whereupon, the Court proffers verdict to the clerk of
13 court]

14 THE COURT: All right. Mr. Clerk.

15 All right. Mr. Fields, if you'll please stand.

16 [Whereupon, Mr. Fields complies]

17 THE DEPUTY CLERK OF COURT: The State of South Carolina
18 versus Allen Fields, Indictment Number 2017-GS-10-02131 and
19 2017-GS-10-02132. As to the indictment for armed robbery, we,
20 the jury, unanimously find the defendant, Allen Fields,
21 guilty.

22 As to the indictment on possession of a weapon during the
23 commission of a violent crime, we, the jury, unanimously find
24 the defendant, Allen Fields, guilty.

25 Signed and dated by the -- by the foreperson.

1 THE COURT: All right. Would like to have the jury
2 polled?

3 MR. DANIELS: We would, Your Honor.

4 THE COURT: All righty. Mr. Clerk?

5 POLLING OF THE JURY

6 THE DEPUTY CLERK OF COURT: All right. I am going to ask
7 y'all two questions: Is this -- is this your verdict and is
8 this still your verdict. When I call your name -- your juror
9 number and your name, if you are -- when I call your juror
10 number, if you would you please stand.

11 Juror number 35, is this your verdict?

12 JUROR NUMBER 35: It is.

13 THE DEPUTY CLERK OF COURT: Is it still your verdict?

14 JUROR NUMBER 35: Yes, it is.

15 THE DEPUTY CLERK OF COURT: All right. Juror Number 60,
16 is this your verdict?

17 JUROR NUMBER 60: Yes, it is.

18 THE DEPUTY CLERK OF COURT: Is it still your verdict?

19 JUROR NUMBER 60: Yes, it is.

20 THE DEPUTY CLERK OF COURT: Juror Number 86, is this your
21 verdict?

22 JUROR NUMBER 86: Yes.

23 THE DEPUTY CLERK OF COURT: Is this still your verdict?

24 JUROR NUMBER 86: Yes.

25 THE DEPUTY CLERK OF COURT: Juror Number 97, ---

State vs. Allen Fields

1 JUROR NUMBER 97: Oh, yes.

2 THE DEPUTY CLERK OF COURT: --- is this your verdict?

3 JUROR NUMBER 97: Yes.

4 THE DEPUTY CLERK OF COURT: Is this still your verdict?

5 JUROR NUMBER 97: Yes.

6 THE DEPUTY CLERK OF COURT: Juror Number 99, is this your
7 verdict?

8 JUROR NUMBER 99: Yes.

9 THE DEPUTY CLERK OF COURT: Is this still your verdict?

10 JUROR NUMBER 99: Yes.

11 THE DEPUTY CLERK OF COURT: Juror Number 121, is this
12 your verdict?

13 JUROR NUMBER 121: Yes.

14 THE DEPUTY CLERK OF COURT: Is this still your verdict?

15 JUROR NUMBER 121: Yes.

16 THE DEPUTY CLERK OF COURT: Juror Number 134, is this
17 your verdict?

18 JUROR NUMBER 134: Yes.

19 THE DEPUTY CLERK OF COURT: Is this still your verdict?

20 JUROR NUMBER 134: Yes.

21 THE DEPUTY CLERK OF COURT: Juror Number 231 -- oh,
22 that's the wrong one. Juror Number 260, is this your verdict?

23 JUROR NUMBER 260: Yes.

24 THE DEPUTY CLERK OF COURT: Is this still your verdict?

25 JUROR NUMBER 260: Yes.

1 THE DEPUTY CLERK OF COURT: Juror Number 267, is this
2 your verdict?
3 JUROR NUMBER 267: Yes.
4 THE DEPUTY CLERK OF COURT: Is this still your verdict?
5 JUROR NUMBER 267: Yes.
6 THE DEPUTY CLERK OF COURT: Juror Number 277 -- oh, Juror
7 Number 280. I apologize. Is this your verdict?
8 JUROR NUMBER 280: Yes, it is.
9 THE DEPUTY CLERK OF COURT: Is this still your verdict?
10 JUROR NUMBER 280: Yes.
11 THE DEPUTY CLERK OF COURT: Juror Number 298, is this
12 your verdict?
13 JUROR NUMBER 298: Yes.
14 THE DEPUTY CLERK OF COURT: Is this still your verdict?
15 JUROR NUMBER 298: Yes.
16 THE DEPUTY CLERK OF COURT: Juror Number 300, is this
17 your verdict?
18 JUROR NUMBER 300: Yeah.
19 THE DEPUTY CLERK OF COURT: Is this still your verdict?
20 JUROR NUMBER 300: Yes.
21 THE COURT: All right. Thank you very much. The jury
22 has been polled. Y'all can be seated.
23 All right. Ladies and gentlemen of the jury, that
24 concludes your jury service. I can't thank you enough for all
25 of your diligence and hard work.

1 Obviously, I sit up here and look down at y'all most of
2 the time; and y'all have paid attention to everything. You
3 asked extremely intelligent questions. And so I know that you
4 deliberated very fairly and diligently. And so I just want to
5 thank you for that.

6 All right. But for purposes of your jury service, you
7 are free to go. Thank you so very much for your time.

8 [Whereupon, the jury exits the courtroom 8/14/19, 4:40
9 p.m.]

10 THE COURT: I'll give -- I'll give y'all a couple of
11 minutes. Are y'all ready to proceed into sentencing?

12 MR. DANIELS: I believe we are.

13 THE COURT: All right. Give me two minutes.

14 [Whereupon, break 8/14/19, 4:40 p.m.]

15 [Whereupon, resume 8/14/19, 4:42 p.m.]

16 MR. OSBORNE: Thank you, Your Honor. I'll just publish
17 his criminal record. I have convictions in 1998 for
18 possession of a stolen pistol; 2003, a parole revocation;
19 2006, malicious injury to property, two convictions there; in
20 2008, possession of drug paraphernalia, also possession of
21 marijuana; in 2009, failure to stop for blue lights, open
22 container, driving under suspension second offense, giving
23 false information; in 2010, giving false information; in 2014,
24 possession with intent to distribute, and I think it is going
25 to be marijuana.

1 The victims, Ms. Muller does have something she would
2 like to say to the Court. And I have left for you her impact
3 statement up there, as well.

4 THE COURT: All right. And I have a copy of it.

5 Yes, ma'am. Be happy to hear from you.

6 MS. MULLER: On September 13th, 2016, your decision to
7 rob the TD Bank at 852 Orleans Road will forever affect my
8 life and the life of the others present that day.

9 When you think of a bank robbery, you immediately think
10 of a monetary loss. But when that knife was put in my face
11 you took so much more than money. You took away my sense of
12 security and inflicted emotional stress that I continue to
13 live with each day.

14 Thankfully, no one was physically harmed that day. But
15 the psychological impact in ongoing and irreversible.

16 On behalf of myself, my former coworkers, and the
17 customers of TD Bank, I ask that this case not only be looked
18 at as a crime against a financial institution but as a crime
19 against the individuals who were present that day.

20 Thank you.

21 THE COURT: Thank you very much.

22 THE BAILIFF: Everyone is accounted for.

23 THE COURT: All right.

24 THE BAILIFF: There are some that want to hear the
25 sentence.

State vs. Allen Fields

1 THE COURT: Bring them in, please.

2 [WHEREUPON, some jurors enter 8/14/19, 4:44 p.m. for
3 sentencing]

4 THE COURT: All right. Thank you very much for that.

5 MR. OSBORNE: Just lastly, Your Honor, you've heard his
6 criminal history. You heard from Ms. Muller. I don't think
7 we could have said it any better ourselves.

8 THE COURT: Thank you very much, Ms. Muller. I
9 appreciate that.

10 All right. Yes, sir?

11 MR. DANIELS: Thank you, Your Honor.

12 Mr. Fields has been surrounded by people all week, people
13 who were put into a difficult position where they had to
14 testify. They're still here. They're still crying.

15 We have already made the record about what we feel is a
16 significant issue in this case, of an unanticipated,
17 unprecedented, in this case, identification. We believe
18 that's an issue for a mistrial. And it also took from Allen
19 the opportunity to take plea deals before.

20 Mr. Fields is thirty-nine years old. He's a native of
21 Charleston. He has family in Charleston. As you heard
22 throughout the case, he was -- he was locked up in October
23 with Christopher Wright, who is not arrested, and he has
24 served about 1,030 days as of today. That number is going to
25 be off a couple of days. I apologize. I wasn't prepared for

1 the -- for the verdict to come at that moment.

2 In that time, Allen has been working hard. Allen has
3 been working hard, harder than any of my other clients,
4 because he had time on his hands and he wanted to better
5 himself. It is something that should always be praised.

6 Allen had an eleventh-grade education. He's thirty-nine
7 years old. He took the time to complete his GED program. He
8 completed a -- excuse me, he completed a mental health group
9 that is through the -- that is through the jail, helping --
10 it's not just DAODAS, which he did also complete; but he
11 completed a mental health group that I believe is called the
12 Peer Program. And it is to get him -- for its persons upon
13 entry of release, and it's coping skills. It is real live
14 skills.

15 He also successfully completed the Turning Leaf program
16 while it was in the jail before it was unfunded. He was even
17 accepted into Delancey Street, S.C. Strong. In my line of
18 work, I think that's one of the gold standards. Delancey
19 Street is incredibly picky about who they take. He has his
20 letter here dated for 2016. He was accepted. He has this
21 letter, and he knows he can't go.

22 What -- here today is his family, some of whom were asked
23 to testify. If anybody here would like to make a statement to
24 the judge if you would come up to the bar.

25 I'd like to point out, this morning during that delay, I

1 don't often see family interactions like this. He's got a
2 strong support.

3 THE COURT: Yes, sir. Your name?

4 MR. JOHN GRANT: John Grant.

5 THE COURT: I'm sorry?

6 MR. JOHN GRANT: John Grant.

7 THE COURT: G-R-A-N-T?

8 MR. JOHN GRANT: Yes, sir.

9 THE COURT: Yes, sir. I'll be happy to hear from you.

10 MR. JOHN GRANT: On behalf of my family and the Fields
11 family I just want to ask the Court and you, Judge, to have
12 mercy on the sentencing. His mother who is right here, she is
13 sick. She is very sick.

14 And I am not God. And we are not God. We don't know how
15 long that we all will be here. But I am just asking to please
16 have mercy on him today and for the family, Your Honor.

17 I can't take back right or wrong. Everyone makes
18 mistakes. And people do got to pay for their mistakes that
19 they make. But if you can find it in your heart just to have
20 mercy or whatever. Please. Thank you, Your Honor. That's
21 what I can say.

22 THE COURT: Thank you very much, Mr. Grant.

23 MR. JOHN GRANT: Thank you, sir.

24 THE COURT: Yes, sir. Anyone else? I'll be happy to
25 hear from you.

1 MR. DANIELS: That was Jackie Grant's other son.

2 THE COURT: All right.

3 MR. DANIELS: We would request -- Mr. Fields just
4 procedurally had a couple of things happen during this --
5 during the course of this trial, and he is waiting for this to
6 happen. His attorney changed. There were extensions that
7 happened. That just happens with change of personnel. Which
8 is why he's been in so long. He was never able to make the
9 bond of \$300,000. His bond was never lowered.

10 We request that you take mercy, as Mr. Kelvin said --
11 or Mr. Grant said. We're requesting between -- it is an
12 eighty-five-percent sentence. With an eighty-five-percent
13 sentence, that's -- I think that's the truth -- that's the
14 truth in sentencing. It's not these other sentences where you
15 see people going around on PWID's and things like that where
16 they might 50 percent or a third. This is an eighty-five-
17 percent charge. He's going to do eighty-five percent of the
18 sentence that he's given, and he's going to have the community
19 supervision hanging over his head where that other fifteen
20 percent can be activated any time because the State wants to
21 keep tabs on his life.

22 We're requesting between ten and fifteen years.

23 THE COURT: All right. Mr. Fields, anything you would
24 like to tell me?

25 MR. FIELDS: Yes, sir. I'll just say I am not a bad

State vs. Allen Fields

1 person. I realized while I was being incarcerated for almost
2 three years I know it's not the answer to consequence any
3 goals in life.

4 And I did make a good desire to change. And I was trying
5 to go out and change and join the Turning Leaf program and get
6 a job for the City of Charleston, get my life back together
7 and take care of my kids and be with my family and my mom and
8 my sisters.

9 THE COURT: All righty. Thank you very much, Mr. Fields.
10 Anything further?

11 MR. OSBORNE: Nothing further, Your Honor.

12 SENTENCING

13 THE COURT: All right. Mr. Fields, you are aware that
14 the crime of armed robbery carries a minimum of ten years and
15 a maximum of thirty years in prison?

16 MR. FIELDS: Yes, sir.

17 THE COURT: All right. Is possession with a weapon
18 during the commission of a violent crime zero to five?

19 MR. OSBORNE: It is zero to five, Your Honor. And you
20 can -- even though it is zero to five, because the ten
21 governs. Yeah. And you can run those concurrent.

22 THE COURT: All right. Mr. Fields, I am going to give
23 you a little bit of credit for what you've done while you've
24 been incarcerated and not just sitting in there creating
25 issues.

1 Your prior record is overly extensive. You were
2 building, as if this was going, from 2008 to 2009 to 2010,
3 2014. It was escalating, unfortunately, to this. But you
4 don't have an extensively large violent or prior record.

5 So on Indictment Number 2017-GS-10-02131, for the offense
6 of armed robbery, I am going to sentence you to the State
7 Department of Corrections for a term of thirteen years.

8 2017-GS-10-02132, I am going to sentence you to the State
9 Department of Corrections for possession of a weapon during
10 the commission of a violent crime for five years. And that's
11 to run concurrent. You are to get credit for day-to-day what
12 you've been spending in the jail you'll get credit for your
13 time served. Good luck to you, sir.

14 MR. FIELDS: Thank you.

15 MR. DANIELS: Thank you, Your Honor.

16 MR. OSBORNE: Thank you, Judge.

17 [Off the record momentarily]

18 THE COURT: Ladies and gentlemen, that is it for the day.
19 That concludes everything. We will all be leaving now with
20 y'all and so there's nothing else that y'all would be missing.

21 So, again, as I stated to you, again, that shows that
22 you were vested in your job by coming back in and watching the
23 sentencing and seeing it through. And so I can't thank you
24 enough for the service.

25 All right. Thank you so very much. Have a wonderful

State vs. Allen Fields

1 evening.

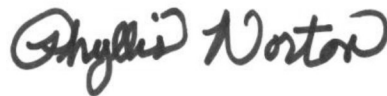
2 [Whereupon, jury trial concludes 8/14/19, 4:55 p.m.]

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on August 14, 2019 to August 16, 2019.

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



PHYLLIS NORTON, CVR

Date: November 10, 2019

*Certified Transcript Provided For: SCCID
Certification Reference #2019-1110 Original*

DLO/0322234
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2016-16049

ARREST WARRANT NUMBER

2016A1011300096

DATE OF ARREST

10/04/2016

ACTION OF GRAND JURY

TRUE BILL

APR 10 2017

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-10-02132

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2017

THE STATE

VS.

ALLEN ANGELO FIELDS

DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED

5/2/2017 9:31:05 AM

JULIE J. ARMSTRONG

CLERK OF COURT

RECEIVED

AUG 19 2019

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

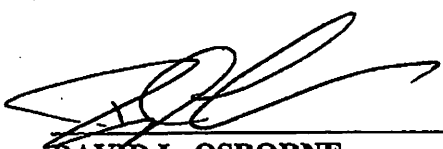
INDICTMENT

At a Court of General Sessions, convened April 2017, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about September 13, 2016, the Defendant, Allen Angelo Fields, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: Armed Robbery; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAVID L. OSBORNE
ASSISTANT SOLICITOR

DLO/0322234
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2016-16049

ARREST WARRANT NUMBER

2016A1011300095

DATE OF ARREST

10/04/2016

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

APR 10 2017
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-10-02131

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2017

THE STATE

VS.

ALLEN ANGELO FIELDS

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

FILED

5/2/2017 9:31:05 AM
JULIE J. ARMSTRONG
CLERK OF COURT

RECEIVED

AUG 19 2019

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2017, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about September 13, 2016, in Charleston County, South Carolina, the Defendant, Allen Angelo Fields, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Allison Wilson with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DAVID L. OSBORNE
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

ALLEN ANGELO FIELDSAKA: Allen Angelo FieldsRace: [REDACTED] Sex: [REDACTED]DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF orTO: Possession Of A Weapon During The Commission Of A Violent CrimeIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

101325

David L. Osborne, Assistant Solicitor

SC Bar #

Defendant

102682

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2017-65-10-02132☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: _____ \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ 25.00

Proviso (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ _____

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: [Signature]

Judge Code: _____

Sentence Date: 08/14/2019Clerk of Court/Deputy Clerk: [Signature]Court Reporter: [Signature]

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

ALLEN ANGELO FIELDSAKA: Allen Angelo FieldsRace: [REDACTED] Sex: [REDACTED]DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL# [REDACTED] SID# [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury, [REDACTED] (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 101325 [Signature] 102682
 David L. Osborne, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 13 ~~years~~ months or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
 are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives HearingTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient: *Fine: \$ §14-1-206 (Assessments 107.5%) \$ §14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ §56-5-2995 (DUI Assessment) \$12 \$ §56-1-286 (DUI Breath Test) \$25 \$ Proviso (Public Def/Probation) \$500 \$ §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ §50-21-114 (BUI Breath Test Fee) \$50 \$ §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: [Signature]
 Court Reporter: Phyllis Norton

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-10-02131A/W: 2016A1011300095Date of Offense: 09/13/2016S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS☐ Ordered PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: AUG 19 2019 SC Court of Appeals☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: [Signature]Judge Code: Sentence Date: 09/14/2019



Camera 7 - 9/13/2016 1:10:39 PM





Yes I know this person as
Lil Bubba

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Kathrine H. Hudgins
Appellate Defender

RECEIVED

Oct 02 2020

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 2nd day of October, 2020.