

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

KEENAN COAKLEY,

RECEIVED
JUL 31 2019
S.C. SUPREME COURT
PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-002156

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON	)	
State of South Carolina,	)	
	)	
v.	)	Case No. 11-GS-10-2078
	)	
Keenan Coakley,	)	
	)	
Defendant	)	

TRANSCRIPT OF JURY TRIAL

The within jury trial in the above-captioned matter was held December 2 through December 6, 2013, before The Honorable R. Markley Dennis, Jr. in Courtroom 4C of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel as follows:

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ALSO APPEARING:

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Appearing for Defendant Kevin Smalls

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2

DECEMBER 2, 2013

9:00 A.M.

3

(STATUTORY JURY QUALIFICATION)

4

(PANEL EXCUSED FOR BALANCE OF DAY)

5

DECEMBER 3, 2013

1:00 P.M.

6

(IN CHAMBERS STATUS CONFERENCE)

7

(DEFENDANT COAKLEY PRESENT - COURTROOM

8

4C)

9

THE COURT: Let the record reflect

10

that Mr. Coakley is present. Uh, -- thank

11

you very much.

12

Prior to your arriving, we had a

13

status conference and talked about certain

14

things, one of which was the closing argument

15

of Mr. Smiley. I assume you've received

16

this. Ms. Shealy, have you received this?

17

SOLICITOR SHEALY: I have not.

18

THE COURT: I'm sorry. Well, there are

19

two decisions on point. I find it interest-

20

ing and I'm going to apply the law as it has

21

been established. You can raise the

22

objection.

23

It was addressed by the Court very

24

summarily, I think, in 2010, the *State v.*

25

Smith, which is 387 South Carolina 619. It's

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1 an interesting Opinion. They're relying on
2 the case of the *State v Huckie* at 22 South
3 Carolina 298. It's an 1885 case, I think. A
4 very old case, but it applies. It clearly
5 states that even when there are conflicting
6 sides in a codefendant's case, that if any
7 defendant offers evidence then the defendants
8 lose the right to close and that the State
9 has the right to close.

10 I personally don't agree with that, but
11 that's the law. I am going to apply it. I
12 think that it needs to be revisited. They
13 talk about it very quickly, in about two
14 sentences, I think, about whether or not
15 that's the right -- whether or not you would
16 lose the right to close.

17 Of course that Motion is not before me,
18 but if it was I'd have to rule; because it
19 says 'no', that it is not, that it doesn't
20 create a right ---

21 JIM SMILEY: If I remember right, *Smith*
22 was the Fifth Circuit, the severance ---

23 THE COURT: It dealt with severance but
24 they also stated, because they raised the
25 issue that you'd lose the right to close if

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1 forced to go to trial. That's correct. That
2 was Judge Jefferson's case.

3 JIM SMILEY: Right. But it did create a
4 subsequent right to settle.

5 THE COURT: It did not.

6 JIM SMILEY: Okay.

7 THE COURT: And they reaffirmed
8 basically by mention that they are relying on
9 the principles stated in *State v. Crowe*.

10 JIM SMILEY: All right, I ---

11 THE COURT: And *State v. Crowe* is the
12 case that discusses it. That's a Supreme
13 Court decision.

14 JIM SMILEY: Yes, sir.

15 THE COURT: So I will follow those
16 Decisions and -- the Court may choose to deal
17 with it otherwise, should that become
18 necessary.

19 JIM SMILEY: Where do you -- when is the
20 appropriate time to make ---

21 THE COURT: I would think that you
22 would make it at the close of case, that you
23 would move to have a right to close. Because
24 I don't know at this stage -- as I am going
25 to tell the jury, don't look to the

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1 defendants to offer any evidence because they
2 don't have to offer any evidence. That's not
3 what the law says.

4 If that be the case, then we will address
5 it at that time. I just wanted to give you,
6 preliminarily, -- you asked what would be my
7 position. My position would be to follow the
8 principles that are set forth in *State v.*
9 *Crowe* and *State v. Smith*.

10 With respect to -- kick this one around.
11 With alternates, whether it doubles or not.
12 The logic would say that if it doubles for
13 preemptory challenges that it doubles for
14 alternates. But in reading it, it doubles
15 with preemptory challenges because the
16 legislature chose to provide for that. They
17 did not provide for that in the alternates
18 statute. And the statute, I would note,
19 follows the preemptory challenge. So if the
20 State wanted to create that right among
21 defendants for alternate selection, they
22 could have. They chose not to do it. So
23 strikes are one and two. Divide them up
24 however y'all want. Per alternate.

25 JIM SMILEY: Yes, sir. I would object

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1 ANDREW GRIMES: No, sir.

2 THE COURT: Anything, Mr. Runyon?

3 WILLIAM RUNYON: Nothing from Defendant

4 Coakley at this time.

5 THE COURT: Thank you so much. Okay.

6 Anything else, Mr. Smiley?

7 JIM SMILEY: Your Honor, just that I've

8 explained to my client that he will also be

9 taken into custody.

10 THE COURT: Do you understand that,

11 sir?

12 KEVIN SMALLS: Yes, sir.

13 THE COURT: Thank you so much.

14 JIM SMILEY: Thank you.

15 THE COURT: You bet. You will be

16 given, for your edification, and I know each

17 of us do different things, uh, -- my position

18 is that I can't think of a more serious case

19 than I try. Although certainly these are all

20 serious cases and I understand that. A

21 capital murder case is probably, by nature,

22 one of the most serious cases that we try in

23 this General Sessions courtroom. I, for the

24 life of me, in almost every single one that

25 I've tried, though not that many, I've tried

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1 to ---

2 THE COURT: Well, you can offer it now,
3 but based on what? Just on general
4 principle, because it was doubled on
5 preemptory challenges?

6 JIM SMILEY: I would ---

7 THE COURT: Because there is no
8 statutory provision that I saw and no case
9 law decided; I don't believe, I couldn't find
10 it.

11 JIM SMILEY: I will just be quiet.

12 THE COURT: No, no, you can challenge
13 it. I don't have any problem with an
14 objection but it has to have a foundation,
15 based on something.

16 JIM SMILEY: Well, if I could, Your
17 Honor, it appears to me that the defendants
18 don't get to pick whether they're tried
19 together or not. The State tries that, makes
20 that determination.

21 THE COURT: Well, yes and no. It makes
22 that -- as I said, I haven't had a Motion.
23 There is no Motion to sever this case.

24 JIM SMILEY: No, sir.

25 THE COURT: Not when these men were

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1 before me. I don't know if there was ever
2 one made.

3 JIM SMILEY: No, sir, there hasn't been
4 one that's been made. I guess that I would
5 have to make a Motion to sever to make the
6 other Motions, because I believe that if he
7 was tried alone that he would be given two
8 preemptory strikes for alternates, whereas
9 just one ---

10 THE COURT: And we would only get ten
11 as to the jury. Y'all talked about it, as I
12 understand, peremptorily. I understand that
13 you all have talked about it and you agreed
14 seven, seven and six?

15 JIM SMILEY: Yes, sir, and I agreed
16 that I would take one less. And the reason
17 we can't combine it is because we have -- we
18 have conflicting defenses. We can't appear
19 to be ---

20 THE COURT: I understand that you have.
21 That's why you have three lawyers.

22 JIM SMILEY: Yes, sir.

23 THE COURT: There's no question that
24 there are competing interests here. I
25 understand that. But when you read these

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1 cases, the Court for whatever reason seems to
2 say, 'Okay. So what? We're not going to
3 recognize that as something that entitles you
4 to a severance.'

5 JIM SMILEY: Yes, sir.

6 THE COURT: And that's your only reason
7 for it, that you're losing the right to have
8 preemptory challenges, number one; and,
9 number two, the right to close.

10 JIM SMILEY: Absolutely. And at this
11 point that would be the basis.

12 THE COURT: And you have a preemptory
13 challenge. The question is whether or not
14 you get to have double. I find that has to
15 be statutory provision, otherwise you comply
16 with what the law says.

17 JIM SMILEY: Yes, sir. If you would,
18 just note my objection.

19 THE COURT: Okay. Thank you.

20 JIM SMILEY: And I guess that I need to
21 do this with the case. On behalf of Kevin
22 Smalls, I make that objection.

23 THE COURT: I understand.

24 JIM SMILEY: Would it be easier for the
25 Court if -- that unless otherwise stated that

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1 I will be joining in -- I am just trying to
2 make it so that we all don't have to jump up.

3 THE COURT: If we have a Motion that is
4 made that everybody wants to be a part of,
5 they need to so state, ---

6 JIM SMILEY: Very good.

7 THE COURT: --- so that the record is
8 clear.

9 JIM SMILEY: The reason that I made that
10 objection, Your Honor, is because I believe
11 that it violates my client's right to fair
12 and impartial trial based on the sixth
13 amendment of the United States Constitution
14 and the South Carolina Constitution, as
15 provided. I understand your position and I
16 appreciate it, Your Honor.

17 THE COURT: Thank you, sir.

18 JIM SMILEY: Thank you.

19 THE COURT: Anything else that we need
20 to deal with before we bring the panel up,
21 once we get them.

22 SOLICITOR SHEALY: None from the State.

23 THE COURT: Anything from any of the
24 defendants at this point?

25 ANDREW GRIMES: Just quickly, Your

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1 Honor, before Mr. Graddick comes in, we did
2 ask that he be allowed to stay out on bond.

3 (DEFENDANT GRADDICK PRESENT)

4 THE COURT: Mr. Graddick, I understand
5 that but given the nature of this, given
6 multiple defendants, -- and it's something
7 that I am sure your lawyer has explained.
8 It's pretty customary, what I'm about to say.
9 If it were a separate trial, but it is not,
10 then I may be more inclined to allow you to
11 remain on bond since the bondsman is in
12 agreement. But out of an abundance of
13 caution, I am going to have to revoke the
14 bond, sir. I hope -- you've have an
15 opportunity to discuss with your lawyer about
16 that?

17 JARRETT GRADDICK: Yes, sir.

18 THE COURT: He's talked with me about
19 that this morning. I understand your
20 position but out of an abundance of caution
21 I'm going to choose to follow the standard
22 operating procedure. Okay?

23 JARRETT GRADDICK: Yes, sir.

24 THE COURT: Thank you, Mr. Grimes.
25 Anything else from Mr. Graddick?

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1 seven, the attorneys have the strike sheet
2 before we strike. Now that we do that, I
3 don't understand why other people don't give
4 them the strike sheets. I do. So you will
5 get the strike sheet so that you can plan
6 your strikes accordingly. It makes no sense
7 for us to do that in a capital case but none
8 other. So, that's my rationale for doing
9 that. They can correct me up the road.

10 I see that it is referred to as a Cricket
11 Cellular Store and Oakland Market. Are those
12 two different properties?

13 JIM SMILEY: The Oakland Market is the
14 whole complex.

15 THE COURT: All right. Well, why don't
16 I just refer to it as the Oakland Market
17 then?

18 JIM SMILEY: Yes, sir.

19 THE COURT: All right.

20 JIM SMILEY: It's that whole big ---

21 THE COURT: I understand.

22 JIM SMILEY: Yes, sir.

23 THE COURT: Since I can't pronounce
24 "cellular".

25 JIM SMILEY: The Cricket Store has two

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1 names, too. It's called the Cricket Store
2 but it is also called the SmartPhone outlet.
3 It's the same thing.

4 THE COURT: But it's in the Oakland
5 Market?

6 JIM SMILEY: Yes, sir at the Super
7 Walmart.

8 THE COURT: And the Oakland Market is
9 a pretty well-known name for that area?

10 JIM SMILEY: Yes, sir. I believe that
11 everybody knows that. It's the Super Walmart
12 shopping center..

13 SOLICITOR SHEALY: I was just going to
14 say that it's the new Walmart area. Everyone
15 is familiar with that.

16 JIM SMILEY: It's called the Oakland
17 Market but ---

18 SOLICITOR SHEALY: --- the "new Walmart"
19 is definitely ---

20 JIM SMILEY: (Affirmative nod), the new
21 Walmart. There is an old one, too, but it is
22 the new Walmart, in that shopping center.

23 THE COURT: Thank you. What is the
24 significance of the Six Mile, Five Mile and
25 Ten Mile area of Mount Pleasant, Ms. Shealy?

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1 SOLICITOR SHEALY: Judge, it's one of
2 those questions that if you're from there,
3 you'll know it. There are areas designated
4 by how far they were from the other bridge.
5 The Ten Mile area and the Six Mile ---

6 THE COURT: I understand that, but why
7 is it necessary that I ---

8 SOLICITOR SHEALY: Because these gentle-
9 men all live in that area. That is a very
10 close-knit area of Mount Pleasant.

11 THE COURT: All right. Thank you.

12 SOLICITOR SHEALY: Which milestones did I
13 put, Judge?

14 THE COURT: You put Five Mile, Six Mile
15 and Ten Mile.

16 SOLICITOR SHEALY: Thank you. Five Mile.

17 THE COURT: Pardon me?

18 SOLICITOR SHEALY: I was just reviewing
19 my notes.

20 THE COURT: Just to remind you -- and
21 really this is directed more at Ms. Shealy.
22 We are at borderline numbers to get the
23 number. I tell solicitors that you have the
24 ultimate control of whether the case goes
25 forward or not.

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1 SOLICITOR SHEALY: I understand.

2 THE COURT: You have the trump card in
3 your hand.

4 SOLICITOR SHEALY: Okay.

5 THE COURT: We have fifty-seven at the
6 moment. That only leaves fifty (sic) to get
7 the two alternates. Of course, we don't know
8 how many are going to be excused. Okay. Are
9 you (Mr. Grimes) going to be first on cross?

10 ANDREW GRIMES: Yes, sir.

11 THE COURT: So the order is Mr. Grimes,
12 Mr. Runyon second, and Mr. Smiley third?

13 WILLIAM RUNYON: That's the way that I
14 understand it, Judge.

15 ANDREW GRIMES: Yes, sir.

16 JIM SMILEY: Yes, sir.

17 THE COURT: Thank you. Bring the jury
18 up. Which ones are we going to trial on?
19 All of these?

20 SOLICITOR SHEALY: I am not sure which
21 ones that you have.

22 THE COURT: I have one that show
23 kidnaping.

24 SOLICITOR SHEALY: No, no, no.

25 THE COURT: Which ones? I've got ---

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1 SOLICITOR SHEALY: (Review of
2 documents at bench), can I pull these apart,
3 Judge?

4 THE COURT: Please, if you will and
5 just give me the ones that we need.

6 SOLICITOR SHEALY: (Upon review of
7 documents with Clerk Don Michel, tenders
8 copies to Judge Dennis.)

9 THE COURT: Thank you. Appreciate
10 that. That makes it easy. I don't require
11 y'all to rise when the jury comes in. I
12 don't require that you rise when I come in
13 either, because we're working. Thank you.

14 (JURY PANEL IN @ 1:54 P.M.)

15 THE COURT: We have forty-nine?

16 CLERK: Fifty, (sidebar with Judge).

17 THE COURT: That's fine. Just for your
18 edification, when going through the list the
19 jurors that we have also include some jurors
20 that are involved in the summary judgment
21 trial today. So if one of those persons
22 happens to be by that number, we will go to
23 the next number in calling out and
24 identifying strikes. Any objection from the
25 State?

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1 SOLICITOR SHEALY: No, Your Honor.

2 THE COURT: In other words, there may
3 be persons who may appear here who aren't
4 physically present in the courtroom. Any
5 objection?

6 ANDREW GRIMES: No, Your Honor.

7 WILLIAM RUNYON: None from Defendant
8 Coakley, Your Honor.

9 JIM SMILEY: None from Defendant
10 Smalls, Your Honor.

11 THE COURT: I hope you all have
12 had a good day thus far. Thank you for your
13 patience. As I mentioned to you yesterday
14 when we did the statutory qualification, I
15 promise you that you won't be here as long as
16 your were yesterday. It may take us a little
17 bit longer just because of the sheer number,
18 but it shouldn't take us too long. Do we
19 still have a potential one for tomorrow?

20 CLERK: Yes, sir. The case that Judge
21 Jefferson started on Monday, that's starting
22 tomorrow morning. We've gone through the
23 remaining three cases, so we're down to
24 nonjury.

25 THE COURT: So Judge Young will not be

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1 picking one?

2 CLERK: No, sir, not for the criminal
3 cases.

4 THE COURT: At this point, this case,
5 we anticipate will probably run and take us
6 into at least Thursday, possibly Friday. So
7 this might be the last time that you have to
8 come. I know that upsets everybody, but I'll
9 give you the advance notice so that you can
10 deal with the frustration.

11 For those of you who will be selected, we
12 will be finished this week. I promise you
13 that. Are we still waiting on two?

14 CLERK: (Sidebar with Judge Dennis).

15 THE COURT: I think we still have one
16 more juror to come in. Do we have them all?

17 BAILIFF: Yes, sir.

18 THE COURT: Thank you, ladies and
19 gentlemen. I appreciate your patience.

20 The case that we have in which I need
21 your assistance is case captioned -- and the
22 caption, the first party will be the State of
23 South Carolina. Generally that's the party
24 who is making the claim. In this case the
25 State of South Carolina is making the claim

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1 against three individuals: Jarrett Graddick,
2 Keenan Coakley and Kevin Lamar Smalls,
3 accusing them -- the claim is that they are
4 being accused of committing the offense of
5 armed robbery.

6 I'll share what the allegations are in
7 just a few moments, but first I'd like to
8 introduce you to the persons and entities
9 involved.

10 First, I'd like to -- Mr. Graddick, good
11 afternoon. If you would, please stand and
12 face the jury panel.

13 JARRETT GRADDICK: (Complies).

14 THE COURT: Standing in the middle is
15 Jarrett Graddick. Are there any members of
16 the jury panel related by blood or marriage,
17 have any business dealings with, socially or
18 casually acquainted with, have any connection
19 with Mr. Graddick? If so, please stand. (No
20 response). Thank you. There are none. Mr.
21 Graddick, you may be seated.

22 Mr. Graddick is represented Mr. Grimes.
23 If you would, identify yourself and anyone
24 that will be assisting you.

25 ANDREW GRIMES: Good afternoon. I am

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1 Andrew Grimes. I with the Public Defenders
2 Office, an assistant public defender.
3 Assisting me is John Kowelski, also with the
4 Public Defenders Office.

5 THE COURT: Thank you.

6 ANDREW GRIMES: Thank you.

7 THE COURT: Are there any members of
8 the jury panel related by blood or marriage,
9 have any business dealings with, socially or
10 casually acquainted with, ever been
11 represented by Mr. Grimes or Mr. Kowelski?
12 If so, please stand. Yes, ma'am?

13 JUROR NUMBER 4: Juror Number 4,
14 Constance Anastopolou. Mr. Kowelski was my
15 student, Your Honor. I believe that I taught
16 him Torts and, I believe, Evidence.

17 THE COURT: Would that influence you in
18 this trial?

19 JUROR NUMBER 4: It would make it
20 difficult, Your Honor.

21 THE COURT: Very well. I will excuse
22 -- and your juror number, again?

23 JUROR NUMBER 4: Number 4.

24 THE COURT: Juror Number 4 will be
25 excused from participation in this dispute.

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1 If you would, just call the number after 6:00
2 tonight, please. Have a good day.

3 JUROR NUMBER 4: Thank you, Your Honor.

4 THE COURT: Are there others? I won't
5 ask whether he was a good student or a bad
6 student.

7 JUROR NUMBER 4: He was a great
8 student.

9 THE COURT: Thank you.

10 (JUROR NUMBER 4 EXCUSED)

11 THE COURT: Are there any members of
12 the jury panel related by blood or marriage,
13 have any business dealings with, who are
14 socially or casually acquainted with, ever
15 been represented by Ashley Pennington, who is
16 the Circuit Public Defender? Is so, please
17 stand. (No response) Thank you. There
18 appear to be none.

19 Are there any members of the jury panel
20 who are related by blood or marriage to
21 anyone employed with the Public Defenders
22 Office, who have had any business dealing
23 with them, who is socially or casually
24 acquainted with anyone in that office? He
25 has offices in Berkeley County and Charleston

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1 County. If so, please stand. (No response)

2 Thank you. There appear to be none.

3 Next I will introduce to you Mr. Keenan
4 Coakley. Mr. Coakley is the individual
5 standing in the blue shirt. Are there any
6 members of the jury panel who are related by
7 blood or marriage, who have any business
8 dealings with, casually or socially
9 acquainted with, have any connection with Mr.
10 Coakley? If so, please stand. Yes?

11 JUROR: I know some Coakleys that are
12 related to the Burnett family, but I don't
13 know him.

14 THE COURT: So you have no connection?

15 JUROR: No.

16 THE COURT: You may be seated. Mr.
17 Coakley is represented by Mr. Runyon. If you
18 would, identify yourself.

19 WILLIAM RUNYON: I am William Runyon.
20 I have been an attorney here in Charleston
21 for the past forty-six years. I practice in
22 a sole practice.

23 THE COURT: Thank you. Any members of
24 the jury panel related by blood or marriage,
25 have any business dealings with, who are

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1 socially or casually acquainted with, ever
2 been represented by Mr. Runyon? If so,
3 please stand. (No response) Thank you.
4 There appear to be none.

5 Next I would like to introduce to you Mr.
6 Kevin Lamar Smalls. Mr. Smalls is the
7 individual standing, in the checked shirts.
8 Any there any members of the jury panel
9 related by blood or marriage, have any
10 business dealings with, who are socially or
11 casually acquainted with Mr. Smalls. If so,
12 please stand. (No response) Thank you.
13 There appear to be none. You may be seated,
14 Mr. Smalls.

15 Mr. Smalls is represented by Mr. Smiley.
16 If you would, identify yourself please.

17 JIM SMILEY: I am Jim Smiley. I am a
18 sole practitioner here in Charleston. I've
19 been practicing in the area of criminal
20 defense since 1993. I have an office on King
21 Street.

22 THE COURT: Thank you, sir.

23 THE COURT: Any members of the jury
24 panel related by blood or marriage, have any
25 business dealings with, who are socially or

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1 casually acquainted with or ever been
2 represented by Mr. Smiley? If so, please
3 stand. (No response) Thank you. There
4 appear to be none.

5 The State of South Carolina, of course,
6 is represented by our solicitor for the 9th
7 Circuit, Solicitor Scarlett Wilson. Are
8 there any members of the jury panel related
9 by blood or marriage, have any business
10 dealings with, who are socially or casually
11 acquainted with or ever been represented by
12 Ms. Wilson? If so, please stand. Yes?

13 JUROR NUMBER 191: Friend of friends of
14 Scarlett Wilson.

15 THE COURT: All right. Would that
16 influence you in this dispute, sir

17 JUROR NUMBER 191: Potentially.

18 THE COURT: All right, your name and
19 number, please?

20 JUROR NUMBER 191: 191, Christopher
21 Neilson.

22 THE COURT: I will excuse Juror 191
23 from participation in this dispute. If you
24 will, call the number after 6:00 tonight.
25 Have a good day, sir.

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(JUROR NUMBER 191 EXCUSED)

THE COURT: Are there others? If so,
please stand. (No response) Thank you.
There appear to be none.

Ms. Wilson, of course, has a number of
assistant solicitors that assist her in
representing or handling criminal disputes.
Ms. Shealy is involved in this. Ms. Shealy,
please identify yourself and anyone that will
be assisting you.

SOLICITOR SHEALY: Good afternoon.
I am Jennifer Shealy. I work at the
Solicitor's Office. I am an assistant
solicitor.

This is Emmanuel Ferguson. He also is an
assistant solicitor.

Ms. Saneka Smith is one of our paralegals
who be assisting us.

And this is Sergeant Tyrone Simmons with
the Mount Pleasant Police Department.

THE COURT: Thank you. Any members of
the jury panel related by blood or marriage,
have any business dealings with, who are
socially or casually acquainted with Ms.
Shealy, Mr. Ferguson, Sergeant Simmons, or

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1 Ms. Smith? Or who have ever been represented
2 by Ms. Shealy or Mr. Ferguson? If so, please
3 stand. Yes, sir?

4 JUROR NUMBER 244: Tyrone Simmons is a
5 longtime friend of mine.

6 THE COURT: Would that influence you in
7 this dispute?

8 JUROR NUMBER 244: Yes, sir.

9 THE COURT: Your number, please?

10 JUROR NUMBER 244: 244.

11 THE COURT: And your name, for the
12 record?

13 JUROR NUMBER 244: Ryan Sneed.

14 THE COURT: I will excuse Juror 244
15 from participation in this dispute. Call the
16 number after 6:00 tonight, please.

17 (JUROR NUMBER 244 EXCUSED)

18 THE COURT: Yes, ma'am?

19 JUROR NUMBER 211: Juror 211, Rebecca
20 Reynolds. Ms. Shealy and I used to attend
21 the same church.

22 THE COURT: Would that influence you in
23 this matter?

24 JUROR NUMBER 211: Not at all.

25 THE COURT: Will you base your decision

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1 on the evidence and the law and be fair to
2 all parties?

3 JUROR NUMBER 211: Yes.

4 THE COURT: Thank you, ma'am, you may
5 be seated. Yes, sir?

6 JUROR NUMBER 101: I work part-time
7 for the coroner's office. Officer Simmons
8 has helped me in some situations while I was
9 on scene.

10 THE COURT: Would that influence you,
11 sir?

12 JUROR NUMBER 101: I don't think so.
13 He's a nice guy.

14 THE COURT: Well, can you make a
15 commitment to everyone that you would not be
16 influenced by your relationship, and would
17 you be able -- should he testify, would you
18 be able to consider his testimony the same as
19 that of any other witness?

20 JUROR NUMBER 101: Yes.

21 THE COURT: And will you base your
22 decision on the evidence and the law and will
23 your decision be fair to all parties?

24 JUROR NUMBER 101: Yes.

25 THE COURT: Your name and number,

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1 please.

2 JUROR NUMBER 101: 101, Daniel Guy.

3 THE COURT: Thank you. Are there
4 others? There appear to be none.

5 Any members of the jury panel related by
6 blood or marriage, have any business dealing
7 with, who are socially or casually acquainted
8 with anyone employed with the Solicitor's
9 office? She has offices in Charleston County
10 and in Berkeley County. If so, please stand.
11 (No response). Thank you. There appear to
12 be none.

13 I am going to call out the names of a
14 number of persons, ladies and gentlemen. If
15 you are related by blood or marriage, have
16 any business dealings with, are socially or
17 casually acquainted with, have any connection
18 with any of these persons, please stand:

19 Edward Stunkard

20 James Blain

21 Joseph O. Davis

22 Bridgett Graddick

23 Harlee M. Lynn

24 Jessica Lyons

25 Jackie Miller

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1 Christopher Williamson

2 The following individuals who are
3 employed with the South Carolina Law
4 Enforcement Division, also known as SLED:

5 Doris Yarbrough

6 Paul Meeh

7 Sheree J. Brown

8 Patricia Crooks

9 Betty Butler

10 Amy Stephens

11 Nikki Perry Hughes

12 The following persons, who are
13 employed with the Mount Pleasant Police
14 Department?

15 M. Ackerman

16 Detective Michele Bacon.

17 PFC Bruce Burbage

18 Detective John Byrd

19 Sergeant Carter

20 PFC Andrew Decamp

21 Corporal Cliff Driggers

22 PFC Stephen Dunbar

23 Corporal Craig Harris

24 CSI Raymand Haupt

25 PFC Alexander Kaufman

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1 Corporal Mauldin
2 PFC Query
3 Detective Tyrone Simmons
4 Jim Smith
5 Detective Willis
6 PFC Joseph Zeitner

7 Also Debbie Alfaro, who was formerly
8 with the Mount Pleasant Police Department.

9 And:

10 Brian Mazyck
11 Rebecca Graddick
12 Melvin White

13 Any of those? (No response) Thank you.
14 There are none.

15 What I am going to share with you now is
16 what is alleged, it is not evidence. I need
17 to ask you some questions about the
18 allegations. The allegations are framed by
19 the three documents that I hold in my hand.
20 They are what they appear to you to be,
21 they're pieces of paper. They are
22 technically call indictments. An indictment
23 is just a legal name that says that 'these
24 are the charges, this is what we allege has
25 occurred.'

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1 That have accused, by these three
2 documents, these three individuals --
3 basically it is the same allegation, that
4 these three individuals committed the offense
5 of armed robbery on or about September 15th,
6 2010, in Charleston County, while at 3014
7 South Morgans Point Road in Mount Pleasant.
8 They allege the robbery was by use of force,
9 threats or intimidation and while armed with
10 a deadly weapon or while alleging, either by
11 actions or words, that they were armed while
12 using the representation of a deadly weapon
13 or other object which person(s) present
14 during the commission of the robbery
15 reasonably believed to be a deadly weapon.
16 That they did take and carry away goods and
17 monies from the person and immediate presence
18 of a PhoneSmart employees with the intent to
19 permanently deprive the victims of their
20 possession.

21 I share that with you to find out, first
22 of all, if any member of the jury panel has
23 heard anything, read anything, if you have
24 any prior knowledge, whether you have talked
25 to anyone about this dispute, or have any

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1 connection at all. If so, please stand.

2 (No response). Thank you. There appear to
3 be none.

4 Is there anything about the nature of
5 this dispute, that is someone being accused
6 of committing the offense of armed robbery,
7 that would give you concern? Because of some
8 strong feeling that you have? Some philoso-
9 phy that you have? Something that may have
10 occurred to you or a family member or close
11 personal friend? Anything that you believe
12 would influence or affect your ability to
13 fairly and impartially apply your common
14 sense, your sense of logic and reason in
15 analyzing the evidence and deciding what you
16 believe to be the true facts? Then once
17 making that decision, in taking the law as I
18 give it to you and applying that law fairly
19 and impartially to those facts? If you feel
20 that you would have some difficulty in
21 performing that task, please stand. (No
22 response). Thank you. There appear to be
23 none.

24 Are there any members of the jury panel
25 that have ever been involved in a criminal

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1 dispute, in any fashion? Either you were the
2 alleged victim, you were testifying for the
3 alleged victim or for the State, or you were
4 the accused or at some point you testified
5 for a person or persons so accused. If you
6 have had any involvement at all, please
7 stand.

8 JUROR NUMBER 141: Does that include
9 an Order of Protection?

10 THE COURT: I am going to ask you
11 -- the best thing to do is to resolve it. I
12 am going to ask you to step forward and we
13 will take them individually. The attorneys
14 may approach, as well.

15 BAILIFF: Juror Number 98.

16 SIDEBAR:

17 THE COURT: Yes, ma'am?

18 JUROR NUMBER 98: I was on both
19 sides of a civil dispute for a job. It's
20 been a good while back.

21 THE COURT: Was there a suit
22 brought?

23 JUROR NUMBER 98: Yes.

24 THE COURT: Did you have to
25 testify in that?

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1 JUROR NUMBER 98: Yes, sir.

2 THE COURT: Would that affect or
3 influence you at all in this dispute?

4 JUROR NUMBER 98: No, sir.

5 THE COURT: You'd be able to make
6 a decision based on the evidence and the law
7 that would be fair to everyone?

8 JUROR NUMBER 98: Yes, sir.

9 THE COURT: Any additional ques-
10 tions?

11 JIM SMILEY: None for Mr. Smalls.

12 WILLIAM RUNYON: None for Mr.
13 Graddick.

14 ANDREW GRIMES: No, sir.

15 THE COURT: Thank you. You may
16 take your seat.

17 (SIDEBAR CONCLUDED)

18 THE COURT: Juror Number 98 will
19 remain.

20 BAILIFF: Juror 141.

21 SIDEBAR:

22 THE COURT: Good afternoon, ma'am.
23 If you would, just give me your name.

24 JUROR NUMBER 141: Shelia Kirnon.

25 THE COURT: Tell me what your

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1 situation was.

2 JUROR NUMBER 141: It was an Order of
3 Protection?

4 THE COURT: You obtained one?

5 JUROR NUMBER 141: Against my
6 husband, former spouse.

7 THE COURT: Is that still in
8 effect?

9 JUROR NUMBER 141: No.

10 THE COURT: Was it -- did that
11 require any court action for you to testify
12 at a trial or proceedings, other than you
13 requested it?

14 JUROR NUMBER 141: Yeah, I did.

15 THE COURT: Would that influence
16 of affect you in any way in this dispute?

17 JUROR NUMBER 141: No.

18 THE COURT: Would you be able to
19 make a commitment to everyone that you'll
20 decide the case based on the evidence and the
21 law?

22 JUROR NUMBER 141: Yeah.

23 THE COURT: Will your decision be
24 fair to everybody involved?

25 JUROR NUMBER 141: Yes, sir.

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1 THE COURT: Any additional
2 questions?

3 JIM SMILEY: Not from Mr. Smalls.

4 WILLIAM RUNYON: None from Mr.
5 Coakley.

6 ANDREW GRIMES: (Negative
7 gesture).

8 (SIDEBAR CONCLUDED)

9 THE COURT: Number 141 will
10 remain.

11 BAILIFF: Number 64.

12 SIDEBAR:

13 THE COURT: Good afternoon, sir.
14 How are you?

15 JUROR NUMBER 64: Fine.

16 THE COURT: Just give us your
17 name.

18 JUROR NUMBER 64: Thomas Donnelly.

19 THE COURT: Mr. Donnelly, what is
20 your ---

21 JUROR NUMBER 64: I was a Boston
22 police officer for twenty years. I've
23 testified in probably two to three dozen
24 armed robberies, on both sides.

25 I am not friends with Detective Byrd

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1 but my wife is good friends with his wife.

2 Captain Shawn Kahaly and Officer
3 Mark Arnold are personal friends of mine,
4 from the Mount Pleasant Police Department as
5 well.

6 THE COURT: Would any of that
7 influence you?

8 JUROR NUMBER 64: I don't think it
9 would.

10 THE COURT: And would you apply
11 your life's experiences in the area of law
12 enforcement fairly and impartially?

13 JUROR NUMBER 64: Absolutely.

14 THE COURT: And you would base
15 your decision on the evidence and the law and
16 be fair to all parties?

17 JUROR NUMBER 64: Yes, Your Honor.

18 THE COURT: Any additional
19 questions or Mr. Donnelly from anyone?

20 SOLICITOR SHEALY: No, sir.

21 WILLIAM RUNYON: None from Mr.
22 Coakley.

23 SOLICITOR SHEALY: No, sir.

24 JIM SMILEY: None from Mr. Smalls.

25 THE COURT: Thank you, sir.

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1 (SIDEBAR CONCLUDED)

2 THE COURT: Number 64 will remain.

3 BAILIFF: Juror 139, William

4 Khouri.

5 SIDEBAR:

6 THE COURT: Give me your name,
7 please.

8 JUROR NUMBER 139: William Khouri.

9 THE COURT: Mr. Khouri, what is
10 the connection that you have?

11 JUROR NUMBER 139: I work for a bank.
12 There was case of attempted fraud, so I
13 notified the authorities and had to testify.

14 THE COURT: Would that affect or
15 influence you in any way in this dispute?

16 JUROR NUMBER 139: No.

17 THE COURT: Will you be able to
18 make a commitment that you will decide the
19 case based on the evidence and the law?

20 JUROR NUMBER 139: Yes, sir.

21 THE COURT: Any additional
22 questions?

23 SOLICITOR SHEALY: I just didn't hear
24 him. He said a fraud?

25 THE COURT: Yes, and that he had

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1 to testify in that case.

2 SOLICITOR SHEALY: Thank you.

3 Nothing further.

4 THE COURT: Anything from ---

5 WILLIAM RUNYON: No, sir.

6 JIM SMILEY: Nothing from Defendant
7 Smalls.

8 ANDREW GRIMES: No, sir.

9 (SIDEBAR CONCLUDED)

10 THE COURT: Thank you. Number 139 will
11 remain. Are there any others? (No
12 response). Thank you. There appear to be
13 none.

14 Are there any members of the jury
15 panel -- other than we have already heard
16 from Mr. Donnelly, and he's explained -- that
17 has any connection with law enforcement? If
18 you or any member of your immediate family
19 have been involved with law enforcement,
20 please stand.

21 JUROR NUMBER 129: My son is in law
22 enforcement and his father is in law
23 enforcement.

24 THE COURT: Your name and number?

25 JUROR NUMBER 129: My name is Cynthia

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1 Jones, Number 129.

2 THE COURT: What agencies are they
3 involved with?

4 JUROR NUMBER 129: His dad is
5 retired, but he's a corporal with the
6 Richland County Sheriff's Department.

7 THE COURT: Would that influence
8 you in any way in this dispute.

9 JUROR NUMBER 129: No, sir.

10 THE COURT: Will you be able to
11 consider the testimony of every witness,
12 including those who may be in law
13 enforcement, the same as any witness?

14 JUROR NUMBER 129: Yes, sir.

15 THE COURT: Ma'am?

16 JUROR NUMBER 129: Yes, sir.

17 THE COURT: Thank you. And you
18 would base your decision on the evidence and
19 the law and be fair to all parties?

20 JUROR NUMBER 129: Yes, sir.

21 THE COURT: Your number again?

22 JUROR NUMBER 129: 129.

23 THE COURT: Yes?

24 JUROR NUMBER 72: Debra Childs

25 (phonetic), Juror Number 72. My niece and my

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1 niece's husband are both police officers for
2 North Charleston City.

3 THE COURT: Charleston City?

4 JUROR NUMBER 72: North Charleston
5 City.

6 THE COURT: Would that affect or
7 influence you in this matter?

8 JUROR NUMBER 72: No.

9 THE COURT: Would you base your
10 decision on the evidence and the law and
11 would it be fair to all parties?

12 JUROR NUMBER 72: Yes.

13 THE COURT: And you would be able
14 to consider every witness' testimony the
15 same?

16 Juror number 72: Yes, sir.

17 THE COURT: Thank you. Anyone
18 else? Yes, sir?

19 JUROR NUMBER 13: Juror Number 13..
20 I have a sister-in-law that's a sergeant at
21 the Corrections on Leeds Avenue.

22 THE COURT: Okay. Would that
23 affect you or influence you in any way, sir?

24 JUROR NUMBER 13: No, sir.

25 THE COURT: Would you be able to

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1 base your decision on the evidence and the
2 law, and would your decision be fair to all
3 parties?

4 JUROR NUMBER 13: Yes, sir.

5 THE COURT: Thank you, sir.

6 MR. KOWELSKI: Your Honor, what
7 was his juror number?

8 THE COURT: What is your juror
9 number?

10 JUROR NUMBER 13: 13.

11 THE COURT: Thank you. Anyone
12 else? (No response). Thank you. There
13 appear to be none.

14 Are there any members of the jury
15 panel that shop regularly at the Oakland
16 Market, which is also known now as 'the new
17 Walmart' in Mount Pleasant? If so, please
18 stand -- (jurors standing). All right.

19 One of the allegations of course it
20 that the cellular store, PhoneSmart, -- so we
21 will start with the lady on the front. Your
22 name and number?

23 JUROR NUMBER 7: Sara Arrants,
24 Number 7. I have not been to that phone
25 store, so I don't know anything about it.

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1 THE COURT: Would your experience
2 there influence you or affect you in any way
3 in analyzing the evidence in this case?

4 JUROR NUMBER 7: (Negative
5 gesture).

6 THE COURT: Would you apply your
7 knowledge of that area fairly and impartially
8 in analyzing the evidence?

9 JUROR NUMBER 7: Yes.

10 THE COURT: Would you base your
11 decision on the evidence and the law and
12 would that decision be fair to all parties?

13 JUROR NUMBER 7: Yes.

14 THE COURT: Your number again.

15 JUROR NUMBER 7: Number seven.

16 THE COURT: Number 7. Thank you.
17 You may be seated. We will come down the
18 row. Mr. Donnelly?

19 JUROR NUMBER 64: I didn't even know
20 that there was a phone store in the Walmart.

21 THE COURT: But you're familiar
22 with the area?

23 JUROR NUMBER 64: Yes, sir.

24 THE COURT: And you can apply that
25 knowledge fairly and impartially?

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1 JUROR NUMBER 64: Yes, sir.

2 THE COURT: Your number, again?

3 JUROR NUMBER 64: Number 64.

4 THE COURT: Thank you, sir.

5 JUROR NUMBER 129: It wouldn't
6 influence me.

7 THE COURT: Are you familiar with
8 the store?

9 JUROR NUMBER 129: No.

10 THE COURT: But you would apply
11 your knowledge fairly and impartially?

12 JUROR NUMBER 129:

13 SOLICITOR SHEALY: Your Honor, may we
14 approach just for a moment.

15 THE COURT: Yes.

16 (OFF RECORD SIDEBAR)

17 THE COURT: I think everybody
18 knows but I'm told the phone store is a
19 Cricket Store, that is also has that name
20 too. So if that connects with anyone, let me
21 know. Okay? Yes, sir?

22 JUROR NUMBER 119: I shop at Walmart.

23 THE COURT: Would that influence
24 or affect you in any way, sir?

25 JUROR NUMBER 119: No, sir.

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1 THE COURT: Would you apply your
2 knowledge fairly and impartially, sir?

3 JUROR NUMBER 119: Yes, sir.

4 THE COURT: Yes?

5 JUROR NUMBER 126: I shop at that
6 center.

7 THE COURT: You shop specifically
8 at that store or just in that area?

9 JUROR NUMBER 126: That area.

10 THE COURT: Would that affect or
11 influence you ---

12 JUROR NUMBER 126: Kinda sorta.

13 THE COURT: Sir?

14 JUROR NUMBER 126: Kind of.

15 THE COURT: Okay. You feel that
16 it could influence your opinion, is that
17 correct?

18 JUROR NUMBER 126: (Affirmative nod).

19 THE COURT: You need to answer
20 verbally because the lady (court reporter) --
21 and I need to get out of her way so that she
22 can see. Based on that answer then, I will
23 excuse you from participation. Number 126
24 will be excused.

25 (JUROR NUMBER 126 EXCUSED)

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1 JUROR NUMBER 258: 258.

2 THE COURT: Yes, ma'am?

3 JUROR NUMBER 258: I shop there.

4 THE COURT: Have you shopped at
5 the phone store, specifically?

6 JUROR NUMBER 258: No.

7 THE COURT: Would that affect or
8 influence you in any way?

9 JUROR NUMBER 258: No, sir.

10 THE COURT: Would you base your
11 decision on the evidence and the law and
12 would that decision be fair to all parties?

13 JUROR NUMBER 258: Yes, sir.

14 May I ask one question, though?

15 THE COURT: Sure.

16 JUROR NUMBER 258: I wasn't sure if
17 there was a connection, but when you talked
18 about people in the police office, like
19 Officer Zeitner, ---

20 THE COURT: Yes, ma'am.

21 JUROR NUMBER 258: My son was in
22 a car accident a couple of weeks ago and I
23 think that he was the officer, but I'm not
24 positive. I just thought I would speak up,
25 but it wouldn't affect me.

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1 THE COURT: Assuming that he is,
2 would it influence you?

3 JUROR NUMBER 258: No, sir.

4 THE COURT: And assuming that it
5 is, when you'd see him if he testifies, would
6 you consider his testimony the same as any
7 witness?

8 JUROR NUMBER 258: Yes, sir.

9 THE COURT: And you would base
10 your decision on the evidence and the law and
11 would that decision to fair to all parties?

12 JUROR NUMBER 258: Yes, sir.

13 THE COURT: Your number again?

14 JUROR NUMBER 258: 258.

15 THE COURT: Let me -- I am not
16 trying to embarrass you but that's a good
17 example of -- when I told y'all that I
18 believe so strongly in this system. That's a
19 good example. I find that jurors do that all
20 the time. If they have any doubt, they say
21 'wait a minute, let me tell you about this.
22 I just want to be sure.' Thank you. Yes,
23 ma'am?

24 JUROR NUMBER 292: I shop in the
25 area, frequently.

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1 THE COURT: Would that affect you
2 in any way, ma'am?

3 JUROR NUMBER 292: No, sir.

4 THE COURT: Would you base your
5 decision based on the facts of this case and
6 be fair and impartial in analyzing the
7 evidence?

8 JUROR NUMBER 292: Yes, sir.

9 THE COURT: And your number?

10 JUROR NUMBER 292: 292.

11 THE COURT: Thank you. Yes, sir?

12 JUROR NUMBER 139: I shop at Walmart,
13 but I'm not familiar with that store.

14 THE COURT: You're not familiar
15 with that specific store?

16 JUROR NUMBER 139: I'm not.

17 THE COURT: Would that influence
18 you any way, sir?

19 JUROR NUMBER 139: No.

20 THE COURT: Yes, ma'am?

21 JUROR NUMBER 151: I regularly
22 shop at Walmart and at the store that is next
23 to the Cricket. Due to the nature of the
24 potential crime, I feel that I could be
25 unjustly prejudiced.

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1 THE COURT: All right. Your
2 number again.

3 JUROR NUMBER 151: 151.

4 THE COURT: Number 151 will be
5 excused from participation in the dispute.
6 Thank you, ma'am. If you would, call the
7 number after 6:00 tonight.

8 JUROR NUMBER 273: I've been to that
9 Walmart before, but that would not influence
10 me.

11 THE COURT: Would not influence
12 you at all?

13 JUROR NUMBER 273: Would not.

14 THE COURT: And you would apply
15 your knowledge fairly and impartially?

16 JUROR NUMBER 273: Right.

17 THE COURT: Thank you, sir. Yes,
18 sir?

19 JUROR NUMBER 253: Juror Number
20 253. I am down there all the all the time
21 but I don't think that it would influence me
22 at all.

23 THE COURT: I appreciate that
24 answer. I say the same thing, all the time.
25 I need to ask you this, can you make a

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1 commitment to the parties that it will not
2 adversely influence you in analyzing the
3 evidence and in deciding what you believe to
4 be the true facts?

5 JUROR NUMBER 253: Yes, I do.

6 THE COURT: Would you base your
7 decision on the evidence and the law and
8 would that decision be fair to all parties?

9 JUROR NUMBER 253: Yes, sir.

10 THE COURT: You may be seated.
11 Thank you, sir. Are there any others? (No
12 response). There appear to be none.

13 Is there any member of the jury
14 panel who live or regularly visit -- I am
15 sure that everybody is going to know this, --
16 the Five Mile area, the Six Mile area of the
17 Ten Mile area in Mount Pleasant? (Number of
18 jurors standing).

19 Do you (Solicitor) want to know
20 everybody that has been involved in that?

21 Let me just say that there may be
22 some testimony from persons who live in that
23 area. If it would influence any of you who
24 are familiar with that area -- I know a
25 number of years ago I tried a case against a

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1 co-op and I asked -- in Berkeley County --
2 the question how many people were members of
3 the co-op. Half the jury panel stood up.

4 But if it would influence you in any
5 way, your knowledge of that area, please
6 remain standing. All right.

7 JUROR NUMBER 13: Juror Number 13.
8 My daughter, she is married to a fellow that
9 lives in the Five Mile area. She told me
10 when I come here that there might be a
11 relative involved with this case. I heard
12 the name Coakley, so -- I don't know but they
13 probably are ---

14 THE COURT: It gives you some
15 concern?

16 JUROR NUMBER 13: Yes.

17 THE COURT: Your number, please?

18 JUROR NUMBER 13: 13.

19 THE COURT: Based on your concern,
20 I am going to excuse you from participation
21 in this dispute out of an abundance of
22 caution. Thank you so much. Again, I will
23 use that as another example. If anybody has
24 any doubt, any reservation, please let us
25 know. Thank you, sir. Call the number after

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1 6:00, please.

2 (JUROR NUMBER 13 EXCUSED)

3 THE COURT: Are there others? (No
4 response). I think that addresses the
5 concerns you have ---

6 SOLICITOR SHEALY: Thank you.

7 THE COURT: Are there any
8 questions from anyone else concerning that?
9 About the Five, Six or Ten Mile areas?

10 JIM SMILEY: None on behalf of Mr.
11 Smalls.

12 WILLIAM RUNYON: None on behalf of
13 Defendant Coakley.

14 THE COURT: All right.

15 ANDREW GRIMES: None on behalf of
16 Defendant Graddick.

17 THE COURT: Thank you. Are there
18 any members of the jury panel or members of
19 your family who are members or support any
20 agency that is affiliated with law
21 enforcement, such as Mothers Against Drunk
22 Driving, MADD; Students Against Drunk
23 Driving, SADD; CAVE, Citizens Against
24 Violence; or any similar organization(s)?
25 (No response). Thank you. There appear to

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1 be none.

2 Do you want me to address the
3 concern about -- do you want specific about
4 the victim of a robbery?

5 ANDREW GRIMES: No, sir. I think
6 that's sufficient.

7 SOLICITOR SHEALY: No, sir. Thank
8 you.

9 THE COURT: Any additional
10 specific questions from the State?

11 SOLICITOR SHEALY: No, sir.

12 THE COURT: Any additional
13 specific questions from Mr. Graddick?

14 ANDREW GRIMES: No, sir.

15 THE COURT: From Mr. Coakley?

16 WILLIAM RUNYON: None from Mr.
17 Coakley.

18 THE COURT: Or Mr. Smalls?

19 JIM SMILEY: None from Mr. Smalls,
20 Your Honor.

21 THE COURT: The last question that
22 I have, ladies and gentlemen, is simply this.
23 As I mentioned to you, you will take an oath,
24 just as I did, before we start this trial.
25 That oath will simply state that you will, at

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1 the appropriate time, apply your common
2 sense, your sense of logic and reasoning,
3 fairly and impartially in analyzing the
4 evidence and decide from that evidence what
5 you believe to be the true facts. Then once
6 making that decision, you will take the law
7 as I give it to you and apply that law fairly
8 and impartially to those facts.

9 Is there any about this dispute that
10 would give you any concern about your ability
11 to make that commitment, to the State or to
12 any of the individuals accused? If so,
13 please stand. Thank you, sir. I am going to
14 ask you to come forward, please. The
15 attorneys may approach.

16 BAILIFF: Juror 243.

17 SIDEBAR:

18 THE COURT: Yes, sir.

19 THE COURT: Your name, sir?

20 JUROR NUMBER 243: Roston M. Smith.

21 THE COURT: And what have you ---

22 JUROR NUMBER 243: Several years
23 ago a college friend was held up by a robber
24 with a gun. My friend shot and killed the
25 robber. He has never gotten over this and I

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1 haven't either.

2 THE COURT: And you feel that that
3 would influence you?

4 JUROR NUMBER 243: It is embedded in
5 my memory. Having to listen to the testi-
6 mony, I -- I get apprehensive if there is a
7 gun involved. I couldn't say that it
8 wouldn't influence me.

9 THE COURT: All right. Out of an
10 abundance of caution, I am going to excuse
11 you.

12 (SIDEBAR CONCLUDED)

13 THE COURT: Juror 243 will be
14 excused from participation in this dispute.
15 If you will, call the number after 6:00
16 o'clock. Thank you, sir.

17 (JUROR NUMBER 243 EXCUSED)

18 BAILIFF: Juror Number 130.

19 SIDEBAR:

20 JUROR NUMBER 130: Juror 130, Lauren
21 Jones. Just recently we've had three
22 burglaries and I caught someone on my front
23 porch, casing my house. It's just too close
24 to home and do feel that it would affect my
25 judgment, since I'm kinda shaky about it.

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1 THE COURT: Okay.

2 (SIDEBAR CONCLUDED)

3 THE COURT: Number 130 will be
4 excused from participation in this dispute.
5 Thank you very much.

6 (JUROR NUMBER 130 EXCUSED)

7 BAILIFF: Number 292.

8 SIDEBAR:

9 THE COURT: Okay?

10 JUROR NUMBER 292: When I was living
11 in New York, I was held at gunpoint and
12 robbed. They were never apprehended. I
13 don't know that I -- I am having anxiety just
14 talking about it. I apologize.

15 THE COURT: No apology necessary.

16 (SIDEBAR CONCLUDED)

17 THE COURT: Juror Number 292 is
18 excused from participation in this dispute.

19 (JUROR NUMBER 292 EXCUSED)

20 BAILIFF: Number 167.

21 SIDEBAR:

22 THE COURT: Yes, sir? Give me
23 your name, please.

24 JUROR NUMBER 167: Joseph McNeil. I
25 don't think I'd be fair to the parties

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1 involved.

2 THE COURT: Why?

3 JUROR NUMBER 167: I just see so
4 much of it every day. It influences how I
5 feel about ---

6 THE COURT: You think that you
7 have some predetermination about the persons
8 involved?

9 JUROR NUMBER 167: I think so.

10 THE COURT: Notwithstanding that I
11 would instruct you that you would have to
12 presume them innocent?

13 JUROR NUMBER 167: Well, even
14 though you instructed me to presume them
15 innocent, I still have my natural feelings.
16 I can't help that. I apologize.

17 THE COURT: No, no. No apology is
18 necessary. You've expressed your feelings,
19 we appreciate that. You've heard everything
20 and you've come forward. Thank you. You're
21 167?

22 JUROR NUMBER 167: 167, (affirmative
23 nod).

24 (SIDEBAR CONCLUDED)

25 THE COURT: Number 167 is excused.

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1 (JUROR NUMBER 167 EXCUSED)

2 BAILIFF: Juror Number 221.

3 SIDEBAR:

4 THE COURT: Your name, please?

5 JUROR NUMBER 221: Matthew

6 Roden.

7 THE COURT: And your number?

8 JUROR NUMBER 221: Number 221.

9 THE COURT: Yes, sir?

10 JUROR NUMBER 221: My only
11 concern is my job. I am in the Colleton
12 County Detention Center and the Charleston
13 County Detention Center, on a monthly basis,
14 and I interact with the people for the sales
15 position that I have and I just want to make
16 sure that's not a conflict.

17 THE COURT: Can you set that
18 aside?

19 JUROR NUMBER 221: I just want to
20 make sure ---

21 THE COURT: Would it influence
22 your decision based on what the true facts
23 are, based the evidence?

24 JUROR NUMBER 221: It would not.

25 THE COURT: You would apply your

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1 common sense fairly and impartially and would
2 not be influenced by that?

3 JUROR NUMBER 221: I would not.

4 THE COURT: And you would apply
5 the law as I give it to you and would not be
6 influenced by that?

7 JUROR NUMBER 221: It would not.

8 THE COURT: Would you base your
9 decision on the evidence and the law and
10 would that decision be fair to all parties?

11 JUROR NUMBER 221: It would.

12 THE COURT: Thank you.

13 (SIDEBAR CONCLUDED)

14 THE COURT: Juror Number 221 will
15 remain. Ladies and gentlemen, your names
16 will be placed on a list. Your names will be
17 drawn at random -- excuse me. Anything
18 further from the State?

19 SOLICITOR SHEALY: No, Your Honor.

20 THE COURT: Any further questions
21 from the State?

22 SOLICITOR SHEALY: No, sir.

23 THE COURT: Anything further from
24 any of the defendants?

25 WILLIAM RUNYON: Nothing from

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1 Coakley, Your Honor.

2 THE COURT: Mr. Graddick?

3 ANDREW GRIMES: No, sir.

4 THE COURT: Mr. Smalls?

5 JIM SMILEY: No, sir.

6 THE COURT: Your names will be drawn
7 and -- we used to have to do that manually.
8 Now we do it by computer. We've finally
9 moved into 21st Century with that. Imagine
10 that.

11 Your names have been placed on a list, we
12 drew a list to bring you up. Now we will
13 jumble and redraw that list.

14 The attorneys need a few moments to look
15 at the list, then we will start our selection
16 process. You will hear them call out a
17 number and you'll come forward. When you
18 come forward -- I assume that you want them
19 to stand here?

20 CLERK: Yes, sir.

21 THE COURT: Come stand where I'm
22 standing now, facing your fellow jurors and
23 facing the parties.

24 First, the State will say to seat
25 the juror or will say to excuse the juror.

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1 Then we go to each defendant and
2 they will make the same decision, for you to
3 be seated or sworn or they will say you are
4 excused.

5 If you are seated, you will take a
6 seat in the jury box. If you are excused,
7 don't be offended by that. It's just the
8 process. If you're excused, you will return
9 to take your seat.

10 We will go through that process
11 until we've selected our twelve jurors.
12 Then we will select two alternates.

13 Strikes for the first twelve, the
14 State has ten strikes. The defendants have
15 divided among themselves twenty strikes. So
16 we do that -- we go through the process until
17 we have selected our jury. Please follow the
18 instruction in turn, there won't be any
19 problem and we'll have our jury seated
20 shortly.

21 Do you have a list?

22 CLERK: Yes, sir, (distributing).

23 THE COURT: Do you all need a few
24 moments to review it, make decisions?

25 ANDREW GRIMES: Yes, sir.

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1 THE COURT: How about ten minutes?
2 Will that be sufficient?

3 ANDREW GRIMES: Yes, sir.

4 JIM SMILEY: Ten minutes will be
5 fine.

6 THE COURT: Ladies and gentlemen,
7 if any of you want to stretch for just a
8 minute, you can. We will start in about ten
9 minutes, so please be back in your seats,
10 please, at ten minutes to 3:00. Thank you.

11 SOLICITOR SHEALY: Your Honor, may we
12 approach for a moment?

13 THE COURT: Yes, ma'am.

14 (OFF RECORD BENCH CONFERENCE)

15 (RECESS 2:39- 2:50 P.M.)

16 THE COURT: Defendants ready?

17 ANDREW GRIMES: Yes, sir.

18 WILLIAM RUNYON: Yes, sir, Your
19 Honor.

20 JIM SMILEY: Yes, sir.

21 THE COURT: All right, I will turn
22 it over to you.

23 CLERK: Ladies and gentlemen, as I
24 call your name, please gather your belong-
25 ings. Please pass the bar through these

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1 doors on the right-hand side. You're going
2 to come and stand in front of this podium.
3 When you get to the podium, you're going to
4 turn and face back to the room. I will
5 instruct you from that point. Thank you.
6 Juror Number 123, Akim Johnson. (No
7 response).

8 Juror Number 118, Erica Hussey.

9 SOLICITOR SHEALY: I'm sorry, Judge. I
10 was looking down. Is the first one not
11 present?

12 THE COURT: That's one of the ones that
13 we were talking about, on the summary trial.

14 SOLICITOR SHEALY: Oh, okay.

15 CLERK: Juror Number 118, Erica Hussey.

16 THE COURT: Come on forward, Ms. Hussey.

17 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

18 CLERK: What say you for the State?

19 SOLICITOR SHEALY: Please swear the
20 juror.

21 CLERK: What say you as to Defendant
22 Graddick?

23 ANDREW GRIMES: Please seat the juror.

24 CLERK: What say you as to Defendant
25 Coakley?

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1 WILLIAM RUNYON: Please swear the
2 juror, Mr. Clerk.

3 CLERK: What say you as to Defendant
4 Smalls?

5 JIM SMILEY: Please swear Ms. Hussey.

6 CLERK: Ma'am, please take a seat in
7 the jury box. You have been selected as a
8 juror in the trial of this case.

9 (JUROR NUMBER 118 SEATED)

10 CLERK: Juror Number 139, William
11 Khouri.

12 (JUROR, WHITE MALE, BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 SOLICITOR SHEALY: Please swear the
15 juror.

16 CLERK: What say you as to Defendant
17 Graddick?

18 ANDREW GRIMES: Please excuse the
19 juror.

20 CLERK: Sir, if you would, please
21 return to your seat. You have been excused
22 from the trial of this case.

23 (JUROR NUMBER 139 EXCUSED)

24 CLERK: Juror Number 9, Roger Baker.

25 (JUROR, WHITE MALE BEFORE COUNSEL)

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1 CLERK: What say you for the State?

2 SOLICITOR SHEALY: Please swear the
3 juror.

4 CLERK: What say you as to Defendant
5 Graddick?

6 ANDREW GRIMES: Please seat the juror.

7 CLERK: What say you as to Defendant
8 Coakley?

9 WILLIAM RUNYON: Please excuse the
10 juror, Mr. Clerk.

11 CLERK: Sir, if you would, please
12 return to your seat. You've been excused
13 from the trial of this case.

14 (JUROR NUMBER 9 EXCUSED)

15 CLERK: Juror Number 119, Jeffrey
16 Ingham.

17 (JUROR, WHITE MALE, BEFORE COUNSEL)

18 CLERK: What say you for the State?

19 SOLICITOR SHEALY: Please seat the
20 juror.

21 CLERK: What say you for Defendant
22 Graddick?

23 ANDREW GRIMES: Please excuse the
24 juror.

25 CLERK: Sir, if you would, please

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1 return to your seat. You've been excused
2 from the trial of this case.

3 (JUROR NUMBER 119 EXCUSED)

4 CLERK: Juror Number 216, Robert Riley.

5 (JUROR, BLACK MALE, BEFORE COUNSEL)

6 CLERK: What say you for the State?

7 SOLICITOR SHEALY: Please excuse Mr.
8 Riley from this case.

9 (JUROR NUMBER 216 EXCUSED)

10 CLERK: Sir, if you would, please
11 return to your seat. You've been excused
12 from the trial of this case.

13 Juror Number 209, Elizabeth Renken.

14 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

15 CLERK: What say you for the State?

16 SOLICITOR SHEALY: Please swear the
17 juror.

18 CLERK: What say you as to Defendant
19 Graddick?

20 ANDREW GRIMES: Please excuse the
21 juror.

22 CLERK: Ma'am, if you would, please
23 return to your seat. You've been excused
24 from the trial of this case.

25 (JUROR NUMBER 209 EXCUSED)

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1 CLERK: Juror Number 47, Chad Classen.

2 (JUROR, WHITE MALE, BEFORE COUNSEL)

3 CLERK: What say you for the State?

4 SOLICITOR SHEALY: Please swear the
5 juror.

6 CLERK: What say you as to Defendant
7 Graddick?

8 ANDREW GRIMES: Please seat the juror.

9 CLERK: What say you as to Defendant
10 Coakley?

11 WILLIAM RUNYON: Please excuse the
12 juror, Mr. Clerk.

13 CLERK: Sir, if you would, please
14 return to your seat. You've been excused
15 from the trial of this case.

16 (JUROR NUMBER 47 EXCUSED)

17 CLERK: Juror Number 129, Cynthia
18 Jones.

19 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

20 CLERK: What say you for the State?

21 SOLICITOR SHEALY: Please swear the
22 juror.

23 CLERK: What say you as to Defendant
24 Graddick?

25 ANDREW GRIMES: Please excuse the

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1 juror.

2 CLERK: Ma'am, if you would, please
3 return to your seat. You've been excused
4 from the trial of this case.

5 (JUROR NUMBER 129 EXCUSED)

6 CLERK: Defendant Graddick has
7 exhausted four of its seven strikes.
8 Juror Number 219, Marla Rivers.

9 (JUROR, BLACK FEMALE, BEFORE COUNSEL)

10 CLERK: What say you for the State?

11 SOLICITOR SHEALY: Please swear the
12 juror.

13 CLERK: What do you say as to Defendant
14 Graddick?

15 ANDREW GRIMES: Please seat the juror.

16 CLERK: What say you as to Defendant
17 Coakley?

18 WILLIAM RUNYON: Please the juror, Mr.
19 Clerk.

20 CLERK: What say you as to the
21 Defendant Mr. Smalls?

22 JIM SMILEY: Please swear Ms. Rivers.

23 CLERK: Ma'am, if you would, make your
24 way to the jury box. You've been selected as
25 a juror in the trial of this case.

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1 (JUROR NUMBER 219 SEATED)

2 CLERK: Juror Number 255, Amanda
3 Taylor.

4 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

5 CLERK: What say you for the State?

6 SOLICITOR SHEALY: Please swear the
7 juror.

8 CLERK: What say you as to Defendant
9 Graddick?

10 ANDREW GRIMES: Please seat the juror.

11 CLERK: What say you as to Defendant
12 Coakley?

13 WILLIAM RUNYON: Please swear the
14 juror, Mr. Clerk.

15 CLERK: What say you as to Defendant
16 Smalls?

17 JIM SMILEY: Please swear Ms. Taylor.

18 CLERK: Ma'am, if you would, make your
19 way to the jury box. You've been selected as
20 a juror in the trial of this case.

21 (JUROR NUMBER 255 SEATED)

22 CLERK: Juror Number 181, José Mulero.

23 (JUROR, HISPANIC MALE, BEFORE COUNSEL)

24 CLERK: What say you for the State?

25 SOLICITOR SHEALY: Please swear the

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1 juror.

2 CLERK: What say you as to Defendant
3 Graddick?

4 ANDREW GRIMES: Please seat the juror.

5 CLERK: What say you as to Defendant
6 Coakley?

7 WILLIAM RUNYON: Please swear the
8 juror, Mr. Clerk.

9 CLERK: What say you as to Defendant
10 Smalls?

11 JIM SMILEY: Please excuse the
12 juror.

13 CLERK: Sir, if you would, please
14 return to your seat. You've been excused
15 from the trial of this case.

16 (JUROR NUMBER 181 EXCUSED)

17 CLERK: Juror Number 7, Sara Arrants.

18 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR SHEALY: Please swear the
21 juror.

22 CLERK: What say you for Defendant
23 Graddick?

24 ANDREW GRIMES: Please seat the juror.

25 CLERK: What say you for Defendant

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1 Coakley?

2 WILLIAM RUNYON: Please swear the
3 juror, Mr. Clerk.

4 CLERK: What say you as to Defendant
5 Smalls?

6 JIM SMILEY: Please excuse the juror.

7 CLERK: Ma'am, if you would, please
8 return to your seat. You've been excused
9 from the trial of this case.

10 (JUROR NUMBER 7 EXCUSED)

11 CLERK: Juror Number 273, David
12 Wachter.

13 (JUROR, WHITE MALE, BEFORE COUNSEL)

14 CLERK: What say you for the State?

15 SOLICITOR SHEALY: Please seat the
16 juror.

17 CLERK: What do you say as to Defendant
18 Graddick?

19 ANDREW GRIMES: Please seat the juror.

20 CLERK: What say you as to Defendant
21 Coakley?

22 WILLIAM RUNYON: Please swear the
23 juror, Mr. Clerk.

24 CLERK: What say you as to Defendant
25 Smalls?

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1 JIM SMILEY: Please swear Mr. Wachter.

2 CLERK: Sir, if you would, make your
3 way to the jury box. You've been selected as
4 a juror in the trial of this case.

5 (JUROR NUMBER 273 SEATED)

6 CLERK: Juror Number 17, Charles Bibee.

7 (JUROR, WHITE MALE, BEFORE COUNSEL)

8 CLERK: What say you for the State?

9 SOLICITOR SHEALY: Please swear the
10 juror.

11 CLERK: What say you as to Defendant
12 Graddick?

13 ANDREW GRIMES: Please excuse the
14 juror.

15 CLERK: Sir, if you would, please
16 return to your seat. You've been excused
17 from the trial of this case.

18 (JUROR NUMBER 17 EXCUSED)

19 CLERK: Juror Number 192, Steve Noga.

20 (JUROR, WHITE MALE, BEFORE COUNSEL)

21 CLERK: What say you for the State?

22 SOLICITOR SHEALY: Please swear the
23 juror.

24 CLERK: What say you as to Defendant
25 Graddick?

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1 ANDREW GRIMES: Please seat the juror.

2 CLERK: What say you as to Defendant
3 Coakley?

4 WILLIAM RUNYON: Please excuse the
5 juror, if you would, Mr. Clerk.

6 CLERK: Sir, if you would, please
7 return to your seat. You've been excused
8 from the trial of this case.

9 (JUROR NUMBER 192 EXCUSED)

10 CLERK: Juror Number 176, Jerri Moore.

11 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

12 CLERK: What say you for the State?

13 SOLICITOR SHEALY: Please swear the
14 juror.

15 CLERK: What say you for Defendant
16 Graddick?

17 ANDREW GRIMES: Please seat the juror.

18 CLERK: What say you as to Defendant
19 Coakley?

20 WILLIAM RUNYON: Please swear the
21 juror, Mr. Clerk.

22 CLERK: What say you as to Defendant
23 Smalls?

24 JIM SMILEY: Please seat Ms. Moore.

25 CLERK: Ma'am, if you would, make your

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1 way to the jury box. You've been selected as
2 a juror in the trial of this case.

3 (JUROR NUMBER 176 SEATED)

4 CLERK: Juror Number 122, Kimberly
5 Jarrett.

6 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

7 CLERK: What say you for the State?

8 SOLICITOR SHEALY: Please swear the
9 juror.

10 CLERK: What say you as to Defendant
11 Graddick?

12 ANDREW GRIMES: Please swear the
13 juror.

14 CLERK: What say you as to Defendant
15 Coakley?

16 WILLIAM RUNYON: Please swear the
17 juror, Mr. Clerk.

18 CLERK: What say you as to Defendant
19 Smalls?

20 JIM SMILEY: Please excuse the juror.

21 CLERK: Ma'am, if you would, please
22 return to your seat. You've been excused
23 from the trial of this case.

24 (JUROR NUMBER 122 EXCUSED)

25 CLERK: Juror Number 258, Meghan Teder.

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1 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

2 CLERK: What say you for the State?

3 SOLICITOR SHEALY: Please swear the
4 juror.

5 CLERK: What say you as to Defendant
6 Graddick?

7 ANDREW GRIMES: Please excuse the
8 juror.

9 CLERK: Ma'am, if you would, please
10 return to your seat. You've been excused
11 from the trial of this case. Defendant
12 Graddick has exhausted six of its seven
13 strikes.

14 (JUROR NUMBER 258 EXCUSED)

15 CLERK: Juror Number 5, Jason
16 Anderson.

17 (JUROR, WHITE MALE, BEFORE COUNSEL)

18 CLERK: What say you for the State?

19 SOLICITOR SHEALY: Please swear the
20 juror.

21 CLERK: What say you as to Defendant
22 Graddick?

23 ANDREW GRIMES: Please seat the juror.

24 CLERK: What say you as to Defendant
25 Coakley?

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1 WILLIAM RUNYON: Please swear the
2 juror, Mr. Clerk.

3 CLERK: What say you as to Defendant
4 Smalls?

5 JIM SMILEY: Please excuse the juror.

6 CLERK: Sir, if you would, please
7 return to your seat. You've been excused
8 from the trial of this case.

9 (JUROR NUMBER 5 EXCUSED)

10 CLERK: Defendant Smalls has exhausted
11 four of its strikes. Juror Number 65, Sara
12 Dorociak.

13 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

14 CLERK: What say you for the State?

15 SOLICITOR SHEALY: Please excuse the
16 juror.

17 CLERK: Ma'am, if you would, please
18 return to your seat. You've been excused
19 from the trial of this case.

20 (JUROR NUMBER 65 EXCUSED)

21 CLERK: Juror Number 110, Linda Hoke.

22 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

23 CLERK: What say you for the State?

24 SOLICITOR SHEALY: Please seat the
25 juror.

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1 CLERK: What say you as to Defendant
2 Graddick?

3 ANDREW GRIMES: Please seat the juror.

4 CLERK: What say you as to Defendant
5 Coakley?

6 WILLIAM RUNYON: Please swear the
7 juror, Mr. Clerk.

8 CLERK: What say you as to Defendant
9 Smalls?

10 JIM SMILEY: Please excuse the juror.

11 CLERK: Ma'am, if you would, please
12 return to your seat. You've been excused
13 from the trial of this case.

14 (JUROR NUMBER 110 EXCUSED)

15 CLERK: Defendant Smalls has one strike
16 remaining. Juror Number 58, Leonard
17 Delrosario.

18 (JUROR, ASIAN MALE, BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR SHEALY: Please swear the
21 juror.

22 CLERK: What say you as to Defendant
23 Graddick?

24 ANDREW GRIMES: Please swear the
25 juror.

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1 CLERK: What say you as to Defendant
2 Coakley?

3 WILLIAM RUNYON: Please swear the
4 juror, Mr. Clerk.

5 CLERK: What say you as to Defendant
6 Smalls?

7 JIM SMILEY: Please swear Mr.
8 Delrosario.

9 (JUROR NUMBER 58 SEATED)

10 CLERK: Juror Number 101, Daniel Guy.

11 (JUROR, WHITE MALE, BEFORE COUNSEL)

12 CLERK: What say you for the State?

13 SOLICITOR SHEALY: Please swear the
14 juror.

15 CLERK: What say you for Defendant
16 Graddick?

17 ANDREW GRIMES: Please excuse the
18 juror.

19 CLERK: Sir, if you would, please
20 return to your seat. You've been excused
21 from the trial of this case.

22 (JUROR NUMBER 101 EXCUSED)

23 CLERK: Defendant Graddick has
24 exhausted all of its strikes. Juror Number
25 108, Christopher Hock.

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1 (JUROR, WHITE MALE, BEFORE COUNSEL)

2 CLERK: What say you for the State?

3 MS. SHEALY: Please swear the juror.

4 CLERK: Any challenges as to Defendant
5 Graddick?

6 ANDREW GRIMES: Please seat the juror.

7 CLERK: What say you as to Defendant
8 Coakley?

9 WILLIAM RUNYON: Please swear the
10 juror, Mr. Clerk.

11 CLERK: What say you as to Defendant
12 Smalls?

13 JIM SMILEY: Please swear Mr. Hock.

14 CLERK: Sir, if you would, make your
15 way to the jury box. You've been selected as
16 a juror in the trial of this case.

17 (JUROR NUMBER 108 SEATED)

18 CLERK: Juror Number 268, Carol Varney.

19 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

20 CLERK: What say you for the State?

21 SOLICITOR SHEALY: Please swear the
22 juror.

23 CLERK: Any challenge as to Defendant
24 Graddick?

25 ANDREW GRIMES: No. Please seat the

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1 juror.

2 CLERK: What say you as to Defendant
3 Coakley?

4 WILLIAM RUNYON: Please excuse the
5 juror, Mr. Clerk.

6 CLERK: Ma'am, if you would, please
7 return to your seat. You've been excused
8 from the trial of this case.

9 (JUROR NUMBER 268 EXCUSED)

10 CLERK: Defendant Coakley has exhausted
11 four of its seven strikes. Juror Number 26,
12 Shawn Bradley.

13 (JUROR, BLACK MALE, BEFORE COUNSEL)

14 CLERK: What say you for the State?

15 SOLICITOR SHEALY: Please swear the
16 juror.

17 CLERK: Any challenge as to Defendant
18 Graddick?

19 ANDREW GRIMES: No. Please seat the
20 juror.

21 CLERK: What say you as to Defendant
22 Coakley?

23 WILLIAM RUNYON: Please swear the
24 juror, Mr. Clerk.

25 CLERK: What say you as to Defendant

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1 Smalls?

2 JIM SMILEY: Please swear Mr. Bradley.

3 CLERK: Sir, if you would, make your
4 way to the jury box. You've been selected as
5 a juror in the trial of this case.

6 (JUROR NUMBER 26 SEATED)

7 CLERK: Juror Number 148, Kristen
8 Leagan.

9 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

10 CLERK: What say you for the State?

11 SOLICITOR SHEALY: Please swear the
12 juror.

13 CLERK: Any challenges as to Defendant
14 Graddick?

15 ANDREW GRIMES: No. Please seat the
16 juror.

17 CLERK: What say you as to Defendant
18 Coakley?

19 WILLIAM RUNYON: Please swear the
20 juror, Mr. Clerk.

21 CLERK: What say you as to Defendant
22 Smalls?

23 JIM SMILEY: Please swear the juror.

24 CLERK: If you would, please make your
25 way to the jury box. You've been selected as

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1 a juror in the trial of this case.

2 (JUROR NUMBER 148 SEATED)

3 CLERK: Juror 202, Gary Puckhaber.

4 (JUROR, WHITE MALE, BEFORE COUNSEL)

5 CLERK: What say you for the State?

6 SOLICITOR SHEALY: Please excuse the
7 juror.

8 CLERK: Sir, if you would, please
9 return to your seat. You've been excused
10 from the trial of this case.

11 (JUROR NUMBER 202 EXCUSED)

12 CLERK: Juror Number 72, Debra Evans
13 Coffey.

14 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

15 CLERK: What say you for the State?

16 SOLICITOR SHEALY: Please swear the
17 juror.

18 CLERK: Any challenges as to Defendant
19 Graddick?

20 ANDREW GRIMES: No. Please seat the
21 juror.

22 CLERK: What say you for Defendant
23 Coakley?

24 WILLIAM RUNYON: Please excuse the
25 juror, Mr. Clerk.

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1 CLERK: Ma'am, if you would, please
2 return to your seat. You've been excused
3 from the trial of this case.

4 (JUROR NUMBER 72 EXCUSED)

5 CLERK: Defendant Coakley has exhausted
6 five of its seven strikes. Juror Number 37,
7 Gregory Burris.

8 (JUROR, WHITE MALE, BEFORE COUNSEL)

9 CLERK: What say you for the State?

10 SOLICITOR SHEALY: Please excuse the
11 juror.

12 CLERK: Sir, if you would, please
13 return to your seat. You've been excused
14 from the trial of this case.

15 (JUROR NUMBER 37 EXCUSED)

16 CLERK: Juror Number 221, Matthew
17 Roden.

18 (JUROR, WHITE MALE, BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR SHEALY: Please swear the
21 juror.

22 CLERK: Any challenges as to Defendant
23 Graddick?

24 ANDREW GRIMES: No, sir.

25 CLERK: What say you as to Defendant

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1 Coakley?

2 WILLIAM RUNYON: Swear the juror, Mr.
3 Clerk.

4 CLERK: What say you as to Defendant
5 Smalls?

6 JIM SMILEY: Please seat Mr. Roden.

7 CLERK: Sir, if you would, make your
8 way to the jury box. You've been selected as
9 a juror in the trial of this case.

10 (JUROR NUMBER 221 SEATED)

11 JUROR: Juror Number 222, Nathaniel
12 Roper.

13 (JUROR, BLACK MALE, BEFORE COUNSEL)

14 CLERK: What say you for the State?

15 SOLICITOR SHEALY: Please swear the
16 juror.

17 CLERK: Any challenge as to Defendant
18 Graddick?

19 ANDREW GRIMES: No, sir.

20 CLERK: What say you as to Defendant
21 Coakley?

22 WILLIAM RUNYON: Please swear the
23 juror, Mr. Clerk.

24 CLERK: What say you as to Defendant
25 Smalls?

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1 JIM SMILEY: Please swear Mr. Roper.

2 CLERK: Sir, if you would, make your
3 way to the jury box. You've been selected as
4 a juror in the trial of this case.

5 (JUROR NUMBER 222 SEATED)

6 THE COURT: Picking the first alter-
7 nate. Strikes one and two.

8 COURT REPORTER: Eleven, Judge.

9 CLERK: Your Honor, that's --

10 THE COURT: Excuse me. I beg your
11 pardon. Please continue.

12 CLERK: Juror Number 253, Gregory
13 Stoyer.

14 (JUROR, WHITE MALE, BEFORE COUNSEL)

15 CLERK: What say you for the State?

16 SOLICITOR SHEALY: Please swear the
17 juror.

18 CLERK: Any challenge from Defendant
19 Graddick?

20 ANDREW GRIMES: No, sir. Please seat
21 the juror.

22 CLERK: What say you as to Defendant
23 Coakley?

24 WILLIAM RUNYON: Please excuse the
25 juror, Mr. Clerk.

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1 CLERK: Sir, if you would, please
2 return to your seat. You've been excused
3 from the trial of this case.

4 (JUROR NUMBER 253 EXCUSED)

5 CLERK: Defendant Coakley has one
6 strike remaining. Juror Number 211, Rebecca
7 Reynolds.

8 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

9 CLERK: What say you for the State?

10 SOLICITOR SHEALY: Please swear the
11 juror.

12 CLERK: Any challenge as to Defendant
13 Graddick?

14 ANDREW GRIMES: No, sir.

15 CLERK: What say you as to Defendant
16 Coakley?

17 WILLIAM RUNYON: Please swear the
18 juror, Mr. Clerk.

19 CLERK: What say you as to Defendant
20 Smalls?

21 JIM SMILEY: Please excuse the juror.

22 CLERK: Ma'am, if you would, please
23 return to your seat. You've been excused
24 from the trial of this case.

25 (JUROR NUMBER 211 EXCUSED)

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1 CLERK: Defendant Smalls has exhausted
2 all of his strikes. Juror Number 141, Sheila
3 Kirnon.

4 (JUROR, BLACK FEMALE, BEFORE COUNSEL)

5 CLERK: What say you for the State?

6 SOLICITOR SHEALY: Please excuse this
7 juror.

8 CLERK: Ma'am, if you would, please
9 return to your seat. You've been excused
10 from the trial of this case.

11 (JUROR NUMBER 141 EXCUSED)

12 CLERK: The State has exhausted five of
13 its ten strikes. Juror Number 64, Thomas
14 Donnelly.

15 (JUROR, WHITE MALE, BEFORE COUNSEL)

16 CLERK: What say you for the State?

17 SOLICITOR SHEALY: Please swear the
18 juror.

19 CLERK: Any challenges as to Defendant
20 Graddick?

21 ANDREW GRIMES: No, sir.

22 CLERK: What say you as to Defendant
23 Coakley?

24 WILLIAM RUNYON: Please excuse the
25 juror.

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1 CLERK: Sir, if you would, please
2 return to your seat. You've been excused
3 from the trial of this case.

4 (JUROR NUMBER 64 EXCUSED)

5 CLERK: Defendant Coakley has exhausted
6 all of its strikes. Juror Number 98, Mia
7 Greene.

8 (JUROR, BLACK FEMALE, BEFORE COUNSEL)

9 CLERK: What say you for the State?

10 SOLICITOR SHEALY: Please swear the
11 juror.

12 CLERK: Any challenge for Defendant
13 Graddick?

14 ANDREW GRIMES: No, sir.

15 CLERK: Any challenge as to Defendant
16 Coakley?

17 WILLIAM RUNYON: None whatsoever.

18 CLERK: Any challenge as to Defendant
19 Smalls?

20 JIM SMILEY: No, please seat the
21 witness.

22 CLERK: Ma'am, if you would, make your
23 way to the jury box. You've been selected as
24 a juror in the trial of this case.

25 (JUROR NUMBER 98 SEATED)

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1 THE COURT: Alternates are two strikes,
2 one and two.

3 CLERK: Thank you, Your Honor. Juror
4 Number 237, Anna Smith.

5 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

6 CLERK: What say you for the State?

7 SOLICITOR SHEALY: Please swear the
8 juror.

9 CLERK: Thank you, ma'am. What say you
10 for Defendant Graddick?

11 ANDREW GRIMES: Please seat the juror.

12 CLERK: What say you as to Defendant
13 Coakley?

14 WILLIAM RUNYON: Please excuse the
15 juror, Mr. Clerk.

16 CLERK: Ma'am, if you would, please
17 return to your seat. You've been excused
18 from the trial of this case.

19 (JUROR NUMBER 237 EXCUSED)

20 JIM SMILEY: Your Honor, I think that I
21 have to renew the objection.

22 THE COURT: You can put that on the
23 record when we ---

24 JIM SMILEY: Yes, sir. Thank you.

25 THE COURT: We still have another

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1 alternate to choose.

2 JIM SMILEY: Yes, sir.

3 CLERK: Defendant Coakley has exhausted
4 one of its two strikes. Juror Number 87,
5 Ernest Gadsden.

6 (JUROR, BLACK MALE, BEFORE COUNSEL)

7 CLERK: What say you for the State?

8 SOLICITOR SHEALY: Please swear the
9 juror.

10 CLERK: What say you as to Defendant
11 Graddick?

12 ANDREW GRIMES: May I have a moment,
13 please?

14 THE COURT: Sure.

15 ANDREW GRIMES: Please excuse the
16 juror.

17 CLERK: Sir, if you would, please
18 return to your seat. You've been excused
19 from the trial of this case.

20 (JUROR NUMBER 87 EXCUSED)

21 CLERK: Defendant has exhausted both of
22 its strikes. Juror Number 282, Herman White.
23 (No response).

24 THE COURT: Herman White is not
25 present?

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1 CLERK: No, Your Honor. Juror Number
2 152, Juanita Magana.

3 (JUROR, HISPANIC FEMALE, BEFORE COUNSEL)

4 CLERK: What say you for the State?

5 SOLICITOR SHEALY: Please swear the
6 juror.

7 CLERK: Any challenges as to Defendant
8 Graddick?

9 THE COURT: This is where you ---

10 JIM SMILEY: Yes, sir.

11 THE COURT: Wait for your turn.

12 JIM SMILEY: Yes, sir.

13 ANDREW GRIMES: No challenge.

14 CLERK: Any challenge as to Defendant
15 Coakley?

16 WILLIAM RUNYON: Please swear the
17 juror, Mr. Clerk.

18 CLERK: Any challenge as to Defendant
19 Smalls?

20 THE COURT: Based on your previous
21 argument, you challenge as to Defendant
22 Smalls' right to have a strike?

23 JIM SMILEY: Correct, Your Honor.

24 THE COURT: Okay.

25 JIM SMILEY: Otherwise, I ---

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1 THE COURT: No argument at this point.
2 I will allow you to place it on the record at
3 the first break. Thank you, sir.

4 JIM SMILEY: Yes, sir. Thank you.

5 CLERK: Your Honor, we have selected
6 twelve jurors and two alternates.

7 THE COURT: All right, y'all approach.

8 (BENCH CONFERENCE)

9 THE COURT: Any objections -- any
10 Motions from the State regarding the
11 selection process?

12 SOLICITOR SHEALY: No, Your Honor.

13 THE COURT: Any Motions for Defendant
14 Graddick concerning the selection process?

15 ANDREW GRIMES: No -- no objections,
16 Your Honor.

17 THE COURT: Any Motions from Defendant
18 Coakley?

19 WILLIAM RUNYON: No, Your Honor.

20 THE COURT: Other than the Motion
21 concerning the Alternate, any additional
22 Motions from Mr. Smalls?

23 JIM SMILEY: No, Your Honor.

24 THE COURT: Thank you, Your Honor.
25 Ladies and gentlemen, thank you very much for

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1 your participation.

2 Those of you who were not selected, you
3 are now free to leave. Please call the
4 number after 6:00 tonight and follow that
5 instruction. I hope what's left of the
6 afternoon is good for you.

7 (JURY PANEL OUT)

8 THE COURT: Ladies and gentlemen, those
9 of you who were selected, thank you very much
10 for your patience as well. There are some
11 matters that I am going to take up out of
12 your presence. At this point, I am going to
13 ask you to retire to your jury room.

14 Please do not discuss this case. You
15 don't know anything about it yet. Just get
16 to know each other, and we'll be with you as
17 quickly as we can. Please follow the
18 bailiffs and they will lead you to your jury
19 room.

20 (JURY OUT @ 3:28 P.M.)

21 THE COURT: All right. Mr. Smiley,
22 thank you for your patience with the Court.
23 Your Motion was noted and we have had a
24 sidebar concerning that. Certainly it's an
25 observation -- and I don't fault anything.

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1 It's obvious that maybe it needs to be
2 addressed by the Court, maybe it needs to be
3 addressed by the Legislature. Just as you
4 all divided up twenty strikes, it would seem
5 to me that two doesn't give you each a
6 strike. Maybe it ought to be at least for
7 the number of defendants that each gets one.
8 I started to change that midstream, uh, but
9 -- but as a practical matter, it probably
10 wouldn't have ---

11 JIM SMILEY: We were running out of
12 jurors.

13 THE COURT: So it wouldn't have changed
14 anything because there wasn't -- although you
15 could have struck the last juror and we
16 wouldn't have had an alternate. We could
17 have gone forward with a twelve-person jury.

18 JIM SMILEY: I understand.

19 THE COURT: Again, if that person -- as
20 we noted, if we don't use the alternate,
21 there was an error -- there was a problem.
22 But if we -- anyway. Is there anything else
23 that you want to place on the record
24 concerning your Motion that you should be
25 given an opportunity to strike equally

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1 alternates, or at least have the opportunity
2 to strike one.

3 JIM SMILEY: I don't believe that I need
4 to, Your Honor. I believe that my -- one of
5 the things that I have always heard Your
6 Honor, or any judge, say is that while we are
7 trying the three together, each person is
8 getting a separate trial.

9 THE COURT: Right.

10 JIM SMILEY: So when you look at it in
11 that fashion, my client was deprived the
12 right to a fair and impartial jury when he is
13 not given the appropriate strike(s). Again,
14 if that alternate is not used, then I would
15 agree. But I could not exercise a strike
16 because they had been taken by the other
17 parties. Therefore, Your Honor, I think that
18 it violates my client's Constitutional rights
19 to a fair and impartial trial under the sixth
20 and fourteenth amendments, and the South
21 Carolina Constitution as well.

22 THE COURT: Okay.

23 JIM SMILEY: I appreciate the oppor-
24 tunity to place that on the record.

25 THE COURT: Anything else?

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1 WILLIAM RUNYON: Judge, just to clarify
2 the record, there was -- and the court
3 correctly stated -- there was, by agreement,
4 a division of preemptory strikes.

5 THE COURT: Right, and he -- you use
6 the term preemptory, but we're not talking
7 about preemptory. That was as agreed upon.

8 WILLIAM RUNYON: Right. But as it
9 relates to the alternate strikes, I think
10 with all due respect to my colleagues that we
11 just took them.

12 THE COURT: I understand.

13 WILLIAM RUNYON: There was no agree-
14 ment.

15 THE COURT: There was no agreement, and
16 therein lies the issue that clearly, I think,
17 should be addressed. I think that they
18 clearly -- not clearly.

19 I think that they indirectly addressed it
20 in their rulings on whether or not there is a
21 prejudice, which I think might be a
22 significant issues in the right to close by
23 not offering evidence. In those cases where
24 a codefendant offers evidence, all of the
25 others lose the right to close. Which one is

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1 the most significant for prejudice, I don't
2 know but the Court has found that that one is
3 not. So I am not so sure -- as you stated,
4 you took them and the other persons were
5 eliminated.

6 Now, did your client lose the right to
7 exercise a preemptory challenge on an
8 alternate? Not really because the statute
9 gave you only two, in my opinion. Therein
10 lies -- in my opinion.

11 It talks about, even in preemptory, it
12 says that they will discuss among themselves
13 how to divide it.

14 So it's legislature from the bench. I'm
15 going to follow the statute and apply it.

16 Thank you very much.

17 Now, as I stated, we have one -- given
18 the hour, we'll probably go into Friday, I
19 would guess. Possibly, at least. We'll
20 certainly go through Thursday.

21 I haven't used an alternate in a while
22 here, but there have also been cases where
23 I've used both alternates before lunch on the
24 first day. So -- that's up to y'all as to
25 how you want to proceed.

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1 I assume that obviously if we have to
2 excuse one, we're good, but if we have to
3 excuse two that we're in trouble.

4 If we have to excuse one, we've got a
5 possible issue. I don't know what the
6 significance of it is. You weigh that. But
7 I'll give you a few minutes, since you said
8 that you wanted to make a call.

9 SOLICITOR SHEALY: Thank you, Your Honor.

10 THE COURT: We will be at-ease.

11 WILLIAM RUNYON: Do we have enough time
12 to ---

13 THE COURT: Absolutely.

14 (BRIEF RECESS)

15 (DEFENDANT GRADDICK PRESENT)

16 (DEFENDANT COAKLEY PRESENT)

17 (DEFENDANT SMALLS PRESENT)

18 THE COURT: Let the record reflect that
19 all defendants are present. Let's -- rather
20 than having everybody -- unless I hear
21 otherwise, I will assume everyone is in
22 agreement -- if you have an objection that is
23 yours, make it. Otherwise, it'll be agreed
24 -- unless I hear otherwise, I'll assume
25 everybody is in agreement -- so when I ask if

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1 there are any additional questions that are
2 needed, it will not be necessary for you to
3 respond individually, unless you respond that
4 you have no objection.

5 JIM SMILEY: I understand.

6 THE COURT: Okay. Because everybody --
7 is everybody okay with that for record
8 purposes?

9 ANDREW GRIMES: Yes, sir.

10 WILLIAM RUNYON: For Defendant Coakley.

11 THE COURT: Thank you. Okay. There
12 was a Motion for sequestration of witnesses.
13 So all witnesses will be sequestered.

14 Who is the person that you identified as
15 your ---

16 SOLICITOR SHEALY: Tyrone Simmons.
17 Sergeant Tyrone Simmons.

18 THE COURT: Mr. Simmons will be your
19 chief witness and may remain with you in the
20 courtroom.

21 SOLICITOR SHEALY: Thank you.

22 THE COURT: All right. Are we ready
23 for the jury? Defendants ready?

24 SOLICITOR SHEALY: I've lost my co-
25 counsel. He'll be right back.

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1 THE COURT: Can we go ahead and bring
2 in the jury.

3 SOLICITOR SHEALY: Yes, sir.

4 THE COURT: Okay, let's bring in our
5 jury. Who is going to do the opening for the
6 State?

7 SOLICITOR SHEALY: I am.

8 THE COURT: You are?

9 SOLICITOR SHEALY: Yes, sir..

10 (JURY IN @ 3:52 P.M.)

11 BAILIFF: All jurors present, Your
12 Honor.

13 THE COURT: Thank you, ladies and
14 gentlemen. Before I ask the clerk to
15 administer your oath -- it is Magana, is that
16 how you pronounce your name?

17 JUROR NUMBER 512: Magana.

18 THE COURT: Ms. Magana, you have been
19 selected as the alternate. That term,
20 though, has no significance at this point.
21 At the conclusion of this trial, if the first
22 twelve selected are unable to continue, then
23 you will not participate in the final
24 deliberations. However, neither you nor I
25 know the status of the first twelve jurors.

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1 It is not uncommon to have an alternate juror
2 move onto the jury panel at some point during
3 a trial. So please know that you're very
4 much a part of the jury. You might not
5 participate in the final considerations, but
6 that shouldn't deter you or in any way
7 dissuade your attention to this matter. I am
8 sure that it will not.

9 One of the neat things that you have --
10 most of the time in courtrooms, it's two
11 chairs but in this courtroom you have a row
12 of seated that belong to you. You can sit in
13 any of those seats that you want when the
14 jury comes into the courtroom from time to
15 time.

16 I would ask the rest of you jurors to
17 occupy the first twelve seats so that -- and
18 I will confess what it is. There's nothing
19 magic about those seats on the first and
20 second row. It's just laziness -- when I
21 look at the first row of seats and the second
22 row, if I see any open seat then I know that
23 a juror is missing. It just helps us to know
24 that you are all here. To thank you very
25 much.

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1 There is only one other assigned seat.
2 It's on the first row, on this end. Any of
3 the first twelve of you are free to occupy
4 that seat. The statute allows me to appoint
5 a foreperson or a presiding juror as a
6 foreman, forelady, presiding juror. I call
7 them the presiding juror.

8 Someone has to be responsibility at the
9 conclusion of the trial for signing the
10 verdict form on behalf of the jury panel.
11 That would be the presiding juror's
12 responsibility.

13 If there are exhibits that are introduced
14 in the trial of this matter, and I anticipate
15 that there will be, it will the presiding
16 juror's responsibility to receive those and
17 when the jury has completed it's
18 deliberations to return those exhibits to the
19 court.

20 There may be from time to time a
21 necessity for some written communication from
22 the jury to the court. It would be the
23 presiding juror's responsibility to draft
24 that on behalf of your fellow jurors.

25 Any of the first twelve of you are

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1 eligible to serve as the presiding juror.
2 The statute allows me to appoint or for you
3 to select. I, for the last twenty years, let
4 the jury select their presiding juror. It
5 does not have to be done right away but at
6 some point, if you will, select that person.
7 I would simply ask that once that individual
8 has been identified and selected, that that
9 person occupy the first chair on the first
10 row, outside. Until that, you're free to
11 occupy any of the seats, including the first
12 chair. After that, other than the first
13 chair and the last row, you're free to occupy
14 any seats that you want to as you come into
15 the courtroom from time to time.

16 One observation over the years -- all of
17 you are certainly qualified to serve as
18 presiding juror. But some persons are better
19 facilitators than other. I believe that is
20 what a presiding juror actually does. They
21 are facilitators in the deliberations. With
22 that in mind, make your selection at some
23 point. Thank you very much.

24 If you will, give your attention now to
25 the clerk as he administers your oath.

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1 (JURY SWORN)

2 THE COURT: Thank you, ladies and
3 gentlemen. That oath was really the essence
4 of the last question that I asked you before
5 we started this selection process, was there
6 anything about this dispute that would give
7 you any concern about your ability to make
8 that commitment. Each of you responded that
9 there was not.

10 If you take that, coupled with all of the
11 other questions that were asked of you, that
12 you will recall when I qualified you, I said
13 that there really no "correct" answers to any
14 of those. I said that it would just help you
15 -- that it was designed to help you make a
16 decision as to whether or not you could serve
17 as a judge with me in this case.

18 Each of you, either by answering the
19 question -- and you probably tired of my
20 constantly asking would you base your
21 decision on the evidence and the law and
22 would it be fair to all parties. But that's,
23 in essence, what that law says. Each of you
24 responded in answer to the question, or you
25 didn't respond and by that you indicated that

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1 sure, you can apply your sense of logic and
2 reasoning when directed and make a decision
3 on the facts and apply the law.

4 So I would submit to you that when you
5 walked in just a moment ago, before you took
6 that oath, that you brought everything that
7 you're going to need to accomplish that. As
8 I told you, there is no one more qualified
9 than you are to have accepted the
10 responsibility of being a judge with me in
11 this case than you are. No one in the world
12 can apply your common sense, your life's
13 experiences, your sense of reason better than
14 you can. That's all that you will be asked
15 to do.

16 You will, at the appropriate time,
17 analyze the evidence. The evidence consists
18 of the testimony of the witnesses and the
19 exhibits that might be introduced through
20 that testimony. Nothing else.

21 You will decide what you believe to be
22 the truth. Once you make that decision, then
23 you will take the law as I give it to you and
24 apply that law fairly and impartially to
25 those facts that you ultimately determine.

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1 As I stated, you're very qualified to do
2 that.

3 You also brought something else which I
4 think is equally important to your sense of
5 logic, your sense of reason. You brought
6 with you an open mind. We didn't say it that
7 way, but that's what you said. You said,
8 'Your Honor, there is nothing about this case
9 that would give me any concern about keeping
10 an open mind, about not making any decisions,
11 not deciding any issues prematurely.' That's
12 what you promised. You promised the Court,
13 you promised that to the State, Mr. Coakley,
14 Mr. Smalls, Mr. Graddick. You promised it to
15 every party in this case. They expect you
16 will honor that. I know that you will. I
17 appreciate your commitment to that. In so
18 doing, you will have honored the commitment
19 that you made.

20 There are four distinct parts to this
21 process of dispute resolution. In just a few
22 moments, the attorneys will have their first
23 opportunity to speak to you. They will speak
24 to you twice, once before you hear the
25 evidence and once after you've heard the

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1 evidence.

2 The first we call opening statements,
3 where they will give you an overview of the
4 statements and they will discuss with you
5 some of the evidence that they expect that
6 you will hear. They may even discuss some of
7 the law that will be involved. It will be
8 helpful, I'm confident as you give them your
9 attention as we move through the trial. It
10 gives you a "road map" of the evidentiary
11 portion.

12 At the conclusion of the evidence, they
13 will address you again. Unlike the opening
14 statements, you will have heard the evidence.
15 At that time they will discuss the evidence
16 and suggest reasonable inferences that you
17 may draw from that evidence.

18 Their remarks are extremely important.
19 They are officers of this Court. They have a
20 very, very important responsibility in this
21 process to present the evidence and the law
22 in a fashion that will assist us in making
23 the decisions that we are called upon to
24 make. Please give them your attention, and I
25 know that you will, throughout the trial.

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1 But please remember something, that while
2 their remarks are extremely important and
3 very beneficial and helpful, they should
4 never be considered evidence because the
5 evidence will come through the testimony of
6 witnesses.

7 Now, the evidentiary portion will
8 proceed. The first party that you will hear
9 is the State. Why? Because the State makes
10 the charge and in this state and this
11 country, persons who are accused of criminal
12 offenses -- just as the defendants are here
13 -- are never required to prove or disprove
14 anything at all. In fact, they are not
15 required to present any evidence. They don't
16 have to say a word. They don't have to
17 present anything at all and you should never
18 consider that whatsoever.

19 Why? Because the law says that the
20 burden rests upon the accuser, in this case
21 the State of South Carolina, or prove their
22 case. What do I mean by "their case"? I
23 mean that they have to prove the elements of
24 the crime of armed robbery.

25 At the conclusion, the last stage, I will

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1 give you the law. I will list for you the
2 various elements involved in the crime of
3 armed robbery. You will then retire, be
4 ready to retire and begin your deliberation.
5 You will decide one thing, and one thing
6 only, and that is has the State met its
7 burden of proof.

8 That is what a jury verdict says. If
9 it is Guilty, that jury collectively, in
10 analyzing the evidence, was satisfied to the
11 requisite standard that the State had
12 established each element of that crime;
13 therefore, as I will direct you, you must
14 return a verdict of guilty if you're
15 convinced.

16 The standard that you will be applying is
17 a standard that probably you've heard. I
18 will define it for you in greater detail in
19 the charge. It is beyond a reasonable doubt.
20 Simply stated, it is a doubt that will cause
21 an honest, sincere juror who is searching for
22 the truth in a case to hesitate to act or
23 take some action.

24 That is the standard that you will be
25 applying. You will be analyzing each element

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1 and asking yourself, 'Am I convinced to that
2 standard?' If your answer is yes, then the
3 State has met its burden of proof -- if all
4 twelve of you agree. If your answer is 'ahh,
5 it's possible, it might be', that won't be
6 sufficient. Why? Because that's not to that
7 requisite standard.

8 In fact, this process -- this process of
9 dispute resolution is very simple. In a
10 civil proceeding, one major difference is
11 that the burden of proof is -- in a civil
12 proceeding, the burden of proof is the
13 preponderance of the evidence or the greater
14 weight of the evidence. Legally, the legal
15 term is it is "probably so." The standard
16 here is more than it being probably so, it's
17 proof beyond a reasonable doubt. We will go
18 into greater detail in the charge portion
19 concerning that particular term.

20 So that's what you will be doing. If
21 collectively you have said 'no, we are not
22 convinced', as to one element or more, then
23 you must return a verdict of Not Guilty.
24 Why? Because the State will have failed to
25 meet its burden of proof.

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1 That's what we will be deciding.

2 As I stated, the defendant -- any or all
3 of them are not required to produce any
4 evidence whatsoever. They don't have to say
5 a word, they do not have to provide any
6 defense, and you cannot use that against them
7 under any circumstances because the law,
8 again, places no burden on them whatsoever.

9 So you'll hear all of the evidence from
10 the State first. One very important reason
11 that you keep an open mind is because the law
12 says that you can't change that position,
13 that open mind position that you brought with
14 you to this courtroom, until you're
15 instructed to begin your deliberations.

16 The last thing that I will tell you
17 before you retire to commence that process is
18 when you may start. So until I tell you
19 that, you must, must maintain that open mind.
20 You cannot change the position.

21 Let me give you an example. Obviously
22 one of the things that you will be asked to
23 do is to evaluate the credibility and the
24 believable of a witness. There are many
25 things that we us in making decisions of that

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1 nature. I will discuss several of them with
2 you during the charge portion. But not only
3 -- you know yourself that it is not only what
4 somebody says but the way that they say it.
5 There can be body language associated that
6 gives you a clue, that says 'wait a minute,
7 I'm suspect of that' or 'I absolutely believe
8 that.' That is a very human reaction that we
9 all have when we notice those things that
10 have assisted us in life.

11 I would urge you that if you notice
12 something that you make note of something,
13 just to make that mental note but do not go
14 to the ultimate conclusion that 'I do not
15 believe that' or 'I do believe that.'
16 Rather, just place that in your mind, make
17 that mental note. When you begin your
18 deliberations, then there will be a time to
19 talk about that. Then maybe one of the
20 fellow jurors can allay any concerns that you
21 may have about the credibility of that
22 witness or give you an explanation for why
23 there may be something that wouldn't
24 necessarily support that conclusion. That's
25 what I mean when I say not to make any

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1 ultimate determinations. You are expected to
2 make those mental notes but don't reach a
3 final decision as to whether you believe
4 someone or not until you've had the
5 opportunity to discuss it among yourselves.

6 Another very important reason that you do
7 not want to make your decision is because you
8 need to hear all of the evidence, obviously,
9 before you make a decision. While the
10 defendants do not have any responsibility to
11 present any evidence whatsoever, they still
12 have the right to do so if they choose to.
13 You wouldn't hear that evidence until the
14 State has completed it's case. So, again,
15 you should keep that open mind, obviously.,

16 After the evidentiary portion, after the
17 attorneys have had their opportunity to speak
18 to you for the second time, I will give you
19 the instruction on the law. One of the
20 things that you have just said is that you
21 will make a decision based on the evidence
22 and the law.

23 Please remember something. Just as the
24 attorneys' remarks are not considered
25 evidence, neither should my remarks ever be

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1 considered evidence. That's your job.
2 Yours alone. We work together but our jobs
3 and our responsibilities do not overlap, at
4 all. What do I mean by that? Well, I don't
5 have anything to do with the factual
6 determinations, but you don't have anything
7 to do with the law.

8 I will tell you -- and one of the reason
9 that I comment about those statutes -- like I
10 know that you have a highway department
11 registration or a voter's registration, sure
12 you have -- because you were there. But that
13 is just my personal opinion about it. I
14 started asking that question in 1994 when I
15 started this job. If the Lord blesses me and
16 I can go another ten years with this, I will
17 continue to ask it. Why? Because it's the
18 law notwithstanding my opinion about it.

19 You have to do the same thing. If you
20 hear a principle of law that causes you to
21 scratch your head and say, 'Wait a minute.
22 That doesn't make any sense', I respect your
23 right to feel that way, but you've promised
24 the Court and the parties involved that you
25 aren't going to be influenced by that, but

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1 rather than you will take the law as I give
2 it to you and apply it fairly and impartially
3 to the facts that you will ultimately
4 determine.

5 I thank you very much for your attention
6 to my remarks. I ask you to give that same
7 attention now to the attorneys as they give
8 their opening statements on behalf of their
9 clients.

10 Solicitor?

11 SOLICITOR SHEALY: May it please the
12 Court?

13 THE COURT: Yes, ma'am.

14 SOLICITOR SHEALY: Thank you, Your Honor.
15 May it please the Court?

16 THE COURT: Yes, ma'am.

17 SOLICITOR SHEALY: Good afternoon. On
18 September 15th, 2010, at Oakland Plantation --
19 and let me tell you, because if you're not
20 from Mount Pleasant, you might not travel out
21 that way. It's going towards Awendaw. But
22 for those that are from Mount Pleasant, you
23 know that there is the old Walmart and the
24 new Walmart. Oakland Plantation has a large,
25 big new Walmart. If you stand facing that

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1 Walmart, there's a row of businesses over on
2 the side. Interestingly, a lot of those
3 businesses open from both sides, the side
4 closest to the Walmart parking lot and from
5 the other side; so there are two entrances.

6 Jim Blain and Harlee Lynn were employees
7 at the phone store. Most people call it the
8 Cricket Store, because there's a big sign
9 that says CRICKET above and on the window.
10 They were working there. Around 6:30
11 customers had stopped coming in. They were
12 chatting inside the business, where you go to
13 buy cell phones, etc. Things were quieting
14 down.

15 What happened previously was that Kevin
16 Smalls, in a red and black Impala, drove down
17 a dead-end street named Sam Edwards Road.
18 You will see a diagram that will make more
19 sense. But if this is Sam Edwards Road, that
20 dead ends, there is a road called Porchers
21 Bluff that run parallel to it. That is along
22 the back of Walmart. If you were go down
23 Porchers Bluff a little bit, it would be the
24 back side of these businesses that I was
25 telling you about.

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1 When he, Kevin Smalls, drove that red-
2 and-black Impala down Sam Edwards Road, he
3 let two guys out at the dead-end. One was
4 Jarrett Graddick and one was Keenan Coakley.
5 They had with them at least one gun, gloves,
6 and shirts knotted to cover the bottom of
7 their faces.

8 About thirty minutes -- I am not sure
9 exactly how long but it was about thirty
10 minutes, some times passes. The store
11 quieted. Harlee Lynn looked out the back
12 door. At that time, on the other side of the
13 road was an area that was kind of grown up.
14 Since then it's been mowed down some. She
15 sees Mr. Graddick and Mr. Coakley -- she
16 doesn't know who they are, but she sees two
17 guys with their faces covered barreling
18 towards their store entrance. Jim Blain, her
19 co-employee and manager of the store, sees
20 them coming. They panic. Jim Blain sees the
21 gun.

22 They go out the front door into the
23 parking lot of the Walmart. When they go out
24 there, as you can imagine, they were very
25 upset. They were screaming, "Call 911!"

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1 We've been robbed."

2 They then try to seek shelter in one of
3 the other businesses right in that area. One
4 business was already closed. They ultimately
5 go to Jersey Mike's.

6 Harlee Lynn calls 911.

7 Jim Blain takes a minute, goes back and
8 looks in the window to see if the guys are
9 still there. They are at the cash register
10 where the money is. One of them waves a gun
11 at him. He retreats back to the Jersey
12 Mike's.

13 When they realize that they had gone back
14 in the direction that they came, Jim Blain
15 gets in his vehicle to try to see if he can
16 find them down Porchers Bluff. He cannot.

17 When they call running out of that store
18 saying "Call 911! We've been robbed!" there
19 was a woman who had just bought her groceries
20 at Walmart. She was in the parking lot. Her
21 car was close to the area where the store
22 was. She said, 'Are y'all okay?' Then she
23 calls 911. As she does so, she sees a red-
24 and-black Impala parked just a few cars down
25 from her. Kevin Smalls was standing on the

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1 outside of the car. She will tell you how he
2 appeared, looking back and forth, from the
3 Cricket phone store back and forth. He
4 looked very nervous. While she is on 911,
5 she goes 'there are some guys acting very
6 suspicious in the parking lot.'

7 They had started to tear out of there.
8 You can go right down in front of the Walmart
9 and then around the garden center, out back
10 towards Porchers Bluff. That's what they
11 did. They got out of there.

12 Then they approached the stop light to
13 17. Now, even if y'all aren't familiar with
14 the area at all, it's a little confusing now
15 in 2013 as to the roads compared to 2010
16 because there has been so much work done on
17 the roads in Mount Pleasant.

18 But Kevin Smalls turned left, going back
19 towards Mount Pleasant, right back down Sam
20 Edwards Road. He picked up Mr. Graddick. He
21 picked up Mr. Coakley. And he had a front
22 passenger, Brian Mazyck, who was charged in
23 this case as well.

24 When they got back in the car, they were
25 excited. 'We got money!'

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1 They then go straight back down Sam
2 Edwards Road at a high rate of speed and have
3 to go back up and make a u-turn to come back
4 towards Mount Pleasant.

5 They don't get far. Because when Jessica
6 Lyons, the woman who was putting groceries in
7 her car, called in the red-and-black Impala,
8 she called in the tag number as well. If you
9 do live in Mount Pleasant, you know that they
10 are everywhere, the Mount Pleasant Police.
11 They were there that day.

12 Officer Zeitner pulls rights in behind
13 the red-and-black Impala, having heard it on
14 dispatch, and stops the car. You will have
15 the benefit of seeing that in-car video that
16 shows the traffic stop.

17 I will tell you two people who weren't
18 being very still: Jarrett Graddick and
19 Keenan Coakley. You will see their behavior
20 in the back seat. You will see one trying to
21 get into the front seat after Mr. Smalls was
22 asked to get out of the car.

23 But, more importantly, is what was in
24 that car: two shirts that had been tied to
25 hide faces, gloves, a gun, a loaded gun, and

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1 currency -- money on the back seat.

2 Interestingly, Mr. Blain, the manager at
3 the Cricket phone store, he told the police,
4 'You know what? I've got a weird bill in my
5 till from the cash register. I tried to put
6 in through the ATM' the night before and he
7 told them that it wouldn't take it. He told
8 them that it had these unusual stamps on it.
9 Guess what was in the back seat of that car?
10 That bill with those stamps.

11 Now, Judge Dennis has told you how you
12 will hear at the end of the all the evidence
13 being put in, after all the closing arguments
14 are made, what the law is.

15 I want to introduce you to a law in South
16 Carolina that is a law in many states, which
17 is that "the hand of one is the hand of all."
18 We've got three guys here: two that go in,
19 one that drops them off, one that is the
20 stakeout and the one that goes and picks them
21 back up. We've got three guys involved in
22 this armed robbery. The hand of one is the
23 hand of all.

24 What the hand of one is the hand of all
25 stands for is that if a crime is committed by

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1 two or more people who are acting together in
2 committing a crime, the act of one is the act
3 of all. A person who joins with another to
4 accomplish an illegal purpose is criminally
5 responsible for everything done by the other
6 person which occurs as a natural consequence
7 of the acts done in carrying out the common
8 plan and purpose.

9 When you plan to go into a business where
10 people are working, to shield your face, to
11 carry a deadly weapon, to steal, whether you
12 are the two that go in or the one that is
13 waiting outside, you are all guilty of armed
14 robbery.

15 You will hear from Brian Mazyck in this
16 case. He was also charged that night. He
17 was the front passenger. Please start from
18 the very beginning in looking at his conduct,
19 starting with the in-car video. That night,
20 he told the police 'I didn't have anything to
21 do with this.' That night he gave the police
22 a statement of what all he had seen. That
23 night he went back out to Sam Edwards Road to
24 try to help them find stuff. You will have
25 the benefit of hearing from Brian Mazyck.

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1 After the conclusion of all the
2 evidence and when Judge Dennis has explained
3 to you the law in the case, we will ask that
4 you return guilty verdicts: one against
5 Jarrett Graddick; one against Keenan Coakley;
6 and one against Kevin Smalls. Thank you very
7 much, ladies and gentlemen.

8 THE COURT: Mr. Grimes.

9 ANDREW GRIMES: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 ANDREW GRIMES: Good afternoon. On
12 behalf of Jarrett Graddick, his mother, his
13 family, his girlfriend, I would like to thank
14 you for coming to court today, though it
15 might not be your first choice to be here.
16 Again, I would like to thank you for keeping
17 an open eye and for listening carefully to
18 all the evidence in this case, because it is
19 important that you keep an open mind.

20 This case is essentially about where was
21 Jarrett at 6:30 on September 15th, 2010, over
22 three years ago. We will present evidence
23 that Jarrett was at his grandmother's house.
24 He was there at 6:30. He was helping her
25 out.

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1 You will hear about what he did that day,
2 about how he was home all day, they were sort
3 of watching TV, the various soap operas in
4 the afternoon. About 5:00 o'clock, when Ms.
5 Graddick's favorite show comes on, she always
6 watches Dr. Oz. They watched that show for a
7 while and while they were watching that show,
8 Melvin White comes over to the home, a long-
9 time family friend of the Graddicks.

10 Right before Dr. Oz was over or right
11 after it was over, they go outside and
12 Jarrett is helping his grandmother in the
13 garden. That's one thing that he really
14 liked to do for her. He did the mulching,
15 pulled some of the weeds. That's why she
16 likes for him to be in her house.

17 While he's out there in the garden, you
18 will hear evidence that a car pulls up and
19 that two boys, or the guys in the car, say
20 'Come on, Jarrett, let's go.' His
21 grandmother says, 'Don't get in that car,
22 don't go with them.' But Jarrett, being
23 young and wanting to be with his friends,
24 decides to go. That's probably about 6:30
25 or 6:35.

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1 Then as Ms. Shealy pointed out, about
2 6:40, Office Zeitner is making the car stop.
3 Jarrett was in the car. All of the evidence
4 that Ms. Shealy talked about was in the car,
5 too. When you hear it, at first it sounds
6 like the State has a rather strong case.
7 Jarrett is in the car, the money is in the
8 car, there was a gun in the car, it was close
9 to the scene and it was within a short time.

10 But not everything is what it first
11 appears to be. That's why you have to keep
12 an open mind in such cases.

13 We don't dispute a lot of what she's
14 said. There is no dispute that there was an
15 armed robbery. It's not a case of what
16 happened. It's a case of who did this. Did
17 Jarrett do it or was he at home with his
18 grandmother?

19 You'll hear evidence about why he was in
20 Mr. Smalls' car. Was he just hanging out
21 there with Mr. Smalls, getting ready to go
22 downtown that night with Mr. Smalls? Or was
23 he part this masked mindless armed robbery?

24 You may hear evidence that his DNA was
25 found on the gun. We are not going to

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1 dispute that. But just because your DNA is
2 somewhere, you can't tell when it was put
3 there, how long it had been there. There's
4 no telling how long ago it had happened, when
5 the gun had been touched or how the gun got
6 to Brian Mazyck, under his passenger seat of
7 the car or what Brian Mazyck was doing that
8 day.

9 Speaking of Brian Mazyck, you heard a lot
10 about three people but, as Ms. Shealy told
11 you, one of their key witnesses describes
12 seeing people get out of the car, putting
13 gloves on, wearing masks, talks about four
14 people being in the car., There were four
15 persons, including Brian Mazyck. The gun was
16 found near his passenger seat. Now he's up
17 here -- he's none of us. He's made a deal
18 with the State to get out of going to prison.
19 He knows that he is guilty.

20 The same witness who saw Mr. Mazyck in
21 the car, who saw four people, he never saw
22 those two people who robbed the store get
23 back in that car. You'll hear a lot about
24 fields and paths. There is no telling what
25 other people were out there. They could have

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1 run into someone's house, ran to a house.

2 All we know is that there was the car.

3 For whatever reason that Kevin Smalls
4 goes to Jarrett's house and picks him up,
5 maybe they are going out because they got
6 some money, going to a party. 'Come with
7 us.' Jarrett is like, 'alright', not knowing
8 anything at all about what's gone on. His
9 grandmother will be able to tell you about
10 that.

11 That's why we are asking you to keep an
12 open mind in this case. Listen to all the
13 evidence. Look at all the witnesses' biases,
14 issues of their credibility, why they would
15 say one thing versus something else. Look at
16 the physical evidence. When you consider all
17 that evidence, Ms. Graddick's testimony, Mr.
18 White's testimony, we are confident that you
19 will find that Jarrett was at home with his
20 grandmother on September 15th, 2010. You will
21 find that he is innocent of these charges.
22 Thank you.

23 THE COURT: Mr. Runyon.

24 WILLIAM RUNYON: Everything is so
25 clear, everything is so simple, like the

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1 State has told you, it just sort of slid
2 right on up in there. Two people robbed the
3 phone store. Two people got into a car. But
4 there were four people in the car when they
5 stopped the car, the Mount Pleasant Police
6 Department.

7 The State has decided that only three of
8 those people had anything to do with it. The
9 other one was as pure as the wind-driven snow
10 from the top of a roof.

11 That's why I think what we are going to
12 have to do here is, like Mr. -- like my
13 colleague said, we're going to have to keep
14 an open mind, we have to listen to what
15 actually went on.

16 There were four people in this car. You
17 will find that Mr. Coakley was riding in the
18 car with three other people. That's what
19 they are going to be able to prove to you,
20 that he was in the car.

21 Now, beyond that it's going to be up to
22 you to decide who were the two people that
23 went into the phone store, and were they the
24 same people that were in the car that was
25 stopped by the Mount Pleasant Police

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1 Department. It's that simple and that
2 complicated. That simple, and just that
3 complicated.

4 I thank you for your attention. My
5 client is in court today, just like the other
6 gentlemen are. He has his family here, just
7 like the other gentlemen have their families
8 here. We are hoping to get this resolved at
9 some point in time after the State has
10 presented its evidence.

11 Who were the two people that went in the
12 store? Were either of those two people who
13 went in the store either of the people -- any
14 of the four who were in the car? That's the
15 question.

16 Thank you very much.

17 THE COURT: Thank you, Mr. Runyon. Mr.
18 Smiley?

19 JIM SMILEY: May it please the Court?

20 THE COURT: Yes, sir.

21 JIM SMILEY: You met Kevin. He stood up
22 for jury qualification. I have the honor of
23 representing Kevin Smalls.

24 There's a concept here that each of the
25 jurors, that I want you to start out with.

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1 While there are three individuals over there
2 and we are trying three individuals, they are
3 each getting separate trials -- at the same
4 time. That is real important.

5 Kevin Smalls has a red-and-black Impala.
6 Kevin Smalls dropped off Keenan Coakley and
7 Jarrett Graddick.

8 Mr. Smalls went to the Walmart.

9 Mr. Smalls picked up Mr. Coakley and Mr.
10 Graddick back on Sam Edwards Road, which is a
11 pretty good distance.

12 I want you to listen for evidence that he
13 knew what those two fellows were going to be
14 up to -- if that was the same two fellows.

15 See, that's what is really hard. I'm
16 here to make sure that Kevin Smalls gets a
17 fair trial, that you weigh that evidence
18 against Kevin and not just take it as a
19 whole. What do you see?

20 I don't know the story of the other
21 defendants, because I'm only concerned with
22 one, Kevin Smalls. Kevin Smalls dropped them
23 off, picked them up. That doesn't mean that
24 he knew what was going on.

25 All I ask for, and the Judge has brought

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1 it up several times, is that you use your
2 common sense, to listen to the facts that the
3 State lays out -- and by the end, you're
4 going to think -- I don't know if you're old
5 enough, but when I was growing it was the
6 Apple Dumpling Gang -- that it was the Apple
7 Dumpling Gang or the Three Stooges, Four
8 Stooges. It just makes no sense. It doesn't
9 make any sense whatsoever.

10 Kevin had a car. He gave people rides.
11 Kevin, at some point, realized that there was
12 something really wrong when those fellows got
13 back in that car and as he pulled back out on
14 17. When the police put on a light, he
15 stopped -- right then.

16 After the fact, it is not hand of one is
17 the hand of all. The Judge will tell you the
18 law. I am not going to support that I
19 understand it all, but what he says is the
20 law. I just want to make sure that you
21 understand that. My understanding of the law
22 is that they're have to show that there was a
23 common purpose and plan. So I want you to
24 listen to what you hear about a common
25 purpose and plan.

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1 Also, I want you to think about Brian
2 Mazyck, as he testifies, sitting next to
3 Kevin in the front seat of that car.

4 I think that there were a couple of
5 different things going on there. As the
6 picture develops, I think that you will be
7 able to separate it.

8 In this trial, Kevin Smalls wasn't a part
9 of any armed robbery, he was not part of any
10 plan. It doesn't make sense. You'll see why
11 as the evidence plays out.

12 We all have different jobs. Your job is
13 to be the finders of the facts. When you
14 decide the facts, that is what the facts are.

15 Ms. Shealy, she is the prosecutor. Her
16 job is to do justice, what she believes is
17 justice. I'm sure she will do her job well.
18 Her job is not just to try to convict people.
19 Her job is to try to do the right thing for
20 each person and for society as a whole.

21 Detective Simmons, he's a policeman. His
22 job is to arrest people. That's what he
23 does. Not to convict people, but to arrest
24 people that he believes the evidence shows
25 committed crimes. That's what he did in this

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1 case. That doesn't make it the ultimate, or
2 we wouldn't need a jury, would we? If he
3 decided, that would be it, (negative
4 gesture).

5 Now, the Judge -- besides keeping us in
6 line, -- he's the keeper of the of the law.
7 What he says the law is, that's the law.
8 Even if I want to argue with it, I think that
9 I might know it, what he says goes. That's
10 real important.

11 He also is what I called the gatekeeper.
12 During this trial, Ms. Shealy may do
13 something that I think is not within the
14 Rules -- not that she'd do it on purpose, and
15 I want to make sure that you understand that
16 because a lot of times we do things that we
17 all see different ways. So from time to
18 time, Mr. Grimes, Ms. Runyon, Ms. Shealy or
19 myself may stand up and say we object. Then
20 it goes to Judge Dennis as the gatekeeper of
21 the Rules to say, 'yeah, that gets to come
22 in' or 'no, that's outside the Rules.' The
23 Rules of evidence support the truth, because
24 it gets you competent information to make
25 your decision as finders of the fact.

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1 We can all guess and speculate, but y'all
2 can't. There is no guessing, speculating or
3 filling in the blanks. Your job is not to do
4 his job, your job is not to do her job, your
5 job is not to do my job. Your job is to sift
6 through the facts, as you're allowed to, and
7 to come with an unanimous decision as to each
8 individual, not as a whole.

9 My job -- I haven't told you what my job
10 is, though it seems a little obvious. It's a
11 little different than Ms. Shealy's. We're
12 both attorneys. But a prosecutor seeks to do
13 justice. As a defense attorney, my job is to
14 zealously represent the interest of my client
15 within the rules that are presented in the
16 case. I will do that.

17 One last concept and I will sit down. I
18 always talk too much. I will try to make it
19 short and sweet.

20 There is a presumption of innocence that
21 Judge Dennis told you. Kevin Smalls doesn't
22 have to prove anything, not a thing. He is
23 presumed innocent. You can't say somewhere
24 along the way, 'well, I guess there might be
25 this or that.' He's innocent. He didn't do

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1 anything wrong. We know with certainty that
2 he didn't go into that store. He wasn't the
3 robber. Your job for him is to determine
4 whether there was a preplan that he was part
5 of, whether he was acting in concert with the
6 robbers. The answer to that, after the
7 evidence comes back will show that he was
8 not. He was not. He is not guilty. Thank
9 you.

10 THE COURT: Call your first witness.

11 SOLICITOR SHEALY: The State calls Jim
12 Blain.

13 (WITNESS TAKES STAND)

14 JAMES BLAIN, having been sworn to tell
15 the truth, and nothing but the truth,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR SHEALY:

19 Q. Mr. Blain, if you would, please,
20 tell the jury where you currently work?

21 A. I work at a store that I own and
22 operate. It's called TS Wireless. It is the
23 Oakland Plantation Shopping Center. People
24 know it as the Super Walmart Plaza.

25 Q. Do people call your store by

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1 something other than its official name?

2 A. Well, we sell cellular phones and
3 services. The biggest signage over the door
4 is "CRICKET", so people call it the Cricket
5 Store, but we well other stuff besides that.

6 Q. Okay. Were you the owner of that
7 store back in September of 2010?

8 A. Yes, ma'am.

9 Q. If you would, can you describe your
10 store for us? How many doors do customers
11 have the ability to walk in?

12 A. Well, it's a classic modern strip
13 mall store with the exception that it was
14 built with glass on either end. So it's an
15 eleven hundred square feet, very small retail
16 store. People can enter from the Walmart
17 parking lot and they also can pull up on
18 South Morgans Point Road, which is the road
19 behind the store and enter through there.
20 There is parking in both front and back of
21 the store that people use.

22 Q. Okay. I am going to show you a
23 number of photographs and ask you, first, if
24 you can identify those?

25 A. Well, the first one ---

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1 Q. If you will, just look at them and
2 see if they -- if you recognize what is
3 depicted in those photographs.

4 A. (Upon review), yes. I certainly
5 recognize what's in the photographs.

6 Q. Okay. Are those accurate depictions
7 of a certain location on September 15th, 2010?

8 A. Yes.

9 Q. What place was that?

10 A. This would be the -- they are photos
11 of the interior of my store and also a shot
12 of the exterior.

13 SOLICITOR SHEALY: Your Honor, at this
14 time -- and I will show these to defense
15 counsel -- we would move to introduce State's
16 Exhibits previously marked two (2) through
17 ten (10).

18 THE COURT: Any objection?

19 ANDREW GRIMES: No, sir.

20 WILLIAM RUNYON: No objection from
21 Defendant Coakley.

22 JIM SMILEY: No objection, Your Honor.

23 THE COURT: Without objection, State's
24 Exhibits 2 through 10 are admitted, each
25 being a photograph.

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1 (SO ENTERED AS STATE'S EXHIBITS 1 - 10)

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR SHEALY:

4 Q. I want you to kind of orient the
5 jury. If you look at that, what has been
6 marked as State's Exhibit 2, what does that
7 picture show?

8 A. This is what I would call our back
9 door. It is actually, technically, according
10 to the Town of Mount Pleasant, the front door
11 but -- there's a street address of 3014 South
12 Morgans Point Road. About a third of our
13 customers come in through this door.

14 You can see by the signage the various
15 products that we have: Cricket, low left;
16 Boost Mobile, T-Mobile, the spokes model
17 there.

18 Q. Okay. And you said that while the
19 Town of Mount Pleasant called it your front
20 door that you call it your back door?

21 A. Yes.

22 Q. Why is that? Do you get more
23 traffic from the other door?

24 A. We get more traffic from the front
25 door, (affirmative nod). About two-thirds of

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1 our people come in from the Walmart Plaza,
2 the larger parking area in the front of the
3 store.

4 Q. And the other door deposits into the
5 Walmart parking lot area, is that right?

6 A. Yes, it does, ma'am.

7 Q. Showing you State's Exhibit 3, could
8 you describe to the jury what this shows?

9 A. This is just inside the same door.
10 First on the left are -- the first door on
11 the left is a bathroom.

12 There's a little TV on the wall where
13 people have to wait, a courtesy TV.

14 A storage closet (indicating).

15 Then you're into the main sales area of
16 the store.

17 Q. Okay. State's Exhibit 4?

18 a. Now you're standing in the main
19 sales area.

20 To the left, off screen, you can see a
21 bit of the counter in the low left. That is
22 the cashier selling station. That is where I
23 spend most of my time.

24 Q. Let me show you what has been marked
25 as State's Exhibit 5. That shows just kind

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1 of a larger picture of that area?

2 A. Yes, this is a good perspective.
3 You're seeing almost ninety percent of the
4 store. The only thing behind you is the door
5 coming in.

6 I typically stood around the corner to
7 the left. That's one sales/cashier area.

8 Q. Let me show you a photo that high-
9 lights that area. Showing you State's
10 Exhibit 6 and State's Exhibit 7, is this the
11 area where you're indicating that you spend
12 most of your time?

13 A. That's where I typically spend my
14 day, yes.

15 Q. Now, where do you keep money that
16 you collect during the day?

17 A. You can see in this photo, just
18 beneath the computer monitor a white drawer,
19 just ---

20 Q. Showing you State's Exhibit 8, does
21 that reflect the white drawer?

22 A. Please repeat the question?

23 Q. State's Exhibit 8, does that show
24 the white drawer?

25 A. That's the drawer in close up.

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1 Q. Is there something missing in this
2 photograph?

3 A. My cash box where I'd put the bills
4 and -- I think that the change drawer might
5 be visible, the little black thing.

6 Q. On the bottom shelf?

7 A. No, that's a credit card machine on
8 the bottom shelf.

9 Q. Okay. That evening, did something
10 unusual happen?

11 A. Most unusual.

12 Q. Could you tell you first who else
13 was inside the store with you?

14 A. At approximately 6:15 in the
15 evening, -- we're open until 7:00 -- it had
16 gotten dark by that point, dusky kind of
17 evening. And I was there with one other
18 employee in the store with me, a young lady
19 by the name of Harlee Lynn. She and I were
20 -- it was slow, there was nobody else was in
21 the store.

22 So I had moved forward to her cashier/
23 sales station, in the front of the store near
24 Walmart, ---

25 Q. Showing you State's Exhibit 4, does

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1 this you her area?

2 A. Yes. I was seated in the chair --
3 there is a chair on the side near the wall --
4 not that chair. I was seated in the chair up
5 close to the desk. Miss Lynn was seated in
6 the farthest chair. She was actually seated
7 facing in the direction of the camera.

8 She said, 'Jimmrrrrm!' in a rather oddball
9 way. I turned and saw two men coming into
10 the store who had hats on and masks, who were
11 waving a gun. I said to Harlee, 'Let's get
12 out of here.'

13 Not a word was spoken between the robbers
14 and us. We could see clear trouble coming
15 and we were out the front door in -- I don't
16 know. Ten seconds, flat. If I could get
17 some sense of the adrenalin pumping that
18 evening, it was -- it was shocking. I've
19 been in the cell phone business for twenty-
20 three years, in the retail end in various
21 locations in the area for seven years -- at
22 that point, now ten years. We saw trouble
23 and we vacated the door as fast as possible.

24 Q. And does that photograph reflect the
25 door that you exited out of?

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1 A. Yes, ma'am.

2 SOLICITOR SHEALY: I beg the Court's
3 indulgence just a moment.

4 THE COURT: All right.

5 SOLICITOR SHEALY: With the Court's
6 permission, may I just hand him a pointer so
7 that in the future you can show the jury
8 where we are talking about -- (tenders
9 pointer to witness).

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR SHEALY:

12 Q. So did the two guys come into the
13 store prior to y'all leaving the store? Had
14 they made their way in?

15 A. Yes, they were entering as we were
16 exiting.

17 Q. When you and Miss Lynn got out of
18 the store, what did y'all do?

19 A. I thought that I would be a hero, I
20 thought that I would be tricky. All of the
21 stores are through-and-throughs, front door
22 and back door. There was a Sprint cellular
23 store two doors down. I thought that I'd run
24 down there, run through the Sprint store and
25 watch them leave, maybe see how they were

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1 getting away.

2 Sprint closes at 6:00. I ran slap into a
3 closed door at the Sprint store.

4 I was trying to -- you would think
5 dialing 911 on a cell phone would be easy,
6 but I -- I tried three times and I couldn't
7 manage 911.

8 I cut through the store which was next to
9 us, called Jersey Mike's submarine sandwich
10 store, and I ran -- I ran yelling through
11 there, "Armed robbery! Everybody stay
12 inside!" Exited out the back of the Jersey
13 Mike's store in time to see two people
14 running through the field across the street.
15 Across South Morgans Point Road from us is a
16 wide-open field, an undeveloped field. It
17 was covered with underbrush at the time. It
18 was covered with waist-high brush. I could
19 see people running through the field, two
20 guys.

21 Again, I thought 'hey, this is the time
22 to think and act.' I jumped into my little
23 car, which was parked out back, and thought
24 that I would cut them off. I drove a block
25 and by this time I'd managed to call 911 and

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1 reported the robbery. I drove down five
2 hundred yards on Porchers Bluff and cut left
3 to where I thought that they might pop out of
4 the woods, pop out of the field. I didn't
5 see any activity that I thought was
6 suspicious.

7 I also thought, 'what am I going to do if
8 I do see them?' The operator for 911 was
9 saying this was a bad idea, 'We don't advise
10 you to pursue. If they are armed, don't
11 pursue.' So I hit a driveway, turned around
12 and came back to the store. The total
13 elapsed time was three or five minutes. It's
14 hard to really tell exactly.

15 By that time, I was totally impressed.
16 A Mount Pleasant policeman was already at my
17 store. He was talking with my sales
18 assistant, Miss Lynn.

19 Q. Let me see if I can just recap. So
20 when you went looking for them, you saw no
21 sign of them?

22 A. I saw them running through the field
23 and that's when I jumped in the car. That's
24 the last that I saw of them.

25 Q. And you told us that that field kind

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1 of had brush. Does it still have that amount
2 of brush?

3 A. No. I think that the developer has
4 cut it clear because of that particular
5 incident -- or maybe he wants to develop the
6 land, I don't know. But it is clear-cut now.

7 Q. Let me show you what has been
8 previously marked as State's Exhibit 12 and
9 just ask you if you are -- if that is a
10 familiar area for you?

11 A. (Upon review), yes.

12 Q. What does that depict?

13 A. You can see in this aerial
14 photograph the roof of the big Walmart. That
15 oriented me. The streets are labeled
16 Porchers Bluff and South Morgans Point Road.
17 The parking lot, (indicating). I can
18 actually see the building where my store is
19 and the field across the street.

20 SOLICITOR SHEALY: Your Honor, I have
21 shown this to defense counsel. I think
22 without objection, I move to admit State's
23 Exhibit 12.

24 THE COURT: Without objection, it is
25 admitted.

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1 (SO ENTERED AS STATE'S EXHIBIT 12)

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR SHEALY:

4 Q. Taking a look at that, can you
5 orient the jury?

6 A. Here's ---

7 SOLICITOR SHEALY: Your Honor, -- just a
8 second. Would the Court allow him to
9 approach ---

10 WITNESS: Or if I could simply stand.
11 If CLERK: I have a rule if that will
12 help, just hold it off (screen).

13 WITNESS: Good enough. I will try to
14 speak up.

15 SOLICITOR SHEALY: Try not to turn your
16 back to the court reporter, and just make
17 sure that you are speaking loud enough for
18 the jury.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR SHEALY:

21 Q. What is State's Exhibit 12?

22 A. Up there is Highway 17.

23 This is obviously the big Walmart
24 roof.

25 This is South Morgans Point Road

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1 where my store is, and this is the building
2 with my store. I am probably around midway
3 in the building.

4 The robbers entered through this back
5 door and exited out into this field. I was
6 hoping to --

7 I'm sorry to draw on the screen.

8 I was hoping to cut them off coming out
9 of there and drove all the way down to here
10 before returning back to the store.

11 Q. And the road that you are showing
12 they cut across to, what is the name of that
13 road?

14 A. This is South Morgans Point Road.
15 This is Porchers Bluff.

16 The big parking lot, that's the front of
17 the store.

18 Q. Now, prior to your seeing them when
19 you ran through Jersey Mike's and saw them
20 exiting, did you ever go back to look and see
21 what was going on in the store?

22 A. Yes. I said earlier that I ran into
23 the closed door at the Sprint and then cut
24 through Jersey Mike's. But as I was coming
25 back from trying to cut through Sprint, I

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1 came to the front of my store and looked
2 around the -- through the front window, the
3 Walmart parking lot side window into the
4 store to see if they were still in there.

5 They were at that cash station where I
6 told you that I stood and worked. One of the
7 guys still saw me and raised his gun. I
8 thought, 'uhhhh' and I ducked away from the
9 window out of what might have been a line of
10 fire. That's when I cut through the Jersey
11 Mike's.

12 I think that I also bumped into Miss Lynn
13 outside where she was in the front on the
14 phone, and I then cut through Jersey Mike's.

15 Q. Showing you State's Exhibit 7, is
16 this the work station that -- sorry.

17 A. No (sic).

18 Q. That's the work station where you
19 saw the two individuals?

20 A. Yeah, they were behind the counter.
21 At least one of them was behind the counter
22 where the cash box was.

23 Q. With the Court's permission, could
24 you stand and show us what the person who had
25 the gun did towards you?

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1 A. The person who had the gun was in
2 this area and was generally aiming in the
3 direct that I was looking into the store
4 from.

5 Q. Okay, you can take your seat again.

6 A. (Complies).

7 Q. Would you describe for us, please,
8 what you can about how they appeared?
9 Height? Size?

10 A. My -- my sighting of the robbers was
11 very brief. They were -- they seemed to be
12 young, athletic men, tall and thin. They had
13 masks on their face, ball caps on. I
14 wouldn't be able to recognize them at all,
15 really.

16 Q. Okay. Now, regarding the 911 calls,
17 you started making your 911 call at what
18 point?

19 A. I tried to dial as I ran towards
20 Sprint. At some point -- I can only
21 recollect that I was talking to 911 as I was
22 driving, trying to head them off running
23 through the field.

24 Q. And you indicated that Miss Lynn was
25 already on the phone before you went to look

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1 for the gentlemen?

2 A. As I -- as we fled the store, I
3 shouted to Harlee "call 911" and then did my
4 crazy run-around.

5 Q. And you told us -- what time did
6 your store close?

7 A. Seven o'clock.

8 Q. Did you give a statement to the
9 police that evening?

10 A. Yes, I did.

11 Q. Do you recall what time that you
12 told them that this event occurred?

13 A. I recollect that it was 6:15'ish but
14 I don't have an exact recollection ---

15 Q. Would it assist you to look at your
16 statement?

17 A. It would.

18 SOLICITOR SHEALY: With the Court's
19 permission, ---

20 THE COURT: Yes. Mark it for
21 identification, please.

22 COURT REPORTER: State's Exhibit 116
23 for identification.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR SHEALY:

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1 Q. Mr. Blain, if you would, take a look
2 at what has been marked as State's Exhibit
3 116 for identification purposes and tell us
4 whether or not you recognize that document?

5 A. I recognize it. It's my statement
6 that I gave to the police shortly after the
7 incident.

8 Q. If you would take a moment to look
9 at it, please do so, but tell us what time
10 you told the police that evening that this
11 happened?

12 A. I said approximately 6:30.

13 Q. Now, did you have the occasion to go
14 back into the store that evening to see what,
15 if anything, had been taken?

16 A. Yes. When I returned after my drive
17 down the road and back, there was a policeman
18 already here. I moved to go into the store
19 and they said, 'don't go in, it's a crime
20 scene, let us do out thing.' They were
21 there, it seemed, like an hour or more taking
22 fingerprints and such. Then we went into the
23 store after that.

24 Q. What did you find was missing from
25 the store?

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1 A. I found that the cashbox was miss-
2 ing, with the day's proceeds, approximately a
3 thousand dollars.

4 Q. When you say "cashbox", could you
5 describe for us what you mean by that term?

6 A. Yes. The -- we don't really use a
7 formal cash register. There is a drawer to
8 organize money, dollar bills and change. I
9 typically go to Office Depot and Staples and
10 get a metal cashbox, but they are too tall
11 for the drawer. So I take the cashbox and
12 bust the hinge on it, throw away the lid and
13 use the portion that holds dollar bills.
14 They have the spring clips and you put ones,
15 fives, tens, twenties. Then I take out the
16 plastic change tray and use a little plastic
17 change tray and a metal dollar bill tray. It
18 fits nicely into the desk drawer arrangement
19 that came with the work station.

20 Q. Showing you what has been previously
21 marked as State's Exhibit 71, I ask you
22 whether or not you can recognize the item --
23 that item?

24 A. Yes, I certainly recognize it. This
25 is the missing cash drawer.

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1 SOLICITOR SHEALY: Your Honor, at this
2 time we would move to introduce this as
3 State's Exhibit 71. As I understand, it's
4 without objection.

5 THE COURT: Without objection, State's
6 Exhibit 71 is admitted.

7 (SO ENTERED AS STATE'S EXHIBIT 71)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR SHEALY:

10 Q. Now, you were telling us that when
11 you buy it that you change it what fashion?

12 A. I pull the hinge ---

13 Q. The pin?

14 A. No, no. There's a peg that goes
15 through. It's the drawer/door hinge pin.
16 The -- there is a wire that secures the lid
17 to that. On that model it was easy to pull
18 out, separate, and just use the cash drawer.
19 There was also a Scotch-taped or a piece of
20 cardboard on the bottom of that, uh, -- if
21 you hold it up by the handle -- if you set
22 that flat, that thing will spin. So I cut
23 some cardboard out and now it sits flat.

24 Q. In addition to telling the police
25 that this was missing and the money, was

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1 there anything unique about the money that
2 was taken?

3 A. Yes. Yes, ma'am. The -- this was
4 three years ago, understand. The typical
5 routine at that time was for me to take the
6 daily proceeds and do a -- prior to -- about
7 that time I would do a night deposit drop at
8 the Bank of America at the corner of the Isle
9 of Palms connector and 17.

10 But the ATM's were changed at the Bank of
11 America so that they -- you have to put cash
12 in, as well as take cash out; a very
13 innovative kind of novelty. Rather than bag
14 up the cash at the end of the evening, I
15 would ten to count it and stack it and go to
16 the ATM and put the money in. I thought it
17 was kind of cool. The machine would go
18 "bbbrurppp" and it would count the dollars
19 accurately and give me a receipt. Very new.

20 The night before the robbery, when I put
21 the money in, it -- if the money is marked,
22 defaced or anything, it gets rejected by the
23 ATM machine. A hundred dollar bill came back
24 out. I smoothed it out and put it back it.
25 I held it up the light, it looked good. I

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1 put it back in three times. I held it up and
2 looked at it, 'why isn't this going in?' It
3 looked like a real bill to me, didn't look
4 counterfeit in any way. I flipped it over
5 and on the back were two round marks as if
6 somebody had taken a rubber stamp -- or the
7 end of a pencil maybe, even, that size -- and
8 made marks on the back of the bill.

9 Q. Let me interrupt you for a second.
10 Showing you what has been previously marked
11 as State's Exhibit 56, I ask you whether you
12 can identify the items identified in that
13 photograph?

14 A. I can.

15 SOLICITOR SHEALY: Your Honor, I ---

16 WITNESS: It's, uh, ---

17 SOLICITOR SHEALY: --- would ---

18 WITNESS: --- the back side of the
19 dollar -- of the hundred dollar bill that I
20 tried to put into the machine the day before.

21 SOLICITOR SHEALY: Your Honor, as I
22 understand it, without objection, I would
23 move State's Exhibit 56 into evidence.

24 THE COURT: State's Exhibit 56 into
25 evidence, being a photograph, without

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1 objection.

2 (SO ENTERED AS STATE'S EXHIBIT 56)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR SHEALY:

5 Q. Showing you State's Exhibit 56, can
6 you stand up and point to the area that you
7 were talking about?

8 A. Evidentially these marks on the bill
9 prevented it from being accepted the previous
10 evening by the ATM machine.

11 Q. You may take your seat again.

12 A. (Complies).

13 SOLICITOR SHEALY: I beg the Court's
14 indulgence just a moment.

15 THE COURT: Yes, ma'am.

16 SOLICITOR SHEALY: Thank you. Mr.
17 Blain, I have no further questions for you.
18 Please answer any that the defense attorneys
19 may have.

20 WITNESS: Okay.

21 THE COURT: Cross-examine, Mr. Grimes?

22 ANDREW GRIMES: Yes, sir. Thank you,
23 Your Honor.

24 THE COURT: Yes, sir.

25 CROSS EXAMINATION

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1 BY ANDREW GRIMES:

2 Q. Good afternoon, Mr. Blain.

3 A. Good afternoon.

4 Q. I want to ask you a few questions
5 about the timing in this case.

6 A. Sir?

7 Q. I said that I want to ask you a few
8 questions about some of the timing in this
9 case.

10 A. Okay.

11 Q. I believe that you said that the
12 robbery was at approximately 6:30 p.m.?

13 A. Yes, sir.

14 Q. It was a little confused after that.
15 You said that you were sort of trying to play
16 hero, that you were trying to be tricky,
17 trying to cut them off on Porchers Bluff
18 Road.

19 A. (Affirmative nod).

20 Q. You said that the total of that took
21 three to five minutes? Or what was the time
22 frame on that?

23 A. Three to five minutes.

24 Q. From the time that you saw people
25 coming in until the time you got back to the

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1 store and the Mount Pleasant officer was
2 there, that was three to five minutes?

3 A. First I exited the store.

4 I tried to go through Sprint.

5 Met Miss Lynn outside the store,
6 tried to look back in.

7 Cut through Jersey Mike's.

8 It was probably three to five
9 minutes there, although my heart was racing
10 and I don't know on that time.

11 Having seen the people run through
12 the field, I jumped in my car. Again,
13 another three to five minutes. It was a very
14 short distance, no more than -- I probably
15 didn't drive more than a half mile and then
16 returned the same route.

17 Q. Would it be fair to say that it
18 ranged from a minimum of six minutes up to
19 ten minutes?

20 A. That seems about right.

21 Q. Now, I want to ask you a few ques-
22 tions about the red-and-black Impala. Did
23 you ever see a red-and-black Impala that day?

24 A. I did not.

25 Q. You never saw the robbers get into

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1 one?

2 A. No.

3 Q. Now, if I -- I think that you were
4 shown Exhibit 12.

5 ANDREW GRIMES: Show Exhibit 12.

6 SOLICITOR SHEALY: You want us to pull it
7 up (on TV screen).

8 ANDREW GRIMES: If you don't mind.

9 SOLICITOR SHEALY: (Displaying State's
10 Exhibit 12).

11 ANDREW GRIMES: Thank you.

12 CROSS EXAMINATION CONTINUED

13 BY ANDREW GRIMES:

14 Q. I believe that you said that your
15 store is like this first little white
16 building near the Walmart?

17 A. Yep.

18 Q. And there's a field that you say at
19 the time the grass was sort of grown up and
20 now it is sort of clear-cut?

21 A. Yes, sir.

22 Q. You saw the two robbers running
23 through that field?

24 A. Yes.

25 Q. Porchers Bluff Road is right there?

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1 A. This is Porchers Bluff.

2 Q. There is something here, I don't
3 know if that's called a power center or a
4 utility outlet? Some utility complex there?

5 A. There may be something on this side
6 of this street.

7 Q. Right there?

8 A. (Affirmative nod).

9 Q. And there are sort of a couple of
10 paths through there where you -- where people
11 could cross Porchers Bluff Road going towards
12 Sam Edwards Road; right?

13 A. The question is?

14 Q. Do you know if there is any sort of
15 path that people could run through?

16 A. I don't know. It's a field to me.

17 Q. Okay. But when you came out, you
18 didn't see where those two robbers had run?

19 A. I saw runners going through this
20 field and ---

21 Q. Okay.

22 A. --- that's the last that I saw of
23 them.

24 Q. So you don't know if they kept going
25 down on this side of Porchers Bluff Road or

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1 if they crossed the road?

2 A. No, I don't.

3 Q. Thank you. Now, a few questions
4 about the statement that you gave Detective
5 Simmons.

6 A. Okay.

7 Q. You were there -- you went back
8 there to try to track them down a couple of
9 times, it seems like.

10 A. (No verbal response).

11 Q. Looks like you were able to give
12 Detective Simmons a fairly decent description
13 of what you saw. Is that correct?

14 A. Yes, sir.

15 Q. You said that you saw the persons
16 had -- you said that they masks on?

17 A. Yes, sir.

18 Q. I believe caps?

19 A. Yes.

20 Q. Sort of tall and thin?

21 A. Yes.

22 Q. You said that you saw a gun?

23 A. Yes.

24 Q. You never saw if any of them were
25 wearing gloves, did you?

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1 A. I didn't notice gloves.

2 ANDREW GRIMES: May I have one moment,
3 Your Honor?

4 THE COURT: Sure.

5 ANDREW GRIMES: (Sidebar with Mr.
6 Kowelski and Defendant Graddick). Thank you,
7 Mr. Blain, I have no further questions.

8 THE COURT: Mr. Runyon?

9 WILLIAM RUNYON: Yes, sir. May it
10 please the Court.

11 CROSS EXAMINATION

12 BY WILLIAM RUNYON:

13 Q. You say tall and thin, are you
14 talking about tall and thin like my friend,
15 Mr. Grimes?

16 A. If your friend Mr. Grimes could
17 stand up?

18 Q. The gentleman that was just talking
19 to you?

20 A. Oh -- I'd say not that tall.

21 Q. Over six feet?

22 A. I'd say not over six feet.

23 Q. Not over six feet?

24 A. I'd say maybe six feet.

25 Q. Shorter than my friend?

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1 A. Is -- I guess so, if Mr. Grimes is
2 over six feet.

3 Q. And that would be for both of these
4 people? Roughly?

5 A. They seemed to be thin, tall young
6 men.

7 Q. All right. And they ran through
8 this field that had all these briars in it,
9 what-have-you. You ran around, trying to cut
10 them off but you didn't cut them off?

11 A. Correct.

12 Q. And you're familiar with that field.
13 You saw it every day at that time, didn't
14 you?

15 A. I would drive by it every day to
16 work.

17 Q. What kind of briars or bushes did it
18 have in it? Do you know?

19 A. They would be bona fide South
20 Carolina field stubble briars, bushes.

21 Q. And you ran through it you'd have to
22 wear up your clothes, what-have-you?

23 A. I have no idea.

24 Q. Now, ---

25 A. They didn't -- was it thorny? I

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1 don't have any idea.

2 Q. People live on Porchers Bluff Road,
3 what-have-you, around that area?

4 A. There are a few houses, yes.

5 Q. As a practical matter, you did your
6 best to go around and cut them off, but by
7 the time that you got around there you didn't
8 see anybody?

9 A. Correct.

10 Q. Okay. And as a practical matter,
11 you saw two people in your store; one at what
12 you term the cash drawer?

13 A. (Affirmative nod).

14 Q. Correct?

15 A. Yes.

16 Q. I was asking you "correct" because
17 this nice lady (court reporter) has to take a
18 verbal answer down.

19 A. She couldn't hear my head shake, no,
20 sir.

21 Q. She couldn't hear your head shake.
22 And as a practical matter, these two people
23 came into your store, y'all ran out and they
24 went right to work? Went right to where the
25 cash register was, apparently. Right?

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1 A. Yes, sir.

2 Q. Now, it was no big secret where your
3 cash drawer is, is it?

4 A. No.

5 Q. But certainly it's not labeled "Cash
6 Drawer" or cash register or anything like
7 that?

8 A. No.

9 Q. So as a practical matter, the only
10 people who really know your system are the
11 people working in your store?

12 A. No. Our customers see us make
13 change every day.

14 Q. So your customers see you make
15 change every day?

16 A. Yes.

17 Q. All right. Is Keenan Coakley a
18 customer of yours?

19 A. I don't know.

20 WILLIAM RUNYON: No further questions,
21 Your Honor.

22 THE COURT: Cross examine?

23 JIM SMILEY: Thank you, Your Honor, may
24 it please the court.

25 THE COURT: Yes, sir.

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1 JIM SMILEY: Can we put Exhibit 12 back
2 on the screen?

3 SOLICITOR SHEALY: (Displaying State's
4 Exhibit 12).

5 CROSS EXAMINATION

6 BY JIM SMILEY:

7 Q. Mr. Blain, I am Jim Smiley. I
8 represent Mr. Smalls. Just a couple of
9 questions. All right?

10 A. All right.

11 Q. Again, I am going to be talking
12 about that field a little bit. The gentlemen
13 -- or whatever you want to call them - the
14 two robbers. When they came out of that
15 field, you saw them as they were coming of
16 the field or not until they got to your back
17 door, in the beginning?

18 A. (No verbal response).

19 Q. Do you understand my question?

20 A. Yes. The -- my sales associate saw
21 them break cover. There is also a heavy,
22 dense wooded spot. She saw them break cover
23 and run across the street. That's when she
24 said, "Jiiimmm", which drew my attention.

25 Q. I gotcha.

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1 A. So I didn't see them run from the
2 field.

3 Q. She must have, though?

4 A. She must have, (affirmative nod). I
5 saw them as soon as they entered the store.

6 Q. As soon as that, you saw what was
7 going on -- 'let's get out!' Smart thing.

8 A. Yes, sir.

9 Q. When you came out into Walmart side
10 of what -- what I would call your front door,
11 too. I understand Mount Pleasant but --
12 that's your front side?

13 A. The Walmart side, yes.

14 Q. When you came out onto the Walmart
15 side, you were vocal -- correct? "Call 911!"

16 A. Yes.

17 Q. You certainly didn't quietly move to
18 the next door, it was "Call 911! Call 911!"

19 A. Yes, I was -- I guess that I would
20 have been saying it out loud.

21 Q. I gotcha. You've got your store,
22 looking at the Walmart side, your front door
23 and then to the left is the Sprint store?

24 A. No, may I -- (negative gesture), the
25 other way around.

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1 Q. It's the other way around?

2 A. (Affirmative nod), it's the other
3 way around.

4 Q. The Sprint store is to your right?

5 A. (Affirmative nod).

6 Q. Then Jersey Mike's is to your left.
7 They sandwich your store?

8 A. No.

9 Q. Okay, tell me about it then.

10 A. Well, welcome to our plaza.

11 Q. Yes, sir.

12 A. The stores are cut into slithers of
13 these buildings.

14 Q. Okay.

15 A. It would have been Sprint on the
16 end, a vacancy, Jersey Mike's and then me.

17 Q. Okay.

18 A. So I went out, over, back, through.

19 Q. So to make sure -- I've got you. I
20 just want to make sure that I can communicate
21 this.

22 Looking at your store ---

23 THE COURT: From which direction?

24 JIM SMILEY: That's what I've got to ask
25 him.

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1 CROSS EXAMINATION CONTINUED

2 BY JIM SMILEY:

3 Q. Looking at your store from the
4 Walmart parking lot, looking at your front
5 door, Jersey Mike's is to the right?

6 A. Correct.

7 Q. And Sprint is farther to the right?

8 A. Right.

9 Q. And there is a vacancy between
10 Jersey Mike's and the Sprint store?

11 A. Correct.

12 Q. I got it.

13 A. At that time there was.

14 Q. And that's what is important today.

15 A. Okay.

16 Q. When you came out, you went all the
17 way to the end, to the Sprint store and they
18 were closed.

19 A. Right.

20 Q. Then you went back to your store and
21 looked in?

22 A. (Affirmative nod).

23 Q. Saw a guy generally waving a gun?

24 A. (Affirmative nod).

25 Q. Then you went back to Jersey Mike's

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1 and went inside?

2 A. (Affirmative nod).

3 Q. So there was a lot of commotion
4 going on. Correct?

5 A. In my mind, yes.

6 Q. It's a terrible thing to be armed
7 robbed. I would be quite -- I can understand
8 it. My point being that it was an excited,
9 chaotic time right then?

10 A. Yes.

11 Q. From Jersey Mike's, you were able to
12 see the robbers exit the back of your store,
13 the side with the field on it?

14 A. Yes. I didn't actually see them
15 exit the store but I did see them run through
16 the field.

17 Q. That's what I am getting to. When
18 they hit that field, they were running
19 towards the back of it?

20 A. (No verbal response).

21 Q. Across it?

22 A. May I?

23 Q. Yes, please.

24 A. They were running -- what gave me
25 the idea of outflanking them is that they

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1 were running like this -- (indicating).

2 Q. So they were running kind of catty-
3 cornered across it, towards Porchers Bluff
4 Road?

5 A. Yes, sir.

6 Q. Towards the far corner of it?

7 A. Yes, sir.

8 Q. Okay. So you jumped in your car to
9 come out that Mr. South Morgans Point Road
10 where it intersects with Porchers Bluff, ---

11 A. Yes.

12 Q. --- and you took a left?

13 A. Yes.

14 Q. And down that road it runs into the
15 circle that becomes Rifle Range. Correct?

16 A. Correct.

17 Q. Also down that road is a road to the
18 left -- and I can't pronounce it. Forgive
19 me. I think that it is called Yough Hall
20 Road. Y-o-u-g-h? I am just asking for the
21 record.

22 A. I am not aware of Yough Road.

23 Q. Okay. I guess what I am asking is
24 how far you went down.

25 A. I did not go as far as the circle.

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1 Q. So you went down, thought 'holy
2 smokes, what am I doing?' The 911 lady ---

3 A. I am not seeing anybody. They could
4 be hiding in the woods. It could take all
5 night. 'Where am I going?'

6 Q. And it was pretty much dusk or
7 getting close to it?

8 A. Yes.

9 Q. So 'hummm, I'll take your advice and
10 go back to my store.'

11 A. Right.

12 Q. You actually didn't call 911 until
13 you -- or didn't get through to 911 until you
14 were in your car?

15 A. Or getting in -- I remember talking
16 to 911 when I was in my car.

17 Q. All right. And you said that you
18 saw one of the robbers waving a gun?

19 A. Yes.

20 Q. If he had had white gloves on, would
21 you have recognized it?

22 A. (No verbal response).

23 Q. A white hand on the gun?

24 A. It's hard to speculate.

25 Q. I understand.

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1 JIM SMILEY: That's all that I've got.

2 THE COURT: Redirect?

3 SOLICITOR SHEALY: Just very briefly,
4 Your Honor. Thank you.

5 THE COURT: Yes, ma'am.

6 REDIRECT EXAMINATION

7 BY SOLICITOR SHEALY:

8 Q. First of all, you've shown us where
9 your store is. It looks like there is a
10 break and then another building similarly
11 located?

12 A. Yes. Yes, ma'am.

13 Q. Could you stand up for us and -- is
14 that in fact the break between those two
15 buildings?

16 A. No.

17 Q. What is it?

18 A. It's a dumpster area, a trash area.
19 There is at least an eight-foot brick wall
20 here and swing gates on the Walmart side. So
21 if you were going to bring trash out, you'd
22 enter through this side. It's not a through
23 and through.

24 Q. In that other building, the building
25 that continues, what type of stores were

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1 there at the time? Do you recall?

2 A. In this building there wasn't much.
3 There was a mailing shop called Going Postal,
4 a liquor store, there might have been a Match
5 Muscle, where you buy vitamins to lift
6 weights with.

7 Q. Okay. You saw the guys going across
8 the field.

9 A. (Affirmative nod).

10 Q. Can you point to where you last saw
11 them in general? Did you lose sight of them
12 when they were in the field or later?

13 A. I saw them in this area, headed this
14 way when I went to get my car and then I lost
15 sight of them.

16 Q. So where is the last place that you
17 saw them?

18 A. The last place that I saw them was
19 they were running through this field.

20 Q. Okay. And as you've indicated that
21 when you went down Porchers Bluff, that you
22 did not go as far down at the traffic circle?

23 A. Correct.

24 Q. Now, when you got back, were the
25 police already at your store?

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1 A. Yes.

2 Q. And you've been asked about the
3 description that you gave -- you may have a
4 seat.

5 A. (Complies).

6 Q. --- that evening to the people that
7 came in. Do you need to take another look at
8 your statement?

9 A. That would be helpful.

10 Q. Okay. I show you what has been
11 marked just as ID, State's Exhibit 116.
12 Would you describe for the jury what you told
13 the police about how they looked that night?

14 A. I said that they were both tall and
15 thin, not chunky, not overweight, that they
16 had athletic builds. I said all had masks
17 covering the lower part of their faces, the
18 area around their eyes was not covered.

19 Q. The area around the eyes was not
20 covered?

21 A. (No verbal response).

22 Q. Is that what you said?

23 A. Yes.

24 SOLICITOR SHEALY: I have no further
25 questions.

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1 THE COURT: Recross?

2 ANDREW GRIMES: No, sir.

3 THE COURT: Recross, Mr. Runyon?

4 WILLIAM RUNYON: No, sir.

5 THE COURT: Recross, Mr. Smiley?

6 JIM SMILEY: Nothing further, Your
7 Honor.

8 THE COURT: Thank you, sir. You may
9 step down.

10 (WITNESS STEPS DOWN)

11 THE COURT: All right, ladies and
12 gentlemen. At this point we will take our
13 recess for the evening.

14 Please remember that you are not at
15 liberty to discuss this case among yourselves
16 or with anyone. That includes anyone at home
17 tonight or anyone outside this courtroom.

18 Nor are you to allow anyone to talk with
19 you about this case. So when you go home
20 tonight, if someone is there, I am sure the
21 first question is going to be what this case
22 is about. Tell them that you can talk to
23 them but it will have to be when you conclude
24 the case.

25 If you discuss it, you would have

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1 commenced your deliberation at that time and
2 would have violated the oath that you took.
3 You're not going to do that.

4 Please do not call the number tonight.
5 That message does not apply to you.

6 Return to your jury room by 9:30 in the
7 morning and we will resume the trial at that
8 time. Have a good evening.

9 Also, I don't know if there will be any
10 newspaper coverage or if your custom is to
11 read the paper in the morning, but you're not
12 at liberty to read anything about this case;
13 nor are you at liberty to conduct any
14 independent investigations, including the
15 internet. Please understand. We caution
16 jurors about that and -- and I confess that I
17 am guilty of this sometimes. If somebody
18 tells me not to do something and it's not a -
19 - it's not going to be a criminal act, I have
20 a tendency to -- I call myself -- it's like a
21 sophisticated child. Like children, we go
22 and look at that very thing. The reason we
23 say that is quite simple. Just like we
24 talked before about occurrences during trials
25 and I told you about the cell phone

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1 situation, if you were to do any independent
2 research, this trial would have to be
3 retried. You are going to make a commitment,
4 have made a commitment to decide this case
5 based on what you hear in this courtroom.
6 After the trial, you're free to conduct any
7 research that you want. Until then, please
8 refrain from doing so.

9 Have a good evening. See you at 9:30.
10 Thank you.

11 (JURY OUT @ 5:30 P.M.)

12 THE COURT: Anything from the State
13 before we recess?

14 SOLICITOR SHEALY: No, sir. Thank you.

15 THE COURT: Anything from Defendant
16 Graddick?

17 ANDREW GRIMES: No, sir.

18 THE COURT: Any of the defendants?

19 JIM SMILEY: No, sir.

20 WILLIAM RUNYON: No, Your Honor.

21 THE COURT: Very well. I will see you
22 at 9:30.

23 BAILIFF: Your Honor, there is a juror
24 that wants to talk with you.

25 THE COURT: Okay, I'll step out.

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1

(OFF RECORD CONVERSATION WITH JUROR 219)

2

(COURT IN RECESS)

3

(TRANSCRIPT CONTINUED NEXT PAGE)

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1 DECEMBER 4, 2013 9:20 A.M.

2

3 THE COURT: We have a juror that we
4 need to talk with. Please ask Ms. Rivers to
5 come in.

6 (JUROR NUMBER 291 ENTERS COURTROOM)

7 THE COURT: Good morning.

8 JUROR NUMBER 219: Good morning.

9 THE COURT: How are you?

10 JUROR NUMBER 219: I'm fine.

11 THE COURT: Let me thank you again. I
12 told them basically that -- a little bit of
13 our conversation yesterday. Thank you for
14 telling us about it.

15 JUROR NUMBER 219: Okay.

16 THE COURT: Tell us now again -- first
17 of all, your name and your juror number?

18 JUROR NUMBER 219: My number is 219.
19 My name is Marla Rivers.

20 THE COURT: Yes, Ms. Rivers. During
21 the trial you sensed something?

22 JUROR NUMBER 219: (Affirmative nod).

23 THE COURT: You want to tell us now
24 what that was, please?

25 JUROR NUMBER 219: I know Mount

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1 Pleasant but not that specific Awendaw , Four
2 Mile, Six Mile area. I know the roads that I
3 frequent, so with the map yesterday I noticed
4 the road and I noticed the area. I am in
5 that area a lot. I don't want to -- I have a
6 very close friend that's from that area. I
7 don't want to take a chance on anyone knowing
8 him and my involvement with this and saying,
9 'Oh, I saw her. I know her. She did this,
10 or that.' I just don't my friendship to be
11 jeopardized by the case.

12 THE COURT: So you're telling me that
13 you believe that that would influence your
14 decision on the evidence and the law and your
15 ability to follow the oath?

16 JUROR NUMBER 219: Yes, sir.

17 THE COURT: Thank you. Any other
18 questions from the State?

19 SOLICITOR SHEALY: I don't have any
20 further questions.

21 THE COURT: Mr. Grimes? Any questions?

22 ANDREW GRIMES: No, sir.

23 THE COURT: Mr. Runyon?

24 WILLIAM RUNYON: None from Defendant
25 Coakley, Your Honor.

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1 THE COURT: Mr. Smiley?

2 JIM SMILEY: I think her answer is
3 revealing.

4 THE COURT: Ma'am, I am going to ask
5 you to step out just for a few moments. If
6 you would, do not return to the jury room.
7 I will be out in a few moments. Thank you,
8 again, so much, Ms. Rivers.

9 (JUROR NUMBER 219 EXITS COURTROOM)

10 WILLIAM RUNYON: Judge, could we have
11 the defendants brought in?

12 THE COURT: Yeah. I'm sorry they were
13 not present.

14 JIM SMILEY: I don't think my guy is
15 even here.

16 THE COURT: If y'all want to do that
17 again in the presence of the defendants, I
18 will be happy to do that.

19 WILLIAM RUNYON: I don't necessarily
20 need it done in the presence of mine.

21 THE COURT: Do you want to talk to your
22 defendant first?

23 WILLIAM RUNYON: I think at some point
24 in time we need to bring them in.

25 THE COURT: I think that we need to

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1 bring them in now. They may not be here yet.

2 JIM SMILEY: My guy is not here.

3 THE COURT: Go ahead and bring them in.

4 (DEFENDANT GRADDICK PRESENT)

5 (DEFENDANT COAKLEY PRESENT)

6 THE COURT: Do you need Mr. Smalls
7 here?

8 JIM SMILEY: No, sir. I am pretty
9 confident of what he'd like to be done.

10 THE COURT: Okay. As soon as Mr.
11 Runyon has a chance to -- and I apologize.

12 WILLIAM RUNYON: No, Your Honor. I
13 specifically do not request, on the record,
14 that that be revisited for the benefit of my
15 client.

16 THE COURT: Okay, you can chat with
17 your client on it. What is the State's
18 position concerning the juror?

19 SOLICITOR SHEALY: Your Honor, I think
20 that her statement made that she is concerned
21 that she could not be fair and impartial, I'd
22 ask that she be excused and the alternate
23 seated on the jury.

24 THE COURT: Do you want me to revisit
25 with your client present, Mr. Grimes?

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1 ANDREW GRIMES: No, sir, but if I
2 could have a moment.

3 THE COURT: Certainly. Take as long as
4 you need.

5 ANDREW GRIMES: Thank you, Your Honor
6 -- (sidebar with Mr. Graddick).

7 THE COURT: Mr. Runyon?

8 WILLIAM RUNYON: We're ready to go,
9 Your Honor.

10 THE COURT: What is your position as to
11 the juror?

12 WILLIAM RUNYON: I would concur that
13 the juror's answers would indicate her in-
14 ability to give both the State and the
15 defendants a fair trial.

16 THE COURT: Mr. Smiley?

17 JIM SMILEY: That would be Mr. Small's
18 position.

19 ANDREW GRIMES: Thank you, Your Honor.
20 We would also ask that the juror be excused.

21 THE COURT: Very well. We've already
22 said -- I did that in the Stone case, a death
23 penalty case. I removed a juror who
24 expressed a concern that they knew the
25 people. That was one of the grounds which

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1 they reversed me on. So -- out of an
2 abundance of caution, I make sure that I have
3 everybody's position on the record. I do
4 have everybody's position on the record that
5 they concur. The Court also concludes that
6 the response of the juror -- also, I would
7 like to add that the emotion that I observed
8 yesterday was demonstrated somewhat here this
9 morning, the concern about being in the
10 community, knowing people in the community.
11 We all know -- as y'all brought out, that's
12 one of the reasons that you asked for the
13 Five, Six and Ten Mile areas.

14 SOLICITOR SHEALY: (Affirmative nod).

15 THE COURT: It was very important for
16 both sides to know that, not just the State
17 but on the defense side as well.

18 We also had a juror that came up
19 yesterday and expressed some concern about
20 his, basically, assessment of persons of a
21 certain age, I'd say, that he had strong
22 opinions about that. I excluded him because
23 he stated that he had trouble -- that he
24 would start with the premise of them being
25 probably guilty.

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1 So I -- that exists in our community. I
2 think that this lady has expressed that very
3 adequately.

4 I will excuse her and place the alternate
5 on the jury. Thank you very much.

6 We will be at-ease for just a moment.

7 Do you wish for me to excuse her in your
8 presence? Does anybody need ---

9 WILLIAM RUNYON: Not Defendant Coakley,
10 Your Honor.

11 JIM SMILEY: No, sir.

12 ANDREW GRIMES: No, sir.

13 SOLICITOR SHEALY: No, sir.

14 THE COURT: Thank you.

15 (JUROR NUMBER 219 EXCUSED)

16 (BRIEF RECESS)

17 THE COURT: Are there any matters that
18 I need to take up before we bring in the
19 jury?

20 SOLICITOR SHEALY: Not from the State?

21 THE COURT: Mr. Smiley, are we still
22 waiting on your client?

23 JIM SMILEY: Yes, sir. And do I need to
24 place on my record my objection again?

25 THE COURT: Your objection, of course,

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1 is noted from the standpoint that I think we
2 acknowledged the fact -- it may be a moot
3 issue should the alternate not be involved.
4 Now the alternate will be involved, so it is
5 preserved.

6 JIM SMILEY: Thank you, sir.

7 THE COURT: The Court -- I understand
8 your position but I'm inclined to stay by my
9 earlier ruling. I am not bothered by it.

10 JIM SMILEY: Yes, sir.

11 THE COURT: Any other position from
12 anyone else concerning the alternate serving?

13 SOLICITOR SHEALY: Not from the State.

14 WILLIAM RUNYON: Your Honor, on behalf
15 of -- I'm sorry, Mr. Grimes. On behalf of
16 Defendant Coakley, ---

17 ANDREW GRIMES: I can't think of any.

18 WILLIAM RUNYON: On behalf of Defendant
19 Coakley, just so that the record is preserved
20 -- sometimes you make objections and you
21 don't know why. This is one of those things
22 that -- and I'm just trying to be candid with
23 the court. The jury selection process was
24 such yesterday that when we got to the
25 alternate, notwithstanding Mr. Smiley not

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1 being able to strike one way or the other,
2 we'd exhausted the jury panel. Had Mr.
3 Smiley had a strike, we wouldn't have an
4 alternate. I would suggest that the -- that
5 we would raise an objection to the jury
6 selection process, though I am not sure why
7 at this point in time, on behalf of Defendant
8 Coakley. I am raising the objection based on
9 the somewhat accountable misuse of the
10 selection process.

11 THE COURT: The accountable misuse?

12 WILLIAM RUNYON: Well, we had forty-two
13 jurors and we only had forty, basically.

14 THE COURT: That was one of the reasons
15 that -- and I understand your position. The
16 State's position -- and that was evident to
17 the court. That's why I had the sidebar,
18 whether -- gave an opportunity to discuss and
19 confer with the Solicitor's office. We had
20 twelve jurors. The question is whether or
21 not the process that we followed -- in my
22 opinion, the process followed the statute.

23 Does the statute cover every contingency,
24 no, it doesn't in my opinion. That's just my
25 opinion as a trial judge. That's the basis

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1 of my ruling, that I believe I construed the
2 statute literally and that the legislature
3 made the distinction when it came to multiple
4 defendants and preemptory challenges. They
5 could have easily done it with the
6 alternate's selection and they chose not to.

7 As you pointed out, we didn't get to Mr.
8 Smiley because we exhausted it in the order
9 put. In order to get to Mr. Smiley, we would
10 have had to basically doubled it. We
11 certainly could have done that. We still
12 would have had our twelve jurors.

13 Now we're faced with a mistrial situa-
14 tion, which is what concerned me about -- we
15 still may be. I think we're -- we're now --
16 we've been through one witness and we've lost
17 a juror. We have a hundred and four or a
18 hundred and five exhibits marked.

19 WILLIAM RUNYON: A hundred and twenty-
20 five.

21 THE COURT: And so is there a likely-
22 hood that this case may be mistried? Sure
23 there is. Might not be anything but that we
24 lose a juror.

25 I understand your position. The

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1 mechanical part, we have enough jurors to get
2 a jury without any problem. We used
3 everything. The problem comes in with the
4 alternate. If the alternate -- if the
5 process that we implemented fails, then it
6 has to be retried. That was my concern going
7 forward. So I understand your objection.
8 Your objection was that there weren't enough
9 jurors to accommodate any situation.

10 WILLIAM RUNYON: That's correct. And,
11 Judge, please understand. It's kinda of
12 strange, but for the record I am not taking
13 issue with the Court's interpreting the
14 statute literally, because that's what the
15 statute says.

16 THE COURT: Yeah.

17 WILLIAM RUNYON: But my suggestion is
18 that somewhere along the line is the
19 Constitution stops and due process comes in.

20 THE COURT: Well, it comes into this
21 also. It says that the trial judge -- as I
22 read that alternate, the trial judge may
23 chose the alternate. It doesn't even require
24 that you have one. So -- we do it as a
25 matter of course, but when you read it says

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1 that that is a discretionary ruling. We
2 would have been able to -- it benefits the
3 defense, but -- you know, I've been on that
4 side of the ledger, too, so I don't know.
5 All of those issues are nicely captured and
6 encapsulated in this. I appreciate that.

7 I assume the State is comfortable with
8 the selection process?

9 SOLICITOR SHEALY: Yes, Your Honor.

10 THE COURT: Thank you very much. Thank
11 you all. Let's bring our jury. Nope, not
12 just yet.

13 JIM SMILEY: He's here. If I could
14 just talk with him ---

15 THE COURT: That's fine. Bring him up
16 and then let me know.

17 (BRIEF RECESS)

18 (DEFENDANT SMALLS ENTERS COURTROOM)

19 JIM SMILEY: We are ready, Your Honor.

20 THE COURT: Thank you, sir. Okay.
21 Let the record reflect that all defendants
22 are present. Let's bring in the jury.

23 (JURY IN @ 9:55 A.M.)

24 THE COURT: Good morning, ladies and
25 gentlemen. I hope that you had a good

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1 evening. We had some matters to resolve this
2 morning. You noticed that there is one less
3 jurors. That is precisely -- as you will
4 recall, Ms. Magana, that's what we said,
5 that's the reason why we have alternates
6 because sometimes we have jurors excused.
7 There is no need to concern yourself with it.
8 In fact, I just told Ms. Rivers again -- I
9 thanked her because, again, it points out why
10 I believe so strongly in this system. I
11 commend her for what she did and you don't
12 need to concern yourself with that. That was
13 for my benefit.

14 We are ready to go forward now. The back
15 row is empty. If any of you feel cramped and
16 want to sit on the back row, so ahead and sit
17 on it. I'm not going to restrict you. But
18 seriously, if you don't mind sitting on the
19 first two rows, that would be very helpful to
20 me.

21 Good morning, Solicitor. Please call
22 your next witness.

23 JUROR: Your Honor, we're interested --
24 could we get some tablets?

25 THE COURT: Sure, I'd be happy for you,

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1 too. They ask me that -- and it's a very
2 legitimate question. Each judge has his or
3 her own concept of -- some don't allow it,
4 some encourage them. I don't -- it doesn't
5 matter to me at all.

6 I would just caution you in this respect.
7 We will make tablets and pencils available to
8 you all. First of all, if you would, open
9 the tablet and put your name at the top of
10 the page. At the end of the day, it's
11 imperative that the bailiffs receive all of
12 those tablets and retain them overnight.
13 Then they will return them to you the next
14 day.

15 In taking notes, we -- some of us are --
16 some are better note takers than others. I
17 take notes for a reason. In fact, years and
18 year ago, I went to the national judicial
19 college and I guess that I hadn't been on
20 long enough to have a response -- because it
21 didn't occur to me. A judge was talking
22 about note taking, he was a lecturer, and he
23 said, 'you take notes, don't you?' I said
24 yes, and he said, 'well, then, why can't a
25 juror take notes?' Finally it occurred to

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1 me, about four or five months later, because
2 -- my notes are points that are not your
3 points. I don't have anything to do with the
4 credibility and the believable of the
5 witnesses. I am more concerned what the
6 areas have to be from a legal perspective for
7 legal purposes.

8 The credibility and believable, as we
9 talked about, of witnesses is -- that's an
10 interesting thing. Sometimes it is the
11 combination of words that you think 'that is
12 just not right, that doesn't make any sense.'
13 Sometimes it is a facial expression,
14 sometimes it is a twitch, sometimes it is a
15 glance one way or the other. There are many,
16 many things that we consider.

17 The only concern that I have about note
18 taking is that you're at that moment writing
19 something, unless you are taking shorthand or
20 have the ability to make a note without
21 looking down, you're -- you might miss that
22 very critical point. But I understand that
23 notes are very beneficial. They are for me,
24 they will be for you.

25 Let me also remind you of something else.

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1 I will tell you something. As I mentioned to
2 you when we were qualifying you, this lady,
3 Ms. Garrison (court reporter), my dear
4 friend and colleague, and I -- I enjoy the
5 professional association that we've had for a
6 number of years. I won't embarrass either of
7 us with that. But she is -- she has the
8 responsibility of taking down verbatim the
9 record in this case, everything that is said
10 in this courtroom. During your delibera-
11 tions, if you have a difference of opinion as
12 to what a witness said or didn't say, we can
13 replay that testimony for you. You can hear
14 it again to refresh your recollection or to
15 resolve those concerns. That may be helpful
16 in your making notes, you may just want to
17 make some that will give you a point of that
18 testimony.

19 But whatever it is, please feel free to
20 take your notes as you deem fit. Remember,
21 they are your notes. When you begin your
22 deliberations, I will remind you of this,
23 that the record is Ms. Garrison's
24 responsibility and that will be the ultimate
25 say-so in what a witness said or didn't say.

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1 But, yes, thank you for the question.
2 Yes, please feel free to take the notes that
3 you wish.

4 (PENS/NOTEPADS DISTRIBUTED)

5 THE COURT: I appreciate your being
6 punctual morning and I apologize for the
7 delay. Sometimes those things just occur.
8 So, thank you.

9 We will now procedure. Solicitor, call
10 your next witness.

11 SOLICITOR SHEALY: We call Lynn Harlee
12 (sic).

13 (WITNESS TAKES STAND)

14 HARLEE LYNN, having been sworn to tell
15 the truth, and nothing but the truth,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR SHEALY:

19 Q. Ms. Lynn, if you would please, tell
20 the jury where you are currently employed.

21 A. Cricket Wireless in Mount Pleasant.

22 Q. Is that located in Oakland Planta-
23 tion?

24 A. Yes.

25 Q. How long have you worked there?

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1 A. Four years.

2 Q. And what do you do for that company?

3 A. I am a sales associate.

4 Q. If you would, focus your attention
5 back to Sept 15th, 2010. Could you tell the
6 jury what happened late afternoon, early
7 evening?

8 A. My boss and I were sitting at the
9 front desk, just waiting for the day to end.
10 I looked up and saw two people running
11 towards the back door, clothed -- full speed.
12 I screamed at my boss, said "Jim!" We both
13 looked up and then ran out the front door.

14 Q. Let me slow you down just a little
15 bit. You're saying that was the back door.

16 A. (Affirmative nod).

17 Q. Is that the door that is on -- what
18 is the name of that back road?

19 A. South Morgans Point Road.

20 Q. South Morgans Point Road?

21 A. (Affirmative nod).

22 Q. They were coming from what
23 direction?

24 A. The woods.

25 Q. Has that area changed since then?

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1 A. Just -- not really.

2 Q. Is it as fully grown up as it was?

3 A. No.

4 Q. And when you saw these two people,
5 can you tell the jury how they appeared?

6 A. Uh, -- (pause).

7 Q. You indicated that they were running
8 fast.

9 A. (Affirmative nod).

10 Q. Clothing-wise, height-wise, etc.?

11 A. I don't really know about the height
12 but I know, uh, -- one was in blue hoodie and
13 another one, I think, was in black. I really
14 don't recall.

15 Q. Were you able to see their faces?

16 A. No.

17 Q. What was obscuring their face?

18 A. I think that they had like ski masks
19 on their face, something to cover up so that
20 you can't see anything.

21 Q. Do you remember giving a statement
22 back when this happened?

23 A. Yes.

24 Q. To the police officers?

25 A. Yes.

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1 Q. Did you in fact give one that
2 evening?

3 A. (No verbal response).

4 Q. The evening of the incident?

5 A. Yes.

6 Q. Would it help you to have a copy of
7 that to look at, to refresh your memory?

8 A. Yes.

9 SOLICITOR SHEALY: Your Honor, if I could
10 have this marked for ID purposes.

11 THE COURT: All right.

12 COURT REPORTER: State's Exhibit 115
13 for identification.

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR SHEALY:

16 Q. If you want to take a moment and
17 look at that.

18 A. (Upon review), okay.

19 Q. Have you had a chance to look at it?

20 A. Yeah.

21 Q. If you would, describe to the jury
22 what part of their face was visible to you,
23 if any?

24 A. Uh, ---

25 JIM SMILEY: Your Honor, I object that

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1 she -- I understand that she has refreshed
2 her memory but ---

3 THE COURT: You can't read from the
4 statement. Just answer the question. If you
5 need to review the statement again, you may
6 review it but you can't read from it.

7 WITNESS: Okay. I don't really -- I
8 mean, nothing was really visible because they
9 have something to cover their eyes, some
10 sunglasses or -- then they had something on
11 their face, so I didn't really see anything.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR SHEALY:

14 Q. And as you see them approach the
15 store, what do you and Jim do?

16 A. We run out the front door, which is
17 the door opening to the Walmart.

18 Q. And what did y'all do from that
19 point?

20 A. We ran down to the Sprint store but
21 unfortunately they were already closed. So
22 we tried another door, and that door was
23 closed as well because it wasn't developed
24 into a store yet. So we ran through Jersey
25 Mike's. As I was running in Jersey Mike's,

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1 my boss jumped in his car and started chasing
2 the boys that ran back across the field
3 towards Rifle Range.

4 Q. And when you say Rifle Range, are
5 you talking about Rifle Range that runs
6 parallel to 17?

7 A. Yes.

8 Q. There is a street that runs behind
9 Walmart named Porchers Bluff, is that right?

10 A. (No verbal response).

11 Q. Or do you know the name of the
12 street right behind Walmart?

13 A. I don't know the name of the street.

14 Q. As Jim was leaving to follow them,
15 did you in fact talk to 911? Call 911?

16 A. I didn't call 911. Actually a lady
17 that was either in Jersey Mike's or entering
18 Jersey Mike's heard us yell, "Call 911!" She
19 was the one who actually called them.

20 And when I got -- she eventually gave me
21 the phone and I got on the phone with 911 and
22 explained the situation.

23 Q. And when you were on the phone with
24 911, could you tell the jury whether or not
25 anybody from the Mount Pleasant Police

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1 Department came to where you were?

2 A. The operator on the line wanted me
3 to stay on the phone until a police officer
4 got there. Shortly after talking to her, a
5 police officer showed up and I was able to
6 talk to him and showed him the situation.

7 SOLICITOR SHEALY: Beg the Court's
8 indulgence just a moment.

9 THE COURT: All right.

10 SOLICITOR SHEALY: (Sidebar with Mr.
11 Ferguson), I have no further questions.
12 Please answer any questions that the defense
13 may have.

14 THE COURT: Mr. Grimes?

15 ANDREW GRIMES: Thank you, Your Honor.
16 May it please the Court?

17 THE COURT: Yes, sir. You may proceed
18 with your examination.

19 CROSS EXAMINATION

20 BY ANDREW GRIMES:

21 Q. Good morning, Miss Lynn.

22 A. Good morning.

23 Q. I just have a few questions to ask
24 you about this incident. Okay?

25 A. Okay.

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1 Q. I know that it happened a little
2 over three years ago. Right?

3 A. Yes.

4 Q. And it happened really fast? I
5 guess we could call it a split second that
6 you all were in the Cricket store together?

7 A. Yes.

8 Q. Giving someone is coming in, robbing
9 you, you probably were not paying too much
10 attention to what they were wearing or were
11 trying to get details, were you?

12 A. Well, the only reason that I saw
13 what they were wearing is because I saw them
14 coming through the back.

15 Q. Okay.

16 A. So that's how I was able to --
17 (pause).

18 Q. And you said that you saw that they
19 were wearing masks?

20 A. Well, yes, something was covering
21 their face, which I was assuming was a mask.

22 Q. It could have been a mask, a shirt
23 or something else?

24 A. Yes.

25 Q. And I think that you said that they

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1 were wearing hoodie sweatshirts?

2 A. Yes.

3 Q. Are you sure about that?

4 A. Yes.

5 Q. I just wanted to make sure. And
6 you said about sunglasses. Are you sure that
7 they were wearing sunglasses or might they
8 have been wearing glasses?

9 A. I -- (pause).

10 Q. If you need to refresh your memory
11 by looking at your statement, feel free.

12 A. Well, in my statement I put -- I put
13 that I think they were wearing glasses but
14 that I wasn't a hundred percent. But that's
15 what I -- (affirmative nod).

16 Q. All right. Now I just want to ask
17 you a few questions about what happened after
18 you guys got into Jersey Mike's, when you saw
19 them run back through the field?

20 A. Yes.

21 Q. And you didn't -- you saw your boss
22 try to chase them or to go after them?

23 A. Yes.

24 Q. You didn't see where they went after
25 that, did you?

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1 A. I did not. Neither did my boss.

2 Q. Let me ask you a few more questions
3 about this. You didn't put in your
4 description anything -- you didn't say
5 anything about their height, did you?

6 A. I did not.

7 Q. Or their weight?

8 A. No.

9 Q. Or about the type of build that they
10 had?

11 A. Type of what?

12 Q. Build?

13 A. No.

14 ANDREW GRIMES: Thank you.

15 THE COURT: Cross examine, Mr. Runyon?

16 WILLIAM RUNYON: Yes, sir.

17 CROSS EXAMINATION

18 BY WILLIAM RUNYON:

19 Q. Good morning, ma'am.

20 A. Good morning.

21 Q. How you doing?

22 A. I'm good. How are you?

23 Q. I could be better, I could be worse.
24 You've worked there for four years?

25 A. Yes, sir.

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1 Q. And at that point in time you'd
2 worked there, what? About a year?

3 A. Yes.

4 Q. You're a sales associate?

5 A. Yes.

6 Q. And y'all did not have cash
7 register?

8 A. Not -- I mean, it's like in a
9 drawer, like in a desk drawer.

10 Q. Well, let me ask you this. At the
11 end of the day -- have you ever opened the
12 store in the morning during the course of
13 your employment?

14 A. Yes.

15 Q. And usually how much change do you
16 have in the drawer in the morning when you
17 open? Is there a set amount?

18 A. Are you referring to like regular --
19 like bills or how much in the drawer total?

20 Q. Do you have a policy like having a
21 hundred dollars worth of change, or fifty
22 dollars, or no change?

23 A. We use -- it changed. It used to be
24 a hundred and then we changed it to three
25 because the store got busier. So every

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1 morning we start the drawer with three
2 hundred.

3 Q. Was that the policy on the day of
4 the robbery?

5 A. Yes. But it wasn't three hundred,
6 it was -- I don't know. A hundred fifty?

7 Q. There was about a hundred and fifty
8 dollars worth of change that day?

9 A. Right.

10 Q. And the way that I understand -- and
11 you're going to have to help me with this
12 because I don't even know how to go get my
13 voicemail off my cell phone. So you've got
14 to help me with it. But the way that I
15 understand that it works, you have sales
16 contracts, sales receipts and what-have-you
17 that you do when you service customers?

18 A. Yes.

19 Q. So at the end of the day you kinda
20 of add those things up and -- you kind of
21 figure out how much money that you made that
22 day, to go to the bank?

23 A. Yes.

24 Q. You do take checks?

25 A. No.

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1 Q. You don't take checks?

2 A. No.

3 Q. Do you take credit cards?

4 A. Yes.

5 Q. You take credit cards and cash?

6 A. Yes.

7 Q. Now, on the day in question, were
8 there any credit card receipt/slips taken, do
9 you know?

10 A. Are you asking if we ran credit
11 cards that day?

12 Q. I'm sorry. Let me just put it
13 directly. When these two people came in and
14 they stole something, did they steal credit
15 card slips or just the money?

16 A. Just the money.

17 Q. Were you in charge of determining
18 how much money was taken, after this, for the
19 police? Or did your boss do that?

20 A. My boss did it.

21 Q. But there was a way to figure out
22 exactly how much cash was in the drawer at
23 the time?

24 A. Right.

25 Q. Other than testify to what you saw,

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1 you had no involvement in determining how
2 much money was missing or anything like that?

3 A. No.

4 WILLIAM RUNYON: Thank you.

5 THE COURT: Cross examine, Mr. Smiley.

6 JIM SMILEY: Just a few questions, Your
7 Honor.

8 CROSS EXAMINATION

9 BY JIM SMILEY:

10 Q. Miss Lynn, you saw them come running
11 across the field; right?

12 A. Yes.

13 Q. Break from the woods?

14 A. Yes.

15 Q. Y'all ran out on the Walmart side,
16 right?

17 A. Yes.

18 Q. You got on the phone with 911 about
19 the time that you got to the Jersey Mike's?
20 The woman handed you the phone?

21 A. Uh, -- (pause) -- yes. I mean, we
22 already -- we were kind of running between
23 stores. I'd already went to Jersey Mike's
24 and then when I went back is when the lady
25 was on the phone and she handed me the phone.

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1 Q. Okay. From the time that you left
2 the store to the time that you got on the
3 phone, twenty seconds? A minute? About how
4 long do you think that it was before you were
5 talking to 911? I know it's hard to say, but
6 just the best that you can.

7 A. A minute or two. I mean, it was
8 really -- we were running and then the next
9 thing I know, we were on the phone.

10 Q. Okay. And you were on the phone --
11 were you inside Jersey Mike's or outside
12 Jersey Mike's?

13 A. I don't know.

14 Q. Your concern was about what was
15 going on inside your store and on the South
16 Morgans Point Road side, the back of the
17 store; right?

18 A. Right.

19 Q. You weren't concerned about where
20 you were?

21 A. No.

22 Q. You felt safe being at Jersey
23 Mike's.

24 A. Yes.

25 Q. While you were in that -- talking on

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1 the phone there at Jersey Mike's, did any
2 cars go peeling off, or anything like that
3 that made you worry?

4 A. No.

5 JIM SMILEY: Nothing further.

6 THE COURT: Redirect?

7 SOLICITOR SHEALY: Just a few. Thank
8 you, Your Honor.

9 REDIRECT EXAMINATION

10 BY SOLICITOR SHEALY:

11 Q. When you and Mr. Blain left the
12 Cricket store and were running, were either
13 of y'all yelling out anything as you ran,
14 that you remember?

15 A. I really don't know if I was, but I
16 know that he was. He was yelling, "Call
17 911!"

18 Q. And that is as y'all are approach-
19 ing, first, the Sprint store?

20 A. Yes.

21 Q. And what time was it that this
22 occurred, when you first see the guys coming
23 towards your store?

24 A. It was close to closing, so about
25 6:30'ish.

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1 Q. Okay. When you got into Jersey
2 Mike's, someone else inside had already
3 called 911; is that correct?

4 A. I don't remember if she was inside
5 or if she was entering Jersey Mike's. That,
6 I don't remember.

7 Q. Tell the jury, when all of that was
8 happening that evening, were you -- what was
9 your state of mind?

10 A. I was just really scared. I didn't
11 know what to do. I'd never been in a
12 situation like that. I was fresh out of high
13 school, so it was kinda like -- (pause) -- I
14 was just scared.

15 SOLICITOR SHEALY: I have no further
16 questions. Thank you.

17 THE COURT: Recross, Mr. Grimes?

18 ANDREW GRIMES: No, sir.

19 THE COURT: Recross, Mr. Runyon?

20 WILLIAM RUNYON: No, sir.

21 THE COURT: Mr. Smiley?

22 JIM SMILEY: No, sir.

23 THE COURT: Thank you. You may come
24 down.

25 (WITNESS STEPS DOWN)

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1 THE COURT: Call your next witness.

2 SOLICITOR SHEALY: Jessica Lyons.

3 (WITNESS TAKES STAND)

4 JESSICA LYONS, having been sworn to tell
5 the truth, and nothing but the truth,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR SHEALY:

9 Q. Ms. Lyons, if you would, I would
10 like for you to focus your attention back to
11 September 15th, 2010. Could you tell the jury
12 where you were that evening?

13 A. I was at Walmart.

14 Q. Do you recall where you had parked
15 your vehicle, approximately?

16 A. Yeah. I was at the front of the
17 store. My car was facing the group of stores
18 adjacent to Walmart.

19 Q. And within that group of stores was
20 there the Cricket store?

21 A. Yes.

22 Q. Tell us if anything struck your
23 attention when you were exiting the store and
24 going to your car.

25 A. I was putting the groceries in my

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1 car and I heard a man yelling for help, so I
2 looked up.

3 Q. What did you do?

4 A. I asked him if he was okay. She
5 said, "No, I'm being robbed. Call 911!"

6 Q. What did you do as a result of that?

7 A. I called 911.

8 Q. Did you see where the gentleman
9 went?

10 A. When I looked up, he was near the
11 stores and he ran into the Jersey Mike's.

12 Q. When you were calling 911, at some
13 point did any car strike your attention?

14 A. What -- yeah. Well, what struck my
15 attention is that there was a gentleman
16 standing by a car. He was looking very
17 nervous.

18 Q. In what way was he looking nervous?

19 A. He had his hand on the car, he was
20 looking around the parking lot, just looking
21 very nervous, seemed really anxious.

22 Q. Based on your observations, what
23 did that vehicle do? What did you do as a
24 result?

25 A. Well, I looked over at the gentleman

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1 and we caught eyes, and I decided that I
2 wanted to get into my car. I turned around
3 and got into my car and that's when I dialed
4 911.

5 Q. Okay. Did the red-and-black Impala
6 stay parked or did it leave?

7 WILLIAM RUNYON: I don't believe that
8 the witness established the color of the
9 vehicle.

10 JIM SMILEY: I ---

11 SOLICITOR SHEALY: I'm sorry.

12 WILLIAM RUNYON: Objection to the color
13 of the vehicle.

14 THE COURT: I sustain the objection.

15 SOLICITOR SHEALY: I apologize.

16 THE COURT: Rephrase your question.

17 DIRECT EXAMINATION CONTINUED

18 BY SOLICITOR SHEALY:

19 Q. The car that you're indicating where
20 the man was acting nervous, what color was
21 that car?

22 A. It was red and black.

23 Q. And did that car stay parked or did
24 it in fact leave?

25 A. No, after a short period of time, he

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1 got into the car and left.

2 Q. Could you tell whether or not there
3 was a passenger in that car?

4 A. Yeah, there was one other gentleman
5 in the car.

6 Q. Based on your observations, did you
7 do anything when that car left?

8 A. Yeah. From where I was sitting in
9 my car, as the car backed up out of the
10 space, I could see the license plate number,
11 so I jotted down the license plate number.

12 Q. And did you in fact -- have you had
13 the opportunity to listen to your 911 tape?

14 A. Yes, I did.

15 Q. Did you rely the information to the
16 911 dispatcher as to what the tag number was?

17 A. Yes, I did.

18 Q. Do you know what that tag number
19 was?

20 A. It was FPV 808.

21 Q. And you finished your phone
22 conversation with 911?

23 A. Um-humm.

24 Q. And did you stick around ---

25 THE COURT: Was that a "yes"?

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1 WITNESS: Yes. I'm sorry.

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR SHEALY:

4 Q. Did you stick around after that, or
5 did you leave?

6 A. No, the operator told me that I
7 could leave.

8 Q. Okay. And did you in fact at some
9 other date give a statement to the police
10 about what you saw?

11 A. Yes. The next morning, I went to
12 the police station and gave a written
13 statement.

14 Q. So that would have been on September
15 16th?

16 A. Correct.

17 Q. Did anything draw your attention
18 once the red and black vehicle was leaving?

19 A. (No verbal response).

20 Q. As it was driving off?

21 A. Well, the vehicle drove around the
22 side of the store, the right side of the
23 group of stores, and then a couple of seconds
24 later I heard tires screeching and the
25 vehicle drove away.

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1 SOLICITOR SHEALY: Beg the Court's
2 indulgence just a moment, (sidebar with Mr.
3 Ferguson). I have no further questions.
4 Please answer any questions that the defense
5 attorneys may have. Thank you.

6 THE COURT: Cross examine, Mr. Grimes?

7 ANDREW GRIMES: Yes, Your Honor.

8 CROSS EXAMINATION

9 BY ANDREW GRIMES:

10 Q. Good morning, Ms. Lyons.

11 A. Hello.

12 Q. How are you doing today?

13 A. Good, thank you.

14 Q. As I understand, back on September
15 15th, 2010, you were coming out of Walmart?

16 A. Yes.

17 Q. You were putting your groceries into
18 the car?

19 A. Yes.

20 Q. And you heard somebody yelling that
21 he was being robbed, asking for help?

22 A. Right.

23 Q. And you called 911?

24 A. Yes.

25 Q. At that point, I guess that you said

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1 hat you saw a gentleman -- was he kinda
2 standing like this or ---

3 A. He had his arm on the car and he was
4 looking around.

5 Q. So someone is out running around,
6 calling for help and he was looking around?

7 A. He was more kind of fidgety and like
8 checking/scanning the parking lot, look back
9 and forth at the store.

10 Q. And Walmart was a pretty busy place?

11 A. Yeah, it was very busy.

12 Q. And then you said, I think, that you
13 locked eyes with him?

14 A. At one point, (affirmative nod).

15 Q. I guess that it was when you locked
16 eyes that he drove away?

17 A. No. When he was standing there.

18 Q. Okay. So you locked eyes, he was
19 standing here. He got in the car and drove
20 away after that?

21 A. It was a period later. We locked
22 eyes, then I -- I remember thinking that
23 'this is really suspicious' and I didn't want
24 to be standing outside my car, so I got into
25 my car. He sometime got in the car and

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1 that's when they left.

2 Q. So it was a young black male
3 standing outside, with his arm on the window,
4 looking around Walmart while someone was
5 running around yelling, he looks eyes with
6 you, ---

7 A. Um-humm.

8 Q. --- and that set off alarm bells?

9 A. No, it was already set off, just
10 looking at his behavior. But I didn't want
11 him looking at me.

12 ANDREW GRIMES: May I have a moment,
13 Your Honor?

14 THE COURT: Yes, you may.

15 ANDREW GRIMES: Thank you. I have no
16 further questions.

17 THE COURT: Cross examine, Mr. ---

18 WILLIAM RUNYON: No questions, Your
19 Honor.

20 THE COURT: Cross examine, Mr. Smiley?

21 JIM SMILEY: Yes, sir, may it please the
22 Court?

23 CROSS EXAMINATION

24 BY MR. SMILEY

25 Q. Ms. Lyons, there was an armed

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1 robbery going on, right?

2 A. Yeah.

3 Q. I believe that the gentleman was
4 yelling, "Call 911, I'm being robbed."

5 A. Yeah, he didn't say it was armed but
6 he said he was robbed.

7 Q. I gotcha. You're right. Exactly.

8 A. (Affirmative nod).

9 Q. So, "Call 911! I'm being robbed!"

10 A. Right.

11 Q. At that point in time, you didn't
12 know where the robbers were; did you?

13 A. No.

14 Q. You didn't know if they were in the
15 parking lot, you didn't know if they were in
16 the store or if they had run away already?

17 A. Initially, no.

18 Q. As you said, this parking lot was
19 full of people.

20 A. Right.

21 Q. And you were at your -- what kind of
22 car did you have?

23 A. I had a Prius.

24 Q. A Prius?

25 A. (Affirmative nod).

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1 Q. And you were putting your groceries
2 in the back?

3 A. Yeah, initially I was putting them
4 in the hatchback.

5 Q. So the hatchback was up?

6 A. Um-humm.

7 Q. You had just come from the Walmart
8 food section, which is closest to that side
9 of the parking lot.

10 A. Right.

11 Q. You had just walked up and you were
12 putting your groceries in your car when this
13 happened?

14 A. Yeah.

15 Q. And it was before the person started
16 yelling, "I am being robbed" that you noticed
17 this suspicious black man?

18 A. No.

19 Q. It was after he yelled, "I am being
20 robbed", that you looked around and saw a
21 black man nearby?

22 A. Yeah, he said he was -- he was
23 screaming for help. I walked around to the
24 front of my car and asked him if he was okay.
25 That's when he said that he was being robbed.

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1 I was calling 911. I'm standing there, just
2 kind of standing there and that's when I
3 noticed the gentleman.

4 Q. So as you were looking around, you
5 were standing in the parking lot?

6 A. Um-humm.

7 THE COURT: Is that a yes?

8 WITNESS: "Yes."

9 THE COURT: And the reason I say that
10 is because this lady (court reporter) is
11 taking it down and we need words.

12 WITNESS: Okay. Sorry.

13 CROSS EXAMINATION

14 BY JIM SMILEY:

15 Q. So you were looking at the area
16 where the robbery took place?

17 A. Um-humm, (affirmative nod).

18 Q. And you were looking in the parking
19 lot?

20 A. Yeah.

21 Q. You were nervous, right?

22 A. (No verbal response).

23 Q. You were anxious, weren't you?

24 A. (No verbal response).

25 Q. There was a robbery going on?

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1 A. No, I don't know if I was anxious.
2 I was making a phone call.

3 Q. You were anxious enough that you got
4 back in your car; right?

5 A. After I saw the gentleman, (affirma-
6 tive nod). That made me nervous.

7 Q. Because a black male was standing
8 close to you?

9 A. No. Because of the way the man was
10 acting.

11 Q. What was he doing with his arms? He
12 was just standing there, right?

13 A. He had one hand on the car ---

14 Q. Yeah.

15 A. --- and one hand by his side.

16 Q. What was he wearing?

17 A. I don't recall. I think that he was
18 wearing a dark shirt.

19 Q. Excuse me?

20 A. I think that he was wearing a dark
21 shirt, but I don't recall.

22 Q. A dark shirt?

23 A. I think.

24 Q. So his clothing didn't grab your
25 notice?

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1 A. No.

2 Q. Did he have a hat on?

3 A. No, not ---

4 Q. Glasses on?

5 A. --- that I recall.

6 Q. There was nothing out of the
7 ordinary besides that he was standing in
8 close proximity to you and looking nervous?

9 A. And he was not -- he was not just
10 scanning the parking lot. He was fidgety, he
11 was looking around, he was going back and
12 forth the store, and ---

13 Q. Let me stop you there. When you say
14 that he was going back and forth ---

15 A. He was looking back and forth to the
16 store.

17 Q. Okay. He wasn't moving ---

18 A. No.

19 Q. Just like you, you were standing
20 there ---

21 A. --- on the phone, yeah.

22 Q. You were looking around and as you
23 looked around, you locked eyes? Right?

24 A. Right.

25 Q. Then you went, 'Oooh, I'm getting in

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1 my car."

2 A. Yeah, because I was obviously on the
3 phone with 911 reporting a robbery.

4 Q. Okay. This car, how far away was
5 it?

6 A. He was only a few cars away from me,
7 on the other side of, ---

8 Q. Right. Your car was facing the
9 Cricket phone store?

10 A. Yes.

11 Q. The car that you saw this gentleman
12 by was facing the other direction, correct?

13 A. Uh, it was facing -- I don't
14 remember which direction that it was facing.

15 Q. All right. Was he on the driver's
16 side of the car?

17 A. It was -- I believe that it was
18 facing the other direction.

19 Q. Away from the store, pulled into a
20 parking spot?

21 A. Yeah.

22 Q. He was standing on the driver's
23 side?

24 A. He was standing on the, uh, he was
25 on the right side of the car.

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1 Q. So he was ---

2 A. He was on the opposite side of the
3 car from me.

4 Q. Okay. Did you see him walk up or
5 anything?

6 A. No.

7 Q. Or just that when you were looking
8 around, you saw him?

9 A. Yeah.

10 Q. Did you speak to him?

11 A. No.

12 Q. At this point in time, you had no
13 clue where the robbers were, did you?

14 A. No.

15 Q. You thought that maybe these two --
16 that this black male at that point in time
17 could have been the robber. Right?

18 A. Well, I didn't see anybody exit the
19 store. So -- I was assuming that the robbers
20 were in the store.

21 Q. You didn't think that he was a
22 robber?

23 A. My initial -- the thing that popped
24 into my head first was that he was driving
25 the get-away car.

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1 Q. Okay. All right. So from just
2 standing there, on the opposite side of the
3 car from the driver's side, outside, looking
4 around, you deduced that was the get-away
5 driver?

6 A. I said that I thought that it could
7 be.

8 Q Well, that was ---

9 A. Yeah, ---

10 Q. --- in your mind?

11 A. Right.

12 THE COURT: Allow Mr. Smiley to finish
13 answering the question. When you're both
14 talking, it's a difficult situation for the
15 court reporter.

16 WITNESS: I apologize.

17 JIM SMILEY: I do that, too. I just did
18 it. I'm bad about that, too. It's hard,
19 because we're trying to talk it out and
20 sometimes it -- I'm the worse, so I will try
21 to be better..

22 CROSS EXAMINATION

23 BY JIM SMILEY:

24 Q. So that's where your mindset was?

25 A. Correct.

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1 Q. Okay. At some point did you get out
2 of your car?

3 A. You mean after everything?

4 THE COURT: Jim, ---

5 JIM SMILEY: Yes, sir, I will back up
6 and ask it in real simple, short questions.

7 CROSS EXAMINATION CONTINUED

8 BY JIM SMILEY:

9 Q. You got in your car?

10 A. Yes, sir.

11 Q. That's where you dialed 911?

12 A. I began dialing 911 before I got
13 into my car.

14 Q. And that would have been when you
15 were standing at the front of your car?

16 A. Yes.

17 Q. You were on the phone with 911, you
18 look around and see this black gentleman,
19 lock eyes and 'I'm getting in my car.'

20 A. Right.

21 Q. You are now in your car. You got
22 out of your car and went into the Jersey
23 Mike's, correct?

24 A. I never went into Jersey Mike's.

25 Q. Okay. At some point in time did you

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1 hand your phone to anybody to talk to 911?

2 A. No.

3 Q. So you did your talking while you
4 were in the car?

5 A. Yes.

6 Q. All right. Now I've got to back up
7 just a little bit. You were -- it's hard to
8 do without a map. You were in a row of
9 parking places that are part of the Walmart
10 parking lot but are parallel to the Cricket
11 store and Jersey Mike's.

12 A. Correct.

13 Q. It was that last row that has
14 parking places on both sides, correct?

15 A. Right.

16 Q. There are also parking places over
17 by Jersey Mike's?

18 A. Yes.

19 Q. In that row -- there's a row that
20 you come out of the -- and I call it the
21 Walmart parking lot just because it's
22 divided.

23 A. Okay.

24 Q. There's an exit right there that
25 goes parallel to the store, correct, to get

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1 out of the parking lot that you were in?

2 A. Right.

3 Q. You're familiar with that parking
4 lot?

5 A.. Yes.

6 Q. There's another way out of that
7 parking lot, correct?

8 A. Yes.

9 Q. You can back out and stay within the
10 Walmart parking lot to the other side, where
11 there is the main drag in front of the store;
12 correct?

13 A. Yes.

14 Q. When you were in your car, after a
15 period of time -- well, let me ask you this:
16 When you were in your car, were you still
17 watching the black man?

18 A. Until he got into his car and left,
19 (affirmative nod).

20 Q. About the time that you got in your
21 car, he got in his car?

22 A. No. I was already in my car before
23 he left.

24 Q. Bad question. You are in your car.
25 Correct?

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1 A. Yes.

2 Q. The gentleman that you thought might
3 be the get-away driver was no longer leaning
4 up against the passenger side of his car;
5 correct?

6 A. I don't understand the question. At
7 some point he got in his car and left.

8 Q. I apologize. What I am asking is,
9 did you see him get into the car?

10 A. I don't recall.

11 Q. Okay. While you are still in your
12 car, ---

13 A. Yes.

14 Q. --- talking to 911, ---

15 A. Yes.

16 Q. --- this car backs out, ---

17 A. Um-humm.

18 Q. --- and pulls in front of you?

19 A. It wasn't directly in front of me
20 but it was close, yeah.

21 Q. It was going to the exit that would
22 be in front of the Cricket store?

23 A. Right.

24 Q. And that's when you noticed that
25 there were two black men, right?

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1 A. No, I noticed that there was another
2 man in the car when I noticed the gentleman
3 standing there, because I looked at the car.

4 Q. Describe what the other gentleman
5 was doing?

6 A. I couldn't see what he was doing. I
7 could just see that there was somebody in the
8 car.

9 Q. Was the fellow standing out of the
10 car talking to him?

11 A. I couldn't tell if he was talking to
12 him.

13 Q. You just noticed that he was
14 nervous, looking around?

15 A. Right.

16 Q. Okay. And the car, as it pulls pass
17 you it was, like, 'There goes the get-away
18 car, I want to get the license plate.' That
19 was your thought process, right?

20 A. I thought that it wouldn't hurt to
21 have the license plate.

22 Q. Certainly not. So you wrote down
23 that license plate, right?

24 A. Correct.

25 Q. And the car pulls out onto the road

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1 that runs in front of the Cricket store?

2 A. Right. It went around to the right
3 side of the stores, then I couldn't see it
4 any further.

5 Q. Again, I'm calling it the Walmart
6 parking lot there.

7 A. Right.

8 Q. It exits onto the road that runs
9 parallel to the front of the store that had
10 been robbed. Correct?

11 A. Correct. Between the store and
12 Walmart, right.

13 JIM SMILEY: Could you pull up State's
14 Exhibit 12, the map? If you don't mind.

15 SOLICITOR SHEALY: (Displaying State's
16 Exhibit 12).

17 CROSS EXAMINATION CONTIINUED

18 BY JIM SMILEY:

19 Q. I am going to pull up a map and
20 maybe I can do it better this way.

21 A. Okay.

22 Q. I am going to walk over there so
23 that I don't get on top of you. Okay?

24 A. Okay.

25 Q. This is the -- this is the Walmart

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1 store, agreed?

2 A. Yes.

3 Q. And these are the strip of stores
4 with the Cricket store, correct?

5 A. Yes.

6 Q. All right. This is the -- what I've
7 been calling the Walmart parking lot.
8 Correct?

9 A. Yes.

10 Q. And you were parked about right
11 here?

12 A. Yes.

13 Q. So your car was pretty much directly
14 in front of the Cricket store?

15 A. Yes.

16 Q. The fellow that you were worried
17 about was parked a little further ---

18 A. A little closer to Walmart.

19 Q. A little closer to Walmart?

20 A. (Affirmative nod).

21 Q. So he would have been right in this
22 area?

23 A. Right.

24 Q. Okay. Very good. And you saw him
25 back up, right?

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1 A. Right.

2 Q. Then come to that exit, correct?

3 A. Yes.

4 Q. And that is to the street that runs
5 in front of the store?

6 A. Correct.

7 Q. Then he took a right?

8 A. He was out of my view.

9 Q. Right here he wasn't when he was
10 exiting the parking lot, was he?

11 A. No, I could see that.

12 Q. Okay. And he took a right towards
13 the Walmart?

14 A. Correct.

15 Q. So at that point you lost sight of
16 him?

17 A. Right.

18 Q. You're inside your car?

19 A. Yes.

20 Q. You lose sight of that car leaving?

21 a. Yes.

22 Q. Then you heard some squealing?

23 A. Yes, like a couple of seconds later
24 I heard tires squealing.

25 Q. You assumed that it was coming from

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1 that car? Correct?

2 A. Yes.

3 Q. You couldn't swear to it because you
4 didn't see it. Correct?

5 A. I didn't see it.

6 Q. Okay. It was like a squeal, like
7 "errrrkk".

8 A. Like somebody pulling away real
9 quick.

10 Q. Getting out of there as fast as they
11 possibly could?

12 A. Yes.

13 Q. Okay. I just want to make sure, the
14 gentleman that was standing outside of the
15 car, he made no gestures towards you.

16 A. No.

17 Q. He didn't really move, did he?

18 A. (Negative gesture).

19 Q. Just stood in one place?

20 A. Yes.

21 Q. Sort of like you, right?

22 A. Yes.

23 Q. And it was your intuition more than
24 anything else that said 'that guy could be
25 the get away driver.'

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1 A. Yes.

2 JIM SMILEY: That's all that I have.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION

5 BY SOLICITOR SHEALY:

6 Q. Ms. Lyons, Mr. Smiley asked you
7 several times, the black man, the black man.
8 Was there anything about him being black that
9 caught your attention?

10 A. No. There were a lot of black
11 people in the parking lot.

12 Q. Okay. Again, he asked you whether
13 it was your intuition. Could you show the
14 jury again what the guy standing outside the
15 red-and-black car was behaving in the parking
16 lot?

17 A. He was very fidgety. He was looking
18 around like (illustrating), and he was
19 looking back and forth to the store, just
20 very nervous acting.

21 Q. Okay. Let me ask you this, you had
22 heard the people running towards Jersey
23 Mike's, yelling?

24 A. Yes.

25 Q. Tell this jury whether the guy

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1 standing by the red-and-black Impala was
2 using his cell phone to call 911?

3 A. He was not.

4 SOLICITOR SHEALY: Thank you. Nothing
5 further. Your Honor, we'd ask that she be
6 excused.

7 THE COURT: One second. Thank you.
8 Recross?

9 ANDREW GRIMES: Thank you, Your Honor.

10 THE COURT: Yes, sir.

11 RECROSS EXAMINATION

12 BY ANDREW GRIMES:

13 Q. I would like to ask you a few
14 questions. Do you remember how many other
15 cars were leaving that Walmart area during
16 this timeframe?

17 A. I have no idea. It was a busy
18 evening at Walmart, so I assume that it was
19 a couple at least.

20 Q. At least two or ---

21 THE COURT: She can't answer the
22 question, Mr. Grimes. She said that she
23 doesn't know. As you said, she doesn't know.

24 RECROSS EXAMINATION CONTINUED

25 BY ANDREW GRIMES:

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1 Q. Now, you testified several times
2 that the reason the person caught your eye
3 was because he was acting fidgety, nervous,
4 was moving around?

5 A. Yes.

6 Q. And you gave a statement to the
7 police, to Detective Simmons the next day,
8 right? About 9:00 o'clock in the morning?

9 A. Yes.

10 Q. And do you have a copy of your
11 statement up there?

12 A. I don't have a copy with me but I
13 have a copy at home.

14 Q. Did you review it before you came to
15 court?

16 A. Yes.

17 Q. And in your statement you don't say
18 anything about him being very fidgety, did
19 you?

20 A. I don't remember what I said in my
21 statement. I know that I said in my
22 statement that the gentleman caught my eye.

23 ANDREW GRIMES: Can I mark this as
24 Defendant's Exhibit 1, Your Honor.

25 THE COURT: Okay.

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1 COURT REPORTER: Graddick Exhibit 1.

2 THE COURT: Graddick 1 for ID.

3 CROSS EXAMINATION CONTINUED

4 BY ANDREW GRIMES:

5 Q. I will show you what has been marked
6 as Defendant Graddick's Exhibit 1 for
7 identification.

8 A. Okay.

9 Q. In there, you don't say any about
10 the neck going around, looking all around; do
11 you?

12 A. No, at the time I didn't know that
13 it was going to be so important.

14 Q. And at the bottom of that statement
15 it talks about that you're giving a complete
16 and truthful statement, giving all the facts
17 to the police?

18 A. Yeah.

19 Q. And if you thought that it was very
20 important and that's why it stood out -- it's
21 fair to say that it is important, isn't it?

22 A. At the time it didn't seem important
23 to me. What was important was that the
24 gentleman caught my attention. Why he caught
25 my attention, I didn't volunteer. I didn't

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1 think that was important.

2 Q. But three and a half years later,
3 it's very important.

4 A. Now that you're asking me why he
5 caught my attention, I'm explaining why.

6 Q. I believe that your statement
7 doesn't say anything about him locking eyes
8 with you, does it.

9 A. It says that he looked at me at one
10 point and that I got in my car.

11 Q. And it doesn't say anything about
12 him pulling off real quick, the part about
13 tied squealing?

14 A. No. It says that he backed up and
15 drove to the other side of the store and five
16 or six seconds later I heard tires squealing.

17 Q. And as you told Mr. Smiley, you
18 don't know whose tires those were?

19 A. No, I couldn't see the car at all.

20 ANDREW GRIMES: Thank you. I have no
21 further questions.

22 THE COURT: Recross?

23 WILLIAM RUNYON: No questions on behalf
24 of Defendant Coakley, Your Honor.

25 THE COURT: Mr. Smiley?

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RECROSS EXAMINATION

BY JIM SMILEY:

Q. You said that you didn't see my client, Mr. Smalls, using his cell phone?

A. I don't recall him using a cell phone.

Q. Okay. Do you know if he had a cell phone?

A. I have no idea if he had a cell phone.

Q. Were other people not using cell phones?

A. There were several people in the parking lot call 911, I could say.

Q. And there were people that didn't have phones, right?

A. I don't know who had a phone and who didn't.

Q. Like the gentleman ---

A. I'm assuming everybody has a phone nowadays.

THE COURT: She can't -- I am not going to allow her to answer that question. Rephrase your question. That calls for speculation.

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1 JIM SMILEY: Yes, sir.

2 RECROSS EXAMINATION CONTINUED

3 BY JIM SMILEY:

4 Q. So you were -- the gentleman that
5 came out of the phone store, that was yelling
6 "Call 911!"

7 A. Right.

8 Q. "We've been robbed!" He wasn't
9 using his phone, was he?

10 A. He was running. I'm assuming that's
11 why he went into Jersey Mike's, was to call
12 911.

13 Q. Okay.

14 JIM SMILEY: That's all that I've got.
15 Thank you.

16 THE COURT: Do you wish the witness to
17 be excused?

18 SOLICITOR SHEALY: May I follow up with
19 one question.

20 THE COURT: No, ma'am, you may not.
21 Thank you very much.

22 SOLICITOR SHEALY: Yes, please -- we
23 would ask that she be excused.

24 THE COURT: Any objection from anyone
25 else?

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1 MR. GRIMES: No, sir.

2 WILLIAM RUNYON: None from Defendant
3 Coakley.

4 JIM SMILEY: No, Your Honor.

5 THE COURT: You may come down and you
6 may leave.

7 (WITNESS STEPS DOWN)

8 THE COURT: Call your next witness,
9 please.

10 SOLICITOR FERGUSON: The State calls
11 Edward Stunkard.

12 (WITNESS TAKES STAND)

13 EDWARD STUNKARD, having been sworn to
14 tell the truth, and nothing but the truth,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. FERGUSON:

18 Q. Good morning, Mr. Stunkard.

19 A. Good morning.

20 Q. Tell the jury where you work?

21 A. I work at Walmart.

22 Q. What is your title as a Walmart
23 employee?

24 A. Asset Protection Manager.

25 Q. You said Asset Protection Manager?

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1 A. Yes, sir.

2 Q. What are the duties of an asset
3 protection manager?

4 A. Internal and external theft
5 prevention, safety and compliance.

6 Q. How long have you been with the
7 Walmart company?

8 A. Eighteen years.

9 Q. How long have you been an asset
10 protection manager for Walmart?

11 A. Five years.

12 Q. Now, you said that an asset
13 protection manager -- tell us again, internal
14 and external?

15 A. Theft prevention.

16 Q. Internal and external theft?

17 A. Yes.

18 Q. That would include surveillance?

19 A. Yes, I control all the cameras of
20 the store.

21 Q. So there are cameras at that Walmart
22 store?

23 A. There are approximately two hundred.

24 Q. Wow. Do you know how many are
25 outside of the store?

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1 A. I believe that there are thirty-six.

2 Q. And do any of those cameras survey
3 the parking lot at Walmart?

4 A. Yes.

5 Q. Do any of those camera survey the
6 back of Walmart?

7 A. Yes, they do.

8 Q. Is it your job to make sure that
9 those cameras are accurate and functioning?

10 A. Yes, it is.

11 Q. Was that your job in September of
12 2010?

13 A. Yes, it was.

14 Q. Were those cameras functioning in
15 September 2010?

16 A. Perfectly, (affirmative nod).

17 Q. When I say functioning, they were
18 recording ---

19 A. Yes, sir.

20 Q. --- video?

21 A. Yes, sir.

22 Q. Do they record audio?

23 A. No, sir.

24 Q. Are those cameras equipped with a
25 time and date stamp?

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1 A. They can if we choose to put it on
2 there.

3 Q. Okay. And was there a time and date
4 stamp on the external cameras in September
5 2010?

6 A. Yes, there was.

7 Q. Were those time and date stamps
8 accurate?

9 A. One hundred percent.

10 Q. Not only the date but the time is an
11 accurate reflection of the date and time was
12 the recording -- it's the actual date and
13 time that the cameras were recording?

14 A. Yes, sir.

15 Q. Please tell me, do you know the
16 address of that Walmart?

17 A. 3000 Proprietors Place.

18 Q. That's in Mount Pleasant?

19 A. Yes, sir.

20 Q. That's the Oakland Shopping Center?

21 A. Yes, sir.

22 Q. Were you approached by law enforce-
23 ment in regard to whether you had video
24 recording for the date of September 15th,
25 2010?

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1 A. I was.

2 Q. Do you remember what was the nature
3 of that -- what the reason was why law
4 enforcement wanted that recording?

5 A. They said to me that they was
6 looking for any video that we might have on
7 suspects of an armed robbery.

8 Q. Did that include a vehicle?

9 A. They wanted to see the vehicle that
10 was -- a red and black vehicle that had a
11 very distinct red strip down the side.

12 Q. Did you review the video on
13 September 15th, 2010?

14 A. Yes, sir, I did.

15 Q. Did you see a red and black vehicle
16 in the video?

17 A. Yes, sir, I did.

18 Q. If I ---

19 SOLICITOR FERGUSON: Your Honor, may I
20 approach?

21 THE COURT: You may.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR FERGUSON:

24 Q. I am handing you what has been
25 marked for identification purposes as State's

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1 Exhibit 102. Do you recognize this disk?

2 A. Yes, sir.

3 Q. How do you recognize it?

4 A. I recognize it because I initialed
5 it?

6 Q. Those are your initials right there?

7 A. Yes, sir. Those are my initials.

8 SOLICITOR FERGUSON: Your Honor, at
9 this time I would like to introduce State's
10 Exhibit 102 into evidence.

11 THE COURT: Any objection?

12 ANDREW GRIMES: No, sir.

13 WILLIAM RUNYON: I haven't heard in
14 the record whether this was kept by him; if
15 it was kept by him, was it ---

16 THE COURT: Do you object to the
17 foundation?

18 WILLIAM RUNYON: Foundation, (affirma-
19 tive nod).

20 THE COURT: All right. Any objection?

21 JIM SMILEY: I was going to make the
22 same objection.

23 THE COURT: All right. Subject to the
24 objection -- I think that it has been
25 sufficiently identified, I believe that the

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1 witness is familiar with it, and I will allow
2 its admission. State's Exhibit 102.

3 JIM SMILEY: If I could also, just for
4 the record, ---

5 THE COURT: You don't have to argue
6 anything. We can put that on the record --
7 just the basis for your objection -- any
8 additional basis for your objection?

9 JIM SMILEY: No, sir.

10 THE COURT: Thank you. I will -- we
11 will put on the record anything that you want
12 to place about your objection, at the first
13 break.

14 (SO ENTERED AS STATE'S EXHIBIT 102)

15 JIM SMILEY: Yes, sir.

16 THE COURT: Thank you.

17 SOLICITOR FERGUSON: May I publish it?

18 THE COURT: You may.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR FERGUSON:

21 Q. Mr. Stunkard, I am going to hand you
22 this pointer.

23 A. Okay.

24 Q. If you need to stand up, feel free
25 to do so. (State's Exhibit 102, video

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1 playing). Do you recognize what is on the
2 screen?

3 A. Yes, sir, I do.

4 This is the shopping center right by
5 where Walmart is.

6 This is going up there.

7 Those are the little shops adjacent to
8 our store.

9 Q. Is that a visual depiction of what a
10 Walmart camera would show?

11 A. That is my camera..

12 Q. That is your camera?

13 A. Um-humm, (affirmative nod).

14 Q. And those recordings are put on a
15 database?

16 A. Yes, sir. Yes, they are.

17 Q. Is that kept in that Walmart store?

18 A. Yes, sir. The database is there in
19 the store. My cameras record for approxi-
20 mately two months.

21 Q. Are you the custodian of that data-
22 base?

23 A. Yes, sir, I am.

24 Q. Can you explain what Rooftop 3 is?

25 A. Rooftop 3 is the camera pointing --

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1 this is the drive that goes down in front of
2 the Cricket store and Jersey Mike's, in the
3 back a little bit back here. This is coming
4 out of our store, on this side of the parking
5 lot.

6 Q. So this -- does this reflect
7 September 15th, 2010 at 6:35:19?

8 A. Yes, sir.

9 ANDREW GRIMES: Objection, Your Honor.

10 THE COURT: What is your objection?

11 ANDREW GRIMES: Failure to lay a
12 proper foundation as to the date and time.

13 THE COURT: Ladies and gentlemen, I am
14 going to let you go to your jury room and
15 take a break.

16 Do not discuss the case or begin your
17 deliberations. We will be with you in about
18 ten to fifteen minutes. Thank you.

19 (JURY OUT @ 10:58 A.M.)

20 THE COURT: I appreciate the objection
21 but the foundation has been laid. You asked
22 a redundant question, just supplemented your
23 record, and I understand that.

24 The witness testified specifically about
25 date stamps, said that they did it and that

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1 they were accurate. He'd already testified
2 about that previously. It is now admitted.
3 It's in. Your objection is -- it is what it
4 is. It doesn't have to be verified any more
5 because it's in evidence. So -- and I don't
6 know why you asked the question. It's there
7 for everybody to see.

8 I don't know why you needed to ask that.
9 He's already testified to that.

10 Folks, I just heard something -- I'll
11 just throw this out. You all are better
12 trial lawyers than I will ever be. But Joe
13 Anderson, I just saw a presentation at the
14 Defense Trial Lawyers a couple of weeks ago.
15 It was gathering information from jurors.
16 It said that one of their chief complaints is
17 lawyer asking question that are so dad-gum
18 obviously it's offensive. 'We are have
19 already been told that.' It's offensive. I
20 just throw that out to you. You may want to
21 think about that. Thank you.

22 During this break, you're free to step
23 down but I'd ask that you not have any
24 conversation with any of the lawyers.

25 WITENSS: Yes, sir.

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1 THE COURT: Thank you, sir.

2 (BRIEF RECESS)

3 (DEFENDANT COAKLEY PRESENT)

4 (DEFENDANT SMALLS PRESENT)

5 THE COURT: Let's go.

6 SOLICITOR FERGUSON: Let me grab Ms.
7 Shealy.

8 (SOLICITORS RETURN TO COURTROOM)

9 THE COURT: Let the record reflect that
10 all (sic) defendants are present. Is the
11 State ready?

12 SOLICITOR FERGUSON: Yes, sir, Your
13 Honor.

14 THE COURT: Defense ready?

15 ANDREW GRIMES: Just one moment, Your
16 Honor ---

17 (DEFENDANT GRADDICK ENTERS COURTROOM)

18 THE COURT: I'm sorry. Thank you. Let
19 the record reflect that Defendant Graddick is
20 now present. Mr. Runyon?

21 WILLIAM RUNYON: Ready, yes, Your
22 Honor.

23 THE COURT: Mr. Smiley?

24 JIM SMILEY: Yes, sir.

25 THE COURT: Let's bring in our jury.

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1 (JURY IN @ 11:18 A.M.)

2 THE COURT: Thank you, ladies and
3 gentlemen. Mr. Ferguson, you may continue
4 with your examination.

5 SOLICITOR FERGUSON: Thank you, Your
6 Honor.

7 THE COURT: All right.

8 DIRECT EXAMINATION RESUMED

9 BY SOLICITOR FERGUSON:

10 Q. Mr. Stunkard, I am showing you
11 State's Exhibit 102 which is a video of
12 Rooftop 3 at Walmart.

13 A. Yeah.

14 Q. As I play the video, if you could
15 just identify the red and black car that you
16 were approached to see if it was captured on
17 that Walmart video.

18 A. Yes, sir.

19 Q. (Video playing) ---

20 A. There.

21 Q. Pause, please.

22 SOLICITOR FERGUSON: Your Honor, we
23 would ask that the record reflect that the
24 witness identified a vehicle at 6:35:30.

25 THE COURT: The record speaks for

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1 itself, Solicitor. The video, the jury has
2 seen it.

3 SOLICITOR FERGUSON: Yes, sir, I ---

4 THE COURT: The record is there. It's
5 a part of the record. Thank you, sir.
6 That's redundant. Thank you.

7 SOLICITOR FERGUSON: Thank you.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR FERGUSON:

10 Q. I want to show you another video,
11 Mr. Stunkard. (Video playing), ---

12 THE COURT: Are all of these on State's
13 Exhibit 102?

14 SOLICITOR FERGUSON: Yes, Your Honor.
15 Yes, State's Exhibit 102 is three video
16 clips.

17 THE COURT: That's fine.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR FERGUSON:

20 Q. Please do the same, Mr. Stunkard.
21 Please have them stop the video when the same
22 car is seen.

23 A. Right there.

24 Q. And what time is it on the video?

25 A. It is 6:35:50.

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1 Q. I want to show you one more video,
2 (video playing). What are we looking at
3 here?

4 A. This is the back of the store. This
5 is, most of the time, where the delivery
6 trucks come in, this driveway right here.
7 That is the loading docks, unloading docks.

8 SOLICITOR FERGUSON: If I may approach,
9 Your Honor.

10 THE COURT: Sure.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR FERGUSON:

13 Q. I am going to hand you this pointer.
14 Can you identify any road that we see there?

15 A. This is Porchers Bluff Road.

16 Q. That is Porchers Bluff Road?

17 A. Yes, sir.

18 Q. And one more time, if you could
19 identify the vehicle as it takes place.

20 A. Okay.

21 Q. (Video playing), ---

22 A. Right there.

23 Q. What time does the tape show?

24 A. 6:36:39.

25 Q. What road is that car approaching?

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1 A. Porchers Bluff.

2 Q. And it is making a right onto
3 Porchers Bluff Road?

4 A. Yes, sir.

5 SOLICITOR FERGUSON: I beg the Court's
6 indulgence. Technology not only gives you
7 convenience but also teaches us patience.

8 THE COURT: Increases blood pressure.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR FERGUSON:

11 Q. I am showing you what has been
12 marked as State's Exhibit 12. Are you
13 familiar with that map?

14 A. Yes, sir, I am.

15 Q. Can you identify the Walmart where
16 you work?

17 A. This is the Walmart right here.

18 Q. In that previous camera shot, can
19 you point to where it was showing?

20 A. Right here. It shows this specific
21 area right here, coming out to the road.

22 Q. And that road, what is that road
23 that you are talking about?

24 A. Porchers Bluff Road.

25 Q. Now, in the video that you saw that

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1 red car, which direction did that car turn?

2 A. It turned in that direction, towards
3 17.

4 Q. Towards Highway 17?

5 A. Yes, sir.

6 SOLICITOR FERGUSON: Thank you. Please
7 answer any questions that the defense may
8 have.

9 THE COURT: Cross examine?

10 MR. KOWELSKI: Thank you, Your Honor.
11 May it please the Court?

12 THE COURT: Yes, sir.

13 CROSS EXAMINATION

14 BY MR KOWELSKI:

15 Q. Good morning, Mr. Stunkard. I want
16 to just talk to you a little bit about you
17 just testified to on direct with Mr.
18 Ferguson. You said that it was your job to
19 make sure that the two hundred cameras that
20 you have in Walmart are accurate and
21 function?

22 A. Correct.

23 Q. And part of that accuracy is making
24 sure that the time stamp is on there and that
25 the time stamps are correct?

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1 A. Correct.

2 Q. And you testified earlier that you
3 believe that these are one hundred percent
4 accurate?

5 A. They are.

6 Q. Forgive me if I am a little leery of
7 one hundred percent accuracy when it comes to
8 time. I have three clocks in my office.
9 They all say different times. I wanted to ask
10 you, how do you calibrate these times?

11 A. They are calibrated by the home
12 office. The home office controls -- there is
13 a central hub that controls all cameras in
14 all stores. They can pull up any camera that
15 they want to, in any store that they want to.

16 Q. So these time stamps are actually
17 provided for by somebody else at Walmart in
18 ---

19 A. It's in the computer, (affirmative
20 nod).

21 Q. There is a central computer?

22 A. Yes.

23 Q. Do you know what they set that time
24 from? Base that time on?

25 A. I have no idea exactly what they set

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1 it off of.

2 Q. And do you have any idea how many
3 times that they calibrate this?

4 A. I do not.

5 MR. KOWELSKI: Thank you. No further
6 questions.

7 THE COURT: Cross?

8 WILLIAM RUNYON: No questions, Your
9 Honor.

10 THE COURT: Mr. Smiley?

11 JIM SMILEY: Yes, sir.

12 CROSS EXAMINATION

13 BY JIM SMILEY:

14 Q. Good morning. My name is Jim Smiley
15 and I represent Kevin Smalls. It's nice to
16 meet you.

17 JIM SMILEY: Could y'all bring back up
18 the video?

19 SOLICITOR FERGUSON: Sure.

20 CROSS EXAMINATION CONTINUED

21 BY JIM SMILEY:

22 Q. I am going to ask you some other
23 questions while they are getting that up.

24 A. Okay.

25 Q. So the stamps that are on each of

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1 those three videos was synchronized?

2 A. Yes, sir.

3 Q. The back entrance that one camera
4 displays, it is not unusual for people to use
5 that entrance to ---

6 A. No, sir.

7 Q. A lot of people use it as an ingress
8 and egress ---

9 A. (Affirmative nod), coming and going.

10 Q. They come both ways on that road?

11 A. Yes, sir.

12 Q. So it is not unusual for a car to go
13 by the lawn center and come out on Porchers
14 Bluff on the back side?

15 A. No, sir.

16 Q. Okay. Is the Walmart -- you have a
17 grocery side and the merchandise side?

18 A. The GM side. We call it the general
19 merchandise side.

20 Q. I understand. The groceries side is
21 closest to the Cricket store. Correct?

22 A. Yes, sir.

23 Q. And that -- I keep calling it the
24 Walmart parking lot area because it is sort
25 of separated from the outside perimeter. It

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1 goes from in front of that Cricket store
2 almost all the way down to the law center.
3 Correct?

4 A. Uh, -- yes, sir.

5 Q. It's broken into two parts, correct?

6 A. Broken into three different parts.

7 Q. Three parts?

8 A. (Affirmative nod).

9 Q. Now, this is -- I'm showing you
10 State's Exhibit 102. Can you see the Cricket
11 store in that picture?

12 A. No, sir.

13 Q. What stores does that depict?

14 A. There used to be some kind of mail
15 center/store, the first blue hood, but it's
16 not there any longer.

17 I don't remember what the others were.

18 I believe that there was a package store
19 down there.

20 Q. Yes, sir. So my question is, this
21 shows -- that's not a very good question.

22 There is a row of stores and that only
23 shows a part of them?

24 A. Yes, sir.

25 Q. There is a dumpster kind of closed

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1 in area, then another row or stores; correct?

2 A. Yes, sir.

3 Q. And that is the one that contains
4 the Cricket store, and the Jersey Mike's;
5 right?

6 A. Yes, sir.

7 Q. And if you're looking at that video,
8 it would be closer to us, not farther away;
9 correct?

10 A. Yes, sir.

11 Q. That's a hard question to ask. I'm
12 trying to figure out the video.

13 Again, so that I am not on top of you,
14 I'm going to walk over here -- it's the same
15 view.

16 This is -- and I'm pointing to the bottom
17 left-hand corner. This is where you come out
18 of the parking area for Walmart?

19 A. That's one of the areas; yes, sir.

20 Q. Oaky. This is from where on your
21 videotape you saw the red car come out;
22 right?

23 A. Yes, sir.

24 Q. And when you come out, you're on a
25 street that runs in front of those strip --

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1 that strip of stores, correct?

2 A. Yes, sir.

3 Q. If you keep going down there is a
4 quicker -- I guess what I am getting at is
5 that there is a quicker way out of the
6 Walmart parking lot than going around behind
7 the garden store; correct?

8 A. Yes, sir.

9 Q. If you went to the left back instead
10 of back to the right, you'd get back to
11 Porchers Bluff Road much quicker; correct?

12 A. Yes, sir. If you followed this
13 street, you'd come on down and there is an
14 intersection that -- I forget the name of the
15 road now, but it cuts back to Porchers Bluff
16 that way.

17 Q. And that's a quick way out?

18 A. Yes, sir.

19 Q. All right.

20 JIM SMILEY: Now, if would run the tape
21 to 6:35:30 -- (video playing).

22 CROSS EXAMINATION CONTINUED

23 BY JIM SMILEY:

24 Q. Now, all the cars on this video look
25 like they are moving fast. Is this real

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1 time?

2 A. Real time, (affirmative nod).

3 Q. Okay. (Video playing) -- pausing it
4 there, this is the first time that you saw
5 the red car in this camera view; correct?

6 A. Yes, sir.

7 Q. It appears that the red car is
8 coming out of the Walmart parking lot and
9 taking a right onto that parallel street?

10 A. Yes, sir.

11 Q. And that car would go right in front
12 of the Cricket store and Jersey Mike's;
13 wouldn't it?

14 A. Yes, sir.

15 Q. That time is 6:35:31 in the evening,
16 something like that, when you first see it
17 there?

18 A. Yes, sir.

19 JIM SMILEY: If you could, show the
20 store front in the video -- (video playing).
21 Pause it right there for me. Thank you so
22 much for doing that.

23 CROSS EXAMINATION CONTINUED

24 BY JIM SMILEY:

25 Q. For those of us that haven't been to

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1 that Super Walmart, this angle is looking out
2 from the front of your store to the far edge
3 of the parking lot?

4 A. This is actually looking out the
5 front of the grocery entrance.

6 Q. Right. So it is the camera that --
7 the grocery entrance being the parking lot
8 that we saw the car ---

9 A. Yes.

10 Q. --- come out of? Again, this area
11 sort of in the middle here, that would have
12 been the other border of that parking lot?

13 A. Do you see the other -- do you see
14 that row of cars further up?

15 Q. Yeah.

16 A. That is that edge of that section of
17 the parking lot.

18 Q. All right. And there's not an exit
19 on the store front from that parking lot,
20 correct?

21 A. No, sir.

22 Q. So you have to go out either the one
23 that we saw the car coming out of ---

24 A. Yes, sir.

25 Q. --- or there is another exit further

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1 away that goes to the middle road; correct?

2 A. Right.

3 Q. That would be another way to get
4 out; correct?

5 A. Yes, sir.

6 Q. If you were trying to get away from
7 the store as quick as you could get away from
8 the store, you'd probably use that middle
9 exit; right?

10 A. Yes, sir.

11 Q. And that exit actually leads out to
12 a road that has a light, not part of Porchers
13 Bluff but part of your Oakland Plantation
14 Shopping Center; correct?

15 A. Yes, sir.

16 Q. The only light there is the one
17 where it goes to 17.

18 A. It goes to 17.

19 Q. Right. Exactly. But it is not --
20 if you go out that middle exit and take a
21 right, then take a left, it takes you out
22 through the Oakland Plantation Shopping
23 Center to 17; correct?

24 A. Yes, sir.

25 Q. Going back to 35:50 -- (video

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1 playing) -- that is the red and black car;
2 correct?

3 A. Yes, sir.

4 Q. And it is on the brick part that
5 runs in front of the store, right?

6 A. Yes, sir.

7 Q. So it is a different surface than
8 the rest of the parking lot?

9 A. Yes, sir.

10 Q. So that's 6:35:50 -- so twenty
11 seconds from when out of the first parking,
12 it took a right, then took the a right on the
13 road in front of the store to when we see it;
14 correct?

15 A. Yes, sir.

16 Q. That distance may be a hundred
17 yards?

18 A. Maybe.

19 Q. It is not a terribly long distance?

20 A. No, sir, depending on the traffic.

21 Q. I gotcha. If there were tons of
22 cars, it would take a lot longer.

23 A. Um-humm.

24 Q. While I've got this view up, the
25 entrance to the grocery store it has a RedBox

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1 movie return?

2 A. Yes, sir, it does.

3 Q. Okay.

4 JIM SMILEY: If you could put up the
5 last video, please. Let it run until it
6 gets to 36:40 -- that's fine, just let it
7 run.

8 CROSS EXAMINATION CONTINUED

9 BY JIM SMILEY:

10 Q. (Video playing) -- now, to get to
11 this entrance, the red car would have gone
12 all the way down the length in front of the
13 store; correct?

14 A. Yes, sir.

15 Q. And that is probably the busiest
16 part of the parking lot; correct?

17 A. Yes, sir.

18 Q. Because you've got pedestrians that
19 are crossing over that area all the time;
20 right?

21 A. Yes, sir.

22 Q. And pretty much the cars there are
23 supposed to yield to pedestrians?

24 A. They're supposed to.

25 Q. That's why that I made sure that I

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1 asked it that way. All right. Then when you
2 get to the end of the store, that's where
3 your lawn and garden is, ---

4 A. Yes, sir.

5 Q. --- and your tires are in the back
6 on ---

7 A. Yes, sir.

8 Q. --- that side?

9 A. Yes, sir.

10 Q. Then when you come around, you come
11 to this entrance, this exit?

12 A. Yes, sir.

13 Q. I didn't know that it was an
14 entrance. Okay, I will remember that.

15 JIM SMILEY: Actually if you could jump
16 ahead, I just realized that we are looking
17 for 36:40:00 -- (video playing).

18 CROSS EXAMINATION CONTINUED

19 BY JIM SMILEY:

20 Q. While we are sitting here, I have
21 another question. There are thirty-six
22 cameras, right?

23 A. I'm pretty sure, (affirmative nod).

24 Q. On the exterior of the store?

25 A. Right.

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1 Q. Because you try to cover everything
2 that you've got?

3 A. Yes, sir.

4 Q. Did you look at all thirty-six
5 videos or after you go to three, did you
6 stop?

7 A. I got to three and I stopped.

8 Q. That's fine. I just wanted to see
9 if there were other views that we didn't get
10 a chance to see.

11 A. There probably was, there absolutely
12 would be one more.

13 Q. That's fine. I am just trying to
14 clarify for the jury what you did.

15 Okay, here we go. That's the red car
16 leaving.

17 A. Yes, sir.

18 Q. And I believe that you testified
19 that it went down to the right?

20 A. Yes, sir.

21 Q. So we come to the view at 36:40;
22 correct?

23 A. Yes, sir. Right around that times.

24 Q. So from the time that you saw it
25 coming out of that parking lot the first

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1 time, which was 35:30, until you see it go
2 on, around the store to that point, it's been
3 a minute and ten seconds; correct?

4 A. Yes, sir.

5 Q. Most everybody is familiar with
6 Super Walmarts and that one is no different
7 than any other Super Walmart; right?

8 A. It's one hundred ninety-five
9 thousand feet (195,000).

10 Q. Okay. The front that the car would
11 have had to travel is about five hundred
12 yards -- a guess?

13 A. I guess.

14 Q. It's not a half mile?

15 A. No.

16 Q. It's a regular Super Walmart.

17 A. Um-humm.

18 Q. And then that road runs down the
19 side and straight out; right?

20 A. Well, curves around.

21 Q. Curves around?

22 A. (Affirmative nod).

23 JIM SMILEY: If you could put up State's
24 Exhibit 12, the map. I appreciate the
25 prosecution's help on this. It would take me

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1 a lot longer.

2 CROSS EXAMINATION CONTINUED

3 BY JIM SMILEY:

4 Q. You're familiar -- you've already
5 looked at this map?

6 A. Yes, sir.

7 Q. Do you have the pointer up there?

8 A. Yes, sir.

9 Q. Would you do me a favor? Stand up
10 and, as slowly as you can, trace from where
11 the first camera picks it up to where the car
12 goes to Porchers Bluff Road. Trace the path
13 that it took, please, so that the jury can
14 see the path that you believe that it took.

15 A. This is the corner where it comes
16 out, right here.

17 (Indicating), it turns here.

18 It goes up in front of the store, all the
19 way down here to the lawn and garden center.

20 This is another parking lot for TLE, Tire
21 Lube Express.

22 Then it came around this way.

23 Came on around here.

24 Right in here is where the last shot was.

25 This right here is where the second shot

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1 was.

2 Q. And that was, from start to finish,
3 was a minute and ten seconds, I think that we
4 established; is that right?

5 A. Yes, sir.

6 Q. Will you point out on there -- we
7 talked about the quicker way out. Would you
8 show the jury the quickest way out from when
9 that car was first seen?

10 A. It could have turned here and went
11 either this way, which leads out to the KOA
12 Campground, or this way, which leads out to
13 Porchers Bluff Road. It could have gone
14 either way this way. But sometimes there is
15 a traffic jam here because unloading trucks
16 for these businesses will park right here
17 alongside -- right here, blocking off one
18 lane.

19 Q. All right.

20 A. I am not sure if there was that day
21 but sometimes they do.

22 Q. And, lastly, can I ask you about the
23 direction that would take you away from the
24 store? If you will, just so that the jury
25 can see, show them how you would do that.

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1 A. Go up this way and hit Proprietors
2 Place, cruise up and there is a traffic
3 circle up there that leads out to the inter-
4 section.

5 Q. Okay. That would be the only way to
6 go without going in front of the store from
7 where that car was first -- and when I say
8 store, I mean the Cricket store where the car
9 was first seen. Correct?

10 A. Um-humm, (affirmative nod).

11 Q. Thank you very much.

12 JIM SMILEY: I have nothing further.

13 THE COURT: Redirect?

14 SOLICITOR FERGUSON: May I approach,

15 Your Honor?

16 THE COURT: Yes, sir.

17 REDIRECT EXAMINATION

18 BY SOLICITOR FERGUSON:

19 Q. If I might borrow that pointer.

20 A. Yes, sir.

21 Q. I am going to walk over here and
22 show you State's Exhibit 12. Now, you
23 testified that from the videos that you saw
24 that you believe that the red-and-black
25 Impala car was first seen here?

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1 A. (Affirmative nod).

2 Q. Turned right?

3 A. (Affirmative nod).

4 Q. Turned left?

5 A. (No verbal response).

6 Q. Went through this back Walmart area
7 and then turned right onto Porchers Bluff?

8 A. Yes, sir.

9 Q. This intersection right here, is
10 this field viewable from that intersection?

11 A. Yes, it is.

12 Q. So if my car were parked right here,
13 I could look and see what was happening in
14 that field?

15 A. Yes, sir.

16 Q. And right here, is this the exit
17 onto 17?

18 A. You can if you want to turn right.
19 There is no light there, so you can only turn
20 right right there.

21 Q. So if I wanted to turn here, I could
22 go away from Walmart?

23 A. Yes, sir.

24 Q. This is away from the Cooper Bridge?

25 A. Yes, sir, towards Awendaw.

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1 Q. If you heading to Sam Edwards Road,

2 ---

3 JIM SMILEY: Objection. Beyond the
4 scope of cross examination.

5 THE COURT: I haven't heard the
6 question yet. Let him finish the question,
7 please.

8 REDIRECT EXAMINATION CONTINUED

9 BY SOLICITOR FERGUSON:

10 Q. If you were hearing towards Sam
11 Edwards Road, could you turn from this area?

12 THE COURT: Hold on just a second
13 before you answer. I will allow the
14 examination based on the overall cross
15 examination. I will allow the question.
16 You've got recross. You may answer the
17 question, if you can.

18 WITNESS: I am not sure where Sam
19 Edwards Road is.

20 THE COURT: Then he can't answer the
21 question.

22 JIM SMILEY: Thank you, Your Honor.

23 REDIRECT EXAMINATION CONTINUED

24 BY SOLICITOR FERGUSON:

25 Q. If you were heading towards the

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1 Cooper River Bridge, could you turn here?

2 A. No, sir.

3 Q. Thank you.

4 SOLICITOR FERGUSON: No further
5 questions.

6 THE COURT: Recross?

7 MR. KOWELSKI: No further questions.

8 WILLIAM RUNYON: Nothing from
9 Defendant Coakley, Your Honor.

10 THE COURT: Mr. Smiley?

11 JIM SMILEY: No, sir.

12 THE COURT: Thank you, you may step
13 down. May the witness be excused?

14 SOLICITOR FERGUSON: Yes, sir.

15 THE COURT: Any objection from any
16 defendant?

17 ANDREW GRIMES: No, sir.

18 WILLIAM RUNYON: None from Defendant
19 Coakley.

20 JIM SMILEY: (Negative gesture).

21 THE COURT: Thank you very much. You
22 are free to leave.

23 (WITNESS STEPS DOWN)

24 THE COURT:

25 (WITNESS TAKES STAND)

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1 THE COURT: Thank you. You may call
2 your next witness.

3 SOLICITOR SHEALY: The State would call
4 Joseph Davis.

5 (WITNESS TAKES STAND)

6 JOSEPH DAVIS, having been sworn to tell
7 the truth, and nothing but the truth,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR SHEALY:

11 Q. If you would, please tell the jury
12 where you live.

13 A. I live at [REDACTED] Sam Edwards Road, Mount
14 Pleasant, South Carolina.

15 Q. And, if you would, tell the jury how
16 long you have lived there?

17 A. I'm forty-three now. I'd say I've
18 lived there about -- I'd say about forty
19 years.

20 Q. Forty years?

21 A. About.

22 Q. Are you working right now?

23 A. No, ma'am.

24 Q. What work did you previously do?

25 A. Everything from -- Firecracker, Bo's

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1 Shem Creek Bar & Grill, Sullivan's Island,
2 about everything, anything.

3 Q. Okay. Let me ask you about some
4 trouble that you got into in the past.

5 A. Okay.

6 Q. Did you have some forgeries that you
7 were convicted of?

8 A. Yes, ma'am.

9 Q. And those were back in the '90s?

10 A. Yes, ma'am.

11 Q. And those were back in the '90s?

12 A. Yes, ma'am.

13 Q. Now I'm going to show you what has
14 been previously marked as State's Exhibits 14
15 -- 13, 14 and 17, and ask if you recognize
16 the areas depicted.

17 A. This is down my street.

18 This is the beginning ---

19 COURT REPORTER: Exhibit number?

20 SOLICITOR SHEALY: I'm sorry.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR SHEALY:

23 Q. State's Exhibit -- as to State's
24 Exhibit 13, that's -- you indicated that's
25 what?

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1 A. This is Sam Edwards Road. This is
2 going back to the back gate.

3 Q. Okay.

4 A. This is going back to the back gate,
5 the dead end.

6 Q. Okay, we will go over that a little
7 bit more fully in just a minute.

8 State's Exhibit 17?

9 A. That is my house.

10 Q. And State's Exhibit 14?

11 A. That's the same road, Sam Edwards
12 Road.

13 SOLICITOR SHEALY: Your Honor, I believe
14 without objection that I would at this time
15 move State's Exhibits 13, 14 and 17 into
16 evidence.

17 THE COURT: Exhibits 13, 14 and 17 are
18 admitted without objection.

19 (SO ENTERED AS STATE'S EXHIBIT 13)

20 (SO ENTERED AS STATE'S EXHIBIT 14)

21 (SO ENTERED AS STATE'S EXHIBIT 17)

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR SHEALY:

24 Q. In just a second, Mr. Davis, you'll
25 be able to look at these pictures on that

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1 screen right there.

2 A. Okay. That's my road.

3 Q. Now, let me ask you something about
4 the road. If you're standing looking at that
5 photograph, are you looking at the end of the
6 road?

7 A. I'm looking at the dead end.

8 Q. Showing you State's Exhibit 14,
9 which way are you looking here?

10 A. You are looking towards the highway.

11 Q. Towards 17?

12 A. Yes, ma'am.

13 Q. And State's Exhibit 17, what is
14 that?

15 A. You're looking at my house, the
16 front.

17 Q. So let's go back to the one with the
18 dead-end. State's Exhibit 13. Do you see an
19 antenna-looking thing up there with you?

20 A. (Negative gesture).

21 Q. (Tenders pointer to witness). If
22 you could stand up, Mr. Davis, using this
23 pointer -- you're almost tall enough, but
24 using this pointer show the jury on that
25 photo where your house is.

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1 A. My house is right here at the
2 mailbox.

3 Q. Okay.

4 A. That black mailbox right there.

5 This is another house.

6 There is a house right there.

7 This is a dead-end.

8 This is a private property that has no
9 way out except one way that's coming down
10 this road, Sam Edwards Road.

11 Q. Okay. Now, you've told you that you
12 have lived over there for forty-one years?

13 A. Yes, ma'am.

14 Q. Can you show us whether there are
15 some cut-throughs over to Porchers Bluff?

16 A. You've got to come back. You've got
17 to turn back around.

18 Q. In my photo?

19 A. Yes, ma'am. This right here is a
20 dead end. You can't get no way through
21 there.

22 Q. So going back to State's Exhibit 14,
23 where ---

24 A. This is my house.

25 This is my next-door neighbor's house.

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1 This is my yard.

2 There is a telephone pole in the area
3 right here and you can see a little path --
4 if you look at the road, you can see that
5 there is a little path where you can get in
6 there.

7 Q. Showing you State's Exhibit 12 --
8 pull that up. Can you show us on here -- can
9 you find your road and the Walmart?

10 A. Yeah. If you put it up on the
11 screen, I can show you.

12 Q. Okay. Showing you State's Exhibit
13 12, ---

14 A. This is Sam Edwards Road right here.
15 This is the dead end.

16 Excuse me, I'm kinda blind so it will
17 take a minute.

18 Porchers Bluff is right here.

19 Walmart is right here.

20 This is an electricity fence.

21 There is a shortcut to Sam Edwards Road,
22 there's a shortcut right here.

23 You can go around here and move all the
24 way through to Porchers Bluff.

25 You cross over and you can get to

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1 Walmart.

2 Q. You can be seated now.

3 A. (Complies).

4 Q. I would like for you to focus your
5 attention back to September 15th, 2010. Would
6 you tell the jury whether or not something
7 drew your attention that evening?

8 A. Yeah, a red and black car. My
9 little son was sitting in the front car,
10 playing in the dirt.

11 Q. What about the red-and-black struck
12 your attention?

13 A. It's a dead-end. Why you coming
14 down that road if you know that it's a dead-
15 end. And the sign that was there before that
16 sign was there, the sign was at the head of
17 the road.

18 Q. Telling you that it was a dead end?

19 A. Yes.

20 Q. Well, let's talk about the head of
21 the road just a second. Is it different now
22 than it was in 2010?

23 A. No, it's still the same.

24 Q. Up on 17?

25 A. Except that they got sidewalks and

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1 trees, that's it.

2 Q. What about the entrance to Sam
3 Edwards Road?

4 A. It's still about the same.

5 Q. So what did you see the red and
6 black car do?

7 A. Go to the back area and into the
8 fence.

9 Q. When you say the fence, can you
10 point to us where the fence is?

11 A. Okay. You can see that this is a
12 brick here and a brick here, and there's a
13 fence. This was supposed to be closed off.
14 You can't see it, but on the brick wall it
15 says "Private Property, Do Not Enter."

16 Q. Okay.

17 A. And they had it closed off.

18 Q. Who lives in that residence at the
19 end of that street?

20 A. The Coakleys, Jamie Coakley.

21 Q. The Coakleys?

22 A. (Affirmative nod).

23 Q. At that fence, what did the car go?

24 A. The car went in, went halfway in,
25 disappeared, then it turned around and came

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1 back down that road.

2 Q. Can you tell the jury how many
3 people were in that car when it came down
4 that road?

5 A. At first there was four of them.

6 Then when they turned around and came
7 back out, there was two and two of them was
8 then on foot.

9 Q. The two that were on foot, can you
10 describe to us what they did?

11 A. They were walking. They went
12 through the path like they was going to the
13 store.

14 Q. What do you remember about their
15 appearance?

16 A. They had on jeans, a hoodie cap --
17 both of them had on hoodies, and white
18 gloves.

19 Q. They had on gloves?

20 A. Yes.

21 Q. What did the red-and-black car do
22 after those two got out?

23 A. It left right off.

24 Q. Did you have the occasion later that
25 evening to see that vehicle?

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1 A. It came back down, I'd say about
2 twenty to thirty-five minutes later,
3 speeding.

4 Q. You know what? Could you put your
5 hands down from your mouth, just so that
6 everybody can hear you?

7 A. Oh, sorry, (complies).

8 Q. When they went -- when they came in
9 first -- they came in slow at first.

10 Then they went back out like how you
11 drive normally to leave out.

12 But I'd say about twenty-five to thirty-
13 five minutes later that the car back flying
14 through.

15 Q. Where were you when it came back
16 flying through?

17 A. I been in the front yard with my
18 son.

19 Q. What did you see happen at that
20 point?

21 A. I saw the two fellas coming running
22 out of the woods. The same spot that they
23 went in through, they came back out the same
24 area.

25 Q. Can you show us on this picture --

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1 can you see it on this picture, or do you
2 have to have the other picture?

3 A. No, you gotta go on back.

4 Q. Gotta go back?

5 A. Yeah, you gotta go back to where you
6 show all the Walmart and everything. Back to
7 Number 12.

8 Q. Okay, State's Exhibit 12.

9 A. Okay, this area right here
10 (indicating). The same spot that they went
11 into, this area right here, they came back
12 flying -- they came back through the same
13 area, went right back down the road to the
14 fence that is cut off, which you can't get
15 through.

16 Q. The one that you showed us earlier
17 at the dead-end?

18 A. Uh-huh, (affirmative nod).

19 Q. At any point is there any connection
20 between those two guys and the red-and-black
21 car again?

22 A. No.

23 Q. So when they're coming back through
24 the shortcut, what happened to the car with
25 the two guys?

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1 A. They went inside the fence. The two
2 fellows immediately followed after then, and
3 then the car came back flying.

4 Q. When they came back of the woods,
5 can you tell the jury how they appeared?

6 A. Okay, they was like -- they was in a
7 hurry. It looked like one of them was
8 tucking something like a football.

9 Q. Can you show us what you mean?

10 A. Like they was tucking something
11 under their coat and they was running very
12 quickly.

13 Q. Did you see anything be thrown at
14 any point?

15 A. Yes. It was -- they right here,
16 there's a ditch right there and they threw
17 something in the ditch.

18 Q. Going back to State's Exhibit 13.

19 A. The ditch is right here by the
20 fence. You can't tell where that's at right
21 now because it's grew up so much.

22 Q. Okay. But you saw what? What
23 exactly happened there?

24 A. I saw somebody toss something. I
25 don't know what it was, it was something

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1 shiny like. But after the policeman came
2 down the road, they showed me what it was.

3 Q. The police did?

4 A. Yes.

5 Q. So did you have the occasion to talk
6 to the police that night?

7 A. Yes, I did.

8 Q. Did you call them or were you out
9 there when they ---

10 A. I was out there when they came down
11 the road.

12 Q. Did you in fact give a statement to
13 the police that evening?

14 A. Yes, I talked to them.

15 Q. So that would have been on September
16 15th?

17 A. Yes.

18 Q. And it was a written statement?

19 A. Yes.

20 SOLICITOR SHEALY: Beg the court's
21 indulgence just a moment.

22 THE COURT: Okay.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR SHEALY:

25 Q. The two guys that you saw come out

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1 of the woods, did you see where they went in
2 connection with the car?

3 A. They went to the back area, right
4 where the car had went to but I didn't see
5 anybody after they tossed the thing.

6 Q. That was the last thing -- the last
7 part that you saw of them?

8 A. Yes, ma'am.

9 SOLICITOR SHEALY: Beg the court's
10 indulgence just a moment, (sidebar with Mr.
11 Ferguson).

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR SHEALY:

14 Q. You told us, Mr. Davis, how the car
15 comes down Sam Edwards Road the second time?

16 A. The first time it went in, turned
17 and came back out.

18 The second time they came back
19 speeding.

20 Q. Speeding?

21 A. Yes.

22 Q. Then did the car stay at the end of
23 Sam Edwards Road or did it go back towards
24 17?

25 A. It went back towards 17. It didn't

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1 stay back there. It just went in real fast
2 and went right back out, as quick as it went
3 in it went out.

4 Q. Thank you very much. Answer any
5 questions that the defense might have.

6 SOLICITOR SHEALY: Thank you.

7 THE COURT: Cross examine?

8 ANDREW GRIMES: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY ANDREW GRIMES:

11 Q. Good afternoon, Mr. Davis.

12 A. How you doing?

13 Q. Doing pretty good. How you doing
14 today?

15 A. Alright.

16 Q. You said that what caught your
17 attention back on September 15th of 2010 was
18 that the red car came down ---

19 A. It was a red-and-black car. It was
20 black ---

21 Q. Thank you.

22 A. --- at the bottom and red on the
23 top.

24 Q. So this red-and-black car came down
25 a one-way street.

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1 A. Uh-huh.

2 Q. Does it normally get your attention
3 when a car comes down that way?

4 A. Yeah. Why you coming down to a
5 dead-end when there's a sign up at the head
6 of the road that says that there it is a dead
7 end.

8 Q. All right. Did you see us out there
9 on Saturday?

10 A. Sir?

11 Q. Did you see us out there on
12 Saturday? A white car?

13 A. No, I didn't see a white car
14 Saturday.

15 Q. Now, you talked a little bit about
16 the private property. That is sort of -- you
17 said that there a sign marking it private
18 property?

19 A. Yes.

20 Q. And there's a big field out here,
21 right?

22 A. It's a whole fenced-off property.

23 Q. When you say fenced off -- maybe
24 back then it was a little different, but now
25 are there a bunch of holes in the fence that

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1 people can go through?

2 A. No.

3 Q. I want to ask you a couple of
4 questions about what you saw that day, that
5 afternoon. Okay?

6 A. Okay.

7 Q. First, do you know what time that
8 you saw this car come down?

9 A. It was early. I would say about --
10 it was early, because I was outside playing
11 with my child in the front yard.

12 Q. Your child is Jamie?

13 A. No, my child is Javon.

14 Q. I'm sorry. So you and Javon were
15 outside playing?

16 A. Yes.

17 Q. And when you say early, what do you
18 mean by that? Four o'clock, five o'clock?

19 A. No, it was early that morning. I'd
20 say between ten and eleven o'clock, maybe
21 twelve o'clock. It was early.

22 Q. Ten in the morning until 12:00
23 o'clock in the afternoon?

24 A. Yes.

25 Q. That's when you saw this car?

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1 A. Yes.

2 Q. And then you said that you saw two
3 people get out of the car?

4 A. I saw four people that was in the
5 car. The car came back and there was two
6 people in the car and the other two fellas
7 was on foot.

8 Q. Let's talk a little bit about that.
9 I'm not following you as well as I probably
10 should.

11 When you saw this red-and-black car,
12 there were four people in the car?

13 A. Yes. There were four people in the
14 car. The back windows were down when the car
15 came through.

16 Q. Okay.

17 A. But when the car came out, the back
18 windows were up and the ---

19 Q. All right.

20 A. --- two fellows were on foot.

21 Q. When you're talking about it going
22 out, you're talking about the first time or
23 the ----

24 A. Went out towards Highway 17.

25 Q. --- second time?

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1 A. Went back towards Highway 17.

2 Q. The car came down there twice,
3 right?

4 A. Yes.

5 Q. And you said -- when you said that
6 it just came out, are you talking about the
7 first time or the second time?

8 A. No, the first time it went down
9 slow. That's the first time that it came
10 down. And it went back out. So that's the
11 two times that it was in there.

12 The third time, it came by speeding.

13 The fourth time, it went out and that's
14 when I heard the sirens.

15 So it was on Sam Edwards Road four times,
16 you could say.

17 Q. Just to make sure that we're on the
18 same page, when you say "down", you're
19 talking about one trip down, two trips down
20 or are you talking about sort of a roundtrip.

21 A. It was a roundtrip.

22 Q. So that makes it four?

23 A. Four times, (affirmative nod).

24 Q. I just wanted to make sure that we
25 were on the same page. Thank you.

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1 A. (Affirmative nod).

2 Q. You said that it was about ten to
3 twelve o'clock.

4 A. Yes, it was hot. So I know.

5 Q. You have a pretty good memory of
6 that?

7 A. It was hot.

8 Q. When did that car come back down, I
9 guess that was the third time?

10 A. The came back down the third time,
11 I'd say about twenty-five to thirty-five
12 minutes later, speeding.

13 Q. So perhaps 10:30 to 12:30?

14 A. I'd say 12:30, somewhere inbetween
15 then 'cause it was early when they went in.
16 When they came down the road, it was early.

17 Q. You and Javon were still playing
18 outside at that time?

19 A. Yes.

20 Q. And that's how you remember the time
21 so well?

22 A. Um-humm.

23 THE COURT: Is that a "yes"?

24 WITNESS: Yes, sir.

25 THE COURT: Thank you.

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1 CROSS EXAMINATION CONTINUED

2 BY ANDREW GRIMES:

3 Q. So the last couple of questions that
4 I want to ask you, just to clarify.

5 A. Okay.

6 Q. After the car was leaving, I guess
7 the fourth time, did you see where those
8 other two guys went?

9 A. No, it disappeared.

10 Q. They ran through the woods?

11 A. No, they disappeared. Like they was
12 nowhere in sight. But the car left, so they
13 have to be in the backseat or something
14 because the windows were up.

15 Q. Okay. You didn't actually see them
16 get in the car?

17 A. No, I didn't.

18 Q. They disappeared kind of like
19 ghosts?

20 A. You could say that; yes, sir.

21 ANDREW GRIMES: May I have a moment,
22 Your Honor?

23 THE COURT: Yes, sir.

24 ANDREW GRIMES: (Sidebar with Mr.
25 Kowelski and Defendant Graddick). Thank you,

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1 Your Honor, I have no further questions.

2 THE COURT: Mr. Runyon.

3 WILLIAM RUNYON: Yes, sir.

4 CROSS EXAMINATION

5 BY WILLIAM RUNYON:

6 Q., Good afternoon, Mr. Davis.

7 A. How you doing, sir?

8 Q. Just fine. You've down there for,
9 what?

10 A. I'd say forty-something years,
11 because I'm forty-three now.

12 Q. And at the end of that road -- the
13 Coakleys live at that end of that road, don't
14 they?

15 A. Yes, sir.

16 Q. So you know most of the Coakleys?

17 A. Yes, sir.

18 Q. Did you see any of the Coakleys get
19 out of the car and go into the woods and go
20 towards the store?

21 A. No, sir.

22 Q. Did you see any of the Coakleys come
23 back out of the woods?

24 A. No, sir.

25 WILLIAM RUNYON: No further questions.

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1 THE COURT: Cross examine, Mr. ---

2 JIM SMILEY: Yes, sir.

3 THE COURT: --- Smiley?

4 CROSS EXAMINATION

5 BY JIM SMILEY:

6 Q. My name is Jim Smiley.

7 A. How you doing?

8 Q. I represent Kevin Smalls.

9 A. Yes, sir. Pleased to meet you. How
10 you doing?

11 Q. I have State's Exhibit 13 ---

12 JIM SMILEY: Can we put State's Exhibit
13 up. Thank you.

14 CROSS EXAMINATION CONTINDUED

15 BY JIM SMILEY:

16 Q. Mr. Davis, I've been out there
17 trying to get ready for this trial, but
18 you're going to know this area a lot better,
19 so let me ask you some questions.

20 A. Go ahead.

21 Q. I'm going to come over here just
22 because I don't want to be on top of you.
23 All right?

24 A. All right.

25 Q. This mailbox on the edge ---

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1 A. That's mine.

2 Q That is yours?

3 A. Yes, sir.

4 Q. So there is two more houses between
5 yours and the end of the road?

6 A. Yes, sir.

7 Q. About a football field and a half
8 down to the end of the road?

9 A. (No verbal response).

10 Q. About a hundred and fifty yards?

11 A. I wouldn't say that, that far.

12 Q. A hundred yards?

13 A. Something like that.

14 Q. And in your front yard there is a
15 tree house?

16 A. Yes, now there is.

17 Q. Was it -- that was my next question.
18 Was it there back then?

19 A. No. I just started building it for
20 myself.

21 Q. Okay. But there was -- certainly
22 that big tree was there?

23 A. Uh-huh, yes.

24 Q. And between your property and the
25 end of the road, between -- I am going to ask

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1 it a different way.

2 A. Okay.

3 Q. Between your house and the house net
4 door, there's like a hedgerow; right?

5 A. No. Between my house and this
6 house -- this house and this house, -- before
7 then that hedges was not there. It just was
8 a fence.

9 Q. Okay. So the growth that is there
10 now wasn't there then?

11 A. No.

12 Q. Your son was playing in the front
13 yard?

14 A. Yes.

15 Q. And you were on the front porch?

16 A. No, I was in the yard.

17 Q. You were ---

18 A. I was in the yard.

19 Q. --- in the yard?

20 A. Yes.

21 Q. And this was about ten o'clock, you
22 said?

23 A. Ten or eleven o'clock.

24 Q. Like I said, I know -- I'm not
25 trying to pin you to a time, I'm just asking

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1 the time of day.

2 A. Yeah.

3 Q. When you saw the red-and-black car
4 cruising down?

5 A. Um-humm, (affirmative nod).

6 Q. And it went to the end of the road?

7 A. Yes, sir.

8 Q. All right. That is where Jamie
9 Coakley lives with?

10 A. Well, yeah, Jamie Coakley but they
11 passed his house and went into the fence.
12 That was an irrigation plant back there, but
13 right now they are trying to develop it, turn
14 it into condos and stuff, but you can't get
15 no -- it's called dead water.

16 Q. Yeah.

17 A. That fence was closed before
18 someone, whoever the guys were, opened the
19 fence.

20 Q. I gotcha. Jamie Coakley lives down
21 further?

22 A. Yeah.

23 Q. So you saw the car go down there.

24 A. Yes, sir.

25 Q. And you saw two fellows get out?

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1 A. Yes, sir.

2 Q. And you were seeing this while you
3 were in your front yard ---

4 A. --- playing with my son, yeah.

5 Q. You saw the car do a three-point
6 turn?

7 A. I didn't see it do a three-point
8 turn. I know that it went into the gate.
9 When they opened the gate, I went back to my
10 son to tend to him. Then I saw the car
11 coming back out.

12 Q. There is nothing back there, right?

13 A. No.

14 Q. It's fenced in?

15 A. It's fenced in -- but can you put it
16 on the Walmart. I think that it is (State's
17 Exhibit) 13 or 14.

18 Q. State's Exhibit 12.

19 A. Okay.

20 Q. We will put it up there for you.

21 A. All right.

22 Q. What were you going to tell us --
23 (State's Exhibit 12 displaying).

24 A. If you can -- can it scroll up?
25 It can't scroll up?

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1 There's an old house right inside that
2 irrigation center. That's where they had
3 that irrigation center at. That place is
4 still there now but it's torn up and
5 abandoned.

6 Q. In fact, there are a couple of
7 buildings back in there?

8 A. Yeah, you could say that.

9 Q. But going into that area, there is
10 no way out?

11 A. No, that's a dead-end. You can't
12 get through there.

13 Q. Right.

14 A. Unless you jump the fence.

15 Q. And that fence is locked, isn't it?

16 A. No. After someone broke ---

17 Q. Excuse me. The gate.

18 A. The gate, (affirmative nod). After
19 someone broke the gate, ---

20 Q. Yeah.

21 A. --- they decided to leave it alone.

22 Q. All right. So that area, while it's
23 got a gate across it, it opens; right?

24 A. Yeah.

25 Q. You saw the car leave after a couple

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1 of minutes of being down there?

2 A. Uh-huh, (affirmative nod).

3 Q. At a normal speed?

4 THE COURT: Sir, you need to say words.

5 WITNESS: All right. Okay.

6 THE COURT: Thank you.

7 WITNESS: Yes, normal speed.

8 CROSS EXAMINATION CONTINUED

9 BY JIM SMILEY:

10 Q. And you saw the car drive out at
11 after a couple of minutes?

12 A. Yes.

13 Q. At a normal speed?

14 A. Yes, sir.

15 Q. Then you saw it coming back in this
16 way twenty-five to thirty minutes ---

17 A. In about twenty-five to thirty-five
18 minutes, they was coming back speeding after
19 the two fellows went -- after the two fellows
20 got out of the car and went through the cut.

21 Q. Okay. So the car comes back about
22 thirty minutes later and comes down fast?

23 A. Speeding, sir.

24 Q. And that would have been somewhere
25 at 10:30 or 11:00 in the morning?

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1 A. I'd say 11:30, 12:00 o'clock or
2 something like that.

3 Q. Before we stop, I'm going to ask a
4 couple of more questions about the layout
5 before we go to the next step.

6 A. All right.

7 Q. Now, the cut-through that you saw
8 them go in, is that across the street from
9 your house?

10 A. (Affirmative nod).

11 Q. Is that the one that you're talking
12 about?

13 A. Yes, sir.

14 Q. So if I -- let me make sure that I
15 follow you, all right?

16 A. Okay.

17 Q. So the two fellows got out of the
18 car, into the road, and the car turned around
19 or something down there and left?

20 A. Yes, sir.

21 Q. Then you saw the two fellows walking
22 up the road?

23 A. Yes, sir.

24 Q. So they came up towards your house?

25 A. They came pass my house.

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1 Q. That's what I mean.

2 A. Yes, sir.

3 Q. So you could see them from your
4 yard?

5 A. I could see them from my yard, but
6 they was fully clothed and I couldn't tell
7 who they was.

8 Q. I understand that. But my point
9 being, they came -- while they had on gloves
10 and hoodies and all that, they ---

11 A. Yes, sir.

12 Q. --- just walked down the road, right
13 across from you, to get to that cut?

14 A. Yes, sir, the same cut that just
15 about everybody takes.

16 Q. There are cuts all through back
17 there, isn't there?

18 A. Not no more. Not after they done
19 tear all the trees off.

20 Q. I gotcha. But the main cut is that
21 one by the telephone pole that is across from
22 --- you?

23 A. Yes, sir.

24 Q. So while they were dropped off at
25 the end of the road, they had to walk up to

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1 your house or they chose to walk up to your
2 house ---

3 A. Past.

4 Q. Past your house?

5 A. (Affirmative nod).

6 Q. Excuse me, you're right. So they
7 would have been walking back up the road
8 towards 17?

9 A. Yes.

10 Q. They go into that cut.

11 They stay playing with your son.

12 About thirty-five minutes later,
13 that red-and-black car comes speeding down,
14 all ---

15 A. Yes, sir.

16 Q. --- the way back to the end?

17 A. Yes, sir.

18 Q. It turned around?

19 A. I'm pretty sure. It went in the
20 fence. I really didn't pay much attention
21 until I saw the fellows come running down the
22 road real fast.

23 Q. So the two fellows pop out of the
24 cut right across the street from you?

25 A. Yes.

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1 Q. They turned and ran down the road
2 towards ---

3 A. Yes.

4 Q. --- Jamie Oakley's?

5 A. Yes.

6 Q. All right. I think that you
7 testified that you didn't actually see them
8 get in the car?

9 A. (Negative gesture), no.

10 Q. Okay. But that's when you saw the
11 shiny thing?

12 A. I saw when they -- when they threw
13 something in the ditch?

14 Q. Yeah. Here's my question, that was
15 -- but the first question is, that was the
16 time when you saw them toss something?

17 A. Yeah. Right.

18 Q. When you saw them toss that shiny
19 thing, was it down at the end of the road or
20 at the cut across from you?

21 A. No, it was down at the end of the
22 road in the ditch.

23 Q. I am just trying to make sure that
24 we are clear.

25 A. Right.

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1 Q. And at that point, you said that you
2 didn't see them get in the car but ---

3 A. No.

4 Q. --- that the car turned around and
5 left quickly?

6 A. Yeah.

7 Q. Left quickly?

8 A. Yes.

9 Q. And that unless they were ghosts,
10 that you assume that they got in the car?

11 A. Yes.

12 Q. And that was thirty minutes after
13 the first time you'd seen the car that day?

14 A. Yes, sir.

15 Q. So by about noon or so, they were
16 gone?

17 A. You could say that. They were down
18 the road by noon. They were out of my
19 sights.

20 Q. Right, out of your sight?

21 A. Yes.

22 Q. You saw them go up to 17?

23 A. Yes.

24 Q. And you didn't pay no mind until the
25 police came shortly thereafter?

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1 A. Yes, sir.

2 Q. Okay, a couple of more questions
3 about 17.

4 A. Okay.

5 Q. Going back to when this allegedly
6 happened in 2010, because they've did that
7 big construction project out there on 17
8 since then. Right?

9 A. Yes, sir.

10 Q. If you were coming down 17 to go to
11 Sam Edwards Road, coming down going towards
12 the bridge, you can't turn directly onto Sam
13 Edwards Road. You have to go past it and do
14 a U-turn; right?

15 A. Now you've got to but before then
16 there was a cut -- there was like a little
17 divider before they closed it off.

18 Q. Back then you could make a U-turn
19 closer to Sam Edwards Road. Now, you've got
20 to go down to almost Dingle Road to turn
21 around.

22 A. Yes, sir.

23 Q. Then coming out of Sam Edwards Road,
24 back then if you wanted to go to the bridge,
25 south on 17, you had to go to the right when

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1 you first came out?

2 A. You could have gone to the right or
3 you could have gone straight out and taken
4 Porchers Bluff Road.

5 Q. Right. But my point is that you
6 couldn't go straight across to 17 South.

7 A. No.

8 Q. You had to go to the right and then
9 make ---

10 A. Yes.

11 Q. --- a U-turn?

12 A. Yes, at the light.

13 Q. Okay. Mr. Davis, I appreciate it.
14 That's all that I have got for you.

15 THE COURT: Redirect?

16 SOLICITOR SHEALY: Yes, sir.

17 REDIRECT EXAMINATION

18 BY SOLICITOR SHEALY:

19 Q. Mr. Davis, just to make sure that
20 we're straight, when we're talking about one,
21 two, three, four times, you're talking about:
22 one time down the street?

23 A. Yes.

24 Q. The second time was out the street?

25 A. Yes.

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1 Q. Third time down the street?

2 A. Yes.

3 Q. Fourth time out the street?

4 A. Yes.

5 Q. So the vehicle came down Sam Edwards
6 Road twice?

7 A. Twice. The first one they came in
8 slowly, came back out slowly -- and was the
9 second time.

10 The third time, they come speeding down
11 the road. The fourth time, they were
12 speeding out the road.

13 Q. Okay. And I think that you have
14 indicated to the defense attorneys that you
15 think that it was in the early part of the
16 day because it was hot and you were playing
17 outside with your child?

18 A. Yes, ma'am.

19 Q. You also mentioned hearing a siren?

20 A. Yes, ma'am.

21 Q. All right. When did you hear the
22 siren in connection with the red-and-black
23 car being on Sam Edwards Road?

24 A. After it had disappeared -- come
25 back out Sam Edwards Road.

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1 Q. That's when you heard the siren?

2 A. Yes, ma'am.

3 Q. And you indicated that it was
4 approximately thirty to thirty-five after the
5 car had left the first time that the car came
6 back?

7 A. Yes, ma'am.

8 Q. Do you remember talking to Detective
9 DeCamp that night?

10 A. (Negative gesture).

11 Q. Do you remember the officer who took
12 your statement?

13 A. There was a bunch of them. Sorry.

14 Q. How many officers do you remember
15 seeing on Sam Edwards Road?

16 A. I'd say at least about ten of them,
17 because they -- the whole road was blocked
18 off out there with deputy sheriffs and by the
19 boys in blue.

20 Q. Okay. Did you approach the police
21 about what you knew, or did they approach
22 you?

23 A. I saw them down the road and asked
24 them what was going on. They told me that
25 there was a robbery and asked had I seen a

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1 red-and-black car? I told them that I saw
2 somebody, some fellows and saw somebody throw
3 something in the bush.

4 Q. All right.

5 A. They asked me where and I told them
6 down at the dead end. They took me down to
7 the dead end and I said, 'somewhere over
8 there.' So they shined a light and they saw
9 something in the bush.

10 Q. So you are the one that led them
11 down the street?

12 A. Yes.

13 Q. And you told us that Jamie Coakley
14 lives at the end of Sam Edwards Road?

15 A. Yes, ma'am.

16 Q. Would you tell the jury whether
17 there are a lot of Coakleys in Mount
18 Pleasant?

19 A. To tell you the truth, I just really
20 know Jamie and Josh Coakley and their mama
21 and them.

22 Q. You just know Jamie, Josh and their
23 mom?

24 A. Yes.

25 Q. Is that who lives at the end of the

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1 street?

2 A. Yes, ma'am.

3 Q. Are you familiar with there being a
4 Coakley Road in Mount Pleasant?

5 A. That's a little past the Cosmic Dog.

6 Q. Past the Cosmic Dog?

7 A. Yes.

8 Q. So a good ways down from Sam Edwards
9 Road?

10 A. Yes.

11 Q. Okay. I have nothing further.

12 Thank you very much.

13 THE COURT: Recross, Mr. Grimes?

14 ANDREW GRIMES: No questions, Your
15 Honor.

16 THE COURT: Mr. Runyon?

17 RE CROSS EXAMINATION

18 BY WILLIAM RUNYON:

19 Q. Do you know Keenan Coakley?

20 A. I know him but I don't know -- I
21 don't know if he's family. I don't know that
22 he's kin to anyone in my area.

23 Q. Did you see Keenan Coakley go into
24 the woods that day?

25 A. No.

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1 Q. Did you see Keenan Coakley come out
2 of the woods that day?

3 A. No.

4 WILLIAM RUNYON: No further questions.

5 THE COURT: Recross, Mr. Smiley?

6 JIM SMILEY: Just ---

7 RECROSS EXAMINATION

8 BY MR. SMILEY:

9 Q. So when the police got there and
10 talked to you, they asked you first did you
11 see a red-and-black car out there?

12 A. Yes, sir.

13 JIM SMILEY: That's all that I have got.

14 THE COURT: Thank you, sir. You may
15 come down.

16 (WITNESS STEPS DOWN)

17 THE COURT: Ladies and gentlemen, at
18 this point we will take our recess for lunch.

19 While you are out, please remember that
20 you are not at liberty to talk about this
21 case among yourselves or talk to anybody
22 outside of the courtroom, or to allow anyone
23 to talk about it in your presence.

24 I would ask you to return to your jury
25 room by 2:00 o'clock and we will resume the

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1 trial at that time.

2 Please make sure that you leave your
3 notepads in the jury room. Thank you.

4 You may retire.

5 (JURY OUT @ 12:26 P.M.)

6 THE COURT: Anything from the State
7 before we recess?

8 SOLICITOR SHEALY: No.

9 THE COURT: Anything from any of the
10 defendants before we recess?

11 ANDREW GRIMES: No, sir.

12 THE COURT: Mr. Runyon?

13 WILLIAM RUNYON: Not at this time, Your
14 Honor.

15 THE COURT: Mr. Smiley, anything from
16 Mr. Smalls?

17 JIM SMILEY: No, sir.

18 THE COURT: Thank you. We will be at-
19 ease until 2:00 o'clock.

20 (LUNCH RECESS)

21 (DEFENDANT GRADDICK PRESENT)

22 (DEFENDANT COAKLEY PRESENT)

23 (DEFENDANT SMALLS PRESENT)

24 THE COURT: Let the record reflect that
25 all defendants are present. Is the State

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1 ready?

2 SOLICITOR SHEALY: Yes, sir, Your
3 Honor.

4 THE COURT: Anything from the defen-
5 dants before we bring in the jury? Mr.
6 Grimes?

7 ANDREW GRIMES: No, Your Honor.

8 THE COURT: Mr. Runyon?

9 WILLIAM RUNYON: Nothing for Defendant
10 Coakley, Your Honor.

11 THE COURT: Mr. Smiley?

12 JIM SMILEY: No, sir, Your Honor.

13 THE COURT: Invite the jury to return.

14 (JURY IN @ 2:10 P.M.)

15 THE COURT: Thank you, ladies and
16 gentlemen. I trust that you had a good
17 lunch. We are now ready to resume the trial.
18 Solicitor, call your next witness.

19 SOLICITOR SHEALY: Yes, sir, Your Honor.
20 Andy DeCamp.

21 (WITNESS TAKES STAND)

22 ANDREW DECAMP, having been sworn to tell
23 the truth, and nothing but the truth,
24 testified as follows:

25 DIRECT EXAMINATION

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1 BY SOLICITOR SHEALY:

2 Q. Detective Decamp, if you would,
3 please tell the jury where you are currently
4 employed.

5 A. Yes, ma'am. I am currently a
6 detective with the Mount Pleasant Police
7 Department.

8 Q. How long have you been with Mount
9 Pleasant?

10 A. Since March of 2009.

11 Q. Okay. Focusing your attention back
12 to September of 2010, can you tell the jury
13 in what capacity that you worked there then?

14 A. During that time I was held the rank
15 of Patrolman First Class. I was on Patrol

16 Q. What does it mean to be on patrol?

17 A. You're answering calls for service
18 in an assigned district and then also outside
19 that district but inside the jurisdiction of
20 Mount Pleasant.

21 Q. Can you tell the jury if you recall
22 on September 14th if you were called out to
23 3014 South Morgans Point Road?

24 A. I was called there. That's the
25 Cricket Cellular Store, in reference to an

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1 armed robbery.

2 Q. What county is that located in?

3 A. That's in Charleston County.

4 Q. When you say that you were called
5 out there, do you mean that you were
6 dispatched out there?

7 A. Yes, ma'am. There was a call for
8 service in reference to dispatch advising on
9 the primary channel that an armed robbery had
10 just occurred, that was being reported at
11 that location.

12 Q. When somebody is dispatched, does it
13 go out to all officers?

14 A. It does. These calls are dispatched
15 out on a primary patrol channel for our
16 police department, so all patrol officers
17 would hear that or would have that
18 information available.

19 Q. Could you tell the jury what time
20 that dispatch came in?

21 A. That call was dispatched at 6:35
22 that day.

23 Q. Where were you when the call came
24 out?

25 A. At the time the call was dispatched

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1 to the officers, I was driving on 17 --
2 Highway 17 northbound. I was approaching the
3 intersection of Highway 41.

4 Q. So northbound, you were going
5 towards Awendaw?

6 A. Yes, ma'am, that's correct.

7 Q. Let me show you what has been marked
8 as State's Exhibit 104 and ask if you're
9 familiar with this area?

10 A. I am familiar with this.

11 Q. What does that depict?

12 A. In the center of the photograph is
13 the intersection of Highway 17 and Highway
14 41.

15 SOLICITOR SHEALY: Your Honor, at this
16 time I would offer State's Exhibit 104 into
17 evidence. I understand that it is without
18 objection.

19 THE COURT: Without objection, State's
20 Exhibit 104 is admitted.

21 (SO ENTERED AS STATE'S EXHIBIT 104)

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR SHEALY:

24 Q. Can you see it up here? It's also
25 behind you.

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1 A. Yes, ma'am.

2 Q. Do you have a pointer up there?

3 A. I don't ---

4 Q. Let he hand you -- (tendering).

5 First, orient us as to where 17 is in that
6 diagram.

7 A. Highway 17 is the road right here,
8 running the length of the diagram.

9 Q. If you would, speak up just a little
10 bit for us since you have your back turned
11 towards the jury.

12 A. Sorry.

13 Q. So which way were you headed on
14 Highway 17?

15 A. I was headed northbound on Highway
16 17, which would be in this direction right
17 here (indicating), approaching the
18 intersection of Highway 41, this intersection
19 right here.

20 Q. Using that diagram, would you show
21 us where you traveled to answer the call.

22 A. After being dispatched to the call,
23 I responded northbound on 17, past the
24 intersection of 41.

25 I came to the intersection of Porchers

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1 Bluff, which is this road running along here
2 and made a right turn on Porchers Bluff Road.

3 Then I made a left turn onto South
4 Morgans Point Road, right here.

5 The business that I responded to was
6 located in this shopping center, in this
7 building right here. I parked my patrol
8 vehicle at the corner of the building.

9 Q. You can take your seat.

10 A. (Complies).

11 Q. Would you tell the jury what time
12 your arrival time there was?

13 A. I arrived at the business at
14 approximately 6:37 p.m.

15 Q. Okay. When you got the business,
16 who did you speak with?

17 A. Upon arrival, I exited my vehicle
18 and was at the corner of the -- of that
19 building that was closest to Walmart.

20 At that time, I identified James Blain
21 and Harlee Lynn, who was the manager and
22 employee of the business. They were actually
23 at the rear door to the business, the door
24 leading to South Morgans Point Road. I
25 called them over to my location. Miss Lynn

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1 at that point was on the telephone. I called
2 them over, at which point I started talking
3 with them and identified them as employees of
4 the business. And then got a suspect
5 description from them.

6 Q. Did it come out over dispatch
7 whether or not a certain type of vehicle was
8 being looked for?

9 A. While I was speaking with Mr. Blain
10 and Ms. Lynn, uh, dispatch advised that
11 someone by the name of Jessica Lyons had
12 actually called in a vehicle fleeing the
13 scene at a high rate of speed, and it was
14 described as black-and-red Impala, Chevy
15 Impala. There was also a tag number, which
16 was FVP 808.

17 Q. Okay. Now, I'm going to ask you a
18 couple more questions with that diagram.
19 Sorry, I'm struggling with my glasses.

20 Would you take a look at that and show us
21 where Hamlin Road is.

22 A. Hamlin Road runs right here and
23 intersects Highway 17 right there.

24 Q. And are you familiar were Linnen
25 Lane is?

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1 A. Uh, -- (looking at photograph).

2 Q. Off of Hamlin Road?

3 A. I am not sure if it is on this
4 photograph but Linnen Lane is a road that
5 runs or intersects -- that runs -- or
6 intersects Hamlin Road between Rifle Range
7 and Highway 17.

8 Q. Can you see the markings now?

9 A. There we go, (affirmative nod).

10 Q. So that's Linnen Lane?

11 A. It is.

12 Q. And show Hamlin Lane again.

13 A. Hamlin Road, (indicating).

14 Q. Okay.

15 A. And Linnen Lane (indicating).

16 Q. And you've indicated that you were
17 traveling north on 17?

18 A. I was.

19 Q. You've noted the intersection of 17
20 and 41.

21 A. (Affirmative nod).

22 Q. Would you tell the jury whether or
23 not that's considered a high traffic area?

24 A. The intersection of Highway 17 and
25 41 is subject to a lot of congestion and

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1 heavy traffic at different times during the
2 day.

3 Q. Are there some subdivisions off of
4 41?

5 A. On 41 there are some major sub-
6 divisions, to include Dunes West, Rivertowne,
7 and a lot of housing areas back there. So we
8 do find that there is a lot of traffic
9 buildup in this intersection, especially
10 coming northbound on 17, turning onto 41.

11 Q. Okay. Thank you. Now, when you
12 were first dealing with -- you can have a
13 seat.

14 A. (Complies).

15 Q. Thank you. When you were first
16 dealing with Mr. Blain and Miss Lynn, could
17 you describe their demeanor to the jury?

18 A. Their demeanor was frantic. You
19 know, something that we expect and see from
20 people that have been through a traumatic
21 event.

22 They were able to give me, you know, a
23 brief description of what took place and a
24 suspect description, and also a direction of
25 flight; all while, you know, being frantic

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1 and needing to be calmed down.

2 Q. When you were talking with them, did
3 you enter the Cricket store or did you enter
4 the Cricket store with with them after y'all
5 talked??

6 A. We didn't enter Cricket with them.
7 However, once Corporal Mauldin arrived on
8 scene, we then entered the business to do a
9 security sweep, to confirm that the business
10 was vacate. Then we secured the business.

11 Q. While in there, did you learn what
12 was missing from the business?

13 A. We did, as well as talking with Mr.
14 Blain. It appeared that the till or the cash
15 register from the business was missing, along
16 with an undisclosed amount of cash.

17 Q. Did you hear anything distinguish-
18 able about pieces of cash that were gone?

19 A. We did. Mr. Blain actually
20 described to us that on a one hundred dollar
21 bill that there was some sort of marking that
22 wasn't part of the original bill, but rather
23 looked like a pen design, or something like
24 that, that was on one of the bills; which I
25 believe was later corroborated with the cash

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1 that was recovered.

2 Q. When you received that information
3 as being one of the first responders, do you
4 communicate that back over the radio?

5 A. Most of the time we would try to
6 keep in touch, (affirmative nod). You know,
7 a lot of was going on at once. There was a
8 traffic stop taking place.

9 Q. How did you learn of that?

10 A. I actually heard about it on the
11 radio, over the primary channel. I heard
12 Officer Zeitner's transmission in reference
13 to performing a traffic stop on that suspect
14 vehicle that I mentioned earlier.

15 Q. After you went in the store,
16 finished talking with Miss Lynn and Mr.
17 Blain, what was the next thing that you did?
18 And did you do it with any other officers?

19 A. Well, once Corporal Mauldin and I
20 cleared the business and secured it, at that
21 point Detective Simmons was notified to come
22 to the scene.

23 Also Ray Haupt with crime scene was also
24 dispatched to process the business.

25 Also while this was taking place,

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1 Lieutenant Alfaro responded to the area,
2 along with Officer Dunbar.

3 Also Corporal Mauldin.

4 We all began to canvas the area for
5 suspects or any evidence of the crime.

6 Q. When you say canvas the area, what
7 area were y'all looking at?

8 A. There is a field that -- there is a
9 field area, which also corresponded with the
10 suspected direction of flight, which is this
11 area right here right next to the business.

12 This is the Cricket cellular store.

13 This is an open field area.

14 So this area, long with Porchers Bluff
15 Road and South Morgans Point Road, then also
16 the wooded areas here, to included Sam
17 Edwards Road and Steve Gilliard Road.

18 Q. What was your role? What areas did
19 you actually canvas?

20 A. At one point or another, I was in
21 all of those areas.

22 Q. Were the canines deployed?

23 A. The Charleston County Sheriff's
24 Office assisted us with that. They deployed
25 their canine units. We were looking for, at

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1 that point, you know, any evidence of the
2 crime. We were trying to retrace the
3 direction of flight of the suspects.

4 Also, based on the initial accounts that
5 we received about the incident, there was the
6 possibility of a firearm being discarded in
7 the area.

8 Q. Okay. Was a firearm in fact located
9 anywhere on the property?

10 A. It was not.

11 Q. When you went to Sam Edwards Road,
12 were there other officers also on that road
13 with you?

14 A. There were. There were County
15 deputies but also Lieutenant Alfaro, Corporal
16 Mauldin, Officer Dunbar and CSI Haupt came
17 out at this point.

18 Q. And you've indicated to us that you
19 heard over the radio about a traffic stop?

20 A. (Affirmative nod).

21 Q. Were y'all on Sam Edwards Road after
22 the traffic stop?

23 A. We were, (affirmative nod). This
24 was after the traffic stop.

25 Q. Do you recall a resident on that

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1 road being outside while y'all were looking
2 for stuff?

3 A. I do. There was actually a network
4 of trails that run through the wooded area on
5 this side of Porchers Bluff Road. There are
6 dirt trails, walking trails. While we were
7 canvassing this area, we came up to the area
8 of Sam Edwards Road where other units were
9 looking as well, which is where I came into
10 contact with Mr. Joseph Davis, who is
11 actually a local resident of the area. He
12 had pertinent information with reference to
13 his observations of possible suspects,
14 staging the robbery and then also fleeing the
15 scene.

16 Q. Okay. And did you in fact speak
17 with Mr. Davis?

18 A. I did. I spoke to him. After we
19 talked about -- after he reported to me the
20 information that he had, I actually recorded
21 a written statement from Mr. Davis.

22 Q. Did he point out any areas to y'all
23 while he was out there with you?

24 A. He did. He showed us the general
25 area on Sam Edwards Road, or to the side of

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1 Sam Edwards Road, where he thought an object
2 was discarded. That is also, later once we
3 searched that area, where we found the
4 missing cash tray from the register.

5 Q. During the time that y'all were
6 taking a statement from him, were y'all
7 outside of your vehicle or inside of your
8 vehicle?

9 A. We were inside my vehicle.

10 Q. And you've explained that there were
11 also a number of other officers out on Sam
12 Edwards Road?

13 A. There were. At that point, in the
14 aftermath of the event and the aftermath of
15 the traffic stop, during the area canvas
16 there was both Charleston County units as
17 well as Mount Pleasant units out on that
18 road.

19 SOLICITOR SHEALY: I beg the court's
20 indulgence, (sidebar with Mr. Ferguson).

21 THE COURT: Certainly.

22 SOLICITOR SHEALY: I have no further
23 questions right now. Answer any that the
24 defense may have. Thank you.

25 THE COURT: Mr. Grimes?

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1 ANDREW GRIMES: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY ANDREW GRIMES:

4 Q. Good afternoon, Detective DeCamp.

5 A. Good afternoon. How you doing, sir?

6 Q. I'm pretty good. How are you doing
7 today?

8 A. Good.

9 Q. I just want to ask you a few
10 questions about reports. Okay?

11 A. Okay.

12 Q. When you do reports, it is important
13 to be accurate in doing those?

14 A. Yes, sir.

15 Q. And it is important for you to be
16 fair in writing your reports?

17 A. Absolutely.

18 Q. And for the reports to be complete?

19 A. Yes, that's important.

20 Q. Because sometimes it may take over
21 three years for a case to get from incident
22 to trial; correct?

23 A. (Affirmative nod), as we are seeing
24 right now.

25 Q. Yes, sir. And you handle a lot of

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1 cases during that three years, don't you?

2 A. Well, at that point, yeah. Every
3 day you take different reports.

4 Q. Such as a patrol officer?

5 A. Right.

6 Q. Now I want to ask you a few
7 questions about the report that you wrote in
8 this case. I think that you have the
9 incident date and time at September 15th, 2010
10 at 6:25 p.m.

11 A. I believe that's correct.

12 Q. And then you received a dispatch ten
13 minutes later, at 6:35?

14 A. That's correct.

15 Q. And according to your report, you
16 and Corporal Mauldin arrived at the scene
17 about 6:37?

18 A. I was the first one to arrive at
19 that approximate time. Corporal Mauldin was
20 a little further after that.

21 Q. Okay. Now I want to ask you a few
22 questions about Highway 17. Where were you
23 when you first received or heard about armed
24 robbery over dispatch?

25 A. At the time that that call was

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1 dispatched, I was traveling on Highway 17
2 towards the intersection of Highway 41. So
3 in between the intersection of Hamlin and
4 Highway 17 and 41 and 17.

5 Q. So -- it's my understanding that the
6 Brickyard subdivision is kind of across the
7 street from Hamlin?

8 A. That's correct.

9 Q. So you were a little bit past
10 Brickyard but not quite to Highway 41?

11 A. Correct. I was actually in this
12 section right here (indicating on map).

13 Q. Ms. Shealy asked you a lot of
14 questions about whether the traffic is heavy.
15 You said that it could be at times.

16 A. Right.

17 Q. It took you about two minutes to
18 respond, is that correct?

19 A. Correct.

20 Q. Did you go flashing blue lights or
21 did you go your normal speed?

22 A. At that point I didn't activate my
23 lights or siren due to the close proximity.
24 That's a typical practice of the police
25 department to not use a siren when you're in

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1 such close proximity to a call that is a
2 crime of this nature.

3 Q. You don't want to give yourself
4 away?

5 A. Sure.

6 Q. So it took you about two minutes to
7 make that trip. Correct?

8 A. Correct.

9 ANDREW GRIMES: Thank you, Your Honor.
10 I have no further questions.

11 THE COURT: Mr. Runyon.

12 CROSS EXAMINATION

13 BY WILLIAM RUNYON:

14 Q. Good afternoon, Detective DeCamp.

15 A. Good afternoon, sir.

16 Q. Just briefly, if you'll harken back
17 to that evening, it was still light at that
18 time, was it not?

19 A. Yes, sir, it was.

20 Q. And it still warm at that time, was
21 it not?

22 A. I don't particularly remember. I
23 don't believe that it was cold at that point.

24 Q. All right. You were wearing a
25 standard-issue Mount Pleasant uniform?

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1 A. I was.

2 Q. Was it the short-sleeve or long-
3 sleeve version? Do you remember?

4 A. I'm sorry, I don't remember. I
5 believe that it was short sleeve at that
6 point.

7 Q. Well, for this time of year, short
8 sleeve is probably what it was?

9 A. Correct.

10 Q. Because it was still kind of warm in
11 September of that year?

12 A. (No verbal response).

13 Q. Did you actually go through the
14 field and the trails into the woods?

15 A. I did, sir.

16 Q. Was it easy walking or was it -- did
17 you have briars, snags or whatever?

18 A. In the field area that I was
19 pointing out earlier, across from the store,
20 it was -- it's fairly open except for in some
21 areas there were some bushes and tall weeds.
22 Overall that's a fairly open field, so that
23 was fairly easy going.

24 Then behind in the wooded area across the
25 street, on the other side of Porchers Bluff.

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1 Road, to the south of Porchers Bluff, in that
2 wooded area there is a network of trails.
3 Actually if you go through those trails, you
4 can -- at that time you could travel pretty
5 uninhibited.

6 Q. So it didn't mess up your uniform
7 too bad?

8 A. Not too bad.

9 Q. But it did mess it up a little bit?

10 A. I don't remember that other than
11 some dirt on the shoes.

12 Q. Dirt on the shoes?

13 A. (Affirmative nod).

14 Q. And then of course they brought in a
15 canine unit to follow up and assist in both
16 the field and the woods?

17 A. That's correct.

18 WILLIAM RUNYON: No further questions,
19 Your Honor.

20 THE COURT: Mr. Smiley?

21 CROSS EXAMINATION

22 BY MR. SMILEY:

23 Q. You were the first one there, of the
24 first responders?

25 A. Yes, I was.

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1 Q. Oh, by the way, I'm Jim Smiley. I
2 represent Kevin Smalls.

3 While you were there, you spoke to
4 the owner of the business and an employee, is
5 that correct

6 A. That's correct.

7 Q. Was there anybody else there at that
8 time that you were trying to get information
9 from?

10 A. At that point, I think that the only
11 other action that I was taking is that there
12 was a business that was open next door to the
13 Cricket store. At that point it was our main
14 concern that all the people that worked there
15 and everybody was all okay. Once that
16 happened, other than just controlling their
17 movement going to the next door store, other
18 than that it was mainly those two people that
19 I was speaking with.

20 Q. Did you ever have contact with a Ms.
21 Jessica Lyons?

22 A. No, I didn't.

23 Q. And you heard over dispatch, you
24 were advised that a car had left the Walmart
25 at a high rate of speed?

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1 A. I wasn't -- I don't remember the
2 location from where it was leaving. From
3 what was dispatched, from the information
4 that was dispatched it was reported that a
5 vehicle was leaving at a high rate of speed
6 from the general area.

7 Q. Now, when you met with Mr. Davis
8 over on Sam Edwards Road -- by the way, Sam
9 Edward Road, while it is one road over, it's
10 a decent hike from there to the Walmart,
11 right?

12 A. I'm sorry?

13 Q. Bad question. Let me try again.
14 From Mr. Davis' house on Sam Edwards Road,
15 through those trails over to the Walmart, it
16 is a pretty decent hike; isn't it? It is at
17 least, what? I won't try to put distances in
18 your mouth. How far do you believe that
19 distance to be?

20 A. I guess everything is relative. I
21 don't believe that it is really that far,
22 simply because -- because with what used to
23 be the Guy C. Lee area developed within that
24 wooded region, you actually follow that
25 fenced area around and then through on that

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1 trail and it's not that far of a distance.

2 Q. Then we've got that field that is
3 behind -- excuse me -- I drew a blank. That
4 field off of South Morgans Point Road, across
5 from the Cricket store, that they saw the
6 gentlemen/fellows coming out of?

7 A. Correct.

8 Q. That is a pretty big field, right?

9 A. It's fairly large.

10 Q. And if you were following those
11 trails, you would have to actually -- those
12 trails don't come out in that field, do they?

13 A. No, those trails are only applicable
14 for the other side of Porchers Bluff Road.

15 Q. Right. And they come out close to
16 the entrances/exit of Walmart, right?

17 A. (No verbal response).

18 Q. Onto Porchers Bluff?

19 A. They -- yes, those trails run pretty
20 much behind Guy C. Lee, that developed area,
21 and then pretty much exit out near the
22 intersection of South Morgans Point Road and
23 Porchers Bluff Road.

24 Q. The field is further down, is what
25 my point is, towards Rifle Range?

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1 A. Well, it extends probably further
2 than that. However, the field -- the field
3 area that I am talking about is right here.

4 Q. Right.

5 A. It extends maybe a little bit
6 further over. However, the developed area
7 that I am talking about is right here. The
8 trails, the network of trails that I am
9 talking about is leading to -- (indicating),
10 is right here.

11 Q. I gotcha.

12 A. So the fielded area would be right
13 here and the network of trails that I am
14 speaking about it right here.

15 Q. Then they cross through that over to
16 Sam Edwards Road?

17 A. That's correct.

18 Q. When you were talking to Mr. Davis,
19 he was in his yard?

20 A. I was actually speaking to him on
21 the street. I don't think that we were at
22 his residence.

23 Q. Okay. Did he show you where he was
24 located when he said that he saw these
25 things?

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1 A. I believe that he did and I -- but I
2 don't quite remember. I believe that he told
3 where he was on Sam Edwards Road when he
4 observed this.

5 Q. All right. But you don't remember?

6 A. I don't.

7 Q. Okay.

8 JIM SMILEY: Nothing further.

9 THE COURT: Redirect?

10 SOLICITOR SHEALY: No, Your Honor.

11 THE COURT: Do you wish the witness to
12 be excused.

13 (WITNESS STEPS DOWN)

14 SOLICITOR SHEALY: Joseph Zeitner.

15 THE COURT: Do you wish for the witness
16 to be excused?

17 SOLICITOR SHEALY: I'm sorry. Yes,
18 Your Honor.

19 THE COURT: Any objections?

20 ANDREW GRIMES: No, sir.

21 WILLIAM RUNYON: No objection.

22 JIM SMILEY: No objection.

23 THE COURT: Thank you. You are also
24 free to leave. Solicitor, call your next
25 witness.

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1 SOLICITOR SHEALY: Thank you, Your
2 Honor. The State calls Joseph Zeitner.

3 (WITNESS TAKES STAND)

4 JOSEPH ZEITNER, having been sworn to
5 tell the truth, and nothing but the truth,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR SHEALY:

9 Q. Officer Zeitner, if you would,
10 please tell the jury where you are currently
11 employed.

12 A. I am currently employed with the
13 Town of Mount Pleasant.

14 Q. In what capacity are you employed in
15 there?

16 A. I am a traffic officer. I work in
17 the traffic bureau. I respond to collisions.
18 I work primarily the night shift, so I do a
19 lot of the law enforcement too.

20 Q. Okay. Back in September, specific-
21 ally September 15th, 2010, were you working
22 for Mount Pleasant?

23 A. Yes, ma'am.

24 Q. And you've worked there how long?

25 A. I have been there for almost eight

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1 years now.

2 Q. In what capacity were you working on
3 that occasion?

4 A. On that occasion I was actually
5 under a grant position, the Highway Enforce-
6 ment of Aggressive Traffic, which is a
7 driving-while-impaired position.

8 Q. Okay. Would you tell the jury
9 whether or not you heard a dispatch and where
10 you were when you heard it, regarding
11 something that occurred at South Morgans
12 Point Road.

13 A. Yes. We heard a dispatch come out
14 that there was an armed robbery at the
15 Cricket store at the Oakland Market. Myself
16 and Lieutenant Kaufman were actually on a
17 traffic stop towards -- past Wando High
18 School, as you go down 17 towards Myrtle
19 Beach. You past Wando High School and you're
20 going toward Awendaw, McClellanville.
21 There's Wando Farms, Bulls Bay, and there's
22 like a bulls head on the side of the road.
23 We were in that area.

24 Q. Okay. Showing you what has been
25 marked as State's Exhibit 104. Can you see

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1 it on the screen that's behind you?

2 A. Yes, ma'am.

3 Q. Can you point out to the jury what
4 -- did you start traveling after you heard
5 that dispatch?

6 A. Yes. When I heard the dispatch come
7 out, I started traveling down 17 into the
8 area.

9 Q. You can stand up.

10 A. I started traveling down 17 towards
11 Porchers Bluff Road. As I got down here, I
12 got into the left turn lane.

13 Q. Okay. Did anything draw your
14 attention as you were getting into the left
15 turn lane?

16 A. As I was getting down in that area,
17 over the radio they dispatched the
18 description of a red car with black on it.

19 As I was sitting here, a Charleston
20 County cruiser came off of Porchers Bluff
21 Road and turned southbound onto 17. At that
22 time, they gave a plate number of FVP 808 for
23 that vehicle.

24 As I was writing that down, I saw a car
25 come across the intersection that was a red

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1 Impala with a black stripe. As it went
2 past, I could see that it matched the
3 description. I caught up with the car and it
4 had the same tag on it that was dispatched
5 out.

6 Q. You can have a seat.

7 A. Thank you, (complies).

8 Q. At that intersection is there a
9 business?

10 A. Yes, there's a business on one side.
11 It's Guy C. Lee, it's like a lumber place.

12 Q. Now, tell us a little bit about your
13 car. Does it have the capacity to video
14 record what is being depicted from your --
15 from within your car?

16 A. Yes. Being in Traffic, what we have
17 is -- we have to videotape all of our stops
18 and everything. So I have a digital camera
19 system that's installed in the car. When I
20 activate my blue lights, it actually records
21 thirty seconds in the past and then the audio
22 turns on from when I turn on the blue lights,
23 from that point on.

24 Q. Okay. When you take your car back
25 to the police station, do they download the

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1 videotape?

2 A. Yes. When we take our car back to
3 the police station, if you park in between --
4 there are two antennas on the back of the
5 station. As soon as you park, that video
6 starts downloading. So you can't do anything
7 with it. It downloads to a server at that
8 point.

9 Q. If you would, please describe for
10 the jury what occurred once you put your
11 lights on.

12 A. Once I put my lights on, -- I knew
13 that other officers were coming because it
14 was a suspect stop, a high risk stop because
15 it was a suspect vehicle from an armed
16 robbery.

17 I got out of my car and gave the driver
18 verbal -- I gave everybody in the car verbal
19 commands to put their hands up.

20 I gave the driver verbal commands to put
21 his hands up.

22 I waited for another unit to get behind
23 me. At that time, we had the driver turn off
24 the car. We started having people exit the
25 car. We had the driver come out first.

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1 In the car -- as I was looking at the
2 car, at moments you could see the car shake
3 and the two occupants of the vehicle in the
4 back of the car -- the one on the left, on
5 the driver's side, actually disappeared out
6 of my sight three times in the entire time
7 that we were calling the driver out of the
8 car.

9 And the second passenger, you could see
10 the passenger on the right jumping around the
11 car. At one point it looked like he was
12 between the seats and almost to the front of
13 the car.

14 So we called out the back seat
15 passengers, left and right, and then we
16 called out the front seat passenger after
17 that.

18 Q. Why did you make the decision to
19 take them out one at a time and in what
20 order? Why was that decided?

21 A. Because it was a high risk stop that
22 came out with the possibility of weapons,
23 guns and such, you take one person out at a
24 time so that you can see your threats. It's
25 an officer safety thing. It was also an

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1 issue because it was in the afternoon on a
2 busy roadway.

3 So we took the driver out first.

4 Basically you take the driver out first and
5 that way the person that is in control of the
6 car is out of the car, so that you can ensure
7 that that car is not going to go anywhere
8 else.

9 Usually you like to only have one door
10 open on the car, so that everybody exits the
11 same way. So if anything is going to happen,
12 if you have a precursor to an event, to where
13 if somebody is going to try to attack or
14 anything, another door would come open.

15 But because of all the movement in the
16 car, we actually had the back seat passenger
17 behind the driver open the door and we had
18 those back seat passengers exist before we
19 had the occupant in the front passenger seat
20 exit.

21 Q. Okay. Do you remember now the order
22 in which the individuals -- did y'all
23 identify the individuals after you got them
24 out of the car?

25 A. Yes. After we got the out of the

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1 car and got them back to the station, we were
2 able to identify all of the individuals.

3 Q. Can you testify from memory as to
4 who got out first, second, third and fourth?

5 A. Yes.

6 Q. Who got out on the driver's side?

7 A. The driver of the car, Kevin Smalls,
8 got out first.

9 Q. Then who was the next person that
10 got out?

11 A. That would have been Jarrett
12 Graddick, who was behind the driver, in the
13 backseat of the car.

14 Q. And then who was the third person
15 that got out of the vehicle?

16 A. It would have been Keenan Coakley,
17 who was the other side of the right seat --
18 on the right of the back seat.

19 Q. And the fourth person who got out?

20 A. It would be Brian Mazyck.

21 Q. Okay. And you had indicated that
22 after you had stopped the vehicle is when
23 those movements that you were talking about
24 were going on?

25 A. Yes, ma'am.

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1 Q. I'm going to show you what has been
2 previously marked as State's Exhibit 103 and
3 ask if you can identify that?

4 A. Yes, this is the CD from the in-car
5 video of my vehicle.

6 Q. Are your initials reflected on the
7 front of it?

8 A. Yes. I reviewed it this morning
9 before I came in to ensure that it's ---

10 Q. I'm sorry. I think that I
11 interpreted you when you were going to say
12 what it is labeled.

13 A. It is labeled "Kevin Smalls." The
14 way that we label it, it only gives you a
15 certain amount, so it was labeled as the
16 first person that I took out of the car.

17 Then the case number for us, which would
18 be 2010-T-12283, Armed Robbery. Then JA are
19 my first two initials, because it didn't
20 label it all the way through my last name
21 because of the title, the lack of room. Then
22 the date that it was record, September 15th,
23 2010 and on here it says 9/15/2010.

24 Q. You indicated that you had looked at
25 this today?

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1 A. Yes, ma'am.

2 Q. Had you also looked at it
3 previously?

4 A. Yes, ma'am.

5 Q. Could you tell the court, please,
6 whether or not this is an accurate depiction
7 of the traffic stop that day?

8 A. Yes, that's an accurate depiction of
9 the traffic stop that day.

10 SOLICITOR SHEALY: Your Honor, it is my
11 understanding that without objection I can
12 now move this into evidence.

13 THE COURT: State's Exhibit 103 is
14 admitted without objection, being a CD.

15 (SO ENTERED AS STATE'S EXHIBIT 103)

16 SOLICITOR SHEALY: Permission to publish
17 it?

18 THE COURT: You may publish it.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR SHEALY:

21 Q. Officer Zeitner, as it is beginning
22 to play, tell the jury what -- (video
23 playing) -- the start time for it was.

24 A. The start time for it is September
25 15th, 2010 at 1841, which would be 6:41 p.m.

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1 Q. (Video playing) -- is that the
2 vehicle in front of you?

3 A. Yes, that's the vehicle in front.
4 It was the red Impala with a black stripe,
5 and you can see the tag is the same tag that
6 dispatch gave out -- FVP 808.

7 Q. (Video playing) -- Officer Zeitner,
8 one of the things that you described earlier
9 was someone looking as if they were trying to
10 get into the front seat, was that just
11 depicted on the tape?

12 A. Yes, ma'am, you can see that the
13 right back seat passenger was actually trying
14 to go through the middle of the two front
15 seats, to get to the front of the car at that
16 time. That's why we directly yelled commands
17 at him.

18 Q. (Video playing) -- when you began
19 yelling more loudly there, what was your
20 concern?

21 A. My concern is that because it was an
22 armed robbery -- when you have people that go
23 out of sight, you don't know what is going to
24 happen when they come back up. So as the
25 left rear seat passenger was ducking, I

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1 specifically told him to put his hands on the
2 roof because I wanted to be able to have
3 sight of his hands and the top of his body.

4 Q. And who, again, was the left rear
5 seat passenger?

6 A. I believe that would have been
7 Jarrett Graddick.

8 Q. (Video playing) -- the female
9 officer that you're getting directions from,
10 who was that?

11 A. That was Lieutenant Debbie Alfaro.

12 Q. (Video playing) -- was she in a
13 supervisory capacity that day?

14 A. Yes.

15 Q. (Video playing) -- okay. Is that
16 the last involvement with the defendants on
17 your camera?

18 A. Yes, that's the last involvement on
19 my camera.

20 Q. Officer Zeitner, I am not sure if
21 the jury heard you because the recording kept
22 going -- who was the female officer at the
23 scene?

24 A. Lieutenant Debbie Alfaro.

25 Q. And she was there in a supervisory

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1 capacity?

2 A. Yes, she was.

3 Q. And she was the one giving you
4 direction as to which order to do it?

5 A. Yes.

6 Q. At one time you said, "Do you have
7 me covered."

8 A. Yes.

9 Q. What did you mean by that?

10 A. At one time she asked me if I had a
11 PA in my car instead of screaming, because as
12 you scream you get hoarse because your throat
13 gets dry and everything. It's easier for
14 them to hear us on a PA and everything. The
15 way that the PA is set up in my car, I
16 actually have to turn a button to turn it on,
17 turn off the siren to be able to turn on the
18 PA. Then you have to pull the PA off the
19 front of the dash. So I would have actually
20 have had to lean into my car, drop my head
21 below the dashboard to do all of that. I
22 asked her is she had me covered with the car
23 so that I could do that, engage the PA.

24 Q. Meaning to keep you out of harm's
25 way?

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1 A. Yes.

2 Q. And the two individuals in the back
3 seat that got out in undershirts, that was
4 which to people again?

5 A. Jarrett Graddick and Keenan Coakley.

6 Q. Having just looked at the video
7 tape, because the lights are a little funny
8 in here, would you describe to the jury what
9 behavior on the part of the back seat
10 occupants was of concern to you?

11 A. The behavior of the back seat
12 occupants was them -- the left back seat
13 passenger actually dropped out of sight. I
14 believe that it was three times to where I
15 couldn't see him at all.

16 The right back seat passenger kept making
17 movement to the point where it actually shook
18 the car, where he was trying -- it appeared
19 that he was trying to get through the two
20 front seats to get to the front of the car.

21 Q. After all four individuals were
22 taken out of the vehicle, were they
23 ultimately arrested?

24 A. Yes.

25 Q. And where were they taken from the

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1 scene?

2 A. I believe that they were taken to
3 the police station.

4 Q. Did you stay at the scene after they
5 had left the scene?

6 A. A little bit just to pass on
7 information to the lieutenants and then I
8 went back to the station to type my
9 supplemental report.

10 Q. Were you present when an officer
11 moved the vehicle from that location into the
12 parking lot at ---

13 A. Yes, I was.

14 Q. You were?

15 A. Yes.

16 Q. That was which officer?

17 A. That would be Officer Kaufman.

18 Q. After that occurred, what -- who
19 were you waiting for to arrive at the scene
20 regarding the car itself?

21 A. I believe that we were waiting on
22 the tow truck and crime scene.

23 Q. And when you say "crime scene", what
24 would be the value of crime scene coming out?

25 A. There would be a detective coming to

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1 collect the evidence from the scene, a crime
2 scene technician that would collect evidence
3 from that car that could be related to the
4 crime.

5 Q. Do you recall whether or not when
6 crime scene arrived?

7 A. I believe that I was there when
8 crime scene technician Ray Hauph showed up.
9 I believe that I was still on the scene.

10 Q. Do you remember whether any of the
11 windows were rolled down in the vehicle?

12 A. I believe -- as you can see on the
13 video, I believe that the back left passenger
14 was down. Because when he sticks his hands
15 up, the one hand actually comes out of the
16 window at one point.

17 SOLICITOR SHEALY: Beg the court's
18 indulgence just one moment.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR SHEALY:

21 Q. What efforts were made to make sure
22 that the car was secured while you were
23 waiting for the crime scene technician to
24 arrive?

25 A. It was parked in the parking lot. I

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1 believe that after Officer Kaufman got in it,
2 that he got out and we waited on crime scene.

3 Q. About how many officers were there?

4 A. There was more than five. It would
5 have almost been a whole shift, so it
6 probably would have been upwards of eight to
7 ten at that time.

8 Q. Did you look in the vehicle at all?

9 A. I looked briefly when I cleared it
10 to make sure that there was nobody else in
11 it. If you watch the end of that, what we do
12 -- because I'd never approached the vehicle,
13 we have to look in all the windows just to
14 make sure that there is nobody hiding in the
15 floorboards or anything. We also go so far
16 as to look in the trunk just to make sure
17 that nobody is hiding in the trunk. So that
18 there is no threat to anybody from there.

19 Q. All right. Did you see any items
20 in the vehicle that appeared to be of
21 evidentiary value?

22 A. I don't recall if I saw anything.

23 Q. And that's because that at the time
24 that you looked, you were looking for what?

25 A. People.

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1 SOLICITOR SHEALY: Answer any questions
2 that defense counsel may have.

3 THE COURT: Mr. Grimes?

4 ANDREW GRIMES: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY ANDREW GRIMES:

7 Q. Good afternoon, Officer Zeitner.

8 A. Afternoon.

9 Q. How you doing today?

10 A. Good. How about you?

11 Q. Not too bad. I want to ask you just
12 a couple of questions about being a police
13 officer. Some of them may seem to be common
14 sense.

15 A. Okay.

16 Q. Being a police officer can be pretty
17 dangerous, can't it?

18 A. Yes, it can.

19 Q. Especially traffic stops?

20 A. Yes.

21 Q. You don't know who you're stopping.

22 A. Correct.

23 Q. And you don't know what they might
24 have in the car?

25 A. Correct.

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1 Q. Or what kind of state of mind that
2 they are.

3 A. Correct.

4 Q. If they are under the influence of
5 alcohol or drugs.

6 A. Correct.

7 Q. If they're fugitives or something
8 like that.

9 A. That's correct.

10 Q. And when you -- in this case you
11 were making a felony traffic stop.

12 A. It used to be called a felony car
13 stop. Now it's called a high risk car stop.
14 So if I use that verbiage interchangeable,
15 that's the way that the trend has gone.

16 Q. All right. And you had reports of a
17 weapon being involved?

18 A. Yes, sir.

19 Q. That's one thing that would make it
20 high risk?

21 A. Correct.

22 Q. Multiple people in a car make it
23 high risk?

24 A. That would be correct.

25 Q. And the general safety of other

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1 people out there -- there are a lot of cars
2 -- makes it high risk? It's a high traffic
3 area. Correct?

4 A. That would be correct.

5 Q. You want to protect the citizens
6 from anyone getting a chance to jump in on
7 them?

8 A. That would be correct.

9 Q. So when you come out of there, you
10 come out of there weapons pulled; right?

11 A. Yes.

12 Q. You don't want to give anyone a
13 chance to get the jump on you?

14 A. Correct.

15 Q. And for someone in that car, that
16 might be scary to them?

17 A. I could be.

18 Q. Might make them nervous?

19 A. Yes.

20 Q. Make them move around a lot?

21 A. It could.

22 ANDREW GRIMES: One moment, please,
23 Your Honor?

24 THE COURT: Sure.

25 ANDREW GRIMES: (Sidebar with Mr.

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1 Kowelski), nothing further.

2 WILLIAM RUNYON: No questions, Judge.

3 THE COURT: Mr. Smiley?

4 CROSS EXAMINATION

5 BY JIM SMILEY:

6 Q. I'm Jim Smiley. I think that we've
7 met before?

8 A. Yes. How you doing, Mr. Smiley?

9 Q. I represent Kevin Smalls.

10 A. Okay.

11 Q. He was the driver, right?

12 A. Yes, sir.

13 Q. And he followed commands?

14 A. Yes, he did.

15 Q. You were yelling at them -- watching
16 the video, it was a little chaotic, there was
17 a lot of stuff going on there. But there is
18 no doubt that when you were yelling out
19 commands, that the people in the car knew
20 what was going on?

21 A. Yes. You could see that when I
22 yelled "put your hands up" that people in the
23 car were putting their hands up, the driver
24 and the front seat passenger immediately did
25 that.

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1 Q. Yeah. It was the two fellows in the
2 front that put their hands up, didn't move.
3 Then when -- you asked them a couple of times
4 to cut off the car. You actually see him
5 putting the car in park, because the reverse
6 lights came on.

7 A. Yes, sir.

8 Q. He put it in park and then cut it
9 off.

10 A. Yes, sir.

11 Q. Correct?

12 A. Correct.

13 Q. And he walked back the way that he
14 was supposed to do, to you?

15 A. (No verbal response).

16 Q. Did he hand you the keys? I noticed
17 that you had them. When did you get the
18 keys?

19 A. Usually when you do a high risk car
20 stop, what you will do is have the driver
21 take the keys out with him and put them on
22 the roof. You don't want them throwing their
23 keys, because you don't want to lose the keys
24 in the roadway or anything if anything was to
25 happen.

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1 But because of the movement in the back
2 of the car at that time, we just had them get
3 out and left the keys in the ignition.

4 Q. So when he's backing up to you, he
5 doesn't have the keys? They were still in
6 the car?

7 A. Yeah. I believe that Lieutenant
8 Alfaro got those before we opened the trunk.

9 Q. Okay. You all of a sudden had the
10 keys and I was just trying to figure out
11 where they came from. All right.

12 A. Yes, sir.

13 Q. So your sum total involvement in
14 this case was the actual stop, right?

15 A. Yes, sir.

16 Q. When you first saw the red-and-black
17 car, I think in your report that you said
18 that it was turning from Porchers Bluff Road
19 onto Highway 17. Did you actually see it on
20 Porchers Bluff or ---

21 A. I saw it come across the inter-
22 section. I couldn't say how long it was on
23 Porchers Bluff.

24 Q. Could it -- I guess my question is,
25 could it have been doing a U-turn from 17,

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1 going ---

2 A. It could have been. I saw a
3 deputy's car go by -- even in the eyes of a
4 police officer, when I see a police car go by
5 I kind of look at it for an extra second,
6 too. So -- (pause).

7 Q. Before you turned your lights on and
8 turned onto 17, it -- it wasn't a speed
9 thing?

10 A. It wasn't speeding, no.

11 Q. And when you pulled behind it and
12 turned your lights on, it stopped?

13 A. (Affirmative nod).

14 Q. It didn't go another inch.

15 A. Right. The car in front of it was
16 waiting on the red light. When I turned on
17 the blue lights, the light changed and the
18 other car went, it stayed there.

19 JIM SMILEY: That's all that I've got.
20 Thanks.

21 THE COURT: Redirect?

22 SOLICITOR SHEALY: No, Your Honor.

23 THE COURT: You may step down.

24 (WITNESS STEPS DOWN)

25 THE COURT: Do you wish for him to be

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1 excused?

2 SOLICITOR SHEALY: Please.

3 THE COURT: Any objection?

4 WILLIAM RUNYON: No objection from
5 Defendant Coakley.

6 ANDREW GRIMES: No, sir.

7 JIM SMILEY: None, Your Honor.

8 THE COURT: Thank you. You are free to
9 leave. Solicitor, call your next witness.

10 SOLICITOR SHEALY: The State calls
11 Debbie Alfaro.

12 (WITNESS TAKES STAND)

13 DEBRA ALFARO, having been sworn to tell
14 the truth, and nothing but the truth,
15 testified as follows:

16 DIRECT EXAMINATION

17 BY SOLICITOR SHEALY:

18 Q. Ms. Alfaro, if you would, please,
19 tell the jury whether you were previously
20 employed with the Mount Pleasant Police
21 Department?

22 A. I was. Twenty-two years with Mount
23 Pleasant Police and six years with Charleston
24 County.

25 Q. Tell the jury what you are doing

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1 now?

2 A. I retired and I have a business over
3 on -- in Mount Pleasant.

4 Q. In 2010 -- September 15th, 2010, you
5 were employed with Mount Pleasant?

6 A. Yes, ma'am.

7 Q. In what capacity?

8 A. I was the lieutenant in charge of
9 the road and also the SWAT commander.

10 Q. Could you tell the jury whether you
11 remember getting a dispatch regarding an
12 armed robbery that took place at the Cricket
13 store in Oakland Plantation?

14 A. Yes, ma'am. They put it out on the
15 radio. I was the supervisor that responded
16 to that location.

17 Q. Okay. So, if you would, describe --
18 when something comes out like that over
19 dispatch, as a supervisor what is your role?
20 What do you do?

21 A. My role is that when a call goes
22 out, I basically start delegating officers
23 where they need to be. We want to cover the
24 exits out of Mount Pleasant as well as
25 sending a unit to the incident location. We

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1 go ahead and start getting information as
2 quickly as we can.

3 Q. Do you recall where you were when it
4 came out?

5 A. Yes, ma'am. I was on Highway 17
6 North, just passing the Towne Center.

7 Q. Just passing Towne Center?

8 A. Yes, headed towards 17 North.

9 Q. And what do you do after you send
10 out your commands, after the dispatched.
11 What is the next thing that you do regarding
12 this incident?

13 A. Actually we are listening to
14 information as we get it across tele-
15 communications as well as from the officers
16 responding on scene.

17 As they are getting information, I am
18 filtering it and deciding on where to send
19 people or on what needs to be done next.

20 Q. If you would, do you at some point
21 stop somewhere?

22 A. No. No, our priority is to get on
23 scene and to, again, send officers to other
24 locations, to make sure that victims are
25 safe, trying to get information.

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1 Q. Meaning that you're doing this as
2 you're driving?

3 A. Yes, ma'am. Multitasking.

4 Q. What I mean is that at some point
5 you arrive on scene and stop?

6 A. Yes, ma'am.

7 Q. Tell the jury about that.

8 A. Once we get on scene, obviously --
9 are you wanting me to talk about what I did
10 or just in general what we do?

11 Q. What you did in this case.

12 A. Okay. On this particular incident,
13 we had officers responding to the location.

14 We received information of a tag and
15 vehicle description. Shortly after that, one
16 of my officers, Officer Zeitner, located the
17 vehicle and he was behind it. He asked did I
18 want him to go ahead and initiate the traffic
19 stop. He'd confirmed the tag and everything.
20 His location was 17 and 41.

21 I did not want them to turn onto 41 so
22 that we would get into a pursuit. I was so
23 close, I told him to go ahead and initiate it
24 and I would be responding there as his backup
25 for the felony car stop.

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1 Q. When you arrived, how did you
2 approach the vehicle?

3 A. When we arrive on a scene, uh,
4 basically there are two cars positioned for
5 a felony car stop, for officer safety. One
6 officer is going to be calling out the
7 commands for the vehicle and for all the
8 people in the vehicle to respond. The other
9 person basically is cover and to protect the
10 officer calling it out.

11 For a felony car stop, we will bring each
12 suspect back, one at a time, so that we can
13 search them and pass them on to another
14 officer so that they search them and secure
15 them until we finish with the crime scene.

16 Q. Okay. The female -- have you had a
17 chance to listen to and see ---

18 A. Yes, I have.

19 Q. --- the in-car video?

20 A. Yes, I have.

21 Q. The female voice that we hear ---

22 A. That would be me.

23 Q. --- is ---

24 A. A little high-pitched but that's me.

25 Q. Was there anything about the

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1 behavior within the car that caused you
2 concern?

3 A. Yes, ma'am. The two gentlemen that
4 were in the back seat kept moving around,
5 they kept ducking down, they were moving
6 around the car -- it was like nonstop
7 movement. I was concerned over officer
8 safety, with the weapon in the car. We
9 didn't know what they were going to do at
10 that point, so it was a high risk, felony car
11 stop.

12 Q. How long did you stay at that scene
13 before leaving?

14 A. My role at that scene was Zeitner's
15 backup, making sure that we got all four of
16 the suspects secured in that location.

17 I also had to make sure that we had no
18 crossfire at that intersection. There were
19 several citizens out there.

20 Once we were able to secure the four
21 suspects, we pulled the car out of the
22 roadway. We had to search it prior to towing
23 it.

24 From that location, I was back and forth
25 in communication with Detective Tyrone

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1 Simmons over there. We discussed what needed
2 to be done at that sc.

3 From there, I went to a dirt road, Sam
4 Edwards Road, where we'd heard information
5 that there might be a gun or something left
6 from the scene.

7 Q. Okay.

8 A. So that's where I headed.

9 Q. Now, regarding the vehicle that was
10 -- that had been moved into the parking lot.

11 A. Yes, ma'am.

12 Q. Were you there when Ray Haupt
13 arrived there to search the vehicle?

14 A. Yes, ma'am.

15 Q. Had you had the opportunity to look
16 into the vehicle?

17 A. Yes, ma'am.

18 Q. Were there anything -- was there
19 anything readily apparent to you when you
20 looked in it?

21 A. When we were -- when we looked in
22 the vehicle, there was a Glock on the
23 passenger side. It was not quite underneath
24 it. And then the back seat where the arm
25 rest went, the money was in there.

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1 Q. You could just see that by just
2 looking in the vehicle?

3 A. Yes, ma'am.

4 Q. From the outside of the vehicle?

5 A. Yes.

6 Q. And then you left there and went to
7 Sam Edwards Road?

8 A. Yes, ma'am.

9 Q. What -- how did you know to go to
10 Sam Edwards Road? How did you learn about
11 it?

12 A. Investigations had been speaking
13 with -- they had obtained information. They
14 said that if we went down those paths over
15 right after where the location was, that we
16 might find a gun or we were looking for a
17 cash till.

18 Q. Okay. Do you recall who else went
19 on that road?

20 A. Corporal Mauldin, Dunbar, DeBroi
21 (phonetic), and -- I'm not sure if -- we were
22 standing by, waiting on Charleston County to
23 bring their dogs also.

24 Q. Okay. The dogs were coming to see
25 if they ---

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1 A. To see if they could locate a weapon
2 for us. Right.

3 Q. Do you recall whether or not there
4 was a resident on the street that was out
5 there when y'all were out there?

6 A. Yes, ma'am. There was a gentleman
7 on the street and he said, 'I saw two guys
8 running through the area and they threw
9 something towards the ditch area.' There was
10 a fenced area and all. So that's where we
11 went. He was just a citizen on the road. I
12 don't recall his name right now, but -- he
13 just pointed to the ditch area, there were a
14 lot of ditches back there and that's where we
15 found the till.

16 Q. Okay. Showing you what has been
17 previously marked as State's Exhibit 13. It
18 will come up on the television and behind
19 you.

20 A. Okay.

21 Q. Do you recognize that road?

22 A. Yes, ma'am.

23 Q. Using the pointer -- is there one up
24 there?

25 A. Yes.

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1 Q. Can you show us the general area
2 where you found the till?

3 A. It was at the dead-end road.
4 There's a fence back there, and I don't know
5 if you can see the fence in the picture. It
6 was on the right-hand side in a ditch down in
7 that area, right past this house. We went
8 into the wooded area, checked all the area.
9 It was right in here (indicating) to the
10 right side.

11 Q. You can take your seat.

12 A. (Complies).

13 Q. Showing you what has been previously
14 marked as State's Exhibit 16, State's Exhibit
15 15, and State's Exhibit 11. Do you recognize
16 those depictions?

17 A. Yes, ma'am.

18 Q. Could you tell us what those are?

19 A. This is -- it's the ditch area near
20 the trail that comes right out of the
21 location where the -- the shopping center
22 where the store is located that was robbed.

23 SOLICITOR SHEALY: Your Honor, my
24 understanding is that without objection we
25 would move to introduce State's Exhibits 15,

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1 16 and 11.

2 THE COURT: State's Exhibits 11, 15 and
3 16 are admitted without objection.

4 (SO ENTERED AS STATE'S EXHIBIT 11)

5 (SO ENTERED AS STATE'S EXHIBIT 15)

6 (SO ENTERED AS STATE'S EXHIBIT 16)

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR SHEALY:

9 Q. Showing you first State's Exhibit
10 16, can you tell us what that picture
11 depicts?

12 A. Yes, ma'am. It is the ditch area
13 that leads past where the trial that comes
14 out of the field across from the location in
15 the shopping center that was robbed, the
16 Cricket store.

17 Q. Okay. All right. Then showing you
18 State's Exhibit 15, what does that depict?

19 A. That is the till prior to us putting
20 it in evidence.

21 Q. Okay. Then State's Exhibit 11?

22 A. Same thing.

23 Q. Just a closer view?

24 A. Yes.

25 Q. Showing you what has been previously

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1 marked as State's Exhibit 71, this is the
2 till that was out there?

3 A. Yes, ma'am.

4 Q. When you saw the till, did you move
5 it or change its location?

6 A. No, ma'am. We waited for the
7 evidence tech to get there and take photo-
8 graphs of it. Plus, with the dogs en route,
9 we were hoping that they could pick up a
10 scent and help them a little better in
11 finding the gun for us.

12 Q. Okay. While you were out there that
13 evening, did any of the defendants come to
14 Sam Edwards Road?

15 A. Yes, ma'am. One of the investiga-
16 tors brought one out there and they were
17 going back through the trails that we'd
18 previously walked through looking for
19 evidence.

20 SOLICITOR SHEALY: Beg the court's
21 indulgence just a moment.

22 THE COURT: All right.

23 SOLICITOR SHEALY: I have no further
24 questions. Please answer any that the
25 defense may have.

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1 THE COURT: Cross examine? Any
2 questions?

3 ANDREW GRIMES: No, sir.

4 THE COURT: Mr. Runyon?

5 WILLIAM RUNYON: Thank you.

6 CROSS EXAMINATION

7 BY WILLIAM RUNYON:

8 Q. Lieutenant Alfaro, good afternoon.

9 A. How you doing, Mr. Runyon?

10 Q. Just a few questions.

11 A. All right.

12 Q. You saw a Glock, a weapon?

13 A. There was a weapon in the vehicle,
14 yes, sir.

15 Q. In the right front passenger seat,
16 if I recall your testimony.

17 A. Yes, sir.

18 Q. And I know that you will correct me
19 if I am wrong.

20 A. I will.

21 Q. Okay. You said that you saw some
22 money in the car. Where was that money?

23 A. There was an armrest in the back
24 seat and it was piled in there.

25 Q. So the money wasn't fully visible?

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1 A. Partially, but we would have done an
2 inventory on the vehicle prior to towing it..

3 Q. So it was in the armrest in the
4 back?

5 A. Yes, sir.

6 Q. The gun was in the front seat.

7 A. (No verbal response).

8 Q. And you left the till on the ground
9 for evidentiary purposes?

10 A. Correct.

11 Q. To take pictures like we just saw?

12 A. (Affirmative nod).

13 Q. Then the County brought their trusty
14 canine unit?

15 A. Yes, sir.

16 Q. And, uh, the canine unit might have
17 been able to pick up a scent, because at that
18 time you weren't sure where everything was?
19 It was still fluid?

20 A. Yes, sir.

21 Q. And the canine unit might be able to
22 pick up the scent of whoever handled that?

23 A. We will looking for -- if there were
24 any additional items out there in the woods,
25 correct.

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1 Q. Any additional items that the canine
2 unit might be able to find?

3 A. Correct.

4 Q. Basically other than straining your
5 vocal cords at the car stop, that's about
6 your involvement in the whole thing?

7 A. Just as a supervisor making sure
8 that everybody is doing their job.

9 Q. I understand.

10 A. Okay.

11 Q. Thank you. No further questions.

12 A. You're welcome.

13 THE COURT: Cross examine, Mr. Smiley?

14 JIM SMILEY: Yes, sir.

15 CROSS EXAMINATION

16 BY JIM SMILEY:

17 Q. Hey Debi.

18 A. Mr. Smiley.

19 Q. Excuse me, Lieutenant Alfaro. I
20 represent Kevin Smalls.

21 A. Okay.

22 Q. You were in charge of that scene at
23 17 and 41?

24 A. At 17 and 41, yes.

25 Q. And the car was pulled into Seel's

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1 by Officer Kaufman?

2 A. Okay.

3 Q. At that point, did you tell them to
4 conduct an inventory search?

5 A. Actually at that point we'd already
6 notified the tow company and at that point we
7 needed to do the inventory prior to towing
8 it.

9 Q. So before crime scene got there, an
10 officer started to go through, documenting
11 the car?

12 A. Originally we checked to see if
13 there was anybody in the trunk. Then after
14 that, to make sure of the items that were
15 visible to us prior to inventory.

16 Q. Okay.

17 A. Right.

18 Q. So when crime scene got -- took
19 pictures of the car, items had been moved
20 around by one of the officers doing an
21 inventory search?

22 A. They were located at that point.
23 Then once crime scene got there, they started
24 doing an inventory on everything.

25 The officer -- most of it was plain view.

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1 In fact, everything that I named was plain
2 view -- clothing that was in the car.

3 Q. All right.

4 JIM SMILEY: I think that's all that
5 I've got.

6 THE COURT: Redirect?

7 SOLICITOR SHEALY: Beg the Court's
8 indulgence.

9 THE COURT: Yes, ma'am.

10 REDIRECT EXAMINATION

11 BY SOLICITOR SHEALY:

12 Q. Ms. Alfaro, you indicated that you
13 thought that when you had looked in the car
14 that you saw the gun, where?

15 A. From what I can remember and in
16 reviewing this, it was in the front seat --
17 underneath -- the passenger side.

18 Q. Underneath the seat on the front
19 passenger side?

20 A. Yes, ma'am.

21 Q. Let me show you -- and if you can't
22 identify these, ---

23 A. I won't.

24 Q. --- that's okay. I am showing you
25 what has been previously marked as State's

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1 Exhibit 34, 35 and 33. If you can, identify
2 -- well, let me ask you this. You indicated
3 that crime scene and y'all had looked in the
4 vehicle?

5 A. Correct.

6 Q. And you saw money?

7 A. Money, (affirmative nod).

8 Q. And you saw clothing?

9 A. (Affirmative nod).

10 Q. And those were in the back seat?

11 A. I can verify that the money was in
12 the back seat, in the arm section.

13 Another officer located the gun.

14 Then there was clothing. It was like
15 they were changing clothing in the process of
16 the car stop.

17 Q. And do you remember which crime
18 scene technician came out to the scene?

19 A. It should have been Haupt.

20 Q. Explain the different roles that you
21 had for Officer Haupt ---

22 A. Correct.

23 Q. --- because -- would Office Haupt be
24 the one who would log the different items
25 that ---

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1 A. Correct.

2 Q. --- were found?

3 A. Correct.

4 Q. And does the crime scene technician
5 photograph where they find things?

6 A. That's correct.

7 Q. So you believe that it was under the
8 front passenger seat?

9 A. Right. I did not do that part of
10 the car.

11 Q. Okay.

12 A. I'm just saying that an officer
13 says, 'We've got a gun.' Gray. Glock.

14 'We've got money.' I saw the money
15 myself, so I can definitely identify to that.
16 Okay?

17 Q. And were any items removed from the
18 vehicle or moved from the vehicle before
19 Officer Haupt got there?

20 A. As far as I know -- my concern at
21 that point, we had a major intersection, we
22 had -- we had to get the vehicle out of the
23 road.

24 We got the defendants transported to
25 headquarters.

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1 Then at that point we pulled the car over
2 there to Seel's -- it's a boat place in Mount
3 Pleasant.

4 Waited for crime scene. Then once crime
5 scene arrived, I headed from there to the
6 next location.

7 Q. Okay.

8 A. So as I am getting this information,
9 whether it be in person or on the radio, I'm
10 processing it and delegating.

11 Q. Okay.

12 A. Okay.

13 Q. And you said that you had a major
14 intersection. You're talking about the
15 intersection of 17 and 41?

16 A. Highway 17 and 41. It was rush hour
17 traffic, so it was busy.

18 Q. Thank you.

19 A. Okay.

20 Q. Please answer any questions that the
21 defense has:

22 A. Okay.

23 THE COURT: Recross?

24 ANDREW GRIMES: Briefly, Your Honor.

25 CROSS EXAMINATION

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1 BY ANDREW GRIMES:

2 Q. I just want to ask you a few
3 questions.

4 A. Okay.

5 Q. I find something -- I might be a
6 little confused.

7 A. Okay.

8 Q. I believe that you told Mr. Smiley
9 that everything that you saw -- the gun, the
10 clothes, the money -- was in plain view.

11 A. The money, plain view.

12 The clothes, plain view.

13 The gun, the officer that located the gun
14 said 'the gun is right there.' I think that
15 it was Dunbar.

16 Q. So you didn't see the gun?

17 A. No.

18 Q. That was another officer?

19 A. It was Dunbar. I can say that for
20 sure. He saw the gun and he said, 'We've got
21 a gun. It's a Glock.'

22 Q. All right.

23 A. Okay.

24 Q. Thank you.

25 A. You're welcome.

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1 THE COURT: Recross, Mr. Runyon?

2 WILLIAM RUNYON: No, sir.

3 JIM SMILEY: No, sir.

4 THE COURT: Thank you. You may step
5 down.

6 (WITNESS STEPS DOWN)

7 THE COURT: Do you wish the witness to
8 be excused?

9 SOLICITOR SHEALY: I do. Thank you.

10 THE COURT: Any objection?

11 ANDREW GRIMES: No, sir.

12 WILLIAM RUNYON: None.

13 JIM SMILEY: No, sir.

14 THE COURT: You are free to leave.

15 Okay, let's take a recess at this point. I
16 will let you go to your jury room. Don't
17 discuss the case. We will be with you in
18 about ten to fifteen minutes. Thank you.

19 I assume that since you've been sitting
20 in that seat that you've been selected as the
21 presiding juror?

22 JUROR NUMBER 273: I was the last to
23 show up today. Is there anything that I need
24 to do?

25 THE COURT: No, you're doing fine.

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1 Thank you.

2 COURT REPORTER: His number?

3 THE COURT: Number 273. Thank you.

4 Anything from the State before we recess?

5 SOLICITOR SHEALY: No, Your Honor. No.

6 I am just trying to figure out -- before our
7 next witness, I have a whole bunch of
8 evidence and I'm just trying to figure out --
9 would Your Honor be offended if I brought the
10 bags up there and just dumped them?

11 THE COURT: I am not going to be offended
12 by anything. I just do this for a living.
13 Do what you have to do.

14 SOLICITOR SHEALY: Thank you.

15 THE COURT: Anything from the
16 defendants?

17 ANDREW GRIMES: No, sir.

18 THE COURT: Mr. Runyon?

19 WILLIAM RUNYON: Judge, I am not
20 offended but I don't know about any evidence
21 -- a whole batch of it. She's done a good
22 job of bringing them up one at a time.

23 SOLICITOR SHEALY: But it is so many
24 that I just hate to keep running back and
25 forth.

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1 THE COURT: I'd like for you to get it
2 ready, in order, and let them know which ones
3 that you are going to do so that everybody is
4 on the same page.

5 SOLICITOR SHEALY: Yes, sir.

6 THE COURT: That moves it a lot quicker
7 than having to walk around and show it to
8 everybody. It needs to be shown before we
9 start.

10 WILLIAM RUNYON: The court reporter has
11 given us a marked evidence list, which is
12 really great, helps us -- I am not sure if it
13 is going to ---

14 THE COURT: Y'all can talk about that
15 among yourselves. But everybody gets to see
16 the evidence in advance, so that you know the
17 number. If you have a problem with it,
18 object. Otherwise we can just move it
19 through without having to stop and show it to
20 everybody.

21 SOLICITOR SHEALY: Yes, sir.

22 THE COURT: Thank you.

23 (BRIEF RECESS)

24 (DEFENDANT GRADDICK PRESENT)

25 (DEFENDANT COAKLEY PRESENT)

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1 (DEFENDANT SMALLS PRESENT)

2 THE COURT: Anything before we bring
3 the jury in?

4 SOLICITOR SHEALY: No, sir. I think we
5 have everything marked.

6 THE COURT: Okay. Mr. Grimes?

7 ANDREW GRIMES: No, Your Honor.

8 THE COURT: Mr. Runyon?

9 WILLIAM RUNYON: We're ready, Judge.

10 JIM SMILEY: Nothing, Judge.

11 THE COURT: Invite the jury to return.

12 (JURY IN @ 4:05 P.M.)

13 THE COURT: Thank you, ladies and
14 gentlemen. We are ready to continue with the
15 State's case. Solicitor, call your next
16 witness.

17 SOLICITOR SHEALY: Yes, sir.

18 SOLICITOR FERGUSON: The State calls
19 Tyrone Simmons.

20 (WITNESS TAKES STAND)

21 TYRONE SIMMONS, having been sworn to tell
22 the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR FERGUSON:

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1 Q. Good afternoon, sir?

2 A. Good afternoon.

3 Q. Officer Simmons, where do you work?

4 A. I'm employed with the Mount Pleasant
5 Police Department.

6 Q. How long have you been with the
7 Mount Pleasant Police Department.

8 A. Fourteen years.

9 Q. And what is your position?

10 A. I am a detective.

11 Q. What was your position back in
12 September of 2010?

13 A. I was a detective.

14 Q. What are the duties of a detective?

15 A. To response to calls, gather
16 evidence, interview people -- victims and
17 witnesses.

18 Q. Were you involved in the armed
19 robbery of the Cricket phone store that
20 occurred in Mount Pleasant in September of
21 2010?

22 A. Yes.

23 Q. What was your capacity in that case?

24 A. I was the case agent.

25 Q. What does a case agent do?

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1 A. Essentially we assist with the
2 investigation and we also orchestrate the
3 crime scene itself, make sure that detectives
4 are tasked with follow up tasks.

5 Q. You make sure that if something is
6 to be done that there is an officer out there
7 doing it?

8 A. Yes.

9 Q. Were you trained in evidence
10 collection as a police officer?

11 A. Yes, sir.

12 Q. Does that include collection of DNA
13 evidence?

14 A. Yes, sir.

15 Q. So you know what a buccal swab is?

16 A. Yes, sir.

17 Q. What is a buccal swab?

18 A. Essentially is a long Q-tip that
19 used for collecting DNA from somebody.

20 Q. Where do you collect the DNA
21 testing?

22 A. You swab inside a person's cheek, in
23 the mouth.

24 Q. With this Q-tip device?

25 A. Yes, sir.

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1 Q. Did you use buccal swabs in this
2 case?

3 A. Yes, sir.

4 Q. Who did you test with buccal swabs?

5 A. All four of the defendants.

6 Q. You tested Mr. Graddick?

7 A. Yes.

8 Q. Keenan Coakley?

9 A. Yes.

10 Q. Kevin Smalls?

11 A. Yes, sir.

12 Q. Did you test Brian Mazyck?

13 A. Yes, sir.

14 Q. Explain this to the jury -- one
15 buccal swab, does that test all four of the
16 defendants?

17 A. No, there is one Q-tip per suspect.

18 Q. You said that you collected buccal
19 swabs from each of the defendants?

20 A. (Affirmative nod).

21 Q. Do you remember what date that you
22 did that testing?

23 A. Yes. September 29, 2010.

24 Q. When you collect a buccal swab, do
25 you wear gloves?

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1 A. Yes, sir?

2 Q. Why is that?

3 A. So as not to contaminate the Q-tip
4 that we are using, not transfer anything from
5 myself to the Q-tip.

6 Q. It's an attempt to sterilize every-
7 thing, as much as possible? To make it as
8 sterile as possible?

9 A. Yes, sir.

10 SOLICITOR FERGUSON: Your Honor, may I
11 approach?

12 THE COURT: You may.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR FERGUSON:

15 Q. I am handing you State's Exhibits 76
16 77, 78 and 79? Do you recognize those bags
17 that I have handed you?

18 A. Yes, sir.

19 Q. What is in those bags?

20 A. The buccal swabs that I took from
21 the defendants?

22 Q. How do you know

23 A. Each has a separate evidence tag.

24 Q. State's Exhibit 76, whose buccal
25 swab is that?

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1 A. Kevin Smalls.

2 Q. State's Exhibit 77, whose buccal
3 swab is that?

4 A. Keenan Coakley.

5 Q. State's Exhibit 78?

6 A. Jarrett Graddick's.

7 Q. And State's Exhibit 79?

8 A. Brian Mazyck.

9 Q. This robbery occurred on September
10 15th, 2010?

11 A. Yes.

12 Q. Did you take statement of the
13 defendant?

14 A. I did.

15 Q. Did you also take a statement of
16 Brian Mazyck?

17 A. I did.

18 Q. When did you collect that statement?

19 A. September 16th, 2010.

20 Q. Where did you collect that state-
21 ment?

22 A. At the Mount Pleasant Police
23 Department.

24 Q. Was Brian Mazyck cooperative?

25 A. Yes, sir.

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1 Q. Did he provide a written statement?

2 A. Yes, sir.

3 Q. Who actually wrote the statement
4 down?

5 A. I wrote the statement.

6 Q. And did he sign that statement?

7 A. Yes, sir.

8 Q. How did Brian Mazyck get to the
9 Mount Pleasant Police Department to do this
10 interview?

11 A. I did.

12 Q. You took him there?

13 a. Yes, sir.

14 Q. Where did you get him from?

15 A. Charleston County Detention Center.

16 Q. Let's rewind a little bit back to
17 September 15th, 2010. Where did the four
18 suspects who were taken from the car
19 initially go?

20 A. They were transported to the Mount
21 Pleasant Police Department for interviews.

22 Q. Were any cell phones taken from
23 them?

24 A. Yes, sir.

25 Q. How many cell phones in total were

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1 taken?

2 A. Four.

3 Q. Do you know where they were taken?

4 A. Three was taken at the station and I
5 believe that Officer Haupt from crime scene
6 took one from the vehicle.

7 Q. Back to these buccal swabs, when you
8 collected them and put them in the evidence
9 bag, where did you take them?

10 A. Mount Pleasant Police Department,
11 Crime Scene.

12 Q. Crime scene?

13 A. Yes, sir.

14 Q. Is that the Evidence locker?

15 A. Yes, sir.

16 Q. Is Ray Haupt over that evidence
17 locker?

18 A. He is one of the officers that works
19 there, yes.

20 Q. Would Ray Haupt have custody of the
21 items after they were submitted in evidence?

22 A. Yes, sir.

23 SOLICITOR FERGUSON: Please answer any
24 questions that the defense may have.

25 THE COURT: Mr. Grimes?

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1 ANDREW GRIMES: Yes, sir.

2 CROSS EXAMINATION

3 BY ANDREW GRIMES:

4 Q. I just want to ask you just a few
5 questions about what Mr. Ferguson asked you.
6 I believe that you said that as the case
7 officer, case agent, that you're in charge of
8 orchestrating the investigation?

9 A. Yes, sir.

10 Q. Making sure that all the evidence is
11 logged in properly?

12 A. Yes, sir.

13 Q. Would it be fair to say that it
14 wouldn't be Mount Pleasant Police Depart-
15 ment's procedures, or your standards, to wait
16 two and a half years to find a piece of
17 evidence?

18 A. Say that again?

19 Q. Would it be fair to say that it is
20 not up to your standard or the Mount Pleasant
21 Police Department's standards for there to be
22 a two-and-a-half year delay in finding
23 evidence if it was in the car at the time of
24 the stop?

25 A. If it was still pertinent and still

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1 of evidentiary value, it is still allowed to
2 be collected.

3 Q. If there were two guns in the car
4 and you found one gun when you searched the
5 car but then waited two and a half year to
6 find the second gun, that wouldn't be up
7 standard, would it?

8 A. If we can prove that it has
9 evidentiary value, we could still submit it.

10 Q. You wouldn't want to wait two and a
11 half years to find evidence, would you?

12 A. No. In a perfect world, we'd want
13 to find it that same night.

14 Q. Mr. Ferguson asking you a little bit
15 about why you use gloves in taking the DNA
16 samples. You said that was so as not to
17 contaminate the buccal swabs; is that
18 correct?

19 A. Yes, sir.

20 Q. Because DNA is easily transferable,
21 right?

22 A. Yes.

23 Q. And you know what touch DNA is;
24 right?

25 A. Yes, sir.

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1 Q. You can leave DNA just by touching
2 something?

3 A. Yes, sir.

4 Q. And you talked a little bit about
5 Brian Mazyck. I want to ask you a couple of
6 questions about his statement.

7 A. Okay.

8 Q. You said that you took a statement
9 from him on September 16th, 2010.

10 A. Yes, sir.

11 Q. I notice that it doesn't say any-
12 thing about Detective Byrd taking a statement
13 from him on September 15th.

14 A. Okay.

15 Q. But he did give an initial statement
16 on September 15th to Detective Byrd.

17 A. That's correct.

18 Q. And then you re-interviewed him and
19 he gave a different story?

20 A. Not at that -- when I interviewed
21 him, he spoke to me about events that
22 happened at the jail.

23 Q. Okay. That's the only thing that he
24 spoke to you about?

25 A. Yes, sir.

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1 Q. And as the case agent, you know what
2 Detective Wills did, right?

3 A. What he did?

4 Q. His involvement with Mr. Graddick?

5 A. If I am not mistaken, he was one of
6 the interviewers who was called out that
7 night to assist with interviews.

8 Q. And he spoke with Mr. Graddick?

9 A. Okay. Yes, sir.

10 Q. Is that correct?

11 A. Yes, sir.

12 Q. And Mr. Graddick told him where he
13 was that day?

14 A. Okay.

15 SOLICITOR SHEALY: Objection to hearsay,
16 Your Honor.

17 THE COURT: I will allow it.

18 CROSS EXAMINATION CONTINUED

19 BY ANDREW GRIMES:

20 Q. Mr. Graddick told him that he'd been
21 at his grandmother's house ---

22 THE COURT: I will sustain the
23 objection as to that.

24 ANDREW GRIMES: Thank you, Your Honor.

25 THE COURT: I will totally -- I will

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1 allow the other but you can't say what he
2 said.

3 CROSS EXAMINATION CONTINUED

4 BY ANDREW GRIMES:

5 Q. Mr. Graddick gave Detective Wills
6 information about where he was about 6:30;
7 right?

8 A. Yes, sir.

9 Q. And you never went and interviewed
10 his grandmother, did you?

11 A. I did not.

12 Q. Or Melvin White?

13 A. I did not.

14 ANDREW GRIMES: May I have one moment,
15 Your Honor?

16 THE COURT: You may.

17 ANDREW GRIMES: No further questions,
18 thank you.

19 THE COURT: Cross examine?

20 WILLIAM RUNYON: Nothing at this time.
21 We reserve the right to call him back.

22 THE COURT: Very well. Okay. Mr.
23 Smiley?

24 CROSS EXAMINATION

25 BY JIM SMILEY:

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1 Q. Detective Simmons, that second
2 statement that you took from Brian Mazyck the
3 next day, ---

4 A. Yes, sir.

5 Q. --- was -- I take it that Brian
6 Mazyck had contacted you from the jail?

7 A. No, sir.

8 Q. You just went out there anyway?

9 A. Yes, sir.

10 Q. In that statement ---

11 JIM SMILEY: I think that I am going to
12 hold that off, Judge.

13 THE COURT: Very well.

14 JIM SMILEY: Thinking through the
15 evidentiary problems with that, I withdraw
16 that question.

17 CROSS EXAMINATION CONTINUED

18 BY JIM SMILEY:

19 Q. You had some contact with my client,
20 Kevin Smalls; correct?

21 A. Uh, -- yes.

22 Q. You -- it was after he'd got out of
23 jail, you helped him get his car back?

24 A. Yes.

25 Q. So you met him over at the impound

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1 lot at Six Mile and helped him get his car?

2 A. Yes, sir.

3 Q. As the case officer in this case,
4 you brought the charging documents?

5 A. Do I have them?

6 Q. You -- bad question. I am not doing
7 good this afternoon. I will try again.

8 As a result of your investigation, you
9 drew up arrest warrants?

10 A. Yes.

11 Q. You were the one that drew them up?

12 A. Yes.

13 Q. And you were the one that drew those
14 up?

15 A. I don't recall if it was me or --
16 when we have an incident like this that
17 everybody is working, everybody is working on
18 different parts.

19 Q. Then I can't ask you the question.

20 JIM SMILEY: Nothing further.

21 THE COURT: Redirect?

22 SOLICITOR FERGUSON: Thank you.

23 REDIRECT EXAMINATION

24 BY SOLICITOR FERGUSON:

25 Q. Brian Mazyck made a statement on

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1 September 15th and September 16th?

2 A. Yes, sir.

3 Q. So he was cooperative from the
4 beginning?

5 A. Yes, sir.

6 SOLICITOR FERGUSON: No further
7 questions, Your Honor.

8 THE COURT: Recross?

9 ANDREW GRIMES: No, sir.

10 THE COURT: Mr. Runyon?

11 WILLIAM RUNYON: No, Your Honor.

12 THE COURT: Mr. Smiley?

13 WILLIAM RUNYON: Subject to my reser-
14 vation.

15 THE COURT: I understand. Thank you,
16 sir.

17 JIM SMILEY: Nothing further.

18 THE COURT: Officer Simmons, you may
19 step down but you need to be available in
20 case you're further called.

21 OFFICER SIMMONS: Yes, sir.

22 (WITNESS STEPS DOWN)

23 THE COURT: Call your next witness.

24 SOLICITOR SHEALY: The State would call
25 Ray Haupt.

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1 (WITNESS TAKES STAND)

2 RAY HAUPT, having been sworn to tell the
3 truth, and nothing but the truth, testified
4 as follows:

5 DIRECT EXAMINATION

6 BY SOLICITOR SHEALY:

7 Q. Mr. Haupt, please tell the jury
8 where you are employed?

9 A. With the Mount Pleasant police
10 department in Mount Pleasant, South Carolina.

11 Q. And how long have you been employed
12 there?

13 A. A little over ten years.

14 Q. In what capacity are you working
15 there?

16 A. Crime scene investigator and as a
17 property and evidence room technician.

18 Q. I'm sorry, what was the last thing?

19 A. Evidence & Property room technician.

20 Q. How long have you been doing that
21 type of work for Mount Pleasant?

22 A. About eight years.

23 Q. So September 15th, 2010, you were
24 working in that capacity?

25 A. Yes.

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1 Q. Were you called out to an incident
2 at South Morgans Point Road at Oakland
3 Plantation?

4 A. Uh, -- I was later.

5 Q. Did you go to another location
6 initially?

7 A. Yes.

8 Q. You went to Highway 41 and 17?

9 A. Yes.

10 Q. Before we get there, could you
11 explain what you do as a technician. What is
12 your role.

13 A. Crime scene, it's pretty much that I
14 respond to service calls where crime scene is
15 requested. I mainly will photograph,
16 identify items of evidence, collect and
17 preserve them. Take them back to the Mount
18 Pleasant police department and enter them
19 into the evidence room.

20 Q. And when you take photographs, do
21 you take them initially of where the evidence
22 is actually found?

23 A. I do photographs all over the scene
24 and then work my way in to items of the
25 evidence.

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1 Q. And the purpose of that is to
2 memorialize where a piece of evidence is
3 located?

4 A. Yes.

5 Q. Now, you -- when you bring it back
6 to the police station, is it part of your
7 role to make sure that that evidence stays
8 secure?

9 A. Yes.

10 Q. How do you protect for that when
11 you're actually collecting evidence?

12 A. (No verbal response).

13 Q. Do you have evidence in a certain
14 way when you're at a different location?

15 A. I try to package it in the same bag
16 that I want it to stay in at the evidence
17 room. I have different bags and different
18 boxes that I can use. So, yes.

19 Q. Now, some items -- could you tell
20 the jury what SLED is?

21 A. The South Carolina Law Enforcement
22 Division.

23 Q. Is part of its function to perform
24 analyses on certain types of evidence?

25 A. Yes, if requested to do so by the

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1 agency.

2 Q. If requested to do so?

3 A. Yes.

4 Q. So part of your role, are you also
5 transporting evidence to SLED?

6 A. I did.

7 Q. And once evidence has been analyzed,
8 do you receive it back from SLED?

9 A. Yes.

10 Q. Do you go there to pick it up?

11 A. Yes.

12 Q. Prior to it going and when it gets
13 back, where is it located at the police
14 department?

15 A. In the evidence room.

16 Q. What kind of security do you have in
17 the evidence room?

18 A. Our room is double-locked. We have
19 the lock going into our office and then we
20 have another locked door going into the
21 actual evidence room.

22 There are only four keys that are
23 available to be used. There are four
24 technicians. We all have our own key
25 assigned out to us.

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1 We also have an alarm code for the
2 evidence room that every time we turn the
3 alarm On or Off, it is registered.

4 Q. Do you do any type of initial work
5 on pieces of evidence before they are sent to
6 SLED?

7 A. Some.

8 Q. Do you do swabbing?

9 A. Yes.

10 Q. Explain to the jury what you mean by
11 swabbing.

12 A. Swabbing is when we're trying to
13 locate DNA evidence. It can be anything from
14 touch DNA, saliva, blood.

15 What we first to is open a sterile swab
16 package. It usually contains two cotton-
17 tipped applicators. We moisten that with
18 some distilled water and apply it to the area
19 that we are trying to collect DNA from. We
20 rub it in like a little circular motion in
21 the area that we want it. Then we allow it
22 to air dry, then package it. We use a manila
23 envelope. It's then placed in the evidence
24 room.

25 Q. When you're taking things out of

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1 your agency to SLED, do you memorialize who
2 you take it to at SLED?

3 A. (No verbal response).

4 Q. Do you write down who you've taken
5 it to at SLED?

6 A. When I drop evidence off?

7 Q. When you drop it off, (affirmative
8 nod).

9 A. Yes, they have it on their chain of
10 custody.

11 Q. And then when you go back to SLED to
12 pick things up, do you know who you received
13 it from?

14 A. Yes, it's printed on the chain of
15 custody as well.

16 Q. Okay. That's to show who'all has
17 had any contact with the item of evidence?

18 A. The chain of custody that I receive
19 when I drop an item off for testing at SLED
20 it's -- it is their evidence in-take person
21 that is on our paperwork.

22 Then when I pick it up, it's one of the
23 in-take personnel that will give it back to
24 us. So it's not everybody.

25 Q So focusing your attention on this

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1 investigation, ---

2 A. Yes.

3 Q. --- tell the jury where the first
4 place that evening was.

5 A. Okay. 2910 Highway 17 North, Mount
6 Pleasant, South Carolina.

7 Q. And when you got there, what was
8 your -- what did you do first?

9 A. I first spoke with Lieutenant
10 Alfaro, who advised me of what they had.
11 Then I photographed the vehicle.

12 Q. And showing you what's been marked
13 as State's Exhibits 18, 19, 20, 24 and 25,
14 are these photographs that you are familiar
15 with?

16 A. (Upon review), yes.

17 Q. Then also photographs, State's
18 Exhibits 33, 34, 35, 31, 30, 29 and 28.
19 Do all of those reflect your photography at
20 Seel's?

21 A. (Upon review), yes.

22 Q. And one other, 23.

23 A. (Upon review), yes.

24 SOLICITOR SHEALY: Your Honor, at this
25 time I would move to introduce, without

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1 objection, State's Exhibits 24, 25, 20, 19,
2 18, 33, 34, 35, 31, 30, 29 and 28.

3 THE COURT: Without objection, State's
4 Exhibits 18, 19, 20, 23 (sic), 24, 25, 28,
5 29, 30, 31, 33, 34 and 35 are admitted with-
6 out objection.

7 (SO ENTERED AS STATE'S EXHIBIT 18)

8 (SO ENTERED AS STATE'S EXHIBIT 19)

9 (SO ENTERED AS STATE'S EXHIBIT 20)

10 (SO ENTERED AS STATE'S EXHIBIT 24)

11 (SO ENTERED AS STATE'S EXHIBIT 25)

12 (SO ENTERED AS STATE'S EXHIBIT 28)

13 (SO ENTERED AS STATE'S EXHIBIT 29)

14 (SO ENTERED AS STATE'S EXHIBIT 30)

15 (SO ENTERED AS STATE'S EXHIBIT 33)

16 (SO ENTERED AS STATE'S EXHIBIT 34)

17 (SO ENTERED AS STATE'S EXHIBIT 35)

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR SHEALY:

20 Q. Mr. Haupt, showing you what has been
21 marked as State's Exhibit 25. It's going to
22 appear on that screen and on this screen.

23 A. Okay.

24 Q. Could you tell us what is depicted
25 in that photograph?

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1 A. That's the parking lot of 2019
2 Highway 17 North and the red-and-black Impala
3 that I was requested to process.

4 Q. Okay. And State's Exhibit 18 is
5 just from the other angle?

6 A. Correct.

7 Q. When you are processing a car, could
8 you describe for the jury what that process
9 involves? Where do you start?

10 A. Pretty much like a mentioned
11 earlier. I take overall photographs,
12 pictures of the car and then I work my way
13 into the vehicle identifying items of
14 evidence as I go.

15 Q. Okay. As you are taking those items
16 out, you then put them into the bags that
17 you've told us about?

18 A. Not all the time. Sometimes they
19 will stay there a little bit as I still try
20 to identify it as evidence.

21 If it is an item that is being, by
22 necessity, collected at that time, then I
23 will go ahead and collect it, bag it.

24 Q. Okay. If you could, walk us around
25 this vehicle with the photographs.

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1 Showing you State's Exhibit 19, what is
2 depicted in that photograph?

3 A. It's the front driver's seat of the
4 Impala. On the seat are some items of
5 clothing. It's a blue shirt, a black shirt,
6 a pair of pants and a belt.

7 Q. Okay. Showing you what has been
8 marked as State's Exhibit 57, can you tell
9 the jury whether or not those items are
10 within that bag?

11 A. As to which item?

12 Q. If you could look at it and ---

13 A. I have to open the bag.

14 Q. You can pull that out.

15 A. This is still sealed.

16 Q. I can open that up, I have some
17 scissors.

18 SOLICITOR SHEALY: Your Honor, this is
19 without objection from the defense. I will
20 move in item 57 (State's Exhibit 57).

21 THE COURT: Without objection, State's
22 Exhibit 57 is admitted.

23 (SO ENTERED AS STATE'S EXHIBIT 57)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR SHEALY:

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1 Q. The writing that is on this paper,
2 is that your writing or is that from SLED?

3 A. That would be from SLED.

4 Q. (Opening State's Exhibit 57), if you
5 could, pull those items out for us.

6 A. (Complies), okay.

7 Q. Could you hold those up for the jury
8 and describe what we have there.

9 A. That is two shirts, one inside the
10 other. The outside shirt is a black shirt,
11 on the inside is a blue shirt.

12 Q. Is that the way that those shirts
13 were found the day that you found them?

14 A. No.

15 Q. Okay. What has changed in that?

16 A. They were inside out the day that I
17 found them, as you can see in the picture.

18 Q. When you say inside out, they were
19 together but ---

20 A. Yes. They were still together but
21 they were -- the blue shirt was on top and
22 the black was underneath.

23 SOLICITOR SHEALY: State's Exhibit 59,
24 Your Honor. I understand without objection.

25 THE COURT: State's Exhibit 59 admitted

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1 without objection, items of clothing.

2 (SO ENTERED AS STATE'S EXHIBIT 59)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR SHEALY:

5 Q. (Opening State's Exhibit 59).

6 A. You want me to do the same thing?

7 Q. Yes. Could you stand up and hold
8 those up for the jury?

9 A. (Displaying), it's a black pair of
10 pants and a belt that were also found on the
11 seat right there. You can see the buckle on
12 that part of the seat.

13 Q. Okay. Was there any other item
14 found in that particular area?

15 A. There were the two gloves that were
16 found underneath the seat.

17 Q. Underneath which seat?

18 A. That same seat, the front driver's
19 seat.

20 Q. And did you put those gloves in this
21 package?

22 A. Yes.

23 Q. And these items that we have just
24 talked about ----

25 SOLICITOR SHEALY: And, Judge, this is

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1 State's Exhibit 60 that I would like to move
2 in, without objection.

3 THE COURT: State's Exhibit 60 is -- is
4 that the bag containing clothing?

5 SOLICITOR SHEALY: It is, Your Honor.

6 THE COURT: Admitted without objection,
7 a bag containing clothing.

8 (SO ENTERED AS STATE'S EXHIBIT 60)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR SHEALY:

11 Q. As it relates to State's Exhibit 57,
12 59 and then 60, did all of these items go to
13 SLED?

14 A. I believe so, (reviewing). Yes.

15 Q. And who did you deliver them to at
16 SLED?

17 A. It would have been two different
18 people.

19 Q. Okay. As it relates to the two
20 shirts?

21 A. The two shirts would have been
22 forensic technician Nikki Hughes.

23 Q. And the black pants and the belt?

24 A. The same person.

25 Q. Nikki Hughes?

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1 A. Forensic technician Nikki Hughes,
2 yes.

3 Q. And then the two gloves from
4 underneath the seat?

5 A. That would have been forensic
6 technician Doris Yarbrough.

7 Q. The gloves currently are still
8 sealed; is that correct?

9 A. Yes.

10 Q. Okay. So I'm going to leave that
11 like that for another witness. But did you
12 receive all of these items back from SLED?

13 A. Yes.

14 Q. Who did you receive them back from?

15 A. One person would have been Amy
16 Stephens at SLED. She is also one of the
17 forensic technicians.

18 Q. That was as to which item?

19 A. That is for the two gloves that were
20 found underneath the front passenger seat.

21 Q. Okay. Was there a pair of shoes
22 found near the front passenger seat?

23 A. Yes.

24 Q. Okay. Showing you what has been
25 previously marked as State's Exhibit 62.

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1 SOLICITOR SHEALY: Without objection,
2 Your Honor.

3 THE COURT: State's Exhibit 62,
4 admitted without objection.

5 (SO ENTERED AS STATE'S EXHIBIT 62)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR SHEALY:

8 Q. Can you identify this?

9 A. (Upon review), yes.

10 Q. Could you show this to the jury,
11 please?

12 A. (Displaying).

13 Q. And those were found where?

14 A. The floorboard of the ---

15 Q. Was it the front passenger seat or
16 the back passenger seat?

17 A. Front passenger.

18 Q. Okay. Put those in here.

19 A. (Complies).

20 Q. Those did not go to SLED?

21 A. No, they did not.

22 Q. Let me clarify something real quick.

23 As to the earlier items that we were talking
24 about, you said that you got them back from
25 SLED from two different people?

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1 A. (Affirmative nod).

2 Q. You indicated that you got one back
3 from -- whom?

4 A. Two of the gloves were from forensic
5 technician Amy Stephens.

6 Q. And the other items?

7 A. Forensic Technician Doris Yarbrough.

8 Q. Say that again?

9 A. Forensic Technician Doris Yarbrough.

10 Q. Okay. Now showing you -- was there
11 anything else found in the front seat, of
12 value?

13 A. (No verbal response).

14 Q. Or have you testified to those?

15 A. (No verbal response).

16 Q. The black shirt?

17 A. (Affirmative nod).

18 Q. The blue shirt?

19 A. Right.

20 Q. The pants with the belt? And the
21 two gloves?

22 A. Correct.

23 Q. Now focusing your attention to the
24 rear passenger back seat. Showing you
25 State's Exhibit 24, that might -- you might

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1 be able to see it better on that one than on
2 that one. What does that reflect?

3 A. That is the back seat of the Impala,
4 the red-and-black Chevy Impala. You can see
5 the cash money on top of the center console
6 for the back seat. Then some clothing items
7 on the floorboard, rear driver's side seat.

8 Q. Okay. Regarding the rear passenger
9 seat, did you also locate any gloves in that
10 area?

11 A. Yes, in the back pocket of the -- of
12 the front passenger seat, the pocket of the
13 seat.

14 SOLICITOR SHEALY: Beg the Court's
15 indulgence for just a moment.

16 THE COURT: Okay.

17 SOLICITOR SHEALY: I'm sorry, Judge.
18 I'm missing some photos. I will be just a
19 second.

20 Judge, I had them on my PowerPoint. I
21 don't know why they aren't in my stack. Just
22 a moment, please.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR SHEALY:

25 Q. Which pocket of the back of the seat

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1 did you locate the gloves in?

2 A. May I?

3 Q. (Tenders photograph).

4 A. (Indicating).

5 Q. And did you in fact collect those
6 gloves?

7 A. I did. I photographed them and
8 collected them.

9 Q. Showing you State's Exhibit 39, ---
10 SOLICITOR SHEALY: This is without
11 objection, Your Honor.

12 THE COURT: State's?

13 SOLICITOR SHEALY: Exhibit 39.

14 THE COURT: Into evidence. State's
15 Exhibit 39 is admitted without objection.

16 (SO ENTERED AS STATE'S EXHIBIT 39)

17 DIRECT EXAMINATION CONTINUED

18 BY SOLICITOR SHEALY:

19 Q. Does that depict where you found the
20 gloves?

21 A. Yes, it is. That's the inside of
22 the pocket on the front passenger seat.

23 Q. Showing you State's Exhibit 63,
24 could you tell the jury what is in that bag?

25 A. It's the four plastic gloves that's

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1 shown in the picture behind me.

2 Q. Were those then sent to SLED?

3 A. Yes, they were.

4 Q. Who did you give those to?

5 THE COURT: Do you want Exhibit 63
6 admitted?

7 SOLICITOR SHEALY: Yes, Your Honor.

8 THE COURT: State's Exhibit 63, a bag
9 containing plastic gloves is admitted without
10 objection.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR SHEALY:

13 Q. Who did you give those to?

14 A. Forensic Tech Doris Yarbrough.

15 Q. And did you receive those items back
16 from SLED?

17 A. Yes, I did.

18 Q. Who did you receive them back from?

19 A. Patricia Crooks.

20 Q. And the way that the internal part
21 of the bag is, that packaging, that was done
22 by SLED?

23 A. Correct.

24 Q. Under the front passenger seat --
25 now, when you say under the front passenger

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1 seat, the back area is the same as under the
2 front passenger seat?

3 A. I ---

4 Q. The area where you would put your
5 feet?

6 A. Correct.

7 Q. So that's the same location?

8 A. Correct.

9 Q. Did you find something under the
10 front passenger seat that was of interest?

11 A. I did.

12 Q. What was that?

13 A. It was a Glock handgun, Model .45
14 caliber. It also contained a magazine with
15 nine rounds.

16 Q. When you are at the scene, what do
17 you do when you first see the gun? Do you
18 check to see if there's ammunition?

19 A. (Affirmative nod), and I photograph
20 it in place, both from where I located it
21 underneath, where I could see it from the
22 back passenger area and then from the front
23 passenger area as well.

24 Q. Then do you unload it while you were
25 there?

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1 A. Yes, I did. I photographed it first
2 before unloading it, as it was. Then I
3 ejected the magazine from the handgun, opened
4 the chamber to make sure that it was
5 unloaded.

6 Q. Showing you what has previously been
7 marked as State's Exhibit 67, I ask you if
8 this is the weapon that you located?

9 A. (Upon review), yes.

10 Q. Would you show that to the jury,
11 please.

12 THE COURT: Do you ---

13 SOLICITOR SHEALY: It's been secured,
14 Your Honor.

15 THE COURT: --- want it admitted

16 SOLICITOR SHEALY: Yes, Your Honor

17 THE COURT: State's Exhibit 67, a box
18 containing a weapon, is admitted without
19 objection.

20 (SO ENTERED AS STATE'S EXHIBIT 67)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR SHEALY:

23 Q. Can you identify that?

24 A. This it the handgun with the
25 magazine that was in it.

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1 Q. Okay. You took the ammunition out?

2 A. Correct.

3 Q. Showing you State's Exhibit 70 ---

4 SOLICITOR SHEALY: Your Honor, I'd
5 like to move this into evidence, without
6 objection.

7 THE COURT: Exhibit 70, a bag with
8 cartridges.

9 (SO ENTERED AS STATE'S EXHIBIT 70)

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR SHEALY:

12 Q. What does that bag contain?

13 A. Nine .45 caliber rounds that were
14 found in the magazine of the handgun.

15 Q. So there were nine rounds in it?

16 A. Correct.

17 Q. Showing you what has been previously
18 marked as State's Exhibit 34, 35, and 36.

19 A. Okay.

20 Q. First showing you State's Exhibit
21 38, what does that depict?

22 A. It's the nine rounds that were in
23 the magazine that was inside the handgun when
24 I located it.

25 SOLICITOR SHEALY: Your Honor, at this

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1 time we would offer State's Exhibit 38 into
2 evidence, without objection.

3 THE COURT: State's Exhibit 38, a
4 photograph, is admitted without objection.

5 (SO ENTERED AS STATE'S EXHIBIT 38)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR SHEALY:

8 Q. Showing you State's Exhibits 36 and
9 37, could you indicate to the jury what those
10 two photographs reflect?

11 A. Number 36 is the handgun after it
12 had been unloaded. It also shows some of the
13 rounds that are actually in the magazine.

14 Number 37 just shows the rounds
15 themselves in the magazine, how many were in
16 it.

17 Q. Okay. Showing you State's Exhibits
18 33, 34 and 35, I would ask if you can
19 identify those.

20 A. (Upon review), yes, I can.

21 SOLICITOR SHEALY: Your Honor, at
22 this time we would move into evidence State's
23 Exhibit 36, 37, 33, 34 and 35.

24 THE COURT: State's Exhibits 33 through
25 37, without objection.

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1 SOLICITOR SHEALY: I cannot get it in
2 sequential order.

3 (SO ENTERED AS STATE'S EXHIBIT 33)

4 (SO ENTERED AS STATE'S EXHIBIT 34)

5 (SO ENTERED AS STATE'S EXHIBIT 35)

6 (SO ENTERED AS STATE'S EXHIBIT 36)

7 (SO ENTERED AS STATE'S EXHIBIT 37)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR SHEALY:

10 Q. So showing how it first appeared
11 when you located the gun, uh, -- State's
12 Exhibit 33.

13 A. Okay.

14 Q. Could you point out in that photo-
15 graph where the gun is?

16 A. Yes.

17 Q. This is the underneath area of the
18 front passenger seat. You can see the sight,
19 the rear sight from the handgun right here.
20 It is that little u-shaped area.

21 This is the slide for the handgun.

22 The handle is right here.

23 Q. And explain to the jury where you
24 are taking that photograph from, where is
25 that camera?

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1 A. It's on the floorboard of the rear
2 seat.

3 Q. Of the rear seat?

4 A. (Affirmative nod), pointing towards
5 the front passenger seat.

6 Q. And as you pull it out, (State's
7 Exhibit) 35?

8 A. (Affirmative nod).

9 Q. It is sort of dark in that photo-
10 graph but can you see it in there?

11 A. Yes, ma'am. The whole handgun is
12 right there, after I pulled it out from
13 underneath the seat.

14 Q. Okay. Now, when you took the gun
15 back to the station, did you do anything with
16 the gun?

17 A. I did at a later date.

18 Q. All right. Tell the jury what you
19 did.

20 A. First I entered it into evidence
21 after I got back to the station.

22 Q. Is that what you do with all the
23 items that you collect?

24 A. Correct -- (reviewing).

25 Q. Are you looking for the date?

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1 A. Yes.

2 Q. Let me show you what have been
3 previously marked as (State's Exhibit) 68 and
4 see if that helps you.

5 A. (Upon review), okay. Yes. August
6 3rd, 2012, around noon, I took the swabbings
7 of the handgun -- I took it from the trigger
8 guard and, uh, as well as the handle.

9 Q. When you saw that you took
10 swabbings, describe that process for us.

11 A. It is the process that I described
12 earlier where I would take an unused sterile
13 cotton Q-tip. I open the package and moisten
14 it with sterile water. Then I swab the area
15 that I deem to be -- then I let it air-dry
16 and package it in a manila envelope.

17 Q. Looking at the gun, holding it up,
18 could you show the jury where it was that you
19 swabbed?

20 A. (Indicating), the trigger right here
21 and then the trigger guard area and then the
22 handled, front and back and the sides.

23 Q. Okay. So the swabbing that you did
24 of the handle area, did you package it
25 separately?

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1 A. Yes.

2 SOLICITOR SHEALY: Your Honor,
3 State's Exhibit 61, we'd move into evidence
4 -- without objection.

5 THE COURT: State's Exhibit 61 is
6 admitted without objection.

7 (SO ENTERED AS STATE'S EXHIBIT 61)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR SHEALY:

10 Q. And that reflects the swabbing of
11 the handle?

12 A. Correct.

13 Q. And then State's Exhibit 68, what
14 type of swab is in here?

15 A. It's from the trigger guard and the
16 trigger.

17 Q. And both of those items were taken
18 by you where?

19 A. At the Mount Pleasant Police Depart-
20 ment headquarters.

21 Q. And then where did you take them to?

22 A. To SLED.

23 Q. Who did you give those to at SLED?

24 A. Forensic Technician Doris Yarbrough.

25 Q. Did you later receive those back

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1 from SLED?

2 A. I did.

3 Q. Did you pick them up?

4 A. I did.

5 Q. From whom did you pick them up?

6 A. Patricia Crooks.

7 Q. Patricia Crooks?

8 A. Yes.

9 Q. Okay. Also from the back seat of
10 the vehicle, was there any currency that was
11 taken at that time?

12 A. Yes.

13 Q. Showing you State's Exhibit 24, does
14 that reflect where you found the currency?

15 A. Correct.

16 Q. And also State's Exhibit 29?

17 A. Correct.

18 Q. Can you describe that area? Some of
19 the currency is out of our view. Where all
20 did you collect the currency?

21 A. The one you can see here and then up
22 here, some of it is was kind of hanging over
23 the side but pretty much in that area.

24 Q. Did you -- in total, how much
25 currency was in the vehicle?

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1 A. I did. It was a thousand and
2 ninety-five dollars (\$1,095) in U.S.
3 currency.

4 Q. And State's Exhibit 69 ---

5 SOLICITOR SHEALY: I am just going to do
6 this part, Judge, as ID, without objection.

7 THE COURT: Okay.

8 (SO ENTERED AS EXHIBIT 69 - ID ONLY)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR SHEALY:

11 Q. Does this reflect the container with
12 the currency?

13 A. Yes, it does.

14 Q. Did you later take photographs of
15 the currency?

16 A. I did.

17 Q. And was there one item of currency
18 that was distinguishable?

19 A. Yes.

20 Q. Did you take a photograph of that as
21 well?

22 A. I did.

23 Q. Showing you what has been marked as
24 State's Exhibit 56, ---

25 THE COURT: Has that been introduced?

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1 SOLICITOR SHEALY: I think that has
2 already been introduced, Judge. State's
3 Exhibit 56.

4 THE COURT: Okay.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR SHEALY:

7 Q. Showing you that item, did that item
8 draw your attention?

9 A. It did.

10 Q. Okay. That is contained within the
11 packet of currency right here?

12 A. Correct.

13 Q. Okay. Now, after the inventory of
14 the vehicle at Seel's, did you actually leave
15 that location at that point and go somewhere
16 else?

17 A. I did.

18 Q. Where did you go next?

19 A. I followed the vehicle as it was
20 being towed to 1333 Sweetgrass Basket
21 Parkway. It's an evidence impound building.

22 Q. Was that the same evening?

23 A. Correct.

24 Q. And did you do further inventory of
25 the truck at that time -- of the vehicle at

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1 that time?

2 A. I did not.

3 Q. So you followed it there for safety
4 precautions, security precautions?

5 A. Security precaution of the evidence
6 as well as to open up the building. It is
7 another building that is locked and alarmed
8 and there's only the four evidence
9 technicians with the Mount Pleasant Police
10 Department that have access to it. So in
11 order to get in the building, I can to be
12 there to unlock it and relock it.

13 Q. Why was it that you decided to take
14 it at that point to somewhere else?

15 A. I was requested to respond to
16 another scene, related to the same incident.

17 Q. And when you had it towed to that
18 location, can you later go back and search
19 it?

20 A. Yes.

21 Q. In fact, was a search warrant later
22 done in this case to allow you to do so?

23 A. It was.

24 Q. Let's stay on September 15th, if we
25 can. Where did you go after you left the

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1 impound?

2 A. I responded to the Cricket store at
3 3014 South Morgans Point Road in Mount
4 Pleasant, South Carolina.

5 Q. And what was the purpose of your
6 going there?

7 A. To photograph and process that scene
8 as well.

9 Q. When you say "process" the scene,
10 what do you typically look at in a place
11 where a crime has occurred? What are you
12 looking for?

13 A. In this case, I was photographing
14 the scene to document everything overall and
15 then inside the business, but mainly for
16 fingerprint evidence.

17 Q. Okay. And can you tell the jury
18 whether it's successful unusually if people
19 wear gloves?

20 A. Not usually. Q. Okay. Did you in
21 fact locate any fingerprints that have been
22 compared in this case?

23 A. I did not.

24 Q. What else did you do other than
25 photograph the area and look for fingerprints

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1 there?

2 A. I just looked for any other evidence
3 that might be in the area. Basically just to
4 document the business.

5 Q. Did you find anything?

6 A. I found that one of the tills had
7 been opened, or one of the -- I guess it was
8 the cash register that had been opened and
9 the till was missing.

10 Q. Okay. Showing you State's Exhibit 8
11 that's already in evidence, is that the area
12 that you are talking about?

13 A. It is.

14 Q. Showing you State's Exhibit 9, was
15 there anything significant about that photo-
16 graph?

17 A. Yes, that's one of the work
18 stations, I guess, for the employees of the
19 business. It is not normally open like that,
20 but that's how I found it.

21 Q. Okay. After finishing at the actual
22 location, where did you then go?

23 A. I then responded to the area of Sam
24 Edwards Road in Mount Pleasant, South
25 Carolina.

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1 Q. Okay. And when you arrived at Sam
2 Edwards Road, were there other officers
3 there?

4 A. There were.

5 Q. What was your role there that
6 evening?

7 A. We were looking for any kind of
8 evidence in the area. I was notified by
9 Lieutenant Alfaro that a possible till,
10 register till, had been located. I was there
11 to photograph and collect it.

12 Q. Did you in fact photograph it?

13 A. I did.

14 Q. Okay. Showing you State's Exhibit
15 15, does that photograph depict the till that
16 you found?

17 A. It does.

18 Q. And showing you State's Exhibit 71,
19 is this the till that you found?

20 A. It is.

21 Q. After leaving Sam Edwards Road, did
22 you do anything further that evening
23 regarding this case?

24 A. I responded to the Mount Pleasant
25 Police Department and logged in all the items

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1 of evidence that I had collected throughout
2 my time out.

3 Q. Now, you told us that you received a
4 search warrant so that you could look further
5 in the car?

6 A. Correct.

7 Q. Do you recall what date it was that
8 you gathered other evidence out of the car?

9 A. September 17th, 2010.

10 Q. Showing you what has been as State's
11 Exhibit 72, does this bag reflect what items
12 that you found or some of the items that you
13 found?

14 A. Yes.

15 SOLICITOR SHEALY: Okay. Your Honor, at
16 this time we would move State's Exhibit 72
17 into evidence.

18 THE COURT: Any objection?

19 ANDREW GRIMES: No, sir.

20 WILLIAM RUNYON: No, Your Honor.

21 JIM SMILEY: No objection.

22 THE COURT: Without objection, State's
23 Exhibit 72, a bag containing various items,
24 is admitted.

25 (SO ENTERED AS STATE'S EXHIBIT 72)

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR SHEALY:

3 Q. Could you please show the jury what
4 was contained within this?

5 A. Can I put a pair of gloves on?

6 Q. Yes. Do you have some?

7 A. I do. Okay. It's a black in color
8 Family Guy t-shirt.

9 It's a black in color Polo-style t-shirt.

10 A pair of jeans and a belt.

11 Q. And of those items that you have
12 shown us, could you tell us which ones went
13 to SLED?

14 A. No, ---

15 Q. Did all of those items go to SLED?

16 A. --- none of these items went to
17 SLED.

18 Q. So none of those went to SLED?

19 A. No?

20 Q. Showing you what has been previously
21 marked as State's Exhibit 29, ---

22 A. Can I put them back in the bag?

23 Q. Yes, please. Can you tell me, is
24 that the area where you found those items?

25 A. It is.

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1 Q. And that is the Family Guy t-shirt
2 that you noted?

3 A. Correct.

4 Q. The gathering of clothes behind the
5 other seat, the driver's back seat, is that
6 where the jeans came from -- the dark pants?

7 A. (No verbal response).

8 Q. Let me show you another picture,
9 State's Exhibit 24, ---

10 A. Okay. Yes.

11 Q. Now showing you State's Exhibit --
12 what number is that?

13 A. State's Exhibit 58.

14 Q. Showing you State's Exhibit 58,
15 could you describe for the jury what is found
16 in that bag?

17 SOLICITOR SHEALY: Your Honor, we would
18 offer State's Exhibit 58, without objection.

19 THE COURT: State's Exhibit 58, a bag
20 containing various items, is admitted without
21 objection.

22 (SO ENTERED AS STATE'S EXHIBIT 58)

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR SHEALY:

25 Q. Can you tell the jury what that is?

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1 A. It's a black Basic Editions t-shirt
2 that has been knotted.

3 Q. Could you pull that out for us?

4 A. Yes, (complies).

5 Q. Can you hold it up for us?

6 A. (Complies).

7 Q. Are you familiar with that type of
8 knotting of a shirt?

9 A. Yes.

10 Q. Okay. Can you show the jury how
11 you've seen that worn?

12 A. Typically this would be on the front
13 of your face and it would be tied on the back
14 of your head to hold it, like that
15 (demonstrating).

16 Q. And that item was sent to SLED?

17 A. Yes, it was.

18 Q. Who did you turn that item over to
19 at SLED?

20 A. Forensic Technician Doris Yarbrough.

21 Q. And who did you receive it back
22 from?

23 A. Forensic Technician Amy Stephens.

24 Q. Okay. Showing you State's Exhibit

25 81 ---

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1 SOLICITOR SHEALY: And, Your Honor,
2 I would offer this at this time, without
3 objection.

4 THE COURT: What is the number?

5 SOLICITOR SHEALY: Eighty-one (81).

6 THE COURT: State's Exhibit 81, a bag,
7 is admitted without objection.

8 (SO ENTERED AS STATE'S EXHIBIT 81)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR SHEALY:

11 Q. Could you describe for the jury what
12 that depicts?

13 A. A black Talkeetna USA t-shirt, also
14 knotted.

15 Q. And regarding that item number and
16 the previous item number, 58, the two knotted
17 shirts, where were they found in the car?

18 A. The back driver's floorboard area.

19 Q. Just to refresh your memory -- 29,
20 is that 29 that is up there?

21 A. (No verbal response).

22 Q. Can you point on that photograph as
23 to where those shirts were found?

24 A. You can't really see them in this
25 picture but they are underneath this pile of

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1 clothing.

2 Q. If you would, please, bring out
3 State's Exhibit 81.

4 A. (Complies). Same thing, got a knot
5 in the back. Talha USA on the tag. Same
6 thing, like a mask.

7 Q. Okay. Then State's Exhibit 75 ---

8 SOLICITOR SHEALY: Your Honor, we
9 would offer State's Exhibit 75 at this time,
10 without objection.

11 THE COURT: State's Exhibit 75, a bag
12 containing items, is admitted without
13 objection.

14 (SO ENTERED AS STATE'S EXHIBIT 75)

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR SHEALY:

17 Q. Had that bag been opened?

18 A. It has not.

19 Q. Okay. Open it up.

20 A. (Complies).

21 Q. Okay. Show the jury, please, what
22 was found in that bag?

23 A. It's two shirts together, inside
24 out. It is a tan shirt with a lighter,
25 white-and-tan designed, shirt inside of it.

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1 Q. So the way it is now, is that was
2 found in the car?

3 A. Yes.

4 Q. Okay.

5 A. Then a black and tan Dickies brand
6 shirt.

7 Q. Did those items go to SLED?

8 A. No.

9 Q. Okay. Now showing you State's
10 Exhibits 73 and 94, could you please open
11 those and show the jury what is in those
12 bags?

13 THE COURT: State's Exhibit 93 and 94

14 ---

15 SOLICITOR SHEALY: Exhibit 73.

16 THE COURT: State's Exhibit 73 and 94
17 admitted, without objection.

18 (SO ENTERED AS STATE'S EXHIBIT 73)

19 (SO ENTERED AS STATE'S EXHIBIT 94)

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR SHEALY:

22 Q. Could you open those and show the
23 jury what those are?

24 A. A pair of sunglasses.

25 Q. And that is State's Exhibit 73?

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1 A. Yes.

2 Q. State's Exhibit 94?

3 A. It's another pair of glasses.

4 Q. Now, as evidence custodian, do you
5 also receive evidence from other members of
6 the Mount Pleasant Police Department if they
7 have evidentiary items?

8 A. That's correct.

9 Q. Could you tell the jury whether or
10 not you received some cell phones from Tyrone
11 Simmons?

12 A. I didn't.

13 Q. Did not?

14 A. I'm sorry. I did not.

15 Q. You did not received some cell
16 phones from Tyrone?

17 A. No, that was one of our other
18 technicians.

19 Q. I'm sorry? Say that again?

20 A. That was one of our other evidence
21 technicians.

22 Q. But four were put into evidence?

23 A. I'm sorry?

24 Q. Four cell phones were put into
25 evidence?

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1 JIM SMILEY: Objection, Your Honor.
2 Hearsay.

3 THE COURT: Rephrase your question.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR SHEALY:

6 Q. As one of the evidence custodians in
7 Mount Pleasant, do you have access to entries
8 made by other evidence custodians for Mount
9 Pleasant, regarding this case?

10 A. Yes. I have access to every item of
11 evidence in the police department.

12 Q. And that is something that you do in
13 the ordinary logging-in of evidence?

14 ANDREW GRIMES: Objection, Your Honor.

15 THE COURT: What is your objection?

16 ANDREW GRIMES: The answer calls for
17 hearsay.

18 THE COURT: Overruled.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR SHEALY:

21 Q. Could you tell the jury whether or
22 not an evidence custodian with Mount Pleasant
23 received four cell phones from Tyrone
24 Simmons?

25 A. On the evidence sheet that I see, I

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1 see that they received three.

2 Q. Three?

3 A. (Affirmative nod).

4 Q. Okay. And did you receive some
5 buccal swabs from Tyrone Simmons?

6 A. Yes, I did.

7 Q. Showing you what has been previously
8 marked, I believe for ID purposes, could you
9 tell me whether you receive received State's
10 Exhibit 76 for ID?

11 A. Yes, I did.

12 Q. Can you tell from that label whose
13 buccal swab that is?

14 A. Yes.

15 Q. Whose is that?

16 A. Kevin Smalls'.

17 Q. Regarding State's Exhibit 77,
18 previously marked for ID, did you also
19 receive that buccal swab in?

20 A. Yes.

21 Q. Can you tell from which defendant
22 that buccal swab came.

23 A. Yes. It is Keenan Coakley's.

24 Q. State's Exhibit 78 for ID, did you
25 receive that buccal swab?

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1 A. Yes.

2 Q. And whose is that?

3 A. Jarrett Graddick's.

4 Q. And State's Exhibit 79 for ID, did
5 you receive that buccal swab?

6 A. Yes, I did.

7 Q. Whose buccal swab is that?

8 A. Brian Mazyck's.

9 Q. Would you tell the jury, please,
10 whether those items went to SLED?

11 A. Yes, they did.

12 Q. And who were they turned into at
13 SLED?

14 A. Forensic Technician Doris Yarbrough.

15 Q. Then did you also pick them back up
16 from SLED?

17 A. I did.

18 Q. And from whom did you receive those?

19 A. Patricia Crooks.

20 Q. Going back -- I may have failed to
21 ask you, regarding State's Exhibit 81, which
22 was the black t-sheet, the Talkeetna t-shirt.
23 Can you tell us who you took that to at SLED?

24 A. Forensic Technician Doris Yarbrough.

25 Q. And from whom did you receive them?

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1 A. Amy Stephens.

2 Q. Okay. Now, was there an occasion
3 where some other items of evidentiary value
4 was found after the impounding of the car and
5 after the scene that night?

6 A. Yes.

7 Q. First, could you describe the
8 circumstances of that event to the jury?

9 A. On March 28th, 2013, we were conduct-
10 ing a case review and one of the clothing
11 items that I'd collected, the black shirt and
12 the blue shirt that I'd mentioned earlier
13 were inside out, in the vehicle. We went to
14 open the shirts back up, to see how they were
15 worn at the time or would have been worn at
16 the time, and on doing so the sleeves opened
17 up and it revealed some gloves.

18 Q. And the gloves were located where in
19 the shirt?

20 A. Knotted up or balled up in one of
21 the sleeves.

22 Q. Okay. Showing you what has been
23 previously marked as State's Exhibit 80, ---

24 SOLICITOR SHEALY: Your Honor, we would
25 like to offer this at this time; with no

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1 objection, as I understand it.

2 THE COURT: State's Exhibit 80 is
3 admitted without objection, a ---

4 SOLICITOR SHEALY: Thank you, Your Honor.

5 THE COURT: --- bag containing some
6 items.

7 (SO ENTERED AS STATE'S EXHIBIT 80)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR SHEALY:

10 Q. What is contained within that bag?

11 A. Two plastic gloves.

12 Q And did those two plastic gloves go
13 to SLED?

14 A. They did.

15 Q. To whom did you give them at SLED?

16 A. Forensic Technician Nikki Hughes.

17 Q. And from whom did you receive them
18 back?

19 A. Doris Yarbrough.

20 Q. Okay. Now, ---

21 SOLICITOR SHEALY: Your Honor, at this
22 time I would like to offer State's Exhibits
23 43 and 44, without objection.

24 THE COURT: Without objection, State's
25 Exhibits 43 and 44 are admitted.

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1 (SO ENTERED AS STATE'S EXHIBIT 43)

2 (SO ENTERED AS STATE'S EXHIBIT 44)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR SHEALY:

5 Q. If we could bring those up, State's
6 Exhibit 43 and 44. Could you describe to the
7 jury what that picture reflects?

8 A. Yes. Can we darken this picture?

9 Q. We can cut the lights down a little
10 bit.

11 A. This is the black shirt and the blue
12 shirt. When I turned them back to the way
13 that they would normally be worn, in the
14 sleeves here we can start to see where the
15 gloves were revealed.

16 Q. Those are the gloves that we were
17 just talking about?

18 A. Correct.

19 Q. Prior to that amount of it being
20 revealed, State's Exhibit 52 --

21 SOLICITOR SHEALY: Judge, we would offer

22 ---

23 THE COURT: Without objection.

24 (SO ENTERED AS STATE'S EXHIBIT 52)

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR SHEALY:

2 Q. Does that picture reflect when the
3 gloves were first noticed?

4 A. Correct.

5 Q. Do you recall the date that that
6 occurred?

7 A. March 28th, 2013.

8 Q. Okay, winding down. Now, you've
9 indicated that the items that you took to
10 SLED came back to you?

11 A. Correct.

12 Q. Would you tell the jury whether or
13 not when you sometimes send items to SLED
14 that they then send you things back that you
15 didn't have before?

16 A. Yes.

17 Q. And give the jury an example or some
18 examples of what those type items are.

19 A. Depending on what analysis requested
20 for what items, -- say that we would like to
21 have DNA collected from an item, they would
22 then collect their DNA almost in the same
23 fashion that I would, either by swabs or
24 trace items. Those would then -- when
25 they're done with them, they would package

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1 them up and send them back to us. Then I
2 would enter it as evidence at the Mount
3 Pleasant Police Department.

4 Q. Okay.

5 SOLICITOR SHEALY: Beg the Court's
6 indulgence.

7 THE COURT: Yes, ma'am.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR SHEALY:

10 Q. To make this as painless as
11 possible, I am going to show you ---

12 SOLICITOR SHEALY: And, Your Honor,
13 I offer at this time, for purposes of ID, 82,
14 83, 85, 86, 87, 88, 89, 90, 91, 92, 93, 95
15 and 96 into evidence as ---

16 THE COURT: You are just offering it
17 for ID?

18 SOLICITOR SHEALY: As ID. I'm sorry.
19 Yes, as items received by Investigator Haupt
20 from SLED.

21 THE COURT: It that a matter -- have
22 you stipulated to that?

23 SOLICITOR SHEALY: I understand that it
24 is without objection.

25 THE COURT: Well, it is not being

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1 offered. Those are items that he -- he can
2 say 'I received those items.'

3 SOLICITOR SHEALY: That's all that I want
4 him to say. There are just so many numbers
5 that I don't want us to lose track, for
6 purposes of the chain.

7 THE COURT: The chain is not in
8 evidence yet, so that's not a problem.

9 SOLICITOR SHEALY: Yes.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR SHEALY:

12 Q. Did you receive those items back
13 from SLED?

14 A. Do you have the bag?

15 Q. Yes, (tendering).

16 A. (Upon review), yes.

17 Q. Okay. Then items -- State's
18 Exhibits 97, 98, 99, 100 and 101 for ID
19 purposes. Could you tell the jury whether
20 you received those items back from SLED?

21 A. Yes.

22 Q. And do you remember from whom you
23 received them back? And that would also
24 apply to the previous ones.

25 A. The first set was from Patricia

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1 Crooks. The second set that you've handed
2 up was from Doris Yarbrough.

3 Q. Okay. And, uh, one final matter.
4 Did you receive some items from Tyrone
5 Simmons that had been taken from Mr. Smalls?

6 SOLICITOR SHEALY: I beg the Court's
7 indulgence for just a moment. I will
8 withdraw that, Your Honor.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR SHEALY:

11 Q. Officer Haupt, do you recall if when
12 you were looking in the car if you found a
13 cell phone that you took into evidence?

14 A. I did.

15 Q. So in all there were four cell
16 phones ---

17 A. Correct.

18 Q. --- that were located?

19 A. (Affirmative nod).

20 SOLICITOR SHEALY: I think that is
21 everything. Let me just speak to my co-
22 counsel for just a second -- (sidebar with
23 Mr. Ferguson).

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR SHEALY:

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1 Q. One thing that I need to do and then
2 I will be finished with you. The buccal
3 swabs ---

4 SOLICITOR SHEALY: Your Honor, I think
5 that these may still be as ID and I wouldn't
6 move them in at this time: 76, 77, 78 and
7 79.

8 THE COURT: That's fine.

9 JIM SMILEY: They are for ID.

10 THE COURT: ID.

11 JIM SMILEY: No objection.

12 THE COURT: Have you admitted those?

13 COURT REPORTER: Marked ID Only.

14 THE COURT: And they are admitted
15 without objection?

16 JIM SMILEY: (Affirmative nod).

17 ANDREW GRIMES: Yes, sir.

18 THE COURT: Very well. State's
19 Exhibits 76, ---

20 SOLICITOR SHEALY: Thank you, Your Honor.
21 Thank you, Officer Haupt. Please answer any
22 questions that the defense may have.

23 (SO ENTERED AS STATE'S EXHIBIT 76)

24 (SO ENTERED AS STATE'S EXHIBIT 77)

25 (SO ENTERED AS STATE'S EXHIBIT 78)

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1 (SO ENTERED AS STATE'S EXHIBIT 79)

2 THE COURT: Cross examine?

3 ANDREW GRIMES: No questions. Thank
4 you.

5 THE COURT: Mr. Runyon.

6 WILLIAM RUNYON: Briefly, Your Honor.
7 If you would be so kind as to pull up State's
8 Exhibit 24, ---

9 SOLICITOR SHEALY: (Displaying).

10 WILLIAM RUNYON: Thank you.

11 CROSS EXAMINATION

12 BY WILLIAM RUNYON:

13 Q. Officer, good afternoon.

14 A. Good afternoon.

15 Q. I call your attention to State's
16 Exhibit 24. You photograph things as you
17 find them, do you not?

18 A. Well, first, I do overalls and then
19 I start working into the scene.

20 Q. What I am trying to ask you -- that
21 console there, with the two cup holders, that
22 folds up, doesn't it?

23 A. It appears that it does. I can't
24 say whether it does or not.

25 Q. But you folded -- you photographed

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1 it in the unfolded position, correct?

2 A. Correct.

3 Q. And you don't know how it got in the
4 unfolded position or when it was in the
5 unfolded position?

6 A. That's correct.

7 Q. You just took a photograph of that
8 as you found it when you got the scene?

9 A. Yes.

10 WILLIAM RUNYON: Thank you. No
11 further questions.

12 THE COURT: Mr. Smiley?

13 CROSS EXAMINATION

14 BY JIM SMILEY:

15 Q. Boy, C.S.I. is a lot more interest-
16 ing on the TV. But you're the C.S.I. guy,
17 right?

18 A. Yes.

19 Q. Now, when you get to a scene, you'd
20 like for it to be, for lack of a better word,
21 pristine or untouched by anybody, like police
22 officers of whatever. You'd like it to be
23 just as it was. Correct?

24 A. Correct.

25 Q. And you're aware that in this case

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1 that Officer Kaufman -- if I said his name
2 correctly -- Kaufman -- had already done an
3 inventory search of the car. Were you aware
4 of that?

5 A. No, I was not.

6 Q. So if had moved clothes before you
7 got there, you wouldn't know that?

8 A. No, I wouldn't.

9 Q. You photographed what you saw, where
10 they were, when you arrived?

11 A. Correct.

12 Q. For instance, the clothes that were
13 in that front seat, -- there were obviously
14 four guys in the car, right?

15 A. I ---

16 Q. Excuse me. Well, you've got four
17 suspects and I got it. Back to it, when you
18 took pictures, you -- you got to the scene
19 and took your pictures but if officers had
20 moved items before you got there, you would
21 not know?

22 A. I wasn't aware of anyone moving
23 items.

24 JIM SMILEY: Thank you very much.

25 THE COURT: Redirect?

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1 SOLICITOR SHEALY: Nothing further.

2 THE COURT: Thank you. You may come
3 down.

4 (WITNESS STEPS DOWN)

5 THE COURT: Ladies and gentlemen, at
6 this point we will recess for the evening.
7 Please make sure, Mr. Presiding Juror, if you
8 will collect the notepads and give them to
9 the bailiffs. They will secured them for the
10 evening and they will be returned to you in
11 the morning.

12 Again, I would remind you that you are
13 not at liberty to talk with anyone about this
14 case or discuss it with anyone outside of the
15 courtroom. Do not allow anyone to talk with
16 you about the case or to talk about it in
17 your presence. That includes anyone that may
18 be at home.

19 I would ask that you please return you to
20 your jury room by 9:30 in the morning, and we
21 will return you to the courtroom.

22 Have a good evening.

23 (JURY OUT @ 5:15 P.M.)

24 THE COURT: Anything from the State
25 before recessing?

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1 SOLICITOR SHEALY: Did you want you
2 to talk about the chain issue?

3 THE COURT: You probably can talk about
4 it whenever you want to. I'd like to have
5 you talk about it, have it resolved, so that
6 we know where we are going with this.

7 SOLICITOR SHEALY: I didn't know if you
8 wanted us to do that for a few minutes while
9 you are still here.

10 THE COURT: That's fine. Listen,
11 whatever y'all decide, I am going to be ready
12 to go at 9:30. So govern your actions
13 accordingly. I don't need to be a part of
14 that.

15 SOLICITOR SHEALY: Okay.

16 THE COURT: Thank you very much. We
17 will be at-ease. I assume nothing from the
18 defendants?

19 ANDREW GRIMES: No, sir.

20 WILLIAM RUNYON: Nothing from Defendant
21 Coakley, Your Honor.

22 JIM SMILEY: No, Your Honor.

23 THE COURT: Be sure that all exhibits
24 are on the table. Thank you.

25 (COURT IN RECESS)

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1 DECEMBER 5, 2013 9:30

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3 (DEFENDANT GRADDICK PRESENT)

4 (DEFENDANT COAKLEY PRESENT)

5 (DEFENDANT SMALLS PRESENT)

6 THE COURT: Good morning. Let the
7 record reflect that all defendants are
8 present.

9 Is there anything that we need to discuss
10 before we bring in the jury? Hearing none, I
11 guess we are ready to proceed.

12 Bring in the jury, please.

13 (JURY IN @ 9:40 A.M.)

14 THE COURT: Good morning, ladies and
15 gentlemen. I trust that you had a restful
16 evening. Do each of you have your notepads?

17 FOREMAN: Yes, sir.

18 THE COURT: Very good. We are now
19 ready to continue with the trial. I would
20 ask that you give our attention now to the
21 first witness of the day.

22 Solicitor, you may call your next
23 witness.

24 SOLICITOR SHEALY: Thank you, Your
25 Honor. The State calls Brian Mazyck, Your

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1 Honor.

2 (WITNESS TAKES STAND)

3 BRIAN MAZYCK, having been sworn to tell
4 the truth, and nothing but the truth,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR SHEALY:

8 Q. Mr. Mazyck, would you please tell
9 the jury how old you are.

10 A. Twenty-eight (28).

11 Q. Where did you grow up?

12 A. Mount Pleasant, Seven Mile.

13 Q. Seven Mile?

14 A. Yes, ma'am.

15 Q. What road does your family live on?

16 A. Yough Hall.

17 Q. Where do you live now? That same
18 address?

19 A. Yes, ma'am.

20 Q. Who do you live with?

21 A. My grandmother.

22 Q. Who raised you?

23 A. My grandmother.

24 Q. Was she here yesterday with you?

25 A. Yes, ma'am.

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1 Q. Is your father here with you today?

2 A. Yes, ma'am.

3 Q. And the person sitting next to your
4 father, is that your attorney?

5 A. Yes, ma'am.

6 Q. What is her name?

7 A. Martha Kent Runey.

8 Q. Martha Kent Runey?

9 A. Yes, ma'am.

10 Q. Let's start by talking about your
11 relationship with Mr. Graddick, Mr. Coakley
12 and Mr. Smalls.

13 A. Yes, ma'am.

14 Q. Could you tell the jury how you know
15 Keenan Coakley?

16 A. He's my cousin.

17 Q. So you have known him all of your
18 life?

19 A. Basically.

20 Q. Okay. How does that relationship --
21 how close is that relationship?

22 A. His father and my father are first
23 cousins.

24 Q. Did Mr. Coakley grow up in the same
25 area that you did?

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1 A. Yes, ma'am.

2 Q. And what road does he live on?

3 A. Coakley Road.

4 Q. What about Jarrett Graddick? How
5 long have you known him?

6 A. For a while.

7 Q. When you say for a while, are you
8 talking about a number of years or a ---

9 A. Yes, --

10 Q. --- number of months or ---

11 A. --- years.

12 Q. Now would you describe your
13 relationship with Jarrett Graddick? Are
14 y'all friends?

15 A. Yes, ma'am.

16 Q. What about Kevin Smalls, how are
17 y'all related?

18 A. We're cousins down the line.

19 Q. Down the line?

20 A. Yes, ma'am.

21 Q. How did you know him? Did he grow
22 up in the same area?

23 A. School, yeah. Basically the same
24 area.

25 Q. What schools did you go to in Mount

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1 Pleasant?

2 A. Jenny Moore, I think Lang Middle.

3 Q. Where did you go to high school?

4 A. Wando.

5 Q. Wando?

6 A. (Affirmative nod).

7 Q. Now, Mr. Graddick lives where?

8 A. Hamlin Road and Linnen Lane.

9 Q. Hamlin Road and Linnen Lane?

10 A. Yes, ma'am.

11 Q. Before we got further, would you
12 tell the jury, do you have a record for
13 burglary in the third degree from 2006?

14 A. Yes, ma'am.

15 Q. Do you have a record for eight
16 breaking and entering motor vehicles, from
17 2006?

18 A. Yes, ma'am.

19 Q. And do you have a record for
20 malicious injury to personal property from
21 2008?

22 A. Yes, ma'am.

23 Q. Let's focus our attention back to
24 September 15th, 2010. Could you tell the jury
25 what started out that morning happening?

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1 A. I believe that before the four of us
2 were together, I believe that we went to
3 North Charleston. We went to the Trident
4 campus, just walking around.

5 Q. Why would y'all do that? What was
6 the interest in the Trident campus?

7 A. There was no interest. I guess just
8 walking through talking to females.

9 Q. Okay, that's what I was going to ask
10 you, were y'all looking for girls?

11 A. Yes, ma'am.

12 Q. After that, did y'all return to
13 Mount Pleasant?

14 A. No, ma'am. We went to the C&W, the
15 Chinese restaurant off Rivers.

16 Q. Did y'all have lunch there?

17 A. Yes, ma'am.

18 Q. Then what happened?

19 A. We met a couple of females in there,
20 talked to them to say 'hey', and that's when
21 we left. After we left there, we went to
22 Mount Pleasant, to Kevin's house.

23 Q. Okay. What were y'all doing when
24 you went to Kevin's house?

25 A. They were playing a PlayStation.

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1 Q. Who was playing the PlayStation?

2 A. Kevin and Keenan.

3 Q. While you were there, did anything
4 happen to you?

5 A. Yeah, I started to feel kinda sick
6 'cause I'm a diabetic and I didn't have my
7 insulin on at the time.

8 Q. How old were you when you were
9 diagnosed with diabetes?

10 A. Ten.

11 Q. Since you were ten years old?

12 A. Yes, ma'am.

13 Q. Does that run in your family?

14 A. Yes, ma'am.

15 Q. When you started feeling poorly,
16 what happened?

17 A. I asked Kevin to take me home so
18 that I could take some more insulin.

19 Q. And did he in fact take you home?

20 A. Yes, ma'am.

21 Q. And that would have been to your
22 grandmother's house?

23 A. Yes, ma'am.

24 Q. What happened after you went home?

25 A. After I went home, I took some

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1 insulin and sat for like, maybe, ten minutes
2 and then I went to my brother's house.

3 Q. How did you get to your brother's
4 house?

5 A. My cousin Jessica.

6 Q. Okay. Had she been at your grand-
7 mother's?

8 A. She'd just came over. She'd just
9 stopped through and I asked her to give me a
10 ride to my brother's house.

11 Q. I'm sorry, I didn't -- you might
12 have to talk up just a little bit for us.
13 Okay?

14 A. She stopped through and I, uh, --

15 Q. She did what?

16 A. She came over and ---

17 Q. Okay, so she came over?

18 A. Yes, ma'am. I asked her if she
19 could give me a ride to my brother's house.

20 Q. Tell the jury, if you would, where
21 your brother's house is.

22 A. It's Awendaw. I guess it's labeled
23 as Awendaw, Tisha's Road.

24 Q. If you are going up Highway 17
25 towards Awendaw, would you have already

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1 passed Oakland where the new Walmart is
2 before you get to your brother's house?

3 A. Yes, ma'am.

4 Q. Why did you decide to go over to
5 your brother's house?

6 A. I usually go over there and hang out
7 with him. And he had a bunch of dogs at that
8 time, so I was going over there to help him
9 clean his yard and feed the dogs.

10 Q. Did he sell dogs?

11 A. Yes, ma'am.

12 Q. While you were at your brother's
13 house, did you hear from any of the
14 defendants?

15 A. Yes, ma'am.

16 Q. Tell the jury about that.

17 A. I can't remember if I had a call fro
18 -- it was either Keenan or Jarrett, one of
19 the two, I don't remember. But I remember
20 that I got a text call from Kevin saying that
21 they were going to the mall that day. So
22 while I was at my brother's house -- you
23 know, he was about to go get his wife from
24 work, so sure I'll go. He came over and paid
25 my brother for some dogs, two dogs that he

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1 got from my brother. From there, I left with
2 him.

3 Q. When you left from your brother's
4 house with Smalls, where did y'all go?

5 A. We went to the Walmart, to the
6 Redbox.

7 Q. The Redbox, is that one of those
8 movie -- where you check out a movie?

9 A. Yes, ma'am.

10 Q. Where was the Redbox located?

11 A. Inside the Walmart.

12 Q. Who was driving the vehicle?

13 A. Kevin.

14 Q. What color was the vehicle?

15 A. Red and black.

16 Q. When you got to Walmart about the
17 Redbox, did you get out of the car?

18 A. No, ma'am.

19 Q. Who got out of the car?

20 A. Kevin.

21 Q. Do you know how long -- do you know
22 if he went into the Walmart after that or did
23 he go back to the car?

24 A. He went into the Walmart.

25 Q. What happened after he went into the

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1 Walmart.

2 A. While he was in the Walmart, I was
3 sitting the car, just texting random people
4 -- I couldn't tell you who I was texting.
5 Then probably like ten minutes later he came
6 back out.

7 Q. He came back out?

8 A. Yes, ma'am.

9 Q. What did y'all do when he came back?

10 A. When he came out, we went to the
11 McDonald's.

12 Q. Okay. Tell us what happened at the
13 McDonald's.

14 A. We went to McDonald's and ---

15 Q. First of all, let me interrupt you.
16 Tell us where that McDonald's is located.

17 A. It's on the other side of the
18 Oakland Market, on the side of the Walmart
19 parking lot.

20 Q. Next to the McDonald's, is there
21 also a Chick-Fil-A?

22 A. Yes, ma'am, and a bank.

23 Q. Okay. So you went to McDonald's and
24 then what happened?

25 A. Well, he didn't want to come in.

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1 Because a female that he knew worked there,
2 and I guess that he didn't want to, you know,
3 fool around with her or see her.

4 So I went in and I was like, you know,
5 okay, -- I didn't have any money. It was
6 like, 'you okay to buy me some food?' It was
7 like, 'okay.' So I went in and I ordered
8 food, then I told him that the girl was not
9 in there. So he came in and sat by the door.
10 He was texting on his phone, I don't know
11 who. So when my food order came up, I went
12 back to him and I was, like, 'you got the
13 money for the food?' He was like, 'I don't
14 have any money.' So when he said that, I was
15 like, 'Oh. Why did you let me order the
16 food?'

17 So from there we left, we got back in the
18 car. At this time we went back to the
19 Walmart parking lot and we pulled up by a
20 truck. He was texting -- I believe that it
21 was one of the females from earlier that day,
22 from the restaurant, saying 'get some crabs,
23 some alcohol and a movie.'

24 So after that, we went around to liquor
25 store part of the road, in front of the

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1 Cricket. Then ---

2 Q. Let me interrupt you there just
3 because that is a little confusing.

4 A. Yes, ma'am.

5 Q. When you were by the truck, what
6 area of the parking lot was that?

7 A. On the Walmart side.

8 Q. Closer to the Walmart side?

9 A. Yes.

10 Q. Then you say that the vehicle was
11 moved, that y'all moved ---

12 A. We moved.

13 Q. You moved and parked near what?

14 A. It was in front -- a little over
15 from the Cricket store, but basically in
16 front of the Cricket store, a couple of rows
17 ahead, maybe a row or two in front of the
18 Cricket store.

19 Q. And what happened -- you said that
20 he was texting when y'all parked there?

21 A. Yes, ma'am.

22 Q. Let me ask you, when you got in his
23 car when he came to pick you up at your
24 brother's house, was there anything unusual
25 about what was in his car?

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1 A. Yes, ma'am. There was clothing that
2 I saw that the other guys had. So while I am
3 sitting there, I'm looking around -- so I was
4 like, 'where are they?' 'They getting ready.
5 When they finish, they're going to call me.'
6 And I was like, 'How are they going to call
7 you if their cell phones are in the back
8 seat?'

9 Q. Let me interrupt you for a second
10 and show you what been marked previously as
11 State's Exhibit 29. It's going to come up
12 there and it's going to come up behind you.

13 A. Okay.

14 Q. Do you recognize the clothing in
15 that picture?

16 A. Yes, ma'am.

17 Q. When you say that it was the other
18 guys, what are you talking about?

19 A. Graddick and Coakley.

20 Q. Whose shirt is the one with the
21 cartoon on it?

22 A. That's Coakley's.

23 Q. All right Were there other items in
24 the car at that -- this picture was taken
25 later, but were there other items in the car

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1 at the time that he picked you up from your
2 brother's that you didn't understand?

3 A. There was the cell phones, the two
4 cell phones, the shoes and the clothing.

5 Q. Showing you State's Exhibit 30, are
6 you talking about that pair of shoes?

7 A. Yes, ma'am.

8 Q. Did you know who owned that pair of
9 shoes?

10 A. Yes, ma'am.

11 Q. Who?

12 A. Keenan.

13 Q. Did you ask Brian (sic) about the
14 shoes?

15 A. No, ma'am.

16 Q. Did you ask Kevin about the shoes?
17 I'm sorry, you are Brian. Did you ask Kevin
18 about those shoes?

19 A. No, I just asked where were they
20 when I saw their stuff in the car. It was
21 like 'they're home, gathering up.'

22 ANDREW GRIMES: Objection, calls for
23 hearsay.

24 THE COURT: Sustained.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR SHEALY:

2 Q. Showing you State's Exhibit 31, that
3 is just a closer photograph of those shoes?

4 A. Yes, ma'am.

5 Q. So y'all parked over and a little
6 down from the Cricket store?

7 A. Yes, ma'am.

8 Q. What did Kevin tell you about what
9 y'all were going to be doing at that point?

10 A. He was still texting. He was
11 waiting on the female to reply back. I
12 believe that it was the female that worked at
13 the Walmart. He was like, uh, he was waiting
14 for the females earlier to reply back so that
15 he could know what type of liquor to go get
16 out of the liquor store.

17 Q. And would you describe for the jury
18 where the liquor store is compared to where
19 the Cricket store is?

20 A. The liquor store is like three to
21 four stores from the right where we were
22 parked.

23 Q. Going down further away from
24 Walmart?

25 A. Yes, ma'am.

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1 Q. Was there anything about where you
2 parked -- where he parked -- that you were
3 questioning?

4 A. Yes, ma'am.

5 Q. What was that?

6 A. Well, we parked like maybe a little
7 over from the Cricket store instead of
8 parking in front of the liquor store.

9 Q. As y'all waited in the vehicle,
10 could you tell us how Kevin was behaving?
11 What did he do?

12 A. He reclined his seat and adjusted
13 the mirrors. You know, (hand gesture). So
14 while he's adjusting the mirrors, looking in
15 the mirrors, I'm looking back -- because I
16 don't know what's going on. I was like,
17 'okay, why we park here instead of the liquor
18 store.'

19 Q. When you say he -- I'm sorry to
20 interrupt you. When you say that he adjusted
21 the mirror and did the seat back, can you
22 demonstrate that for the jury?

23 A. Like he adjusted, you know, the side
24 mirror; reclined his seat; was just texting
25 and looking in the mirrors.