

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge

COREY BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001347

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Corey Andrew Brown,) 2015-GS-42-04752, -04753, -04754
7) July 11, 12 and 13, 2006
8) Spartanburg, South Carolina
9

10 B E F O R E:

11 HONORABLE R. KEITH KELLY, JUDGE; and a jury
12
13

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17 PAUL K. NEELY, ESQUIRE
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19 Attorneys for the Defendant
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23 Margaret A. Woods
24 Circuit Court Reporter
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MOTIONS AND MATTERS

1 (Proceedings July 11, 2016)

2 THE COURT: Okay, good morning again, ladies and
3 gentlemen. Uh, as I told you earlier, I, -- well first of
4 all, let me tell you that you were previously sworn and you
5 will remain under oath at this time and there's gonna be
6 another series of questions that I must ask here momentarily
7 but I want to, uh, to say again and with emphasis that you
8 will see me standing from time to time on the bench, in fact,
9 I usually stand more than I sit. Now I tell you that for this
10 reason: it matters not, there's no significance, uh, when
11 someone is testifying as to whether I am sitting or I am
12 standing, it simply means that Keith Kelly doesn't wanna sit
13 in that chair, that's all it means, okay, and when I sit down
14 it just means that Keith Kelly's ready to sit down, that's
15 that's all that means, okay, so it ha -- what I I say that to
16 say that if a witness is testifying, uh, uh, one witness is
17 testifying and I'm standing and another witness is testifying
18 and I'm seated, there's no significance to be drawn from that
19 other than I was either tired a sitting or tired a standing,
20 that's all the world it means, okay. Alright, wanna make sure
21 we're clear about that, don't you draw any conclusions from
22 that, well the judge is standing, okay.

23 Do we have the indictments?

24 MR. BARNETTE: I do, Your Honor. May I approach the
25 bench?

JURY QUALIFICATION

1 THE COURT: Yes.

2 (Whereupon, the solicitor handed the indictments to the
3 Court.)

4 THE COURT: Okay, ladies and gentlemen, uh, we are here
5 and we are about to begin, uh, the trial of the case in the
6 matter of the State of South Carolina vs. Corey, uh, Andrew
7 Brown. Uh, Mr. Brown is charged in three, uh, separate
8 offenses, uh, he is charged in an assault and battery of a
9 high and aggravated nature, he is charged in a kidnapping
10 and he is charged in a armed robbery, uh, and possession of a,
11 of a weapon. Uh, I will tell you that in the indictments Mr.,
12 these are merely charging instruments and Mr. Brown has
13 entered a plea of not guilty as to all, uh, indictments, okay,
14 he has entered a plea of not guilty as to all indictments and
15 that plea puts the burden on the State of South Carolina to
16 prove him guilty beyond a reasonable doubt, he is presumed, he
17 is presumed not guilty of all of these he has entered that
18 plea. Now, ladies and gentlemen, uh, as I've told you the
19 indictments are not any evidence whatsoever of his guilt, they
20 are simply a charging instrument, uh, which brings him before
21 the Court. Now there certain, uh, and questions that I must
22 ask each of you again, ladies and gentlemen, has anyone, any
23 member of the jury panel ever been related by blood or
24 marriage, uh, to Corey Andrew Brown? Mr. Brown, if you would
25 I'm gonna ask you to stand, sir, right there and face the

JURY QUALIFICATION

1 jury, just stand and face and then you can sit down.

2 (Whereupon, the defendant stood.)

3 THE COURT: Okay, thank you, Mr. Brown. Is there any
4 member of the jury panel who has ever been related to him by
5 blood or marriage, if so please stand.

6 (No response.)

7 THE COURT: Is there any member of the jury panel who has
8 a close personal or social relationship with Mr. Brown, Corey
9 Andrew Brown, do you know him from the neighborhood, do you
10 know him from work, you know him from church, uh, where
11 wherever it might be, have any social relationship with him,
12 if so please stand.

13 (No response.)

14 THE COURT: Okay. The following is a list of possible
15 witnesses in this case, uh, Officer Jason Harris, Officer
16 Brandy Edwards, Joshua Gioia, help me with that ---

17 MR. POOLE: Gi ---

18 UNIDENTIFIED MAN: Gioia.

19 THE COURT: Gioia, I'm sorry. Uh, Isaiah Parham, Mark
20 Hillers, Investigator Lou Jones, Shane Cloran, Sergeant
21 William Reece, Investigator Samantha Hayes, Investigator Jeff
22 Kirby, Christy Norkett, Chris Taylor, Ed Guthro, uh, Mylor,
23 uh, Beach, Lieutenant Doug Harwell, Officer Shanetta Thompson,
24 Vigestigator [sic] Courtney Burgess, Mindy, uh, Slotin, Mark
25 Slotin, Sandra Pearson, Mary Stone. Is there any member of

JURY QUALIFICATION

1 the jury panel who is now or ever has been related by blood or
2 marriage to any of the potential witnesses, not that they're
3 all gonna testify but potentially, please stand.

4 (No response.)

5 THE COURT: Any member of the jury panel have a close,
6 personal or social relationship with any of the potential
7 witnesses, again, you know them from, uh, socially, if so
8 please stand. Okay, your number, sir?

9 JUROR NUMBER 105: 105.

10 THE COURT: And and you know?

11 JUROR NUMBER 105: Think I know Mark Hillers.

12 THE COURT: Alright, sir, would that interfere with your
13 ability to be fair and impartial to both defense and, uh,
14 State?

15 JUROR NUMBER 105: Doesn't affect me.

16 THE COURT: Sir?

17 JUROR NUMBER 105: It does not affect me.

18 THE COURT: It does not affect you. Alright, you can be
19 fair and impartial?

20 JUROR NUMBER 105: Yes, sir.

21 THE COURT: Sir, you may stay, thank you. Anybody else?
22 I'm gonna ask the, uh, lawyers in the case to introduce
23 themselves. Mr. Barnette.

24 MR. BARNETTE: Uh, Barry Barnette from the solicitor's
25 office.

JURY QUALIFICATION

1 MR. POOLE: I am Roger Poole, this (indicating) Paul
2 Neely, we're from the Seventh Circuit Judicial Circuit's
3 Public Defender's Office and we represent Corey Brown.

4 THE COURT: Is there any member of the jury panel that is
5 related or ever has been related to any of the lawyers in this
6 case, if so please stand.

7 (No response.)

8 THE COURT: Is there any member of the jury panel who has
9 a close, personal or social relationship with any of the
10 lawyers, if so please stand. Okay, nu -- your number,
11 please.

12 JUROR NUMBER 19: Nineteen.

13 THE COURT: Yes, ma'am.

14 JUROR NUMBER 19: I know Mr. Poole socially.

15 THE COURT: Socially? Would that interfere with your
16 ability to be fair and impartial to both the State and the
17 defense?

18 JUROR NUMBER 19: I honestly don't know. I respect him a
19 great deal but I also would try to be fair.

20 THE COURT: Okay, I I I just have, I'm I'm sorry to press
21 you but I have to have a definitive answer. Could you be fair
22 and impartial to both sides?

23 JUROR NUMBER 19: Yes.

24 THE COURT: You can? Thank you, you may stay. Yes, sir,
25 your number, please.

JURY QUALIFICATION

1 JUROR NUMBER 167: Uh, 167.

2 THE COURT: Yes, sir.

3 JUROR NUMBER 167: I served with Barry Barnette, uh,
4 under Holman Gossett in the solicitor's office in '91, 2 and 3
5 I believe.

6 THE COURT: Alright, would that interfere with your
7 ability be fair and impartial to both State and defense?

8 JUROR NUMBER 167: No, sir.

9 THE COURT: Mr. Walsh, you may stay with us, thank you.
10 Anybody -- ma'am, your number, please.

11 JUROR NUMBER 106: 106 and, um, I just know Mr. Barnette
12 through our children, have children the same age.

13 THE COURT: Ma'am, that your nu -- uh, having children
14 the same age and knowing him, would that interfere with your
15 ability to be fair to both the State and the defense?

16 JUROR NUMBER 106: Yes, I could be fair.

17 THE COURT: You can be fair? Thank you, ma'am, you may
18 stay with us. Is there any member of the jury panel who, uh,
19 has ever been represented in any legal matter whatsoever, well
20 I don't care if it's buying a house or settling a claim, have
21 you ever been related, I mean, been represented by any of the
22 lawyers in this place [sic] in any manner whatsoever, if so
23 please stand. Okay.

24 JUROR NUMBER 41: I personally have not been represented
25 by Mr. Barnette but, uh, he is gonna be representin' my

JURY QUALIFICATION

1 step-son and daughter-in-law in an upcoming murder trial.

2 THE COURT: Uh, uh, uh, Ms. Dickard, give us your number,
3 please.

4 JUROR NUMBER 41: Forty-one.

5 THE COURT: Forty-one. Would that interfere with your
6 ability to be fair and impartial both sides?

7 JUROR NUMBER 41: No, sir.

8 THE COURT: It would not. You may stay with us. That's
9 gonna be another question here just in a moment.

10 JUROR NUMBER 41: Okay.

11 THE COURT: Is there any member of the jury panel that
12 has ever testified as a witness, been represented in that
13 capacity, testified as a witness for the Seventh Circuit
14 Solicitor's Office, if so please stand, you have testified for
15 Seventh Circuit Solicitor or will be testifying in or
16 potentially will testify? Your number, please.

17 JUROR NUMBER 61: Sixty-one.

18 THE COURT: Yes, ma'am, you testified?

19 JUROR NUMBER 61: Yes.

20 THE COURT: Okay. Would that interfere with your ability
21 to be fair and impartial to both sides?

22 JUROR NUMBER 61: No.

23 THE COURT: Ma'am, you may stay with us. Anyone else
24 besides, uh, 41? Any member of the jury panel, uh, have a
25 family member or close personal friend ever represented by the

JURY QUALIFICATION

1 Seventh Circuit Public Defender's Office, if so please stand.

2 Yes, ma'am, your number, please.

3 JUROR NUMBER 43: Forty-three.

4 THE COURT: Would that interfere with your ability to be
5 fair and impartial to both sides?

6 JUROR NUMBER 43: No, sir.

7 THE COURT: Ma'am, you may stay with us. Is there any
8 member who has a family member or a close personal friend who
9 is employed by the Seventh Circuit Solicitor's Office, if so
10 please stand.

11 (No response.)

12 THE COURT: Is there any member the jury panel that has a
13 a family member or personal friend, close personal friend who
14 is employed by the Seventh Circuit Public Defender's Office,
15 if so please stand.

16 (No response.)

17 THE COURT: Is there any member of a jury panel either
18 yourself, your family or a close personal friend ever been the
19 victim of a violent crime, if so please stand. Okay.
20 Alright, starting right here (indicating). Yes, ma'am, your
21 number again?

22 JUROR NUMBER 41: Forty-one.

23 THE COURT: Yes, ma'am, would that interfere with your
24 ability fair and impartial to both sides?

25 JUROR NUMBER 41: No, sir.

JURY QUALIFICATION

1 THE COURT: Thank you, you may stay. Coming right
2 across, yes, ma'am?

3 JUROR NUMBER 20: Number 20 and no, it would not.

4 THE COURT: It would not interfere. Thank you, ma'am,
5 you may stay. Yes, ma'am?

6 JUROR NUMBER 37: Number 37, I was robbed at gunpoint.

7 THE COURT: Would that interfere with your ability fair
8 and impartial to both sides?

9 JUROR NUMBER 37: No.

10 THE COURT: You may stay with us. Yes, ma'am?

11 JUROR NUMBER 19: Uh, 19.

12 THE COURT: Would that interfere with your ability to be
13 fair and impartial?

14 JUROR NUMBER 19: No.

15 THE COURT: You may stay. Yes, sir?

16 JUROR NUMBER 45: Forty-five.

17 THE COURT: Would it interfere with your ability to be
18 fair and impartial to both sides?

19 JUROR NUMBER 45: No, sir.

20 THE COURT: You may stay. Yes, ma'am, in the green.

21 JUROR NUMBER 43: Forty-three.

22 THE COURT: You're both in the green. Yes, ma'am, 43,
23 would it interfere with your ability fair and impartial?

24 JUROR NUMBER 43: No, sir.

25 THE COURT: You may stay. Yes, ma'am?

JURY QUALIFICATION

1 JUROR NUMBER 93: Ninety-three ---

2 THE COURT: Would it ---

3 JUROR NUMBER 93: --- and honestly, yeah.

4 THE COURT: It would? Ma'am, you're excused from the
5 trial a this case. You sit down and then may stay with us
6 right now, don't leave but you will not be selected on this
7 case since you cannot be fair and impartial. Thank you.

8 Is there a member of the jury panel either yourself or a
9 family member or close personal friend who has ever been the
10 victim of a robbery, larceny or theft of any kind that did not
11 relate back to the previous question, if so please stand.
12 That might have covered it. Anybody else?

13 JUROR NUMBER 49: Sir.

14 THE COURT: Yes, sir, your number, please.

15 JUROR NUMBER 49: I -- we were robbed at the house. I
16 mean, not -- it was a theft.

17 THE COURT: Alright, sir, your number, please.

18 JUROR NUMBER 49: Forty-nine.

19 THE COURT: Would that interfere with your ability to be
20 fair and impartial to both sides?

21 JUROR NUMBER 49: No, sir.

22 THE COURT: Then, sir, you may stay. Thank you. Yes,
23 ma'am?

24 JUROR NUMBER 125: 125 and, no, sir, it would not affect
25 me.

JURY QUALIFICATION

1 THE COURT: It would not affect you. Thank you, ma'am,
2 you may stay. Yes, ma'am?

3 JUROR NUMBER 19: Uh, no it would nots least affect me
4 and I'm number 19.

5 THE COURT: Thank you, ma'am, you may stay.

6 JUROR NUMBER 61: Sixty-one and it would not affect.

7 THE COURT: Thank you may stay.

8 JUROR NUMBER 49: Wouldn't, 49, and would not.

9 THE COURT: Would not affect, you can be fair and
10 impartial, thank you may stay. Is there any member a jury
11 panel either you yourself or a member of your family or close
12 personal friend ever been the victim of an assault and
13 battery, if so please stand.

14 (No response.)

15 THE COURT: Is there any member a the jury panel either
16 yourself or a family member or close personal friend who's
17 ever been, who's ever been the victim of a kidnapping, if so
18 please stand. Your number, please.

19 JUROR NUMBER 43: Forty-three.

20 THE COURT: Ma'am, would that interfere with your ability
21 to be fair and impartial?

22 JUROR NUMBER 43: No, sir.

23 THE COURT: Ma'am, you may stay. Yes, sir.

24 JUROR NUMBER 45: Uh, 45, no, sir.

25 THE COURT: It would not in -- interfere with your

JURY QUALIFICATION

1 ability be fair and impartial, you may stay. Thank you. Is
2 there any member a the jury panel either yourself, close fr --
3 uh, a a member of your family or a close personal friend ever
4 been employed by law enforcement, law enforcement, that would
5 include the sheriff's department, any city agency, military
6 police agency, uh, federal authority, if so please stand.

7 JUROR NUMBER 154: 154.

8 THE COURT: Uh, you're 154. Yes, ma'am, was it you or
9 someone else?

10 JUROR NUMBER 154: And my uncle was the sheriff in
11 Cherokee County till he retired. I got a couple a cousins
12 that are work for the city and two other cousins that were
13 state troopers.

14 THE COURT: Would that interfere with your ability to be
15 fair and impartial to both defense and the State?

16 JUROR NUMBER 154: No.

17 THE COURT: Thank you, you may stay. Yes, ma'am, in the
18 blue.

19 JUROR NUMBER 33: Uh, Number 33. I I have several
20 friends and in the past I've had a couple family members.

21 THE COURT: Would that interfere with your ability to be
22 fair defense and the State?

23 JUROR NUMBER 33: No.

24 THE COURT: Okay, ma'am, you may stay. Yes, sir?

25 JUROR NUMBER 77: Number 77. Uh, family members and

JURY QUALIFICATION

1 actually keep up all the sheriff's department for Cherokee
2 County so I know all of 'em.

3 THE COURT: Alright, would that interfere with your
4 ability be fair and impartial to both defense and the State?

5 JUROR NUMBER 77: No.

6 THE COURT: Thank you, sir, you may stay. Yes, ma'am?

7 JUROR NUMBER 61: Um, I have a cousin and would not
8 interfere.

9 THE COURT: You're Number sixty ---

10 JUROR NUMBER 61: One.

11 THE COURT: --- one? It would not interfere. Thank you.
12 Yes, ma'am?

13 JUROR NUMBER 169: One sixty-nine, my daughter ---

14 THE COURT: Would that, would that ---

15 JUROR NUMBER 169: --- and no, it would not.

16 THE COURT: It would not interfere with your ability be
17 fair and impartial. Thank you may stay with us. Yes, sir.

18 JUROR NUMBER 49: Forty-nine. I have several friends
19 that are work for the Spartanburg County, ---

20 THE COURT: Would that inter ---

21 JUROR NUMBER 49: --- no.

22 THE COURT: It would not interfere, you may be fair and
23 impartial. Thank you may stay.

24 JUROR NUMBER 49: Sure.

25 THE BAILIFF: One, more, Judge.

JURY QUALIFICATION

1 THE COURT: Yes, ma'am?

2 JUROR NUMBER 95: I'm ninety-five. My husband's a state
3 constable and he also serves with Spartanburg County and
4 several friends in Spartanburg County and no, I can be
5 impartial.

6 THE COURT: You can be, uh, you can be fair and
7 impartial?

8 JUROR NUMBER 95: Yes.

9 THE COURT: Thank you, ma'am, for tellin' us that. Well
10 in an election year, I'm gonna ask this one: Any member a the
11 jury panel either yourself or your family or a close personal
12 friend that you're aware of ever worked on a political
13 campaign, uh, for the solicitor or donated to the solicitor's
14 political campaign, anybody, if so please stand.

15 (No response.)

16 THE COURT: Is there any member of the jury panel who has
17 ever served on a trial jury in a criminal trial, if so please
18 stand, criminal trial. Yes, sir, your number?

19 JUROR NUMBER 140: 140.

20 THE COURT: Would that interfere with your ability to be
21 fair and impartial?

22 JUROR NUMBER 140: No, sir.

23 THE COURT: Thank you may stay. Yes, ma'am?

24 JUROR NUMBER 99: Ninety-nine.

25 THE COURT: You served on a criminal trial?

JURY QUALIFICATION

1 JUROR NUMBER 99: Yes.

2 THE COURT: Would that interfere with your ability to be
3 fair and impartial?

4 JUROR NUMBER 99: No.

5 THE COURT: Thank you, you may stay.

6 MR. POOLE: What number, ---

7 THE COURT: Yes, sir?

8 MR. POOLE: --- please?

9 THE BAILIFF: Um, ---

10 THE CLERK: Thirty-nine.

11 THE BAILIFF: --- that was 99.

12 THE COURT: Ni -- ninety-nine?

13 JUROR NUMBER 99: Ninety-nine.

14 THE COURT: Ninety-nine.

15 MR. POOLE: Thank you.

16 THE COURT: Yes, sir.

17 JUROR NUMBER 135: 135, ---

18 THE COURT: Would that ---

19 JUROR NUMBER 135: --- no, ---

20 THE COURT: --- interfere?

21 JUROR NUMBER 135: --- it won't.

22 THE COURT: It would not ---

23 JUROR NUMBER 135: No.

24 THE COURT: --- interfere?

25 JUROR NUMBER 135: No.

JURY QUALIFICATION

1 THE COURT: Thank you.

2 MR. BARNETTE: May I approach the bench, Your Honor?

3 THE COURT: Yes, sir.

4 (Whereupon, a bench conference was held off the record.)

5 THE COURT: Just give me a minute here, some a these
6 questions overlap each other. Let me ask this one: Is there
7 any member a the jury panel, uh, that yourself, family member
8 or close personal friend ever been prosecuted by the Seventh
9 Circuit Solicitor's Office, if so please stand.

10 THE COURT: Yes, sir, your number?

11 JUROR NUMBER 140: 140.

12 THE COURT: 140. Would that interfere with your ability
13 to be fair and impartial?

14 JUROR NUMBER 140: No.

15 THE COURT: It would not, you may stay. Is there any
16 member a the jury panels that knows of any reason why he or
17 she, any reason whatsoever why he or she should not serve as a
18 juror in this case with particular emphasis being placed on
19 your ability to be fair and impartial to both the State and
20 the defense, if so please stand.

21 THE COURT: Your ---

22 JUROR NUMBER 78: Uh, ---

23 THE COURT: --- number, please, ma'am.

24 JUROR NUMBER 78: --- I'm number 78 and, uh, I frequented
25 the toy store where this gentleman that the gentleman owns

JURY QUALIFICATION

1 over here (indicating). Uh, I know him, I don't know him by
2 name but I've, for years I've, I I know the case so I feel
3 like I cannot be impartial.

4 THE COURT: You cannot be impartial?

5 JUROR NUMBER 78: I don't think I can be impartial.

6 THE COURT: Alright, thank you, ma'am, you, uh, you may
7 be excused for the trial of this case.

8 JUROR NUMBER 78: Okay.

9 THE COURT: Thank you, just have a ---

10 JUROR NUMBER 78: Um-hum.

11 THE COURT: --- seat right there.

12 JUROR NUMBER 78: Thank you.

13 THE COURT: In fact, let me ask that general question.
14 Is there anyone, uh, in the jury panel whose thinks they know
15 anything whatsoever about this case and would not be able to
16 render efficient jury service, please stand, anyone who thinks
17 they know anything about the case 'cause I don't know anything
18 about it other than six or eight pieces of paper, four, if so
19 please stand. Alright, anything from the State?

20 MR. BARNETTE: May I approach your ---

21 THE COURT: Yes, sir.

22 MR. BARNETTE: Okay.

23 (Whereupon, a bench conference was held off the record.)

24 THE COURT: Okay, alright. Well, we'll ask this one too:
25 Has any member a the jury panel, either yourself, a family

JURY QUALIFICATION

1 member or close personal friend, uh, been arrested for,
2 charged with or convicted of any crime involving a violent
3 crime such as murder or manslaughter, assault and battery with
4 intent to kill, assault and battery of a high and aggravated
5 nature, kidnapping, armed robbery, criminal sexual conduct,
6 burglary, criminal domestic violence high and aggravated
7 nature which involved a weapon or an assault on another person
8 or similar cli -- crimes, if so please stand. Okay. In the
9 back, sir, you were first up, your number, please.

10 JUROR NUMBER 115: 115.

11 THE COURT: Would that interfere with your ability to be
12 fair and impartial to both State and defense?

13 JUROR NUMBER 115: No.

14 THE COURT: Sir, you may stay with us. Yes.

15 JUROR NUMBER 119: 119.

16 THE COURT: Would that interfere with your ability to be
17 fair and impartial to both the State and defense?

18 JUROR NUMBER 119: No.

19 THE COURT: It would not, you may stay. Any anything
20 else, solicitor?

21 MR. BARNETTE: No, thank Your Honor.

22 THE COURT: Mr. Poole? Mr. Neely?

23 MR. NEELY: Judge, on the record we would like to request
24 you read defense's voir dire 11, 12, 13 and 14, I believe that
25 those questions, uh, would lead to answers that would give

JURY QUALIFICATION

1 cause.

2 THE COURT: Okay, and, uh, and on the record here those
3 have been, uh, consumed in the other questions I've already
4 asked but thank you but I'll make 'em part a the record for
5 ya.

6 MR. NEELY: Thank you, Judge.

7 THE COURT: We ready to select a jury, gentlemen?

8 MR. BARNETTE: State's ready, Your Honor.

9 MR. POOLE: Defense is ready, Your Honor.

10 THE COURT: Okay, you got five and ten?

11 (Whereupon, a discussion was held off the record.)

12 MR. BARNETTE: Yes, sir.

13 (Whereupon, a discussion was held off the record.)

14 THE COURT: Let me see the lawyers.

15 (Whereupon, a bench conference was held off the record.)

16 THE CLERK: At this time when I call your name and your
17 juror number if you'll gra -- bring your belongings and come
18 and stand right here (indicating) with the bailiff. Juror
19 Number 60, Jacqueline Green.

20 (Jacqueline Green, a white female came forward.)

21 THE CLERK: What say the State?

22 MR. BARNETTE: Please present the juror.

23 THE CLERK: What says the defense?

24 MR. POOLE: Please swear the juror.

25 THE CLERK: Juror Number 122, Everett Powers.

JURY QUALIFICATION

1 (Everett Powers, a white male came forward.)

2 THE CLERK: What say the State?

3 MR. BARNETTE: Please present juror.

4 THE CLERK: What say the defense?

5 MR. POOLE: Please swear the juror.

6 THE CLERK: Juror Number 71, Sarah Ha -- Harris.

7 (Sarah Harris, a white female came forward.)

8 THE CLERK: What say the State?

9 MR. BARNETTE: Please present juror.

10 THE CLERK: What say the defense?

11 MR. POOLE: Please swear the juror.

12 THE CLERK: Juror Number 46, Autumn Eller.

13 (Autumn Eller, a white female came forward.)

14 THE CLERK: What say the State?

15 MR. BARNETTE: Please present the juror.

16 THE CLERK: What say ---

17 MR. POOLE: Please swear ---

18 THE CLERK: --- the defe ---

19 MR. POOLE: --- the juror.

20 THE CLERK: Juror Number 33, Lynn Crowe.

21 (Lynn Crowe, a white female came forward.)

22 THE CLERK: What say the State?

23 MR. BARNETTE: Please present juror.

24 THE CLERK: What say the defense?

25 MR. POOLE: Please excuse this juror.

JURY QUALIFICATION

1 THE CLERK: Juror Number 131, Alisha Rogers.
2 (Alisha Rogers, a white female came forward.)
3 THE CLERK: What say the State?
4 MR. BARNETTE: Please present the juror.
5 THE CLERK: What say the defense?
6 MR. POOLE: Please swear the juror.
7 THE CLERK: Juror Number 172, Susan Lummus.
8 (Susan Lummus, a white female came forward.)
9 THE CLERK: What say the State?
10 MR. BARNETTE: Please present juror.
11 THE CLERK: What say the defense?
12 MR. POOLE: Please swear the juror.
13 THE CLERK: Juror Number 149, Christopher Turner.
14 (Christopher Turner, a white male came forward.)
15 THE CLERK: What say the State?
16 MR. BARNETTE: Please present juror.
17 THE CLERK: What say the defense?
18 MR. POOLE: Please excuse this juror.
19 THE CLERK: Juror Number 147, Courtney Taylor.
20 (Courtney Taylor, a white female came forward.)
21 THE CLERK: What say the State?
22 MR. BARNETTE: Please present juror.
23 THE CLERK: What say the defense?
24 MR. POOLE: Please swear the juror.
25 THE CLERK: Juror Number 126, Kay Richards.

JURY QUALIFICATION

1 (Kay Richards, a black female came forward.)

2 THE CLERK: What say the State?

3 MR. BARNETTE: Please present juror.

4 THE CLERK: What say the defense?

5 MR. POOLE: Please swear the juror.

6 THE CLERK: Juror Number 110, Junearious Miller.)

7 (Junearious Miller, a black female came forward.)

8 THE CLERK: What say the State?

9 MR. BARNETTE: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. POOLE: Please swear the juror.

12 THE CLERK: Juror Number 99, Zepora Lyles.

13 (Zepora Lyles, a black female came forward.)

14 THE CLERK: What say the State?

15 MR. BARNETTE: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. POOLE: Please swear the juror.

18 THE CLERK: Juror Number 159, Brian Whelihan.

19 (Brian Whelihan, a white male came forward.)

20 THE CLERK: What say the State?

21 MR. BARNETTE: Please present the juror.

22 THE CLERK: What say the defense?

23 MR. POOLE: Please swear the juror.

24 THE CLERK: Juror Number 54, Richard Fowler.

25 (Richard Fowler, a white male came forward.)

JURY QUALIFICATION

1 THE CLERK: What say the State?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What say defense?

4 MR. POOLE: Please swear the juror.

5 THE CLERK: Juror Number 20, Jennifer Butler.

6 (Jennifer Butler, a white female came forward.)

7 THE CLERK: What say the State?

8 MR. BARNETTE: Please present the juror.

9 THE CLERK: What say the defense?

10 MR. POOLE: Please excuse this juror.

11 THE CLERK: Juror Number 103, Jerry Martin.

12 (Jerry Martin, a white male came forward.)

13 THE CLERK: What say the State?

14 MR. BARNETTE: Please present juror.

15 THE CLERK: What say the defense?

16 MR. POOLE: Please swear Mr. Martin.

17 THE CLERK: Juror Number 19, Laura Brown.

18 (Laura Brown, a white female came forward.)

19 THE CLERK: What say the State?

20 MR. BARNETTE: Please present juror.

21 THE CLERK: What say the defense?

22 MR. POOLE: Please swear the juror.

23 THE CLERK: Any matters from the State regarding jury
24 selection?

25 MR. BARNETTE: None from the State, Your Honor.

MOTIONS AND MATTERS

1 THE COURT: From the defense?

2 MR. POOLE: No, sir.

3 THE COURT: Okay.

4 (Whereupon, the remainder of the jury pool was released.)

5 THE COURT: Thank you. Uh, ladies and gentlemen who were
6 selected, all fourteen of you, uh, Jurors Number 10 -- let's
7 see, 103, Mr. Jerry Martin and 1 -- and 19, Ms. Laura Brown
8 are alternate jurors and, uh, I'm gonna ask that you alternate
9 jurors, uh, seat yourselves, uh, actually, if you you'll move
10 to the l -- to the right one seat please each of ya, how 'bout
11 that, there we go, and then I'm gonna ask, uh, when I swor --
12 and I'm not gonna swear the jury at this moment, uh, but when
13 we do swear the jury, uh, Juror Number 99, Ms., uh, Zepora
14 Lyles, where are you, Ms. Lyles, Ms. Lyles, you will be the
15 forelady of this jury. It is my custom and my habit to
16 alternate between a, uh, foreman and a forelady and it's now
17 time for a forelady so I've I've chosen you to serve, uh, on
18 this jury so I would ask that you sit in the seat on the very
19 front where the lady in the coral, uh, and white top, let's
20 see, you don't have to switch right now but but when you --
21 when we come back, uh, then I'm gonna ask that you sit there
22 and the reason for that is, and everyone else can sit wherever
23 you like, okay, you can sit on the front, you sit on the back,
24 you can be rotarians while we're here, okay, I've been a
25 rotarian twenty-eight years so now you're honorary rotarian

MOTIONS AND MATTERS

1 but you can rotate, sir, anywhere you want, but the reason I
2 want my alternates and my foreperson, uh, always in assigned
3 seat is when I need for you to rele -- to move outta the
4 courtroom I always know where to look, uh, to that, uh, to
5 that chair to s-- to take you outta the courtroom.

6 Okay, uh, having said that, ladies and gentlemen, we have
7 some work to do that does not include, uh, your service this
8 afternoon. Now we could put you back there in that room to
9 sit and that would just be the awful thing to do and we're not
10 gonna do that. We will not need you until tomorrow mornin',
11 we have some work to do this afternoon and we don't need you
12 until tomorrow mornin' but I'm gonna ask you to be here as --
13 assembled somewhere around 9:15, 9:18, somethin' like that, I
14 fully intend to take the bench at 9:30 tomorrow and they're
15 hearing this for the first time but I have another matter to
16 tend to, I'll be here before 8:00, I always am and the lawyers
17 are but I have somethin' that does have nothin' to do with
18 this case whatsoever, uh, it's a management thing in the
19 morning, first thing that I have to do so I don't want you
20 sitting back there wonderin' wh -- when the judge is comin' to
21 work, when the lawyers are comin' here so if you'll be
22 assembled about 9:15, 9:16, sumtin' like that, get you a cup
23 of coffee, use facilities, uh, please leave cell phones at
24 home or in your car, smart tablets and other communication,
25 uh, tools of technology and then, uh, we'll should be ready to

MOTIONS AND MATTERS

1 go by 9:30, okay. Now you're gonna have them in a different
2 roo -- you want them to come back to -- Ms., madam bailiff,
3 you want 'em come ---

4 THE BAILIFF: Your Honor, we're gonna instruct 'em or
5 we'll take 'em.

6 THE COURT: Okay, you're gonna show them where they need
7 to be, okay, ---

8 THE BAILIFF: Yes, Your Honor.

9 THE COURT: --- it may -- you gonna put 'em in the jury
10 room?

11 THE BAILIFF: Yeah.

12 THE COURT: Okay. There's gonna be a different room
13 that's gonna be your room durin' durin' uh, this trial and
14 they're gonna show you where that is, I'm gonna let you go
15 here in about ten seconds.

16 Ladies and gentlemen, I I I tell you ahead a time please,
17 uh, do not try to learn anything about this case on the
18 Internet, newspapers, tools of technology, everything that you
19 learn about this case must come from within this courthouse,
20 must come from within this room and from witness stand. Uh,
21 any information that you would look up or so forth might be
22 incomplete, might be even inaccurate totally, you don't know,
23 but you you must not look at anything, uh, that would, uh,
24 tell you anything whatsoever 'bout this case. You need to be,
25 uh, and like me, only thing I know are three or four pieces of

MOTIONS AND MATTERS

1 paper, that's all I know about the case and that's what, uh,
2 we're asking you to do so that you make a a your determination
3 from inside, uh, this courtroom. Alright, anything from the
4 State?

5 MR. BARNETTE: Not from the State, Your Honor.

6 THE COURT: From the defense?

7 MR. POOLE: No, sir.

8 THE COURT: Okay. Madam forelady, if you will take your,
9 uh, jury of fourteen, uh, with the bailiffs, they will show
10 you where they want you to be tomorrow morning and you'll be
11 released from there.

12 (The following takes place outside the presence of the
13 jury.)

14 THE COURT: Okay, that the jury is outta the courtroom at
15 this time, I did not swear 'em as we talked about earlier.
16 Uh, we ready to go to -- what, let's just talk nuts and bolts
17 here. What -- we'll get off the record, let's get off the
18 record.

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: Okay. Gentlemen, uh, gonna be in recess
21 until two o'clock and I think we're gonna take up the other
22 matter first and then flow right into pre-trial, is that
23 right?

24 MR. POOLE: Yes, sir.

25 THE COURT: Okay. Solicitor, that sound right?

MOTIONS AND MATTERS

1 MR. BARNETTE: State ready, as far as that, Your Honor.

2 (Whereupon, a recess was taken.)

3 (Whereupon, a discussion was held off the record.)

4 (State's Exhibit Nos. 1 through 88 and Court's Exhibit
5 Nos. 1 and 2 marked for identification.)

6 THE COURT: Okay, warmed up? Everything works?

7 MR. BARNETTE: Yeah, will be or I can go ahead and
8 put some witness up, Your Honor, then we can play it
9 afterwards ---

10 THE COURT: Alright.

11 MR. BARNETTE: --- if I could.

12 THE COURT: Solicitor.

13 MR. BARNETTE: May it please the Court. Your Honor, I
14 understand they filed, they've, uh, filed a *Jackson v. Denno*
15 hearing motion in this case. Your Honor, I'd like to call,
16 uh, Investigator Chris Taylor to the stand first, Your Honor.

17 THE COURT: Okay.

18 (Whereupon, the witness came forward.)

19 THE CLERK: You'll place your left left hand on the Bible
20 and raise your right.

21 CHRIS TAYLOR, having been first
22 duly sworn, testified as follows:

23 THE COURT: Officer, tell us, uh, your name and spell
24 your last name for madam court reporter, please.

25 THE WITNESS: My name is Chris Taylor, T-A-Y-L-O-R.

CHRIS TAYLOR - DIRECT EXAMINATION BY MR. BARNETTE

1 THE COURT: Thank you.

2 DIRECT EXAMINATION BY MR. BARNETTE:

3 Q. Thank, Your Honor. Uh, where do you work at, sir?

4 A. The City a Spartanburg Police Department.

5 Q. And what's your position there, sir?

6 A. I am investigator.

7 Q. Uh, how long you been law enforcement there, sir?

8 A. A little over thirty-one years.

9 Q. Uh, back on, uh, I believe it was November or, uh, uh,
10 August the 8th, uh, was you called into an interview with, uh,
11 Corey Brown the defendant in this case?

12 A. I was.

13 Q. And did you go over a pre-in -- a pre-waiver form with
14 him, sir?

15 A. Uh, yes, I did.

16 Q. And let me show you what's marked as Court Exhibit No. 1,
17 is that a copy a the form that you use, sir?

18 A. Uh, yes, it is.

19 Q. And, uh, did you explain his rights to him, sir?

20 A. Uh, yes, I did.

21 Q. Uh, did he initial that he understood those rights?

22 A. Uh, yes, sir.

23 Q. And, uh, did you tell him what you all was investigatin'?

24 A. Uh, yes, I did.

25 Q. And wha'd ya tell him, sir?

CHRIS TAYLOR - DIRECT EXAMINATION BY MR. BARNETTE

1 A. I I gave as far as the information far as the case number
2 which is 08-0170-15, uh, Imagination Station robbery.

3 Q. Okay. And, uh, did he underst -- did he indicate he
4 understood all his rights, understood what ya'll was talkin'
5 about?

6 A. Uh, yes, sir.

7 Q. Did he sign and waive his rights?

8 A. Yes, sir.

9 Q. Was he promised anything?

10 A. No, sir.

11 Q. Was he threatened any way?

12 A. No, sir.

13 Q. Uh, did he ever ask for an attorney at any point?

14 A. Uh, no, sir.

15 Q. Did he talk to you freely and voluntarily?

16 A. Yes, sir.

17 Q. And, uh, was Investigator Jeff Kirby with ya also
18 that ---

19 A. Uh, ---

20 Q. --- time?

21 A. --- yes, he was.

22 Q. And did ya'll videotape the interview?

23 A. Yes, sir.

24 Q. And is this Court Exhibit 2 is that a copy of the, uh,
25 interview that you did, sir?

CHRIS TAYLOR - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Uh, yes, it is.

2 Q. And would that fairly represent what ya'll did that
3 day?

4 A. Yes, sir.

5 MR. BARNETTE: Your Honor, I'd like to moves Court
6 Exhibits 1 and 2 into evidence for purpose a this hearing at
7 this time, Your Honor.

8 MR. POOLE: No objection.

9 THE COURT: Without objection purpose a this hearing.

10 (Court's Exhibit No. 1, Pre-interrogation waiver form and
11 Court's Exhibit No. 2, DVD of Corey Brown's interview,
12 admitted into evidence.)

13 MR. BARNETTE: Uh, may I publish Court Exhibit 2 to the,
14 uh, Court, Your Honor, and and, uh, give you Court Exhibit 1
15 waiver form.

16 THE COURT: Yes.

17 MR. BARNETTE: Thank you.

18 (Pause.)

19 MR. BARNETTE: Your Honor, I've turned it up as loud as I
20 can 'cause it can be hard to hear.

21 THE COURT: Okay.

22 (Pause.)

23 MR. BARNETTE: Your Honor, let me start over, Your Honor,
24 for some reason . . .

25 (Whereupon, a portion of Court's Exhibit No. 2, DVD of

CHRIS TAYLOR - DIRECT EXAMINATION BY MR. BARNETTE

1 Corey Brown's interview, was played.)

2 (Whereupon, a discussion was held off the record.)

3 MR. BARNETTE: We can try, Your Honor, I don't know why
4 it won't, I mean, it's playing but there's sound kinda goes in
5 and out, it's not that bad.

6 (Whereupon, a portion of Court's Exhibit No. 2, DVD of
7 Corey Brown's interview, was played.)

8 (Whereupon, a discussion was held off the record.)

9 MR. BARNETTE: Let me try this one more time while I'm
10 here.

11 (Pause.)

12 (Whereupon, Court Exhibit No. 2, DVD of Corey Brown's
13 interview was played.)

14 THE COURT: Solicitor.

15 MR. BARNETTE: Thank Your Honor.

16 BY MR. BARNETTE:

17 Q. Does that videotape fairly, uh, depict the, uh, or show
18 the event that happened on August the 8th your interview with
19 defendant in this case?

20 A. Yes, sir.

21 Q. And do you see the defendant here in the courtroom today,
22 sir?

23 A. Yes, sir.

24 Q. Can you describe where he's at, what he's wearing, sir.

25 A. Uh, he's to my right, he's wearing a orange jumpsuit.

CHRIS TAYLOR - CROSS-EXAMINATION BY MR. POOLE

1 MR. BARNETTE: Your Honor, I -- he's identified the
2 defendant this case.

3 THE COURT: Any objection to that, Mr. Poole?

4 MR. POOLE: No, sir.

5 THE COURT: Okay, so identified.

6 BY MR. BARNETTE:

7 Q. Please answer any question Mr. Poole or the judge may
8 have for ya, sir, thank you.

9 CROSS-EXAMINATION BY MR. POOLE:

10 Q. Investor, uh, Investigator Kirby, it's our impression and
11 information that Mr. Brown was brought to city hall around
12 6:56, does that sound about right?

13 A. I'm Investigator Taylor.

14 Q. I'm sorry. Investigator, yeah, mis -- Mr. Kirby's over
15 here (indicating), that's Investigator, uh, Taylor. Does it
16 sound about right that 6:56 p.m. was the time that he was
17 brought to city hall?

18 A. Uh, sometime around six, in that area.

19 Q. Okay. What was done, and this your interview with him
20 began around 8:26, is that correct?

21 A. Um, that should be correct, yes, sir.

22 Q. So from 6:00 to 8:26 where was Mr. Brown?

23 A. Uh, Mr. Brown woulda probly been in the interview room.

24 Q. The same interview room?

25 A. Yes, sir.

1 Q. He was not moved from it?

2 A. He should not have been.

3 Q. Did anybody talk to him?

4 A. I didn't, sir.

5 Q. Are you aware of anyone else talkin' to him while he was
6 in that room ---

7 A. No, sir.

8 Q. --- for two and a half hour period?

9 A. No, sir.

10 Q. Are you, are you sure that nobody else talked to him?

11 A. Not to my knowledge.

12 Q. Is it possible somebody could have talked to him?

13 A. Yes.

14 Q. But you just don't know.

15 A. I don't know.

16 Q. And I saw that, uh, there was a Coke and some paperwork,
17 uh, on the table that was taken off the table by Investigator
18 Kirby, is that correct?

19 A. Uh, you saw it on the video?

20 Q. Yes, sir. Did you see that?

21 A. Uh, I probly didn't see it 'cause my back was turned most
22 a the time, ---

23 Q. Okay.

24 A. --- could be.

25 Q. Do you remember a Coke being there when you started

CHRIS TAYLOR - CROSS-EXAMINATION BY MR. POOLE

1 talking to Mr. Kirby, uh, Mr. Brown?

2 A. Off top a my head I can't say I did.

3 Q. Oh, that's okay. So he was sitting in there for two
4 hours and twenty-six minutes as far as you know by himself ---

5 A. As far as I know.

6 Q. --- but somebody else could have talked to him.

7 A. Yes.

8 Q. When you began your conversation with him, did you make
9 any efforts to ascertain his educational level?

10 A. Uh, no, sir.

11 Q. Did you make any efforts to ascertain his reading
12 ability?

13 A. No, sir.

14 Q. Did you make any efforts to ascertain whether he was
15 lucid and aware of what he was doing?

16 A. Uh, no, sir.

17 Q. Okay. So you didn't know anything about his educational
18 background ---

19 A. No, sir.

20 Q. --- or his ability to read.

21 A. No, sir.

22 Q. And when you walked in was that the very first time that
23 you walked into the room?

24 A. I'm not sure.

25 Q. You could have walked into the room prior to 8:26?

1 A. It's possible.

2 Q. You don't remember?

3 A. No, sir.

4 Q. Okay. If you walked into the room, would you have asked
5 him any questions?

6 A. I woulda asked him was he okay, to use the restroom or
7 get some drink, that's about it ---

8 Q. Did he ask ---

9 A. --- I believe.

10 Q. --- for a drink?

11 A. Not to my knowledge.

12 Q. Okay. Uh, did you talk -- ask him any questions about
13 the case?

14 A. Uh, what you heard on interview, that's all I asked him,
15 nothin' more.

16 Q. Okay. Now on this pre-interrogation waiver form, uh, the
17 interview began at 8:26 and e -- ended at 8:33, ---

18 A. Yes, sir.

19 Q. --- a relatively short period a time for about seven
20 minutes, right?

21 A. Yes, sir.

22 Q. And you saw what occurred on the video and basically you
23 asked him his name, his address, you said, uh, uh, something
24 about his rights and you presented a pa -- a paper, each time
25 you read him a -- your right -- his right you presented him

CHRIS TAYLOR - CROSS-EXAMINATION BY MR. POOLE

1 this (indicating) form and told him to initial, right?

2 A. Actually, I turned the paper so he could actually read
3 along with me, if he couldn't read, could have told me that.

4 Q. Okay. Well then, uh, you gave, you you gave him, you
5 went over the five rights verbally with him and then you hand
6 him a pen, you said, "Put your initials here," is that
7 right?

8 A. Yes, sir.

9 Q. And at the very end you said, If you understand these
10 rights put -- sign your name right here, and then you gave him
11 a pen and the stapler, right?

12 A. Yes, sir.

13 Q. Okay. Did you have any conversation about his
14 understanding of his rights?

15 A. No, sir.

16 Q. You just read him that statement?

17 A. Yes, sir.

18 Q. Said, If you want to waive your rights you just sign
19 here, you put the pen in front of him and, uh, he signed it,
20 that was it.

21 A. Yes, sir.

22 (Pause.)

23 Q. Do you know if there were any other videos that exist
24 where he's being recorded?

25 A. Not to my knowledge, sir.

CHRIS TAYLOR - REDIRECT EXAMINATION BY MR. BARNETTE

1 Q. Okay. Okay.

2 MR. POOLE: That's all I have, Your Honor.

3 THE COURT: Solicitor.

4 MR. BARNETTE: Just a couple on redirect, Your Honor.

5 Can I borrow Court Exhibit 1, Your Honor.

6 THE COURT: Right there.

7 MR. BARNETTE: Thank you.

8 REDIRECT EXAMINATION BY MR. BARNETTE:

9 Q. Investigator Taylor, uh, basically whatever interaction
10 you had was shown on video, is that right?

11 A. Yes, sir.

12 Q. You don't know what happened before anything, this
13 actually Investigator Kirby's case, wasn't it?

14 A. Yes, sir.

15 Q. Was you just assisting at that point?

16 A. That's all.

17 Q. And, uh, obviously you read these rights to him, did he
18 appear to understand them when you did?

19 A. Yes, sir.

20 Q. And did he appear to be under the influence of
21 anything?

22 A. No, sir.

23 Q. Okay. Uh, did he ever, uh, did he ever ask for an
24 attorney, did he ever say or wanted to remain silent or
25 anything like that?

CHRIS TAYLOR - REDIRECT EXAMINATION BY MR. BARNETTE

1 A. No, sir.

2 Q. And matter a fact he signed the form voluntarily, is that
3 right?

4 A. Yes, sir.

5 Q. Thank you, sir.

6 THE COURT: Anything at all?

7 MR. POOLE: No, sir.

8 THE COURT: Okay. Sir, you may step down, please be
9 careful.

10 THE WITNESS: Thank you, sir.

11 (Whereupon, the witness left the stand.)

12 MR. BARNETTE: Your Honor, we'd ask the witness be
13 excused.

14 THE COURT: Any objection?

15 MR. POOLE: No, sir.

16 THE COURT: Sir, you may stay or leave, whichever you
17 choose.

18 THE WITNESS: Gotta work, Your Honor.

19 MR. BARNETTE: I call Investigator Kirby to the stand.

20 (Whereupon, the witness came forward.)

21 THE CLERK: Place your right hand Bible, raise your
22 right.

23 JEFF KIRBY, having been first
24 duly sworn, testified as follows:

25 THE CLERK: Thank you.

JEFF KIRBY - DIRECT EXAMINATION BY MR. BARNETTE

1 THE COURT: Sir, tell us your full name, spell your last
2 name for madam court reporter.

3 THE WITNESS: Uh, Jeff Kirby, K-I-R-B-Y.

4 THE COURT: Solicitor.

5 MR. BARNETTE: Thank you, sir.

6 DIRECT EXAMINATION BY MR. BARNETTE:

7 Q. Uh, where do you work at, sir?

8 A. Uh, Spartanburg Police Department.

9 Q. And what's your position there, sir?

10 A. Uh, criminal investigations.

11 Q. And how long you been in law enforcement there, sir?

12 A. A little over fourteen years.

13 Q. Okay. Uh, back on August the 8th of 20, uh, 15 was you,
14 uh, called in to investigate the crime involving Imagine
15 occurred, guess on August 7th you, was you called in to start
16 that investigation?

17 A. Yes, sir, I was.

18 Q. And through that investigation did ya'll receive a
19 fingerprint?

20 A. Uh, yes, sir, we did.

21 Q. And, uh, did that fingerprint was found the cash register
22 that Imagination Station robbery?

23 A. Yes, sir, it was.

24 Q. And who did that fingerprint come back to?

25 A. Uh, Mr. Corey Brown.

JEFF KIRBY - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. And was there also other fingerprints that was found on
2 other items in the, uh, store ---

3 A. Yes, sir.

4 Q. --- also? And was that -- who'd those come back to?

5 A. Uh, Mr. Corey Brown.

6 Q. And did that also come back to his co-defendant?

7 A. Uh, yes, sir, Mr. -- Ms. Sandra Pearson, that's correct.

8 Q. So you had fingerprints from both individuals.

9 A. Yes, sir.

10 Q. Okay. And, uh, did you later locate where, uh, where
11 they were ---

12 A. Yes, ---

13 Q. --- the next day?

14 A. --- we did.

15 Q. And where were they at, sir?

16 A. It was a, it was a duplex on [REDACTED] College Street I
17 believe was the address.

18 Q. And that was in Spartanburg?

19 A. Yes, sir.

20 Q. That's over beside the VCOM building, is that ---

21 A. Uh, ---

22 Q. --- right?

23 A. --- yes, that's correct, it's right up the street from
24 VCOM.

25 Q. Okay.

JEFF KIRBY - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. POOLE: Uh, excuse me, Your Honor, I hate to
2 interrupt Mr. Barnette but are we getting into the fingerprint
3 aspect now?

4 MR. BARNETTE: No, no, I'm just bringin' it up to show
5 probable cause and everything leadin' up to give the Court a
6 little bit, little extra, I mean, show him ---

7 MR. POOLE: Okay.

8 MR. BARNETTE: --- what that evidence they have.

9 MR. POOLE: A -- okay, will Mr. uh, Investigator Kirby be
10 testifying again on the fingerprint issue?

11 MR. BARNETTE: No, sir, ---

12 MR. POOLE: Okay.

13 MR. BARNETTE: --- I don't think so, no.

14 MR. POOLE: Then I might have to have s -- ask him some
15 questions about fingerprints if he ---

16 MR. BARNETTE: Well I'm just showin' it just set a
17 background based off your questions to Investigator Taylor is
18 the reason I'm doin' what I'm doin'.

19 MR. POOLE: Okay.

20 MR. BARNETTE: I just ask for latitude the Court, stuff
21 that's gonna be presented ---

22 THE COURT: Okay.

23 MR. BARNETTE: --- in the case anyway.

24 THE COURT: Yes.

25 BY MR. BARNETTE:

JEFF KIRBY - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. And, uh, at that time did you all go over and, uh, uh,
2 did you all get Mr. Brown, Ms. Pearson from [REDACTED] College
3 Street?

4 A. Yes, sir, after a brief standoff. There was a period
5 where Mr. Brown didn't wanna come outta the residence. I
6 think I noted in my report proximately an hour and a half.

7 Q. And that was on August 8th, is that ---

8 A. Uh, ---

9 Q. ---correct?

10 A. --- yes, sir.

11 Q. And you did get Mr. Brown, Ms. Pearson, is that right?

12 A. Yes, we did.

13 Q. Uh, did Mr. Brown originally, did ya'll, uh, put him
14 originally into the interview room then Ms. Pearson did she
15 get interviewed first actually?

16 A. Yes, sir, I think and and I I wasn't at city hall.
17 What -- when that whole situation started, I was up the street
18 blocking traffic because it was called in as a hostage
19 situation or a barricaded suspect, I was actually blockin'
20 traffic from gettin' onto the house awaiting SWAT arrival.
21 Well once they come outta the house I don't know who
22 transported them to city hall but they were both transported
23 to city hall from that location.

24 Q. Okay. And, uh, through the inventory a that, uh,
25 apartment based off a search warrant was there duct tape found

1 in, uh, inside the apartment?

2 A. Uh, yes, sir, I believe there was.

3 Q. And was there also a gun found ---

4 A. Yes, sir, ---

5 Q. --- Corey's?

6 A. --- it was.

7 Q. So actually then you interviewed Ms. Pearson I believe
8 first before you interviewed Mr. Brown.

9 A. That is correct, I did.

10 Q. And that you received information from her about this
11 investigation.

12 A. Yes, I did.

13 Q. And then, uh, we saw the the interview when it started
14 approximately 8:20, 8:21 or 8:26, whatever time it was
15 there ---

16 A. Yes, sir.

17 Q. --- and was that, did this interview did it fairly
18 representation based off the video we saw here today?

19 A. Yes, sir.

20 Q. Okay. And, uh, in your opinion did, uh, the defendant
21 understand his rights?

22 A. Yes, sir, I believe he did.

23 Q. Uh, did he appear to be under the influence of
24 anything?

25 A. No, sir, he did not.

JEFF KIRBY - CROSS-EXAMINATION BY MR. POOLE

1 Q. Uh, did he, uh, did ya'll promise him anything?

2 A. No.

3 Q. Did ya'll threaten him in ---

4 A. No, sir.

5 Q. --- any way? Did he ever ask for a lawyer?

6 A. No, sir.

7 Q. Did he ever or ask to remain silent?

8 A. No, sir, he didn't.

9 Q. Uh, and he did speak to what ya'll heard was what ya'll
10 wrote down your reports, is that right?

11 A. Yes, sir.

12 Q. Okay, please answer any questions the judge or, uh,
13 defense may have for you, sir.

14 THE COURT: Mr. Poole.

15 CROSS-EXAMINATION BY MR. POOLE:

16 Q. Investigator Kirby, since this issue has come up at this
17 point, uh, as far as these prin -- fingerprints are concerned,
18 what was your involvement in the fingerprint process?

19 A. The the the victims just identified locations that the
20 two suspects had touched, what items they had touched while
21 inside the store ---

22 Q. Um-hum.

23 A. --- and I noted those items to our forensics team, ---

24 Q. Okay.

25 A. --- that this item was touched, this item, this book,

1 this toy.

2 Q. Were you a part of anything? Were you a part of the
3 fingerprint, latent fingerprint ---

4 A. No, sir.

5 Q. --- evidence process?

6 A. No, sir.

7 Q. Did you have any involvement with the fingerprint ---

8 A. No, sir.

9 Q. --- process? None whatever?

10 A. None whatsoever.

11 Q. Okay. And were you at the city hall, uh, at six o'clock
12 that night?

13 A. Uh, yes, sir.

14 Q. Okay. Where -- well, I'll ask you the same question I
15 asked the previous investigator: What was done with Mr. Brown
16 during that two and a hou -- half-hour period?

17 A. I believe Mr. Brown was seated in our patrol room while
18 we interviewed his co-defendant Ms. Pearson.

19 Q. Okay. What time was he taken into city hall?

20 A. Uh, sir, I I didn't transport him. I didn't transport
21 him to city hall, I was still on scene.

22 Q. So he could have been taken into city hall at six
23 o'clock?

24 A. I I can't answer that question.

25 Q. Well he was in your patrol car, ---

JEFF KIRBY - CROSS-EXAMINATION BY MR. POOLE

1 A. No, sir, ---

2 Q. --- right?

3 A. --- he was not in my patrol car. A marked patrol unit
4 transported him and Ms. Pearson to city hall from College
5 Street.

6 Q. Okay. Do you know -- have any independent knowledge of
7 when he was taken to city hall?

8 A. No, sir, I don't.

9 Q. Alright. Uh, did you have any contact with him prior to
10 your contact we saw on the video?

11 A. No, sir, I did not.

12 Q. Uh, so you didn't talk to him at all.

13 A. Nope.

14 Q. Alright. Was that your Coke and paperwork in that
15 room?

16 A. Yes, sir, it was.

17 Q. Alright, well Corey Brown was in that room, right?

18 A. At some point yes, he was in the room and then he was
19 removed so his co-defendant could be brought into the room.

20 Q. Okay. Okay. Did you talk to the co-defendant in that
21 room?

22 A. Yes, sir.

23 Q. And was that your Coke?

24 A. The Diet Coke?

25 Q. Right.

1 A. Yes.

2 Q. Okay, so you had just interviewed her prior to ---

3 A. Yes, ---

4 Q. --- Corey Brown's interview.

5 A. --- that's correct.

6 Q. Alright, so that accounts for the -- your Coke bein'
7 there, that paperwork, is that right?

8 A. Yeah.

9 Q. Do I understand ---

10 A. I I ---

11 Q. --- defendant ---

12 A. --- believe that's a fair statement, sir.

13 Q. Okay. And I believe you came in in the middle of the
14 interview, did you not?

15 A. Of whose interview?

16 Q. Mr. Brown.

17 A. Uh, yeah, well, I mean, I think that he was still
18 advisin' him of his rights, had had begun advisin' him,
19 readin' the Pre-interrogation Waiver Form when I entered the
20 room.

21 Q. Are you sure ---

22 A. Yeah.

23 Q. --- r had it not -- had he not signed it already?

24 A. Uh, I I don't remember right off but I don't think he had
25 signed it.

JEFF KIRBY - CROSS-EXAMINATION BY MR. POOLE

1 Q. Did you see him sign it?

2 A. I can't remember, sir, I don't, it's not notated in my
3 report.

4 Q. So you could have come in after he had ---

5 A. That, ---

6 Q. --- signed it?

7 A. --- yes, sir, that's a fair statement.

8 Q. Okay. Thank you.

9 THE COURT: Anything ---

10 MR. BARNETTE: No further questions, Your Honor, we'd ask
11 he be excused.

12 THE COURT: Any objection to be excused?

13 MR. POOLE: None.

14 THE COURT: Sir, you may step down, please be careful,
15 you may stay or go.

16 THE WITNESS: Thank you, Your Honor.

17 MR. BARNETTE: Your Honor, that be State's showing on
18 this ---

19 THE COURT: Okay.

20 MR. BARNETTE: --- matter.

21 (Whereupon, a discussion was held off the record.)

22 MR. POOLE: We call Mr. Corey Brown to witness stand.

23 THE COURT: Mr. Brown, come up, be sworn.

24 (Whereupon, the defendant came forward.)

25 THE CLERK: Place your left hand on the Bible and raise

COREY ANDREW BROWN - DIRECT EXAMINATION BY MR. POOLE

1 your right.

2 COREY ANDREW BROWN, having been
3 first duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 THE COURT: Sir, tell us your full name and spell your
6 last name for my court reporter, please.

7 THE DEFENDANT: Corey Andrew Brown, B-R-O-W-N.

8 THE COURT: Thank you. Mr. Poole.

9 DIRECT EXAMINATION BY MR. POOLE:

10 Q. Mr. Brown, are you the defendant in this case?

11 A. Yes, sir.

12 Q. And you know the reason that you're sitting up there?

13 A. Yes, sir.

14 Q. You know that I'm gonna be asking you some questions
15 about your interrogation ---

16 A. Yes, sir.

17 Q. --- and that's all I'm gonna be asking you, you
18 understand that?

19 A. Yes, sir.

20 Q. Okay. Uh, do you remember that form that you signed, a
21 copy of which we went over last Friday I think?

22 A. Yes, sir.

23 Q. Okay. Uh, the way this form was presented to you as it
24 was, uh, noted on the video was that a fair and accurate
25 representation of the way that the interview went?

1 A. Yes, sir.

2 Q. And how far did you go in school?

3 A. I say about six grade.

4 Q. Okay. Uh, can you read?

5 A. Fairly fairly good.

6 Q. Okay. Uh, when you were being talked to by Investigator
7 Chris Taylor, he would go through each one of these statement
8 of rights and he would say, You have the right to remain
9 silent, and then he would present a pen to ya and and tell ya
10 to sign, right?

11 A. Yes, sir.

12 Q. And he did, uh, that on all five of your rights, is that
13 right?

14 A. Yes, sir.

15 Q. He'll tell ya, tell you what it said and then to, uh,
16 told you to put your initials, is that correct?

17 A. Yes, sir.

18 Q. And then he said, uh, You have read the above rights and
19 you understood them fully, then he told you to sign the paper,
20 right?

21 A. Yes, sir.

22 Q. Did you understand what you were signing?

23 A. No.

24 Q. Why not?

25 A. I just -- he just gave me a piece and pen and I just

1 signed the paper.

2 Q. Okay. Now when were you brought over to city hall?

3 A. Round about 6, 6:30 or so, 6:00, somethin' like ---

4 Q. And that this interview went -- occurred beginning at
5 8:26, ---

6 A. Yes, sir.

7 Q. --- what were you doing?

8 A. I gue -- I guess it was one a the officers s -- had a
9 desk that I was sittin' at.

10 Q. Pardon?

11 A. It had, whether I guess I'm assume where the the deputy
12 that are officers where they sit at they desks, I was sittin'
13 there.

14 Q. Sitting there ---

15 A. Yeah.

16 Q. --- where? in city hall?

17 A. Yeah, I would guess I was.

18 Q. Where would that be?

19 A. I don't know. I just, you know, I went up some stairs
20 and then I made a left and I was sittin' there about two
21 hours.

22 Q. Was it a room like this?

23 A. No, it was like they desks where they sit at, you know,
24 their cubicles or what ---

25 Q. Okay. Did you tell, did you talk to any law enforcement

COREY ANDREW BROWN - DIRECT EXAMINATION BY MR. POOLE

1 before you talked to this investigator on this video?

2 A. Yes, the lady that, uh, that brought me there.

3 Q. Do you remember her name?

4 A. No, sir.

5 Q. Okay. What was that conversation about?

6 A. She asked me a few questions did I, uh, did I know about,
7 uh, why why I was there, I told her no, I didn't and I told
8 her I would like to have an attorney present and she said
9 she'll try to see if, talk to the the, uh, guy they had up
10 here to see if they can give me attorney.

11 Q. And how long was that before you were startin' to be
12 interviewed at 8:26?

13 A. It was right, it was right around after maybe, maybe
14 five, ten minutes after I got to to that what the cubicle.

15 Q. Five or ten minutes after you got there you talked to a
16 lady law enforcement, said you wanted a lawyer, ---

17 A. Yes, sir.

18 Q. --- did you say that you wanted a lawyer at any point in
19 time after that?

20 A. No, I asked 'em when would I be able to see a lawyer and
21 then they say that that the the, uh, the guys are that that
22 was up here that they she would talk to them and see if they
23 can get me a lawyer, ---

24 Q. Okay.

25 A. --- she couldn't, she couldn't do it though, she was

1 sayin'.

2 Q. So you said you wanted a lawyer?

3 A. Yes, sir.

4 Q. Okay. Was it your intention to give up your rights ---

5 A. No, ---

6 Q. --- without speaking to an attorney?

7 A. --- no, I wanted to talk to attorney.

8 Q. Did you want an attorney to be present during your
9 interrogation?

10 A. Yes, sir.

11 Q. And could you afford an attorney?

12 A. No.

13 Q. Uh, so how many people did you tell that you wanted a
14 lawyer?

15 A. I told the one lady twice.

16 Q. The one lady twice.

17 A. Yes, sir.

18 Q. And again, how long was that before 8:26?

19 A. I would say within, I'd say within the twenty minutes
20 that I was there 'cause I was sittin' there and I asked her,
21 when when would I be able to get attorney, and she said she
22 didn't know, she would talk to the the investigators and I sat
23 there for a little while longer and I aksed her again of when,
24 you know, when will I be able to see attorney, she said she
25 didn't know, she would talk to the investigator I'm assumin'.

COREY ANDREW BROWN - DIRECT EXAMINATION BY MR. POOLE

1 Q. Okay. At any point in time are you willing to give up
2 any a your rights?

3 A. No, I wanted to talk to a lawyer, I don't, I didn't wanna
4 give up anything, ---

5 Q. Okay.

6 A. --- I wanna talk to a lawyer first.

7 Q. But once again why were y -- uh, why did you sign this
8 form?

9 A. I thought that the interview was over with and then that
10 way I could only see a lawyer, talk to 'em, that's what I
11 thought, that's what I thought the form was, that mean that I
12 didn't have to like make a statement or nuttin' like that.

13 Q. Okay. So it was not your intention to give up any of
14 your rights.

15 A. No.

16 Q. Okay. And the completion a this form Investigator Taylor
17 basically read you a statement and then pointed to a place on
18 this form and gave you a pen and said sign it, right?

19 A. Yes, sir.

20 Q. And you did what he told you to do.

21 A. Yeah.

22 Q. So was it your understanding you were -- he was asking
23 you to put your initials or sign this paper and you were doing
24 that at his request ---

25 A. Yes, sir, beginning ---

COREY ANDREW BROWN - CROSS-EXAMINATION BY MR. BARNETTE

1 Q. --- and without an intention of giving up your rights?

2 A. Right.

3 Q. Okay, thank you.

4 THE COURT: Solicitor.

5 MR. BARNETTE: Thank Your Honor.

6 CROSS-EXAMINATION BY MR. BARNETTE:

7 Q. And, Mr. Brown, you said you went to sixth grade?

8 A. Yes.

9 Q. Where at and where -- what school did you go to, sir?

10 A. I went to Green Bay.

11 Q. Green Bay. Is that Green Bay, Wisconsin I'm assumin'?

12 A. No, it's in Milwaukee, Wisconsin ---

13 Q. Okay.

14 A. --- elementary high school.

15 Q. Okay, so ya did go -- which high school did you go to,
16 sir?

17 A. It's called Green Bay.

18 Q. Green Bay High School and that's in Milwaukee, ---

19 A. Wisconsin.

20 Q. --- Wisconsin? Okay.

21 A. Yes, sir.

22 Q. What grade ya go through, sir?

23 A. I'll say sixth grade.

24 Q. Now high school, you know, goes nine through twelve.

25 A. Right, but I went also, when I got incarcerated out there

1 too I did work at so I got to like till about the sixth grade
2 from the detain text that's what they told me.

3 Q. Okay, let me a -- let me rephrase my question then. Did
4 you go to elementary school?

5 A. Yeah.

6 Q. Okay, which elementary school did ya go to, sir?

7 A. It was Green Bay, it's like it's Green Bay is elementary,
8 middle school and high school, it's like one that ---

9 Q. Did you go to the middle school?

10 A. Yes.

11 Q. Did you go to the high school?

12 A. No, not there I didn't.

13 Q. And where'd you go to the high school at?

14 A. When I was incarcerated.

15 Q. And when when did you become incarcerated first, sir?

16 A. I'm not sure.

17 Q. What age were ya?

18 A. Uh, 18, 19 I'm assumin', I don't know for sure.

19 Q. And what grade did you get through, uh, what grade did
20 you -- what was the last grade a school you attended?

21 A. In in where? In ---

22 Q. At ---

23 A. --- jail?

24 Q. No, in the high school.

25 A. I don't know, I don't know for sure.

1 Q. Okay. How -- wha'd ya do in the, when you was
2 incarcerated, did you get your GED or did ya work towards it?

3 A. I work towards it.

4 Q. Okay. How far'd ya get, sir?

5 A. Uh, actually I don't even know. I di -- I didn't co -- I
6 didn't complete it.

7 Q. Okay. And, uh, you lived at [REDACTED] College Street [REDACTED] is
8 that right, sir?

9 A. Yes, I guess that's it, yeah.

10 Q. And who'd ya live with there, sir?

11 A. Sandra Pearson.

12 Q. And the police officers arrived there, uh, you eventually
13 came out to them, is that right?

14 A. Yes, I didn't know they was there till till my landlord
15 calls me that told me.

16 Q. Okay. So your -- the landlord called and told?

17 A. Yeah.

18 Q. Okay. And who else lived in that apartment?

19 A. Her son.

20 Q. Uh, Sandra Pearson's?

21 A. Sons.

22 Q. Uh, how old were they?

23 A. Just like 13, 14 I would say.

24 Q. And did ya'll have the upstairs bedroom, is that where
25 you and Ms. Pearson stayed?

1 A. Both bedrooms upstairs.

2 Q. Both bedrooms. How long before you realized the police
3 was outside?

4 A. When the, when when the landlord called me, he asked me
5 did I know that the police was outside, I told him no, I was
6 sleep and I got up, went looked out the window I seen the
7 police officers then by that time they called me, told me they
8 was outside which I didn't know so I asked them could I smoke
9 a cigarette, they said yeah and I told 'em I'd come out.

10 Q. Okay, so you're asleep when they arrive there?

11 A. Yeah.

12 Q. And you didn't know there's a whole SWAT team outside?

13 A. Nah.

14 Q. Okay. And, uh, well did you know where Ms. Pearson
15 was?

16 A. She said she was goin' goin' to the store to get her son
17 some school supplies.

18 Q. Okay. Uh, .32 Colt inside that house, whose car -- whose
19 gun was that?

20 A. I don't know.

21 MR. POOLE: Your Honor, I, excuse me, I believe we're
22 getting a little afield, uh, far afield with ---

23 THE COURT: Solicitor.

24 MR. POOLE: --- the *Jackson* ---

25 MR. BARNETTE: Okay, ---

1 MR. POOLE: --- vs. ---

2 MR. BARNETTE: --- I'll bring it back in, Your Honor, I
3 was just tryin' to figure out why takin' him so long and so
4 forth to come out, Your Honor.

5 THE COURT: Okay, it's my understandin' this is limited
6 to statements that he made.

7 MR. BARNETTE: Okay.

8 BY MR. BARNETTE:

9 Q. Uh, who's the first, uh, person you talked to at law
10 enforcement?

11 A. I don't know the lady's name, it was a lady that that
12 transported me.

13 Q. And you didn't talk to any police officer before that or
14 anybody talk to you before that?

15 A. No, ---

16 Q. But she was ---

17 A. --- they called me, ---

18 Q. --- the first ---

19 A. --- the person that called me on the phone I was in the
20 house, I don't know who that was.

21 Q. Okay, but who -- when you came outside the fir -- I mean,
22 wasn't there several officers there?

23 A. Yeah.

24 Q. Okay, but you you only talked to that one?

25 A. Yeah, I just got, when I came out they handcuffed me and

1 put me in the car.

2 Q. What time was that?

3 A. I don't know, maybe -- I don't know. I don't know what
4 time it was, I'd say five, six.

5 Q. Okay. And, uh, this lady transported ya ---

6 A. Yeah.

7 Q. --- to city hall, is that right?

8 A. Yes.

9 Q. When you got city hall, where'd they put ya at, sir?

10 A. I guess I'm just, I'll assume that it was where the, uh,
11 like the o -- it was like where officers sit at or their
12 desks, you know, you could see their desk, cubicles.

13 Q. Okay, so they sent ya there first?

14 A. Yes.

15 Q. How long did you stay there, sir?

16 A. Guess about a hour and a half, two hours I would say.

17 Q. Okay. Then where'd you go, sir?

18 A. To the interview room ---

19 Q. And who went ---

20 A. --- so ---

21 Q. --- there with ya?

22 A. A lady.

23 Q. Okay. When did, uh, Investigator Kirby and Investigator
24 Taylor come in?

25 A. I guess I don't know how soon after that but sometime

1 after that.

2 Q. Was it five minutes? ten minutes? fifteen? how long?

3 A. Probly was five, ten minutes, probly sumtin' like that.

4 Q. That was the first time that you was in the interview
5 room?

6 A. Yes, sir.

7 Q. You weren't in it before any ---

8 A. No.

9 Q. --- other time. Okay. And they gave you your rights
10 like what we saw on the video, is that right? You understood
11 those rights, is that right?

12 A. I thought I was ending the 'cause I wanted attorney so I
13 thought that was what that that piece a paper was, we's let
14 'em know that I wanted attorney. I didn't know I was giving
15 up my right.

16 Q. Now you've been through the criminal just [sic] system
17 before, this isn't the first time around, is it?

18 A. Yeah, I've been in the justice system before.

19 Q. And you've been through, I can go through your record,
20 you've been through several diff -- and I guess when you was
21 in high school even you went in in through, outta the system,
22 have ya?

23 A. Yeah.

24 Q. Okay. You've heard those rights before, have ya?

25 A. Yes.

1 Q. And you know if you, if you wanna ask for attorney you
2 could have asked attorney at that point.

3 A. No, I didn't. I never signed them paper before. I never
4 seen the pa -- I never signed any kinda papers not like that
5 before.

6 Q. But you've heard those rights before, haven't?

7 A. No.

8 Q. They've been read to you before, haven't?

9 A. They've been read to me but I never signed a piece a
10 paper or none a that so, no.

11 Q. And when you realize he read 'em to ya and turn around
12 where you could watch, I mean, we see that on the video.

13 A. Right.

14 Q. They did do that, isn't that right?

15 A. Yeah.

16 Q. Okay. You never told them about any attorney, did ya?

17 A. I told 'em before. I told the lady before and she said
18 that she would talk to them about me get an attorney so I
19 thought maybe that's what they was gonna do.

20 Q. When they start askin' you about what happened,
21 everything else, wouldn't you think that be a good time to
22 say, Well you know I've asked for attorney.

23 A. I asked for attorney.

24 Q. You did. So you -- you're you're claimin' that you asked
25 this (indicating) officer for an attorney.

COREY ANDREW BROWN - REDIRECT EXAMINATION BY MR. POOLE

1 A. Yes, I did.

2 Q. Right. You realize there's nothin' in any report that we
3 have show that you ever asked for attorney. You realize you
4 was in the interview room before that, before you went to
5 patrol room.

6 A. No.

7 Q. But you never asked this (indicating) gentleman or
8 Investigator Taylor for an attorney, did ya?

9 A. No, because they wasn't there, the lady that transported
10 me was there.

11 MR. BARNETTE: One moment, Your Honor, please.

12 (Pause.)

13 MR. BARNETTE: Thank you, sir. Thank Your Honor.

14 THE COURT: Thank you. Anything, Mr. Poole?

15 REDIRECT EXAMINATION BY MR. POOLE:

16 Q. Uh, just a couple follow-up questions to see if I
17 understand your testimony correctly and, uh, Mr. uh, Brown,
18 is -- do I understand your testimony correctly when you say
19 that basically you've read your right, you've had your rit --
20 rights read to you in the past but you've never signed a
21 paper, uh, waiving those rights, that correct?

22 A. That's correct.

23 Q. And also where you were living did you ha -- have a
24 lease, did you sign a lease?

25 A. Yes, I was ---

1 Q. Did you ---

2 A. --- on the lease, ---

3 Q. --- you ---

4 A. --- both were.

5 Q. Uh, did you read that lease or just sign it?

6 A. I just signed it.

7 Q. Okay. And, uh, did I understand to, you to testify that
8 you went to high school while you were incarcerated?

9 A. Yes, sir.

10 Q. And that you took the equivalency test?

11 A. Yes, sir.

12 Q. And that you were told that you have a sixth grade
13 equivalency, ---

14 A. Yes, sir, ---

15 Q. --- is that correct?

16 A. --- that I can remember.

17 Q. Okay. That's all.

18 MR. BARNETTE: Just a few, couple follow-ups on that,
19 Your Honor.

20 RECROSS-EXAMINATION BY MR. BARNETTE:

21 Q. Did you receive electric bill there, sir, and you pay for
22 electric Duke Power bill there?

23 A. Yeah.

24 Q. Okay, you so you signed to pay the the electric bill
25 there, is that right?

1 A. No, I called and had 'em.

2 Q. I'm gonna show you what's been marked State Exhibit 23,
3 that's (indicating) your power bill, huh?

4 A. Um-hum.

5 Q. You paid the power at that place ---

6 A. It's in my n ---

7 Q. --- didn't ya?

8 A. --- yeah, it's in my name.

9 Q. Okay. And you had a wallet on ya too, isn't that
10 right?

11 A. Yes, sir.

12 Q. You had a driver's lise [sic] or ID card, is that
13 right?

14 A. Yes, sir.

15 Q. You had several items inside that wallet, don't ya?

16 A. Yes, sir.

17 Q. You have to sign and sign up for those things, don't
18 ya, ---

19 A. (Indiscernible cross-talk.)

20 Q. --- like sign up for for a driver's license or an ID
21 card?

22 A. No, don't have to sign up for it, no.

23 Q. What did -- well tell me what ya do then.

24 A. You go and you pay, they they pay you money then you have
25 to have a a a a letter showin' that we live at, you have to

1 have a a, your birth certificate, you go in and pay whatever
2 if I think, I don't know how much it was at the time and then
3 you and you take a picture and they give you ID.

4 Q. And you don't sign anything?

5 A. No, not that I think of. Actually, I did that when I was
6 in prison so no, ---

7 Q. Okay.

8 A. --- I didn't sign anything.

9 Q. So you got a -- wait a minute ---

10 A. When I got outta jail, they gave me my, they gave me my
11 ID so I didn't sign anything.

12 Q. So Department Corrections gave you an ID?

13 A. Yes, sir.

14 Q. Gave ya a ---

15 A. I was ---

16 (Indiscernible cross-talk.)

17 Q. --- driver's license and a ---

18 A. I didn't have a driver's license, that's the ID.

19 Q. Yeah, but, I mean, I'm talkin' about South Carolina
20 ID ---

21 A. No, ---

22 Q. --- and a ---

23 A. --- I don't have a South Carolina ID, I have a Wisconsin
24 ID.

25 Q. You you got a Wisconsin ID.

COREY ANDREW BROWN - RECROSS-EXAMINATION BY MR. BARNETTE

1 A. Yes, sir.

2 Q. How long have you lived in this state?

3 A. We -- maybe a year I would say.

4 Q. So you lived here a year now?

5 A. Maybe 'bout a year, close to it.

6 MR. BARNETTE: More que -- no more questions, Your
7 Honor.

8 THE COURT: Anything at all?

9 MR. POOLE: No, sir.

10 THE COURT: Okay. Sir, you may step down, please be
11 careful.

12 (Whereupon, the defendant left the stand.)

13 THE COURT: Anything, solicitor?

14 MR. BARNETTE: Uh, Your Honor, may have a reply witness,
15 I will have them check see if off -- the officer's available,
16 that, uh, that she works second shift usually so I would like
17 leave this matter open, come back to it after we assume the
18 other motions, Your Honor.

19 THE COURT: Any objection?

20 MR. POOLE: No, sir.

21 THE COURT: Hearing none, okay. What's the next matter
22 we have?

23 MR. POOLE: Uh, ---

24 THE COURT: You need take a quick break?

25 MR. POOLE: Yes, sir.

MOTIONS AND MATTERS

1 MR. BARNETTE: I would ---

2 THE COURT: Okay.

3 MR. BARNETTE: --- agree.

4 THE COURT: Alright, let's take about ten minutes, how
5 'bout that?

6 MR. POOLE: Thank you.

7 (Whereupon, a recess was taken.)

8 THE COURT: Okay, let's see, what's the next thing we got
9 a fingerprint?

10 MR. POOLE: Yes, sir.

11 THE COURT: Okay. Yes, sir, Mr. Poole.

12 MR. POOLE: Yes, sir. As we have, uh, spoken in in
13 chambers, uh, we thought it would be advisable to to have a a
14 a, uh, hearing on on the fingerprint expert that's gonna be
15 testifying in this case to ensure the level of expertise
16 needed testify on such matters and a procedure was properly
17 followed and any necessary authentication.

18 THE COURT: Okay, so so you want a hearing on, uh, if if
19 this person's gonna be offered as an expert, right?

20 MR. POOLE: Yes, that's right.

21 THE COURT: Okay. Solicitor.

22 MR. BARNETTE: And, Your Honor, I'm I'm not introduc --
23 I'm just, I'm assumin' they're introduced for purpose a this
24 hearing that she's just done an analysis on, that's all I'm
25 doin' at this point. Obviously we're gonna introduce these

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 fingerprints at the, through the trial itself.

2 THE COURT: But I believe that's what their motion is,
3 they go to the qualification of the expert ---

4 MR. BARNETTE: Yes, sir.

5 THE COURT: --- and ---

6 MR. POOLE: Yes, sir, I'd like to ask her couple
7 questions about the procedure used.

8 THE COURT: Okay. Alright.

9 MR. BARNETTE: I call Investigator Jones stand, Your
10 Honor.

11 THE COURT: Yes.

12 (Whereupon, the witness came forward.)

13 THE CLERK: Please place your left hand on the Bible and
14 raise your right.

15 LOU JONES, having been first
16 duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 THE COURT: Investigator, once you're seated and situated
19 there, tell us your full name and spell your last name for
20 madam court reporter.

21 THE WITNESS: My name is Lou Jones, J-O-N-E-S.

22 THE COURT: Thank you.

23 MR. BARNETTE: Thank Your Honor.

24 DIRECT EXAMINATION BY MR. BARNETTE:

25 Q. Look at this way, can't find that stuff there. You have

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 been, uh, what, uh, where do you work at, ma'am?

2 A. Spartanburg City Police Department.

3 Q. And what is your position there, ma'am?

4 A. I'm a latent print examiner.

5 Q. And how long you been in that position, ma'am?

6 A. I've been examin' prints for twenty-six years.

7 Q. Uh, how many prints have you looked at?

8 A. Well over a hundred thousand prints.

9 Q. Okay. And what kinda training have you received in that,
10 ma'am?

11 A. I've had the History of Fingerprinting, Basic
12 Fingerprinting, Fingerprint Comparison, Fingerprint Class --
13 Classification, Complex Latent Print Comparison, Analysis of
14 Friction Ridge Detail, I have a diploma from the American
15 Institute of Applied Science for Basic Forensics 101,
16 Demystifying Palm Prints, Advanced Palm Prints and Advanced
17 Latent Ridgeology.

18 Q. And how many times have you been qualified in state
19 court, ma'am?

20 A. About five times ---

21 Q. Okay, ---

22 A. --- previously.

23 Q. --- and I believe you've been qualified in this court I
24 believe before fronta Judge Cole and other judges here I'm
25 sure.

LOU JONES - CROSS-EXAMINATION BY MR. POOLE

1 A. Yes.

2 MR. BARNETTE: Your, Honor I'd like to move her at this
3 time as an expert in latent prints.

4 THE COURT: Mr. Poole.

5 MR. POOLE: Could I ask her a few questions, please?

6 THE COURT: Yes, sir.

7 CROSS-EXAMINATION BY MR. POOLE:

8 Q. Uh, you you quickly ran over a lot of qualifications, ---

9 A. Yes.

10 Q. --- uh, Ms. Jones, would you, would you go through them
11 again, please.

12 A. Okay. I've had the History of Fingerprinting, Basic
13 Fingerprinting, Fingerprint Classification, Fingerprint
14 Comparison, Analysis of Friction Ridge Details, Complex Latent
15 Print Comparison, I have diploma from the American Institute
16 Applied Science for Basic Forensics 101, Demystifying Palm
17 Prints, Advanced Palm Print Comparison and Advanced Latent
18 Ridgeology.

19 Q. And how many times have you been qualified as an expert?

20 A. About five other times prior to this one.

21 Q. And how many times did you testify as an expert?

22 A. About five other times prior to this one.

23 Q. And where at, where did you testify?

24 A. In this court, at ---

25 Q. Spartanburg County only?

LOU JONES - CROSS-EXAMINATION BY MR. POOLE

1 A. Yes.

2 Q. Okay.

3 MR. POOLE: Uh, bear with me please, Your Honor.

4 THE COURT: Yes, sir.

5 (Pause.)

6 MR. POOLE: Your Honor, I think it's, uh, obvious that,
7 uh, Ms. Jones qualifies as an expert but I would like to ask
8 her some questions 'bout her role in this case.

9 THE COURT: Solicitor.

10 MR. BARNETTE: Your Honor, I can briefly go into what she
11 examined and things like that from that standpoint.

12 THE COURT: Okay, we'll let Mr. Poole just ask her a few
13 questions there but I I -- okay, don't don't go too far afield
14 though.

15 MR. POOLE: Okay.

16 THE COURT: Okay.

17 BY MR. POOLE:

18 Q. Uh, what's the proper procedure, to in this particular
19 case for laying the foundation for the introduction of
20 fingerprints of the defendant?

21 MR. BARNETTE: I'm gonna object, Your Honor, that's a
22 legal standard, that's not somethin' that she would handle
23 from there.

24 THE COURT: Yes, that that, she she wouldn't know that.

25 BY MR. POOLE:

LOU JONES - CROSS-EXAMINATION BY MR. POOLE

1 Q. Well, uh, what was the procedure used this case?

2 A. The first thing I do when I get a latent print I examine
3 print to make sure that is a, it is of sufficient quality,
4 that means that you can see those friction ridges in the
5 prints, those lines are called "friction ridges." You need to
6 be able see where they stop or ridge endings or bifurcate or
7 trifurcate. Bifurcate means that you have one ridge it splits
8 into two, trifurcates means that you have a a ridge that's
9 splits into three ridges, so and then I look at the other
10 de -- details that are within the fingerprint. I wanna see if
11 I can see the pattern of the fingerprint, what is a whorl
12 print or a loop print or a arch print, I wanna see if I can
13 find the core of the print, the delta the print, where the
14 ridges are flowing, curvature the fingerprint, just need to
15 see what's in that print.

16 Q. Well, uh, well how the fingerprints get to you, what's
17 the process being used in this particular case of
18 these -- this defendant's fingerprints given to you?

19 A. Which ones are we talking about the latent print or the
20 ten-print?

21 Q. The ten-print.

22 A. We have a database that we search our prints against.
23 Those points that I was talking about, they're marked on a
24 computer system, so I mark the points identification and
25 search it against the database.

LOU JONES - CROSS-EXAMINATION BY MR. POOLE

1 Q. Okay, and what kinda results do -- does the database
2 yield?

3 A. It depends. Uh, in this case, uh, do you want me to tell
4 what type of database I searched or I ---

5 Q. That's not ---

6 MR. BARNETTE: Your Honor, I I know I cautioned her in
7 fronta the jury ---

8 MR. POOLE: You're ---

9 MR. BARNETTE: --- be careful what database and I I think
10 she could answer question here but obviously in ---

11 THE COURT: You ---

12 MR. BARNETTE: --- fronta the jury ---

13 THE COURT: --- you, yes, you can answer it here but in
14 fronta the jury we're gonna refer to it as database.
15 Everybody in the case will refer to it as database.

16 THE WITNESS: Okay, I searched the FBI database which had
17 about 70 million prints, I just mark the points identification
18 and they'll send a response back and this particular print
19 came back number 1 in in that database based on the points
20 that I marked.

21 BY MR. POOLE:

22 Q. Okay. How many fingerprints were taken in this case?

23 A. Um, in that this particular envelope, that envelope
24 number 1, there's three different envelopes, in this one is
25 five fingerprints.

LOU JONES - CROSS-EXAMINATION BY MR. POOLE

1 Q. Okay. How many fingerprints were taken or lifted from
2 the, at, uh, uh, crime scene?

3 A. I didn't do the crime scene, I'm not sure how many
4 fingerprints were lifted from that.

5 Q. Okay. Which fingerprints did you use to compare against
6 the information you got from the database?

7 A. FBI fingerprint card. When we use the latent print from
8 the crime scene, ---

9 Q. Did ---

10 A. --- we did a one-to-one comparison, side-by-side compare.
11 Here's (indicating) a copy of the comparison? Do you wanna
12 take a look at it? Uh, we mark points identification.

13 Q. Okay. We talked a little bit about this before. May I
14 approach the witness, Your Honor?

15 THE COURT: Yes.

16 Q. Uh, okay, yeah, we talked a little bit 'bout this before
17 you and I ---

18 A. Um-hum.

19 Q. --- and, uh, but, see, the information I have basically
20 in what we call the "discovery" is that where there were
21 several fingerprints taken like, uh, recovered from the crime
22 scene, uh, there were twenty-two pa -- latent lifts, do you
23 know anything about these?

24 A. Yes, I know that there was another evidence envelope,
25 these are separate envelopes, okay.

LOU JONES - CROSS-EXAMINATION BY MR. POOLE

1 Q. Okay.

2 A. This (indicating) is the first set of uh, envelope that
3 was done with the five, there's another twenty-two, I think we
4 have another one with maybe six.

5 Q. So there were a lot of fingerprints ---

6 A. There's a ---

7 Q. --- taken.

8 A. --- lotta fingerprints taken, yes, ---

9 Q. Alright. Okay.

10 A. --- kind of.

11 Q. Let me, may I ask you a question?

12 A. Yes.

13 Q. How did you know to submit this (indicating) print,
14 latent print lifted from this case number and compare it to
15 this on the ten-print print card?

16 A. What happens is that, I I I don't know anything about who
17 print it's going to be but whatever prints are of sufficient
18 quality, they're marked and searched through a database. Once
19 they come back in the database it lets you know who they
20 belong to. It's up to, they don't let you, the database
21 doesn't tell you if it's going to be a match or
22 identification, it's gonna be up to the examiner looking at
23 that print. The only thing the databa -- base does is give
24 you possibilities 'cause it can't differentiate between a
25 ending ridge or a bifurcation, any a the characteristics in

1 prints.

2 Q. That the database gives you possibilities.

3 A. Possibilities ---

4 Q. Alright.

5 A. --- so, yes.

6 Q. Okay. And in regard, that regard how many possibilities
7 were sent back to you?

8 A. This was number 1, I think eighteen possibilities were
9 sent back but this was the top one. Some of 'em are, once you
10 look at the prints, sometimes the the prints that they send
11 back look nothing like that particular print.

12 Q. Okay. And but this is a full print right here
13 (indicating), ---

14 A. That's ---

15 Q. --- this ---

16 A. --- the ---

17 Q. --- one right ---

18 A. --- ten-print, yes.

19 Q. And this is about one quarter of, ---

20 A. Yes, ---

21 Q. --- is that about, ---

22 A. --- about ---

23 Q. --- right?

24 A. --- half.

25 Q. About ---

LOU JONES - CROSS-EXAMINATION BY MR. POOLE

1 A. It's about, ---

2 Q. --- half?

3 A. --- it's about half.

4 Q. Okay.

5 A. It's it's about half.

6 Q. Do you talk to somebody that where they may exist, uh,
7 about these comparisons you make?

8 A. A verification is always done on my comparisons.

9 Q. Okay, who who did the verification in your -- this case?

10 A. Courtney Burgess.

11 Q. Courtney Burgess?

12 A. Yes, but she did, she does her own, uh, comparison.

13 Q. And where does she get her information from though?

14 A. Well I'll just give her the latent print card and the
15 ten-print card ---

16 Q. Um-hum.

17 A. --- and then she'll have to go through the same steps.
18 She have to analyze the print just like I do, see if it's a,
19 of sufficient quality ---

20 Q. Um-hum.

21 A. --- and she have to do a comparison then make her own
22 evaluation ---

23 Q. Um-hum.

24 A. --- based on the information she see on this, uh, on the
25 case.

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 Q. But you're the only one that has contact with the
2 database. You get something back from them and then you give
3 that information to Courtney Burgess ---

4 A. Well we all have, ---

5 Q. --- that's ---

6 A. --- I am the only one that did search it against the
7 database, yes.

8 Q. In this case.

9 A. In this case, yes.

10 Q. Okay. She did not?

11 A. No, she did not do the search.

12 Q. Okay.

13 A. She just does the verification of the search.

14 Q. Okay. Alright, that helps me some, thank you. Hold ---

15 A. Okay.

16 Q. --- on just a minute.

17 THE COURT: Yes, sir.

18 MR. BARNETTE: Just a couple question, clarification for
19 the Court, Your Honor.

20 REDIRECT EXAMINATION BY MR. BARNETTE:

21 Q. If you would step on down, ma'am, so we would show the
22 judge here real quick.

23 A. Step down?

24 Q. Yes, ma'am.

25 (Whereupon, the witness left the stand.)

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: Can we approach the bench, Your Honor, so
2 you can ---

3 THE COURT: Yes.

4 MR. BARNETTE: --- see?

5 BY MR. BARNETTE:

6 Q. The prints that you received was State Exhibits 38 and
7 39, is that, is that correct, ma'am?

8 A. Yes.

9 Q. And these are the latent prints that you received, I I
10 believe they was collected by Shane Cloran as well as, uh,
11 Investigator Nolkutt, is that correct?

12 A. Norkett.

13 Q. Norkett.

14 A. Yes. There's a, also another one: evidence envelope
15 number 1.

16 Q. Okay.

17 A. Which one was that? were there five in it with the
18 extra ---

19 Q. We'll ---

20 A. --- one for this one?

21 Q. Yes, ma'am, we'll look for that and see if we can get it
22 out a little later so from there but you received them from
23 those investigators that worked the crime scene, is that
24 right?

25 A. Yes.

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 Q. And then State Exhibit, uh, 86 was actually, uh, 1.1 I
2 guess it's labeled, ---

3 A. Yes.

4 Q. --- it shows on the back where it was collected by
5 Investigator ---

6 A. Yes.

7 Q. --- Norko ---

8 A. Norkett, Christy Norkett.

9 MR. BARNETTE: And, Your Honor, I'd like to enter this
10 into evidence just for, uh, purpose a this hearing at this
11 point.

12 MR. POOLE: For purpose a this hearing that's no problem.

13 THE COURT: Alright, so admitted purpose a this hearing.

14 (State's Exhibit No. 86, latent print 1.1, admitted into
15 evidence.)

16 (Whereupon, the witness returned to the stand.)

17 BY MR. BARNETTE:

18 Q. And that's the actual latent on top and then that was
19 where, on the back's where she lists where it was collected
20 everything. State Exhibit 88, is this another latent print
21 that you received?

22 A. Yes.

23 Q. Okay. And does it show location of it on the back of it
24 where it was collected by Investigator Norkett?

25 A. Yes.

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: Your Honor, I'd like to enter State
2 Exhibit 88 into evidence for the purpose a this hearing.

3 MR. POOLE: No objection.

4 THE COURT: Without objection.

5 MR. BARNETTE: Okay.

6 (State's Exhibit No. 88, latent print 2.1 and 2.2,
7 admitted into evidence.)

8 BY MR. BARNETTE:

9 Q. And State Exhibit 87, uh, was this the actual, uh, print,
10 uh, that the think it's 1.1 that was taken off the card?

11 A. Yes.

12 Q. And this is actually the ten-print card form rather, is
13 that right, ma'am?

14 A. Yes.

15 Q. And what what -- how's the quality it and I'm trying,
16 State Exhibit 87, Your Honor, I'd like to move into evidence
17 for purpose a this hearing.

18 MR. POOLE: No objection.

19 THE COURT: Without objection.

20 (State's Exhibit No. 87, blow up print comparison
21 diagram, admitted into evidence.)

22 BY MR. BARNETTE:

23 Q. If you would just approach the bench here.

24 A. I can't tell if it ---

25 (Whereupon, the witness left the stand.)

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 Q. Can you tell the judge about the quality a this print.

2 A. Yeah. Actually, in this print you can see the ridge
3 details. These (indicating) are the lines they call "ridge
4 details." These (indicating) are friction ridges, I'm sorry,
5 of of the print and we can actually see the poorer the print
6 we can see that this (indicating) is the same, uh, ridge flow,
7 which direction, which curvature these, the way the prints are
8 curved, everything, and we can actually count the lines, this
9 is what you have to do in order to make identification be able
10 to count those lines within those prints. See where they end,
11 where they stop and where they bifurcate, what -- where these
12 ridges will stop, they'll stop here (indicating), then you'll
13 be be able to count the ridges that intervene between the
14 points that you marked: one, two, three points, then you'll
15 have that little ending ridge, this little thin ridge here
16 (indicating) and you're able to count one, two and three, the
17 thin ones there, and so forth and so on, all clockwise
18 position around them.

19 Q. And since what's ki, uh, the quality of print, what kind,
20 how would, uh, you list the quality a this print?

21 A. This is a really good print.

22 Q. And you identify the different points, I believe you
23 identified up to twelve points ---

24 A. I did.

25 Q. --- off the print.

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 A. I did.

2 Q. And was this be a match with the defendant's print?

3 A. Yes, it is.

4 Q. Okay. Thank you, ma'am, please have a sit.

5 A. Back on the stand or what?

6 Q. Uh, back on the stand, ma'am.

7 A. Okay.

8 (Whereupon, the witness returned to the stand.)

9 MR. BARNETTE: Your Honor, that be all the questions I'd
10 ask of Ms. Jones.

11 THE COURT: Anything further, Mr. Poole?

12 MR. POOLE: No, sir, happy to confer with
13 Mr. Barnette just just a moment.

14 (Whereupon, a discussion was held off the record.)

15 MR. POOLE: My inquiry is satisfied, Your Honor, and, uh,
16 I just talked with Mr. Barnette about the the au --
17 authentication and he explained to me that that would be
18 occurring at trial.

19 THE COURT: Sure, okay. Alright, so it's my
20 understanding then there's no objection if she's offered, I
21 don't know, if she's offered that she'll be qualified without
22 objection as a expert in latent fingerprint analysis, ---

23 MR. POOLE: Yes, sir.

24 THE COURT: --- that right?

25 MR. BARNETTE: Yes, sir, that's why we, uh, presented her

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 for.

2 THE COURT: Okay.

3 MR. BARNETTE: We ask the witness step down, we'll call
4 her later in the trial, Your Honor, ---

5 THE COURT: Sure.

6 MR. BARNETTE: --- believe so.

7 THE COURT: Yes, ma'am, thank ---

8 THE WITNESS: Thank you.

9 THE COURT: --- you, please ---

10 (Whereupon, the witness left the stand.)

11 MR. BARNETTE: Could she leave for the day?

12 THE COURT: Ma'am, ju -- if you -- you may stay or leave
13 for the day, whichever but you'll, ---

14 THE WITNESS: Alright.

15 THE COURT: --- I think they need ya later, or he might,
16 I don't know.

17 MR. BARNETTE: Your Honor, I'd like to call Investigator
18 Burgess to the stand, ---

19 THE COURT: Okay.

20 MR. BARNETTE: --- she's the one that does the
21 verification.

22 (Whereupon, the witness came forward.)

23 THE CLERK: If you'll place your left hand on Bible and
24 raise your right.

25 COURTNEY BURGESS, having been

COURTNEY BURGESS - DIRECT EXAMINATION BY MR. BARNETTE

1 first duly sworn, testified as follows:

2 THE COURT: Ma'am, please tell us your full name, spell
3 your last name for my court reporter.

4 THE WITNESS: Courtney Burgess, B-U-R-G-E-S-S.

5 THE COURT: Thank you. Solicitor.

6 DIRECT EXAMINATION BY MR. BARNETTE:

7 Q. Where do you work at now, ma'am?

8 A. Spartanburg County Sheriff's Office.

9 Q. And what's your position there, ma'am?

10 A. I'm a latent print examiner.

11 Q. Kay, and how long you been in that position, ma'am?

12 A. A little over a year now.

13 Q. Okay, and prior to that where do you work at, ma'am?

14 A. I worked for Spartanburg Police Department.

15 Q. And how long was you in that position, ma'am?

16 A. I was there as a crime scene investigator for about nine,
17 little over nine years.

18 Q. Okay, and did ya have other jobs, other duty or other
19 duties involved with that position?

20 A. Yes, sir. I, uh, of course I responded to crime scenes,
21 uh, processed them, documented them but I also did the
22 verifications for Ms. Jones, any time she made an
23 identification on a fingerprint I did the verifications.

24 Q. Okay. If you would tell, uh, the Court about your
25 background and education, ma'am.

1 A. Okay. I have a bachelor a science in forensic
2 identification from West Virginia University. Uh, while there
3 I had, uh, I I completed courses in the Science and Technology
4 of Fingerprint Identification, Latent Fingerprints, uh, I've
5 also attended training at Sirchie Fingerprint Laboratories in
6 Youngsville, North Carolina in Advanced Palm Print, uh,
7 Analysis and Advanced Latent Ridgeology.

8 Q. And, uh, West Virginia I believe it was one a the first
9 class of its type, uh, that that degree was in, is that right?

10 A. Yes, sir.

11 Q. And, uh, in those classes did you have take fingerprint
12 examina -- or latent print examination, uh, tests and so
13 forth, ---

14 A. Yes.

15 Q. --- those were the class you did?

16 A. Yes, sir. We had to do if I remember correctly, it's
17 been a while, a minimum of fifty, uh, identifications to be
18 able to pass the class. We weren't allowed to make any
19 misidentifications.

20 Q. And obviously you passed class.

21 A. Correct.

22 Q. And how many prints have you examined, ma'am, over your
23 career?

24 A. Uh, verifications probably several thousand. Uh, since
25 I've been at the sheriff's office I've probably done close to

COURTNEY BURGESS - CROSS-EXAMINATION BY MR. POOLE

1 two thousand, uh, identifications and verifications.

2 MR. BARNETTE: Your Honor, we move her an expert in
3 latent prints at this time.

4 THE COURT: Mr. Poole.

5 MR. POOLE: Couple questions.

6 CROSS-EXAMINATION BY MR. POOLE:

7 Q. Uh, Ms. Burgess, uh, how you doin'?

8 A. Good, how 'bout yourself?

9 Q. Good. Uh, have you ever been qualified as an expert
10 before?

11 A. Not yet.

12 Q. You have not?

13 A. No, sir.

14 Q. You ever testified at trial?

15 A. Yes, I have.

16 Q. You have testified at trial?

17 A. Yes, at -- on crime scene, uh, cases.

18 Q. Not on, uh, fingerprint verification?

19 A. Correct.

20 Q. Okay, thank you.

21 A. Um-hum.

22 THE COURT: Okay.

23 MR. POOLE: Your Honor, we would submit that this witness
24 is not an expert witness, she has not testified in any prior
25 trial and she's, although she's got a great academic, uh,

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1 performance record with which I respect, she's only been a
2 lead printing examiner for one year, on that basis I would
3 submit that she does not qualify as an expert to render
4 testimony.

5 THE COURT: Solicitor.

6 MR. BARNETTE: Thank Your Honor. I believe off her
7 education, uh, class at West Virginia talkin' about latent
8 print analysis, all the classes she's attend, the
9 verifications she's done and the print she's done since then,
10 no no question she's qualified. The argument that she's never
11 been qualified before, uh, everybody has to be qualified once,
12 Your Honor, to start out from there and I think she definitely
13 meets the background, obviously they can question her about
14 her background about her education but I think she meets those
15 requirements as an expert, Your Honor.

16 THE COURT: Anything from anybody else?

17 MR. POOLE: Not here, Your Honor.

18 THE COURT: Okay, the Court, uh, will qualify her as an
19 expert witness in latent, uh, fingerprint analysis, uh, and
20 verification if if that's, uh, necessary. The Court is the
21 gatekeeper with respect to the admiss -- the admission of
22 expert testimony. The judge must access -- assess the
23 threshold foundational requirements of her qualifications and
24 then the reliability and find that the proposed evidence will
25 assist jury in a trier, uh, as a trier of fact. Atta -- a

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1 challenge to the evidence will go, uh, Mr. Poole, to the
2 weight, not the admissibility, that's the *Risher* case that
3 we're all familiar with. Uh, this witness, Investigator
4 Burgess, uh, has the background, uh, has the education and
5 experience, she's worked for ten years, slightly over ten
6 years according to my math, uh, and the fact that she's never
7 been qualified before, uh, is of no concern to this court so
8 she'll be qualified.

9 MR. POOLE: Just it's course we will respectfully object.

10 THE COURT: Yes, sir, and it's respectfully, uh, noted.

11 MR. BARNETTE: And, Your Honor, she gonna testify
12 cour -- trial 'bout the verification, I'm not gonna go through
13 all that unless Court requires me to at this point.

14 THE COURT: Oh, not at this point, she, uh, I I think we
15 just -- about what she did and how she did it is is, uh, is to
16 the weight of the evidence and that she should have done
17 somethin' or sh -- or should not have done somethin',
18 certainly not through the admissibility.

19 MR. BARNETTE: What I thought. We'd ask her be excused
20 for today, obviously we'll call her back as a witness at a
21 later time.

22 THE COURT: Any objection?

23 MR. POOLE: No, sir.

24 THE COURT: Ma'am, you're excused for today, you may stay
25 or go, whichever you choose.

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1 THE WITNESS: Thank you.

2 (Whereupon, the witness left the stand.)

3 THE COURT: Okay. And we already did, we already decided
4 on the priors, his record thing, we don't have to worry about
5 that one, right?

6 MR. BARNETTE: Yes, sir. If I understood right that the
7 thefts the only one that's gonna be able to be, able to used
8 against the defendant, ---

9 THE COURT: They have 'cause he ---

10 MR. BARNETTE: --- I believe they agree with that.

11 MR. NEELY: That's correct.

12 THE COURT: That's right. Okay, so the only one left is,
13 uh, identification?

14 MR. NEELY: That's correct, Your Honor.

15 THE COURT: Okay.

16 MR. NEELY: At this time we would, uh, ask the Court to
17 prevent Mrs. Slotin, the the victim in this case from
18 identifying Corey Brown, uh, in court. Uh, it's defense's
19 belief that her out-of-court identification would be so
20 unreliable, uh, and it would create a substantial likelihood
21 of misidentification.

22 Uh, Your Honor, the, it's the defense's position that the
23 *Bigger* standard would apply in this case, the two prong test.
24 There is whether, uh, the ID resulted from unnecessary and
25 unduly suggestive police procedure and whether the

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1 out-of-court ID would be so unreliable that no substantial
2 likelihood of, uh, misidentification existed. The question,
3 Your Honor, I believe is gonna turn on, to give the Court a
4 little background, uh, there is, uh, an out-of-court
5 identification made when the victim in this case saw the mug
6 shot of Corey Brown on the evening news, uh, at that point I
7 believe she called the the investigator on this case, I
8 believe it was Investigator Kirby and and let him know that
9 she had seen the the mug shot on the news and and then
10 provided a positive identification in this case, Your Honor,
11 to this point that has been the only ID that has been made in
12 this case. What our position turns on the question, uh, is
13 whether the reliability of that media identification involved
14 any sorta state action, any sort of police action and it is
15 our contention at this point that, uh, the source of that news
16 report would be from some police action, whether it was
17 through a FOIA request or or so however it is that they
18 received the information about the case, um, and that that
19 police action would taint her out-of-court identification so
20 that her in-court ID would be unreliable.

21 THE COURT: Well, I've got a case here I read, let me
22 find it first. How 'bout *State v. Tisdale*, that would be at,
23 uh, 338 South Carolina 607 at 527 southeastern second 389,
24 that's a nine -- looks like a 2000 case in the Court of
25 Appeals, Mr. Neely.

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1 MR. NEELY: Judge, if the Court reflect my recollection
2 on *State v. Tisdale*, apologize.

3 THE COURT: Solicitor.

4 MR. BARNETTE: And, Your Honor, response *State vs.*
5 *Tisdale's* the main case in our state, Your Honor, there's
6 other cases too, uh, from that standpoint that say, uh,
7 Although the reliability identification may be affected by
8 media identification, no police deference [sic] be achieved
9 by excluding evidence where there's been no governmental
10 involvement. There, we hold that *Niger* of the, uh, excuse me,
11 the, uh, *Neil Biggers* analysis inapplicable where there's a
12 nongovernmental identification source, there's no other
13 jurisdiction they talk about this, Your Honor. Basically it
14 just because the media has it, they see it, there's nothin'
15 involved with it, the police didn't anything wrong this
16 situation from that standpoint and that way the, uh, *Neil*
17 analysis is not taken in this case, Your Honor. They also,
18 uh, say that, The balancing test under *Strovall* [sic] *Simmons*
19 not applicable also, Your Honor, in this case. They also
20 state *State vs. Brown* which is a Ohio case, Your Honor, in
21 that, Your Honor, uh, basically says, Because the police was
22 not involved in media identification in this case, the trial
23 judge did not err in allowin' the tellers' identification
24 testimony. Basically on that same situation: you had the bank
25 tellers, Your Honor, that saw him on the, on the news, same

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1 situation here, Your Honor. Uh, we would allege that she
2 received information from the news, uh, where she either saw
3 the picture or went to, uh, booking, uh, on the mug shots that
4 were kept at the jail, Your Honor, or anything like that. I
5 also got cases on that also, Your Honor. Just put these on
6 the record, uh, from the standpoint: *State vs. Matthews* which
7 is a unpublished opinion 2 -- 2014-UP-63, Your Honor, is a
8 Court of Appeals decision February 12th 2014, Your Honor,
9 talks about the online booking, how it was not state action in
10 that case, Your Honor. *State vs. Barton's* another unpublished
11 opinion, 2013 unpublished 58, Your Honor. Uh, basically,
12 there was no proper police conduct there, basically the jury
13 can determine based off the question cross-examination how the
14 identification would be, Your Honor. *Perry vs. New Hampshire*,
15 Your Honor, which is U.S. Supreme Court, Your Honor, basically
16 says the Due Process Clause did not require prior judicial
17 inquiry into reliability of eyewitness testimony that was not
18 procured under unnecessary suggestive circumstances by law
19 enforcement. Uh, *State vs. Emmons*, Your Honor, which is a
20 case actually out of our circuit here, Judge Couch actually
21 heard that case, Your Honor, uh, *State ver* -- it is a 2015
22 unpublished opinion 234, cler -- Court of Appeals heard on May
23 6, 2015, Your Honor, it basically talks about, uh, *Neil's* test
24 does not use the media cases basically and it refers to *State*
25 *vs. Tisdale* which is the cornerstone, it's still good law in

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1 this state, Your Honor, so our argument would be anything that
2 was done from the media did not have any police involvement in
3 that situation, uh, therefore, uh, it would not apply, that
4 kind analysis would not apply in this situation.

5 MR. NEELY: Your Honor, if I may respond.

6 THE COURT: Absolutely.

7 MR. NEELY: To differentiate this case from *State v.*
8 *Tisdale* and my understanding of what the solicitor just read
9 that that in *State v. Tisdale* which is the leading case that
10 there was no police involvement and that is what this analysis
11 is gonna turn on is what level of police involvement there
12 was. In *Tisdale* there was zero police involvement. In this
13 case there's an ongoing investigation. The identification was
14 made on August 10th, this crime is, uh, this incident occurred
15 on August 7th so there's an ongoing police investigation. At
16 that point it's our contention that the news in in covering
17 this incident got their information from local law
18 enforcement. At that point when they received that new, that
19 information from local law enforcement, that does constitute
20 state action. It would be different if there was an
21 independent investigation made by the news and they were doing
22 their job as journalists, it's our contention here that their
23 information was received from law enforcement. Now at this
24 point we have no way of seeking that information, we were
25 unable to subpoena those particular news outlets, we've we've

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1 asked 'em and requested what source the victim in this case,
2 uh, made her ID from, unfortunately, uh, on the nu -- on the
3 handful of occasions that we requested from the State that
4 news source we were told, uh, that she saw an article in the
5 Herald-Journal. I checked with the Herald-Journal, they ran a
6 number of articles about Mr. Brown but they never ran an
7 article with her picture. In the discovery it's made very
8 clear that she saw his picture on the news. Now it's our
9 contention that because that news article ran they only ran
10 that, uh, story with police involvement and once police
11 involvement, uh, takes place then the *Bigger* standard does
12 apply.

13 Uh, *State v. Barton*, uh, we can distinguish that case,
14 Your Honor, because that was the use of a private, uh,
15 publication, that's one a those jailbird magazines where they
16 do just go to, uh, the mug shot website and print out a of
17 forward about 8-page publication where they print all the mug
18 shots from the previous month, uh, but they don't run anything
19 about the crime, it it's information you can find readily
20 available online.

21 Uh, *State v. Matthews* in that case they actually say
22 that, uh, the individual that made the identification was
23 looking online at booking for his own amusement, here the
24 victim was watching a news story about her own case, about the
25 investigation in her case with the information provided to

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1 that news source from law enforcement and saw a mug shot of a
2 man that law enforcement arrested and said was the one that
3 committed that crime. Your Honor, to allow her to sit on that
4 witness stand and point at Corey Brown and say that that's the
5 man that did it, she's absolutely gonna be able to just point
6 at the man whose mug shot she saw on TV. At this point
7 because a law enforcement's involvement in the identification
8 of Mr. Brown through that news source, her i -- her in-court
9 identification is gonna be so tainted that she's only gonna
10 see the man whose mug shot was on that news so to allow
11 her to, uh, to make an in-court identification based on
12 an unreliable out-of-court identification would violate
13 Mr. Brown's due process rights.

14 THE COURT: Solicitor.

15 MR. BARNETTE: Your Honor, I respectfully disagree. The
16 newspaper always gets their news from law enforcement reports
17 and everything or from mug shots or whatever, they put this
18 information in news. All these cases the police they have to
19 make a case and then it comes out at that point. To argue
20 that the police intentionally did this, this is not in
21 intentional from that standpoint. She saw the newspaper from
22 whatever or whatever source and to make sure it was clear we
23 had the pretrial conference, Your Honor, I made Ms. Slotin
24 available to them that they could talk to her, that's up to
25 them, I mean, we, lay witness be available to talk and they

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1 decide not to do that I guess from that standpoint, I don't
2 know, but obviously she's willin' to testify and, Your Honor,
3 basically, you know, *Singleton* they talk about this, uh,
4 basically. Uh, basically there's all us or other factors: the
5 the totality the circumstances, the witness opportunity to
6 view the perpetrator at the time a the crime, how close they
7 were or how they were know 'em (2), the degree a the witness's
8 attention to that individual, actually the witness's prior
9 description a the perpetrator, she was fairly close in both of
10 'em from that standpoint after what, especially after what she
11 went through, the level a certainty demonstrated by the
12 witness in the trial the confrontation and the length time
13 between the crime, the confrontation. This happened at a very
14 short time from that standpoint. This happened on August 7,
15 she actually ID'd him after the story ran, after the bond
16 hearing was held, Your Honor, I believe from that standpoint,
17 so, uh, like I said, she's the one to testify, I believe
18 she'll meet all those requirements from that standpoint and I
19 disagree totally with Mr. Neely's, uh, thing, I think all the
20 case law is totally agreement. If it's media-driven, I mean,
21 they get their information from different sources and to say
22 that they can subpoena or whatever, you think a news group's
23 gonna give up their source, I think we've been through that
24 before in courts throughout South Carolina, throughout the
25 United States, so but police puts this information out, it's

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 common knowledge from that standpoint for news people to get
2 their information, they either go get police reports at the
3 jail, they either go to the mug shots, like Mr. Neely said the
4 one group went and got the mug shots, I mean, that stuff's
5 available. It's not that they're pushin' it out there, that
6 just comes with the Freedom Information and basically the
7 public access the public would like to have in these type
8 cases.

9 THE COURT: Okay. Alright, well, you need to put up some
10 testimony?

11 MR. BARNETTE: Yes, sir. Ms., like to call
12 Ms. Slotin to the stand, please.

13 (Whereupon, the witness came forward.)

14 THE CLERK: You'll place your left hand on the Bible and
15 raise your right.

16 MINDY SLOTIN, having been first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION MR. BARNETTE:

19 Q. Ma'am, since we don't have a jury I'm gonna stand right
20 here, I know you normally would would have a jury in here
21 durin' pre-trial motions. You would pull the mic to ya
22 little bit closer so judge can hear ya. If you would give me
23 your full name for the record, please.

24 A. Mindy Slotin.

25 Q. And could ya spell your last name for us.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 A. S-L-O-T-I-N.

2 Q. Okay. Ms. Slotin, uh, do you live here in Spartanburg?

3 A. I do.

4 Q. Uh, back on August 7, two thousand, uh, fifteen, uh, was
5 you, uh, helpin' your husband at the store?

6 A. Yes, I was.

7 Q. And what's the name a your alls store, ma'am?

8 A. Imagination Station.

9 Q. And where's it located at, ma'am?

10 A. It's located on Main Street downtown Spartanburg across
11 from the Denny's building.

12 Q. Okay. And what what is your normal job that you do,
13 ma'am?

14 A. Uh, I'm, my full-time employment is with Avon corporate.

15 Q. So you don't work full-time at the toy store, you just
16 help when needed?

17 A. Just just when needed when things, just just on the spur
18 a the moment a lotta times, no, I have a full-time job.

19 Q. Uh, on that day, uh, did you go to your husband's store
20 that day?

21 A. I did.

22 Q. And could you tell the Court when you got there
23 approximately.

24 A. I got there approximately at noon.

25 Q. When ya arrive there can you tell the judge what you saw.

1 A. Uh, I would, I had actually gone there because my
2 husband's regular employee was on vacation and I was gonna
3 just be there so that he could, was able to get lunch that
4 day, so when I got there there were two people in the store
5 together ---

6 Q. Um-hum.

7 A. --- and, uh, I was nudging my husband to leave because I
8 only had an hour lunch break myself that I could stay there
9 with him and he said, he kinda wrote to me, he said that, it
10 wasn't out loud, they've been here a very long time, I'm
11 reluctant to leave, ---

12 Q. Okay.

13 A. --- and he was reluctant to leave. Uh, he was trying
14 help them find a toy and, uh, eventually they picked something
15 out and brought it to the counter and my husband asked if they
16 wanted it wrapped and that he did wrap it for them and then
17 they said, well we've got some other shopping to do, we're
18 gonna see if maybe we can find somethin' to go with this,
19 it -- we'll come back and pick that up and pay for it
20 later ---

21 Q. Um, ---

22 A. --- and ---

23 Q. --- and they ---

24 A. --- they left.

25 Q. They left. What happened then, ma'am?

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Um, I had a customer come in, helped a customer, maybe
2 one or two customers came in, wasn't maybe fifteen, twenty
3 minutes later they both came back in and I, they walked to the
4 counter, I said, We've got your present all ready for you, and
5 he said to me, Well, I wanna ask you about this is your -- oh,
6 par -- first he said, Is is the man still here, and I said,
7 No, he said, Well I wanted to ask you about one other thing,
8 he s -- and he started walking over to a shelf that is
9 somewhat obscured from the front a the store because there's a
10 display that you have to walk around to get to see the toys
11 that are on that shelf ---

12 MR. BARNETTE: And, Your Honor, in the trial we'll be
13 using those pictures and so forth to show the jury but . . .

14 A. --- and as I walked and and got closer to him so I could
15 see what he was asking me about, he says, This appropriate for
16 a 2-year-old? Well, the, not in the least, I said, Absolutely
17 not, and the next thing I knew I was on the floor and I looked
18 and he had a gun in his hand and was pointing it at me and
19 obviously I'd been knocked un -- knocked across the head by
20 the gun which is why I was on the floor and I looked at, I
21 looked up and I said, all I could think is, This this isn't
22 real, this isn't really happening and he said, he backhanded
23 me across the back a my head and he said, This is, 4-letter
24 word, very real now now and then he got some duct tape out
25 which I will I guess he had it and he duct taped my hands

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1 together and as he was doing that he noticed I had a ring on,
2 my wedding ring and engagement and he slipped those off my
3 hand and he said, I want you to come open this, open the cash
4 register, so he led me at gunpoint to the cash register and as
5 we were walking to the, toward the cash register the girl that
6 had been with him that was standing at the counter he told her
7 to go lock the front door which she did. Uh, I opened the
8 cash register and he said, Turn around, walk this way, and the
9 store it's kind of long and narrow and in back of the store is
10 where a door leads to a stockroom ---

11 Q. Um-hum.

12 A. --- and he led me through that door at gunpoint to the
13 stockroom. He told me to sit down. He duct taped around my
14 ankles, he duct taped around this (indicating) part of my body
15 to where my arms were like this (demonstrating), he put duct
16 tape across my mouth, he told me to turn around and lay on the
17 floor on my stomach all this while with a gun and then told me
18 he was goin' toy shoppin' and that if he heard a sound come
19 outta that room that was gonna be the last sound I ever heard.

20 Q. Hm. How close was he durin' this time to you, ma'am?

21 A. Very close, probably at times closer than you are to
22 me ---

23 Q. He ---

24 A. --- absolutely, absolutely ---

25 Q. Okay.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 A. --- and that gun was right on me and his face like when
2 he was duct taping, was close, I mean, he, you know, he could
3 reach like this (demonstrating) so ---

4 Q. So he was wrappin' your arms up and ---

5 A. Right, this (indicating) close, this close to me. I
6 mean, you know, lookin' right at him.

7 Q. Within 1 or 2 feet, sumtin' like ---

8 A. Oh, yes, absolutely and what like, I mean, he didn't
9 stretch to to do that, he was right close enough to where he
10 could bend his elbows and do it.

11 Q. And you'd saw him twice that day: once time when you came
12 up there ---

13 A. He was in the store for a good, you know, I wanna say
14 fifteen, at least fifteen minutes after I got there before
15 Mark left, ---

16 Q. Um-hum.

17 A. --- before he left so he was, it's not that big a store,
18 yeah, he was in there for a while.

19 Q. Okay, so you saw saw this person that close to ya for
20 that period a time, ---

21 A. Absolutely.

22 Q. --- you see that person in the courtroom here today,
23 ma'am?

24 A. Absolutely, there's not a doubt in my mind.

25 Q. And who do you s, uh, could you identify where he's at

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 and what ---

2 A. He's ---

3 Q. --- he's wearing.

4 A. --- sitting there in a orange jumpsuit.

5 MR. NEELY: Objection, your Honor, that's exactly the
6 hearing that we're having right now.

7 THE COURT: Understood.

8 MR. NEELY: Alright.

9 MR. BARNETTE: And, yeah, I mean, ---

10 THE WITNESS: Can I, can I answer somethin' that wasn't
11 asked or no?

12 MR. BARNETTE: Uh, just just ---

13 THE WITNESS: No?

14 MR. BARNETTE: --- wait a minute, ---

15 THE WITNESS: Okay.

16 MR. BARNETTE: --- if you would. Uh, Your Honor, I would
17 like her to show that she's identified the defendant in this
18 courtroom.

19 THE COURT: Mr. Neely.

20 MR. NEELY: Well, Your Honor, that that's the entire crux
21 a my argument. I understand that she can identify him in this
22 courtroom, my argument is that this identification is based
23 off of the identification that she made when she saw his mug
24 shot on the news and I absolutely believe that she can
25 identify the the mug shot that she saw but I think that her

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 perspective is now tainted by what she saw on the news.

2 Uh, ---

3 THE COURT: I understand your argument, I really do ---

4 MR. NEELY: Okay.

5 THE COURT: --- but but we're not in front of the jury.

6 MR. NEELY: Yeah.

7 MR. BARNETTE: Are you, ---

8 THE COURT: Okay.

9 MR. BARNETTE: --- let me follow up on that, Your ---

10 THE COURT: Yes.

11 MR. BARNETTE: --- Honor, if I can.

12 BY MR. BARNETTE:

13 Q. Are you identifying in the courtroom 'cause this the
14 person you saw that day?

15 A. I, there's not a doubt in my mind that's the person I
16 saw, he was close to me and I stared at his face very close
17 up, more than once for at least ten minutes and it's a face I
18 won't forget.

19 Q. And this the person had a gun to ya, tied ---

20 A. This is a ---

21 Q. --- ya ---

22 A. --- person that had a gun at my head. This is a person
23 that knocked me with a gun and I, and I -- the police never
24 identified, never asked me to identify him ever, ---

25 Q. Um-hum.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 A. --- ever.

2 Q. And you identified, your identification's based on what
3 you see in the courtroom today, is that right, ma'am?

4 A. Absolutely, absolutely, it's the same guy, there's not a
5 doubt in my mind.

6 Q. But ya also saw it's obviously saw his mug shot at some
7 point a couple days afterwards, is that right, ma'am?

8 A. I did but the police never, the police when I saw them
9 said, I told them that I had seen the mug shot, they said well
10 we can't, we're not even gonna bother askin' you for
11 identification, you know, because you just told us you saw a
12 mug shot.

13 Q. Um-hum, and that mug shot -- but this -- that's not
14 the reason you're identify him today, you're identifyin'
15 today ---

16 A. He doesn't ---

17 Q. --- for ---

18 A. --- even look like the mug shot if I re -- if if you --
19 if I didn't know him, I mean, they've got him groomed and
20 everything. This is the guy, there's not a doubt in my
21 mind.

22 Q. Okay, thank you, ma'am, please ---

23 A. I know.

24 Q. --- answer any questions the defense has for ya.

25 THE COURT: Mr. Neely.

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 MR. NEELY: Thank you, Judge.

2 CROSS-EXAMINATION BY MR. NEELY:

3 Q. Ms. Slote [sic], where do you ordinarily work, I know
4 you, that you just testified ---

5 A. Work for ---

6 Q. --- that you were ---

7 A. --- Avon corporate, I work from home and then I'm, there
8 are times when I travel for work also.

9 Q. Okay. I know during the course a this trial the
10 solicitor's gonna have pictures of the store but ---

11 A. Um-hum.

12 Q. --- can kinda describe it for me.

13 A. It's a toy store.

14 Q. Uh, sorry, let me rephrase that. With the shelves and
15 and everything can you kinda paint a picture for me of of
16 where the shelves are located with the cash register compared
17 to the ---

18 A. Cash ---

19 Q. --- drawer ---

20 A. --- register is toward the center of the store against,
21 not really gonna be good at at describin' it, kind of against
22 what, facing the store it would be against the right hand
23 wall, the counter would be, uh, and it's kind of like a s --
24 that (indicating) kinda counter ---

25 Q. Okay.

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 A. --- and it's got a counter behind it that we use to gift
2 wrap. Uh, then there's shelves all through the store, not
3 just shelves but also displays, you know, turn displays from
4 companies, uh, spinner wrap or somethin' like that I guess you
5 call 'em, so it's fairly, it's not a big store, it's only like
6 I think 1300 square feet, that includes the storeroom and it's
7 it's just ki -- it's long and narrow.

8 Q. Alright. Okay, and when you're at work, uh, when you're
9 hel -- I guess when you're helpin' out at the store, do you
10 stay behind the cash register or or do you wander around?

11 A. I don't really, I I don't understand. I don't just stay
12 one place usually 'cause I'm helpin' a a, you know, if I'm
13 showin' a customer, if I'm askin' a customer, if I'm
14 straightenin' stuff, mean, you know, uh, there's different
15 things. I really, you know, it it's a, you do what needs to
16 be done so no, I'm not just standing behind a counter.

17 Q. Okay. On August 7th when the two people were in the
18 store, were you following them around or you, uh, ---

19 A. No, I was more behind the counter then ---

20 Q. Okay.

21 A. --- because my husband was was helping them and following
22 them around.

23 Q. Okay. Are there, are there blind spots from the cash
24 register? Are there parts in the store that you can't see?

25 A. Yeah, uh, there's not many but there are.

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 Q. Okay. Let me take you to after this event occurred,
2 after they had left the store, you went out the back of the
3 storeroom?

4 A. I did.

5 Q. And, uh, is there a restaurant on the backside of the
6 store?

7 A. No.

8 Q. What what's on the backside there?

9 A. Dunbar Street.

10 Q. Dunbar Street. And and when you went out the back
11 through Dunbar Street, that's that's when 911 got called?

12 A. I went out the back, there's a, uh, entrance, a employee
13 entrance on Dunbar Street to the storeroom, I ran out that
14 door, ran down a few stores that actually has a back entrance
15 on Dunbar Street also, went in there and asked them to call
16 911.

17 Q. Which store, Ms. Slotin?

18 A. Which store did I I run to?

19 Q. Yes, ma'am.

20 A. It's called the Lemon Peel.

21 Q. Okay. Uh, and who did you encounter inside?

22 A. Uh, the two young ladies that were workin' there, I don't
23 know their names.

24 Q. And and obviously you you just gone through this horrific
25 thing and you're ---

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 A. I ---

2 Q. --- covered ---

3 A. --- still had duct tape on me, I only -- I was able to
4 free my hands and free one leg enough to walk and take the
5 tape off my mouth but I still had duct tape around my body and
6 I think I still had a strip hangin' from my leg.

7 Q. So when you went to the Lemon Peel and and you saw
8 those two girls, they called 911 for you 'cause you were in
9 obvious ---

10 A. I didn't have ---

11 Q. --- distress.

12 A. --- a phone and I didn't have a phone, I ran out the back
13 a the store.

14 Q. Right. Uh, did you stay with them or did you go back to
15 the store?

16 A. I stayed on the sidewalk outside their store with both a
17 them waiting for the police to come, I did not go back to the
18 store.

19 Q. And they were doin' their best to calm you down at that
20 point 'cause you, I mean, obviously you were in distress.

21 A. Yeah, they were just, they were -- we were all stressed.

22 Q. Were ya'll tryin' to calm each other down at that
23 point?

24 A. No, we were waitin' for the police to come, it didn't
25 take 'em that long.

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 Q. Okay. When law enforcement got there, you you spoke with
2 an officer?

3 A. Spoke, yes.

4 Q. And they told you to tell them what had happened?

5 A. Yes.

6 Q. They told you to be as descriptive as possible?

7 A. Yes.

8 Q. They wanted you to give a an accurate description of the
9 people that had done this to you.

10 A. As much as I could, yes.

11 Q. Because, I mean, law enforcement wasn't there when this
12 happened.

13 A. Well they wanted to know who who they should look for so,
14 yes, I mean, I I I was able to tell them what the people were
15 wearing at the time, ---

16 Q. Right, ---

17 A. --- uh, ---

18 Q. --- uh, ---

19 A. --- but, I mean, it's, I was extremely upset and like I
20 said, I remember tellin' 'em what the people were wearing.

21 Uh, the lady had a really funky hair style which at the time
22 so I was aha, it was very memorable but, I mean, I can't
23 describe, I co -- I didn't describe eyes or nose or mouth
24 or ---

25 Q. But you described height.

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 A. Roughly, roughly. I mean, I'm only 5'2 so I can say he's
2 'bout this (indicating) much bigger than me I think. I mean,
3 it wasn't -- I can't look at so -- I'm not, it's like I'm not
4 good at that and I certainly am not good at weight. You know,
5 I can say he wasn't a huge person but I don't know what that
6 means.

7 Q. You told law enforcement that he was 5 foot 10 the man
8 that did this.

9 A. I just said he was like this (indicating) much taller
10 than me, that's as high as I can reach.

11 Q. So you didn't tell 'em that he was 5 foot 10?

12 A. I did not remember giving them an exact figure.

13 Q. At that point on August 7th they didn't have any idea who
14 had done this so they didn't show you any pictures.

15 A. Uh-uh.

16 Q. On August 8th did they show you any pictures?

17 A. I wasn't even here August 8th, I left town.

18 Q. August 10th you saw a mug shot of Corey Brown on the
19 news?

20 A. August 10th was that the Monday?

21 Q. The day that you saw the news report.

22 A. No, I'm askin' you was that a -- what -- do -- I remember
23 Sunday, tell me what day, that was the Monday.

24 (Whereupon, a discussion was held off the record.)

25 It happened on Friday, the next day I went outta town, I

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 was gone for the day.

2 Q. Yes, ma'am, that would be the Monday.

3 A. So Sunday I came back, that was the -- okay, so and
4 then, so what was your question?

5 Q. On August 10th you saw the news cast with Corey Brown's
6 mug shot on it.

7 A. I can't remember if I saw it on the news, I really can't
8 remember, I mean, I can't remember definitely that I saw it on
9 the news.

10 Q. You saw his mug shot somewhere.

11 A. I did, yeah. I couldn't tell you, I can tell you that I
12 was, I saw his name in the paper for sure, just that two
13 people and the two names of the people that had been arrested
14 and they actually called me from the jail late that Saturday
15 night.

16 Q. I'm sorry who is they?

17 A. Whoever, whoever calls from the Spartanburg County Jail,
18 I have no idea.

19 Q. So an officer.

20 A. Yeah, it was an employee and ---

21 Q. Okay.

22 A. --- said that he was going to have some kind of a bond
23 hearing and that they were obligated to call me and tell me
24 and it was gonna be, I can't even remember, I think they -- it
25 it was gonna be like at midnight or one or they only do it

MINDY SLOTIN - CROSS-EXAMINATION BY MR. NEELY

1 like every few hours and that if I wanted to I could come and
2 they used his name then.

3 Q. When did you first see a picture a Mr. Brown?

4 A. It's either on the news or when I looked it up on the
5 sheriff's site online, I can't remember which was first.

6 Q. Did you ever tell law enforcement that you looked up his
7 mug shot on line?

8 A. No -- yeah, I don't know if told 'em where I looked it up
9 but I did tell 'em that I'd seen his mug shot.

10 Q. But you told 'em that you saw it on the news.

11 A. I told -- well, then that, then I did see him on the
12 news. I knew I di -- I knew I looked it up online also.

13 Q. Do you remember which news source it was? Which which
14 news source do you normally watch? I guess everybody has one
15 around here whether it's WSPA or YFF, whatever, do you ---

16 MR. BARNETTE: Your Honor, I will object. How ---

17 A. I cou -- I ---

18 MR. BARNETTE: (Indiscernible cross-talk.)

19 A. --- I mean, seriously I could not tell you what channel
20 the TV was on, I could not tell ya.

21 Q. Okay. Has law enforcement shown you a picture of
22 Mr. Brown since then?

23 A. Uh-uh, no.

24 Q. So the only time you saw his mug shot was on the news and
25 then when you looked it up.

MINDY SLOTIN - REDIRECT EXAMINATION BY MR. BARNETTE

1 A. And I I've I've looked it up online since then just to
2 make sure he was still in jail 'cause he scares me to death.

3 MR. NEELY: Thank you, Ms. Slotin.

4 MR. BARNETTE: Just one or two on clarification, Your
5 Honor.

6 REDIRECT EXAMINATION BY MR. BARNETTE:

7 Q. Uh, we're talkin' about mug shots, that's the Spartanburg
8 County Jail website, is that right, ma'am, where ---

9 A. Yeah, it's the the the government, their website not not
10 mil -- not mugshots.com or whatever. You can go on the
11 sheriff's department website and they have mug shots of
12 everybody that's incarcerated there.

13 Q. Okay, and I'm just gonna introduce one, I know we're
14 gonna go a lot more detail in the trial but, uh, just to show
15 the Court what we're talkin' about the duct tape. Let me show
16 you State Exhibit 48, does that picture fairly represent what
17 you still had on you when the police arrived?

18 A. Yes.

19 Q. Come to that.

20 Mr. BARNETTE: Your Honor, I'd like to move State
21 Exhibit 48 just for purpose a this hearing alone.

22 MR. NEELY: Um, I I would object that that has no
23 relevance to her identification.

24 MR. BARNETTE: It has all the relevance in the world,
25 Your Honor, and I'm ---

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1 THE COURT: What is ---

2 MR. NEELY: You ---

3 THE COURT: --- it?

4 MR. BARNETTE: The object, I mean, obviously he asked her
5 about duct tape, the ID or whatever, obviously to duct tape
6 somebody you had to be very, very close to 'em to duct tape
7 'em like that, so I'd ask the ---

8 THE COURT: I ---

9 MR. BARNETTE: --- for purposes ---

10 THE COURT: --- I I'm gonna allow it at at this hearing,
11 there's no jury here.

12 MR. BARNETTE: Okay, thank Your Honor.

13 (State's Exhibit No. 48, photograph, admitted into
14 evidence.)

15 THE COURT: Anything further?

16 MR. BARNETTE: No, nothin' further, Your Honor.

17 THE COURT: Anything further?

18 MR. NEELY: Nothing, Your Honor.

19 THE COURT: Ma'am, you may step down, please be careful.

20 (Whereupon, the witness left the stand.)

21 MR. BARNETTE: Your Honor, be State's showing in this
22 matter.

23 THE COURT: Okay, anything?

24 MR. NEELY: Same arguments as early, Your Honor.

25 THE COURT: Okay, alright. Well, uh, the Court will, uh,

MOTIONS AND MATTERS

1 uh, the Court will allow the, uh, out-of-court identification
2 in court, reliability is the linchpin in determining, uh, the
3 ID testimony. Uh, first of all, uh, Mr. Neely, I don't see
4 any government involvement and you exploring that on
5 cross-examination, you certainly had a right to explore it
6 otherwise but, uh, at this point I I don't, I don't see any
7 government in inter, uh, vention in this. Also,7 I will note
8 that in the *Singleton*, uh, case 'cause I went back, I thought
9 I was sure about this, I went back and looked at the dates on
10 that, uh, about seven months expired and the Court in that
11 case, uh, said that the victim's ID out-a-court was arguably
12 unreliable and created a substantial likelihood of
13 misidentification and I take it largely based on the Court's
14 concern about the time period that it it expired and that
15 from, uh, Au, uh, September of 2007 till sometime in April, a
16 about seven months or maybe a little more', uh, elapsed in
17 that time period and there were several, uh, several times in
18 there where that particular victim in that case, uh, had an
19 opportunity to identify the perpetrator and did not do so for
20 one reason or another or maybe whether she couldn't, court was
21 I think concerned about that. Uh, unlike, uh, this case as as
22 the *Tisdale* case where the tellers in that case saw on the
23 nightly news the previous night, uh, after the ro, uh, of the
24 reporting this which was after the robbery and made the report
25 to the police, in this case, uh, the complaining witness in

MOTIONS AND MATTERS

1 this case, the victim, complaining witness in this case
2 indicates that, uh, everybody agrees it happened on a Friday,
3 she was gone some period a time over the weekend, Saturday,
4 maybe even some of Sunday but she reports, uh, hearing about
5 this either Sunday night or Monday as I understood the
6 testimony, so was a very short period of time, uh, she can't
7 remember where she saw it but she knows that she looked it up
8 herself online on the, uh, county website which the detention
9 facility site is there, uh, and she knows that she's looked it
10 up several times, uh, since then, uh, so at this point in
11 time, uh, I think *Tisdale* is the law a State a South Carolina
12 on media, I don't see any governmental in --- intervention at
13 this point in time, Mr. Neely, you might pursue that further,
14 I don't know, but, uh, in the short period a time that we have
15 but I don't see that law enforcement had a, had a, uh, news
16 conference or anything like that and announced all this and
17 then made an arrest and, uh, would obtain the identification
18 so, uh, she'll be allowed testify, motion be denied. Anything
19 else?

20 MR. BARNETTE: Your Honor, we just have the one matter,
21 we'll have the officer here first thing in the mornin', uh, on
22 the reply concernin' ---

23 THE COURT: Okay.

24 MR. BARNETTE: --- the *Jackson v. Denno*.

25 THE COURT: Okay, anything else before we go? What about

MOTIONS AND MATTERS

1 the third party guilt, I think that's off the table, I think
2 we resolved that in chambers as well. Okay. Alright, well,
3 uh, ladies and gentlemen, we're gonna be in recess until,
4 we're gonna say we're gonna be in recess until 9:30, we we
5 might if we can get started at 9, we might, uh, finish up the
6 *Jackson v. Denno* matter, I understand that officer will be
7 here first thing in the mornin'. I have a previous matter to
8 take care of at 8 a.m., I'm hoping that won't take more than,
9 uh, than about forty minutes and I'd be ready to go at 9 but
10 if not we'll get started quickly if we can but certainly not
11 past 9:30, I mean, it wouldn't take more than an hour, I got a
12 meeting with three other lawyers as a matter a fact was
13 previously scheduled, so, uh, is there anything further from
14 anybody?

15 MR. BARNETTE: Not from State, Your Honor. Thank ya.

16 MR. POOLE: None, here, Your Honor.

17 THE COURT: Okay. Alright, I will say this to both the
18 State and defense: I know that both of ya know, we've known
19 each other long time and you know how to get in touch with me
20 if things were change overnight in an ex parte me, let me
21 know, okay.

22 MR. POOLE: Yes, sir.

23 MR. BARNETTE: Thank ---

24 THE COURT: Alright, ---

25 MR. BARNETTE: --- Your Honor.

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1 THE COURT: --- we'll be off the record, Maggie.

2 (Proceedings July 12, 2016)

3 (Whereupon, a discussion was held off the record.)

4 THE COURT: Ready?

5 MR. BARNETTE: Thank Your Honor.

6 THE COURT: Solicitor.

7 MR. BARNETTE: Uh, Your Honor, to follow up on the
8 *Jackson and Denno* hearing we had yesterday, I do have a reply
9 witness, I appreciate the Court leavin' it open to be heard
10 today, have her here. Like to call Officer Thompson to stand.

11 THE COURT: Alright. Officer, come up be sworn, please.

12 (Whereupon, the witness came forward.)

13 THE CLERK: You'll place hand on the Bible and raise your
14 right.

15 SHANETTA RENAE THOMPSON, having
16 been first duly sworn, testified as follows:

17 THE CLERK: Thank you.

18 THE COURT: Officer, once you're situated there pull
19 that microphone close, tell us your full name and spell your
20 last name for my court reporter, please.

21 THE WITNESS: Okay. My name is Shanetta Renae Thompson,
22 um, my last name is T-H-O-M-P-S-O-N.

23 THE COURT: Thank you.

24 MR. BARNETTE: And thank Your Honor.

25 DIRECT EXAMINATION BY MR. BARNETTE:

1 Q. Uh, where do you work at, ma'am?

2 A. I work at Spartanburg City Police Department.

3 Q. What's your position there, ma'am?

4 A. I'm patrol police officer.

5 Q. And how long you been one the Spartanburg, uh, uh, wanna
6 say their police department?

7 A As of May of this year two and a half years.

8 Q. Uh, back on August the 8th 2015 was you workin' that day,
9 ma'am?

10 A. Yes, sir, I was.

11 Q. Uh, was you called to a situation at [REDACTED] College
12 Street, uh, here in Spartanburg?

13 A. Yes, sir, I was.

14 Q. When you arrived there, uh, was there a, like a, uh,
15 standoff situation that point?

16 A. Yes, sir, it was.

17 Q. And, uh, later on, uh, was the defendant in this case,
18 uh, Corey Brown taken in custody?

19 A. Yes, sir, he was.

20 Q. And did you transport him from the scene to the, uh, city
21 police department?

22 A. Yes, sir, I did.

23 Q. And, uh, -- this'll be Court Exhibit 3, is that right?

24 Uh, ---

25 COURT REPORTER: Yeah.

1 (Two DVDs of in-car video marked Court's Exhibit No. 3
2 for identification.)

3 BY MR. BARNETTE:

4 Q. And, uh, does your car have an in-car video, ma'am?

5 A. Yes, sir, it did.

6 Q. And, uh, did you have it on when you transport from the
7 scene to jail?

8 A. Yes, sir, I did.

9 Q. Let me show you what's been marked Court Exhibit 3, uh,
10 are those the disks or videos, uh, from your in-car video?

11 A. Yes, sir, it is.

12 Q. And, uh, I I know you turn it on soon as you got the
13 scenes, there's a long time that just at the scene, is that
14 right?

15 A. Yes, sir.

16 Q. And then you transport him from, uh, the scene to the
17 city police department?

18 A. Yes, sir.

19 Q. How long was that part a the video?

20 A. Approximately eight to nine minutes.

21 Q. Okay, and then who'd you -- do you turn him over to
22 investigations once you got there?

23 A. Yes, sir.

24 Q. And did you transport him from investigations to the
25 county jail after that?

1 A. Yes, sir.

2 Q. How long was that part a the video?

3 A. Approximately seven to eight minutes.

4 Q. Okay. Did he ever say anything to you the ---

5 A. No, sir.

6 Q. Uh, did he ever ask for an attor -- especially on the way
7 from the scene to the police station did he ever ask for an
8 attorney in your ---

9 A. No, sir.

10 Q. --- presence? Did he say anything to ya?

11 A. No, sir.

12 Q. Uh, does this, uh, these videos fairly represent, uh,
13 what was -- what happened that day in your police car?

14 A. Yes, sir.

15 Q. Your Honor, I'd like to enter Court Exhibits 3 into, uh,
16 evidence for this hearing right now.

17 MR. POOLE: No objection.

18 THE COURT: It's admitted without objection.

19 (Court's Exhibit No. 3, two DVDs of in-car video,
20 admitted into evidence.)

21 MR. BARNETTE: Uh, Your Honor, I'd like to publish the
22 part just, uh, not show the whole video but show the part from
23 where she took him in custody until, uh, she releases him to
24 investigation.

25 THE COURT: Yes, sir.

SHANETTA RENAE THOMPSON - CROSS-EXAMINATION BY MR. POOLE

1 MR. BARNETTE: Thanks.

2 (Whereupon, Court's Exhibit No. 3 was played.)

3 BY MR. BARNETTE:

4 Q. Officer Thompson, uh, you never hear -- didn't say
5 anything to you on the ride over, did he?

6 A. No, sir.

7 Q. And he never asked for an attorney, did he?

8 A. No, sir.

9 Q. And that your testimony he's never asked for attorney
10 prior to you getting to police station, putting him
11 investigation.

12 A. No, sir.

13 Q. Okay. Please answer any questions the, uh, judge, or
14 defense may have for ya, ma'am.

15 A. Yes, sir.

16 CROSS-EXAMINATION BY MR. POOLE:

17 Q. Officer Thompson, 'bout what time was it that you, uh,
18 dropped him off to the city police department?

19 A. The the time stamp was on the video, I think I called out
20 with my mileage too.

21 MR. BARNETTE: I can put the video back in.

22 A. Okay.

23 Q. While he's doing that let me ask you this: Uh, you said
24 and you were heard after you took him out of the, uh, patrol
25 car ---

1 A. Yeah.

2 Q. --- that let's go upstairs and to the left, is that
3 right?

4 A. Yes, sir.

5 Q. Alright, what -- where was that room?

6 A. I'm sorry?

7 Q. What room was that in you were ---

8 (Indiscernible cross-talk.)

9 A. Uh, if you go in city hall, that's right where the
10 staircase is and we have to turn left to go up the stairs ---

11 Q. Okay.

12 A. --- so we were actually going up the stairs.

13 Q. And where did you take him to?

14 A. Uh, first I took him to the squad room where
15 investigations came and got him from the squad room where we
16 normally have our briefin' at and they took him over to
17 investigations.

18 Q. Okay. Were you with him during the whole time prior to
19 him being in interrogated by Investigator Taylor?

20 A. No, sir, I was in a squad room waitin' for him to get
21 done.

22 Q. So you don't know if he talked to any other officers or
23 law enforcement personnel or anybody while you were not in his
24 presence, do you?

25 A. No, sir, I don't.

1 Q. Do you realize that he was there for about an hour and a
2 half ---

3 A. Yes, sir.

4 Q. --- before he was interrogated by Officer Taylor?

5 A. No, sir, I didn't, I just knew that's how long I was
6 there 'cause I was the one waitin' on him.

7 Q. So you you confirmed that you were there about as long as
8 he was, ---

9 A. Yes, sir.

10 Q. --- for an hour and a half.

11 A. Yes, sir.

12 Q. Okay. He was in the presence of, uh, law enforcement,
13 wasn't he, during the whole time, ---

14 A. When he left my custody yes, sir.

15 Q. --- as he had he'd been arrested at that point in time.

16 A. Yes, sir.

17 Q. And he would have have had to be in the presence of law
18 enforcement personnel, ---

19 A. Yes, sir.

20 Q. --- city police.

21 A. Yes.

22 MR. BARNETTE: I do have it up there, I think Officer
23 Thompson may wanna look at up there.

24 A. That's actually the duration from me go on call to me
25 gettin' out but if you play the end, uh, I call out to

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1 dispatch and she gives me my call-out time so that ---

2 Q. Okay.

3 A. --- may, that may be a better ---

4 Q. --- it says about 19:10:45, that's about seven s -- uh,
5 sometime after seven o'clock?

6 A. Yes, sir.

7 Q. Okay. Sometime around seven o'clock, okay. Thank you.

8 A. You welcome.

9 MR. BARNETTE: Your Honor, I have no further question a
10 this witness, we'd ask for her to be excused, Your Honor.

11 THE COURT: Any objection?

12 MR. POOLE: No objection, Your Honor.

13 THE COURT: Ma'am, you may s -- uh, Officer, you may step
14 down and be excused or stay with us, whichever you like.

15 THE WITNESS: Thank you.

16 (Whereupon, the witness left the stand.)

17 MR. BARNETTE: Thank you, ma'am. Your Honor, that be
18 State's showing in the, uh, *Jackson v. Denno*.

19 THE COURT: Anything from defense this time?

20 MR. POOLE: Your Honor, I, uh, we don't have any further,
21 uh, evidence present the, uh, Court, I would like to makes
22 short argument ---

23 THE COURT: Yes.

24 MR. POOLE: --- and with regard to the *Jackson v. Denno*
25 hearing. Your Honor, I'm asking the Court to find that the

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1 pre-interrogation form and that signature by my client as
2 being invalid. Uh, you've seen all the evidence that's been
3 presented, he was at the, uh, city police department for an
4 hour and a half, uh, he's -- he claimed under oath that he had
5 asked for an attorney, uh, prior to being inve, uh, talking to
6 Investigator Chris Taylor, uh, we don't know who he may have,
7 uh, conveyed that to but obviously it would had to be somebody
8 in law enforcement. Upon the request for an attorney all
9 interrogation procedures should have stopped and right then
10 and there on spot; furthermore, you saw on the video when
11 Investigator Chris Taylor was speaking to our client he did
12 not ask him his, uh, background education-wise or how far he
13 went to school or could he read and understand the English
14 language or if he understood what he was doing. He kept
15 presenting, uh, the, uh, Mr. Brown with a Pre-interrogation
16 Waiver Form in a very quick manner in which he said he would
17 read a sentence and then he'd say, Initial here, he'd read a
18 sentence and say, Initial here, he did that five times as it
19 related to his five rights, then he said, If you waive your,
20 uh, uh, Fifth Amendment privilege to testify to s -- make
21 statements against yourself, sign here, he didn't put it in
22 that words but said you waive your rights, basically said if
23 you waive your rights, sign here, so it was basically a
24 re -- repetitive pattern designed to get a signature on a
25 form, so in light of the totality of all that evidence, Your

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1 Honor, I'm asking the Court to exclude any mention or
2 testimony regarding a remark that he may have made in that
3 investigation room.

4 THE COURT: Okay. Solicitor.

5 MR. BARNETTE: Thank Your Honor. Uh, you got to see it
6 on video, uh, there's no question he was given his rights.
7 Uh, he was allowed to read the form, was given Miranda, he did
8 initial, he did sign it in three different spots, Your Honor.
9 He signed that he understood his rights, he signed that he
10 waived his rights and also signed at the end of each
11 statement, Your Honor. Uh, unfortunately this has not been
12 his first rodeo. I've asked him before if he had been done
13 that, he said he'd been given his rights before so he
14 obviously knew his rights. Uh, the argument that, uh, he had
15 told law enforcement, we've actually got the lady that
16 transported him to law enforcement, uh, nothin' was said that
17 time, he said he had talked to this lady twice, uh, this is
18 the person that transported him over, I think that it goes
19 preponderance of the evidence in this case. I think by the
20 greater weight a the evidence, Your Honor, we've made a
21 showing that he was given his rights. He never invoked his
22 rights, he never asked for an attorney in her presence and
23 we've got that on videotape from that standpoint. I
24 understand what he testified to but I think that's a matter
25 for the, uh, jury decide concernin' that matter, Your Honor.

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1 Thank you.

2 THE COURT: Okay, the Court finds that, uh, that the
3 defendant did not speak when he was in route, that video has
4 now been shown, I didn't know it existed yesterday, I'm I'm
5 not, uh, uh, the officer wasn't available but she was present
6 this morning, now that's been played. Uh, he did not speak,
7 he did not ask for a lawyer, invoke any rights at that time,
8 Court also finds that his statements on the video, on the
9 second video which would be the interrogation room were
10 voluntarily made. Uh, the defendant says, uh, that he reads
11 fairly good, uh, I wrote that down, also, he said on the video
12 that he understood his rights and the line of questioning that
13 asked for his address, his phone number and his date of birth,
14 uh, notably the defendant signed his name two times in cursive
15 writing which this court does not often see. Uh, many times,
16 uh, people with a lesser education actually print their name
17 but this defendant signed his name in cursive writing and and
18 not in printed form. He did not tell the officers that he
19 wanted a lawyer, uh, he had an ample opportunity to do so, he
20 ended the interview, uh, after being, uh, sorta chastised or
21 that I think he was chastised, but he ended the interview and
22 when the officer inquired if he were ending the interview he
23 stated yes. Uh, he did sign, uh, again in cursive, uh, askin'
24 the and telling, actually tellin' the police as as I recall
25 that they could do what they had to do or something to that

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1 effect, anyway it's all on video so, uh, the Court finds that
2 it's a, it is a voluntar -- it was voluntarily made. Anything
3 else?

4 MR. POOLE: Well, uh, thank Your Honor, uh, we
5 respectfully take exception to the Court's ruling.

6 THE COURT: Absolutely. Yes, sir, and you're protected
7 on the record, Mr. Poole.

8 MR. NEELY: Your Honor, if we could, uh, go back and
9 revisit the identification hearing yesterday. Uh, I know that
10 the Court denied defense's motion, uh, I would like to pass up
11 to the Court and have made courts exhibits, uh, two media
12 articles from this hearing and I know that there's a a third
13 article from the Herald-Journal that the State wishes to
14 include and we'll also make those court's exhibits, uh, when
15 we get a copy of that.

16 THE COURT: Okay, that's without objection, solicitor?

17 MR. BARNETTE: Uh, yes, sir, when it -- like we've talked
18 about before and, uh, we're gonna submit the Herald-Journal
19 article concernin' that, Your Honor, from there and, uh, there
20 was somethin' else I was gonna mention 'bout that, I may
21 mention it later, Your Honor.

22 THE COURT: Okay, alright.

23 (Media articles marked Court's Exhibit No. 4 for
24 identification.)

25 MR. NEELY: And, Your Honor, just for clarification

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1 purposes, I know the Court denied our motion but can I get the
2 clarification of the ruling made yesterday.

3 THE COURT: Okay. Uh, the Court found yesterday, uh,
4 there was no governmental involvement and the motion was
5 denied, that this, uh, case is differentiated [sic], uh, from
6 the, uh, *Singleton* case where seven months lapsed between the
7 IDs and there was a vacillation I think and I think the Court,
8 I thi -- I can expect I said this yesterday, I know I did,
9 that, uh, it it appeared that the Appellate Court, uh, was
10 concerned about the, uh, ample opportunity in that case for
11 the, uh, victim to have identified, uh, the perpetrator or
12 alleged perpetrator and did not do so and by my notes here I,
13 and I counted it up yesterday, I figured at least seven
14 months, uh, so *Tisdale*, uh, is the case and this case much
15 like in the *Tisdale* case as I recall testimony and I can look
16 at my notes but I believe that, uh, the the, uh, complaining
17 witness testified that this happened on a Friday, that she was
18 absent from town on Saturday, maybe some part of Sunday but
19 over the weekend, uh, that she saw or read a news account,
20 whether it was on TV or Internet, she's not, she's unsure, she
21 did think that she saw if not a picture at least an article,
22 uh, in the Herald-Journal I believe was her testimony, uh, she
23 said that she went on the Internet, uh, and saw the picture,
24 I believe that's what her testimony was, uh, and that that
25 w -- came from the Sh -- Spartanburg County Sheriff's

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1 Department's website, detention facility site I'm sure, uh,
2 and she did that as early as Monday following this incident, I
3 believe that was the testimony so there was a very short
4 period of time

5 MR. NEELY: One one follow-up question to that ruling,
6 Your Honor, so is the Court saying that there is no police
7 involvement, no police action?

8 THE COURT: Yes, the Court is saying there's no police,
9 no governmental action in this case.

10 MR. NEELY: Okay, thank you, Judge.

11 THE COURT: Okay.

12 MR. BARNETTE: Clerk did remind me when she said that,
13 uh, I wanted to mention that she mentioned about receiving a
14 phone call concerning bond hearing, ---

15 THE COURT: Yes.

16 MR. BARNETTE: --- actually required by Vic -- under the
17 Victim Rights Bill, ---

18 THE COURT: Yes.

19 MR. BARNETTE: --- uh, that's required on every case that
20 the the victim be notified about any bond hearing, court
21 things, I just wanna wanna put that on the record, make sure
22 that was clear.

23 THE COURT: I I did not say that yesterday but I actually
24 wrote that in my notes and I'll make those available to ya,
25 anybody wants to look at 'em, but that is in compliance with

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1 the Victims' Rights Act, that's what that is.

2 MR. BARNETTE: Okay.

3 MR. NEELY: Thank you, Judge.

4 THE COURT: Yes.

5 MR. BARNETTE: Thank you, Judge.

6 THE COURT: And I don't know who that person was but it
7 may well not be a law enforcement officer involved, I mean, I
8 noticed it would be governmental but I have, I have every
9 reason to believe that may have been someone from the Victims'
10 Advocate office or some administrative person but not a
11 uniformed officer. Anything else?

12 MR. BARNETTE: Not from the State, Your Honor, I'm gonna
13 turn that off real quick.

14 THE COURT: Yes. Are we ready for our jury? Ya wanna
15 take a minute?

16 MR. NEELY: Uh, ---

17 MR. POOLE: Just a moment, please.

18 MR. NEELY: Yes, please.

19 THE COURT: Alright, I tell you what let's do, it's ten
20 after, can we be ready, it's about eight after, can we be
21 ready to go at, uh, twenty after?

22 MR. POOLE: Sure.

23 MR. NEELY: Yes, sir.

24 THE COURT: Alright, be twelve minutes and we'll be ready
25 to go.

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1 MR. POOLE: Alright.

2 THE COURT: We got a jury sittin'.

3 (Whereupon, a recess was taken.)

4 THE BAILIFF: Uh, come to order.

5 THE COURT: Thank you, please be seated.

6 (Whereupon, a discussion was held off the record.)

7 THE COURT: Okay, we 'bout ready for the jury, gentlemen?

8 MR. BARNETTE: State's ready, Your Honor.

9 MR. POOLE: Yes, sir.

10 THE COURT: Okay, first thing we'll do is swear 'em in as
11 soon as they walk in. Alright, we'll have our jury, madam ---

12 MS. BAILIFF: Okay.

13 THE COURT: Bailiff.

14 MR. BAILIFF: We're ready for 'em.

15 (Pause.)

16 (The following takes place in the presence of the jury.)

17 THE COURT: Good morning, ladies and gentlemen, uh, thank
18 you for your patience, I assure you we've been here quite
19 sometime doin' some other matters but we didn't need your
20 attention but we will now. Madam clerk, will you swear our
21 jury try this case.

22 THE CLERK: You'll please stand, raise your right hand.

23 (Whereupon, the jury was sworn.)

24 THE CLERK: Thank you.

25 THE COURT: Please be seated, thank you. Good morning

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1 ladies and gentlemen, the case we're about to try is the case
2 of the State of South Carolina vs. Corey Andrew Brown who is
3 the defendant in this matter. Before we begin this trial I
4 want to tell you that this trial will probably be different
5 from what you have come to expect from watching TV, reading
6 books or magazines, or see in movies. Many people do not have
7 the chance to attend an actual court session as you're doing
8 and many think from watching television or movies or reading
9 books that trials are always full of high drama, intense
10 action and riveting circumstances, now while all of these
11 things may be true at times, ladies and gentlemen, this trial
12 is not for entertainment purposes, it is a fundamental part of
13 our democracy, a search for the truth and an effort to make
14 sure that justice is done before the parties -- between the
15 parties before this court. Searching for the truth and making
16 sure justice is done is often times slow, deliberate and
17 repetitive, just the opposite of what we have come to expect
18 from entertainment industry. This court is a place of honor
19 dedicated to the protection and preservation of citizen's
20 rights through what many have called the greatest justice
21 system ever created. I tell you that the lawyers appearing
22 before you are advocates for the parties they represent but
23 first and foremost they are officers of this court sworn to
24 uphold the integrity and the fairness of our judicial system
25 and to help you in a search for the truth. You should

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1 expect them to be professional and competent all times in
2 representing of their clients and again, we thank you for your
3 accepting this responsibility and serving, uh, with us today.

4 Now, ladies and gentlemen, what I will now say to you is
5 intended to serve as an introduction to the trial a this case,
6 my remarks are not a charge on the law, I will instruct you on
7 the law in this case at the end of the trial before you retire
8 to consider your verdict. My remarks are merely an
9 explanation of the procedure that we will follow in the trial
10 of this case so that you may better understand what is
11 happening. Ladies and gentlemen, you are not to take notes
12 during the trial of this case, again, you are not to take
13 notes durin' the trial of this case.

14 As I previously told you, the defendant is charged by
15 indictments filed with this court with the offenses of armed
16 robbery, a armed robbery and the possession of a weapon during
17 the commission of a violent crime. In count one of the armed
18 robbery, it's alleged that the defendant Corey Andrew Brown
19 did in Spartanburg County, South Carolina on or about
20 August 7, 2015 while armed with a deadly weapon, uh, commit
21 the offense of armed robbery, it's also alleged in count two
22 that this defendant did in Spartanburg County, South Carolina
23 on same date, August 7, 2015, possess or visibly display a
24 firearm durin' the commission of crime, of a crime, it's
25 alleged in another indictment, uh, 4752 that Corey Andrew

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1 Brown did commit assault and battery of a high and aggravated
2 nature in Spartanburg County, South Carolina on the same day,
3 August 7 of 2015, and it's also alleged in the third
4 indictment that he did, Corey Andrew Brown, in Spartanburg
5 County, South Carolina on or about August 7, 2015 willfully
6 and unlawfully commit the crime of a kidnappin'. Now, ladies
7 and gentlemen, the elements of of these indictments, the
8 elements of these offenses will be explained to you, uh,
9 later. The indictments are simply a charging instrument which
10 bring this case before the Court and they are not in any sense
11 evidence of any of the allegations contained therein. I told
12 you yesterday and I tell you today with emphasis that
13 Mr. Brown has entered a plea of not guilty to each and every
14 count in each and every indictment, I tell you and again and
15 remind you that the burden is on the State of South Carolina
16 to prove, uh, the defendant, Corey Andrew Brown, guilty beyond
17 a reasonable doubt on each and every element of each and every
18 charge in the indictments contained, uh, therein against him.

19 Now, ladies and gentlemen, it will be your duty to decide
20 whether the State has met that burden of proof. Your purpose
21 as jurors is to find and determine the facts. Ladies and
22 gentlemen, you are the sole judge of the facts. If at any
23 time I make a comment regarding a fact, you must disregard it.
24 You are to determine the facts from the testimony you hear and
25 the other evidence introduced in court, it is up to you to

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1 determine the inferences which you think may be properly drawn
2 from the evidence presented in this case, it is especially
3 important that you perform your duty of determining the facts
4 diligently and conscientiously because ordinarily there is no
5 way to correct an erroneous determination of facts by a jury.
6 On the other hand, ladies and gentlemen, and with equal
7 emphasis, the same state law that makes you the judge of the
8 facts makes me the judge of the law. The law as I give, as I
9 give it to you is the only law that you may consider, you must
10 accept it and follow it even if you disagree with it. I
11 cannot tell you what the facts are and you cannot disagree
12 with me about what the law is or should be or ought to be.
13 Your job will be to take the law as I give it to you, apply it
14 to the facts as you find them to be from the testimony of the
15 witnesses and any other evidence properly introduced during
16 the trial and after doing so render a verdict, a verdict under
17 your oath that you took as jurors but until I tell you that
18 you may begin to deliberate you must not discuss this case
19 with anyone including fellow jurors, friends, family members
20 or anyone involved in the case. The lawyers and the parties
21 in this case have been advised by me that they are not to
22 speak to you. If you see anyone involved in this case and
23 they do not speak to you, I assure you they are not being
24 unfriendly, they are simply following my instructions.

25 Ladies and gentlemen, you must decide this case based

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1 solely on the evidence presented in this courtroom. During
2 the trial you must not conduct any independent research about
3 this case or the facts of a case, evidence presented or
4 people or organizations involved in this case. Please do not
5 try to learn information from any source outside of this
6 courtroom; in other words, you must not look at dictionaries
7 or other reference materials, search the Internet, websites,
8 blogs or use any tool of electronic communication to discover
9 or receive information about this case or to help you decide
10 it. You may not use computers, telephones, cell phones,
11 smartphones and tablets, the Internet or any other tool of
12 technology with communication capability at any time while you
13 are in the courtroom or during deliberations. During breaks
14 for meals and overnight if necessary, you may use those
15 devices but you must not use those devices to come --
16 communicate with anyone about this case until this case has
17 ended, this means you must not use phone calls, e-mails, text
18 message, instant messages, Twitter or any blog, chat room or
19 website including Facebook, Google Plus, Myspace, LinkedIn,
20 YouTube or any other social media to send or receive
21 information about this case, this information includes
22 information about a party, a witness, a lawyer, court officer,
23 news accounts about the case, research on any topic raised or
24 any topic you think would be helpful in deciding the case or
25 any testimony presented by any witness. During this trial do

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1 not read, listen to or watch any news reports about this case
2 and this includes anything that may be on a -- in a newspaper
3 or on Internet, radio or television. Again, you must not
4 consider anything you may have read or heard
5 'bout this case outside of this courtroom whether before or
6 during this trial. I tell you that information on television,
7 radio and/or the Internet or other sources might be incomplete
8 or wrong and in our judicial system it is important that you
9 are not influenced by anything or anyone outside this
10 courtroom. If you become aware of another juror's violation
11 of my instructions, please inform me immediately. It is
12 important that you keep an open mind and not decide any issue
13 in this case until all evidence has been presented, the
14 parties have made closing statements and I have instructed you
15 on the law. Ladies and gentlemen, it is your solemn
16 responsibility to determine guilt or the innocence of this
17 defendant and your verdict must be based solely on the
18 evidence as it is presented to you in this trial and on the
19 law as I instruct you during and at the close of this trial.

20 Now in just a few moments the solicitor will what
21 make -- will make what is called an "opening statement" in
22 which he will explain to you the issues or at least what he
23 perceives the issues to be. The attorney for the defendant
24 will also make, may also make an opening statement although he
25 is not required do so. I tell you that what the lawyers say

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1 during their opening statements is not evidence in the case,
2 only their contention as to what the issues are.

3 The evidence in this case, ladies and gentlemen, will be
4 presented to you by the testimony of sworn witnesses from the
5 witness stand and/or by any exhibits that may be introduced.
6 Now from time to time durin' this trial you may hear one a the
7 lawyers say, Your Honor, I believe we have a question or a
8 matter of law to discuss with you, or I, myself, might call
9 the lawyers forward because I have a matter of law to discuss
10 with them, ladies and gentlemen, when that becomes necessary
11 for me to talk about a matter of law, I will do so outside of
12 your presence and I will ask you, uh, madam forelady, I will
13 ask you to then take your jury, uh, out of the courtroom and
14 go to the jury room, the reason I do so is that it might be
15 necessary for me to make a comment about a fact in ruling on
16 whether or not a particular law applies, I cannot make a
17 comment about a fact in your presence, that is most improper
18 so I will be asking you to leave the courtroom if if I, if
19 necessary.

20 Now determining what the facts are in this case you must
21 decide whether or not the testimony of the witnesses i --
22 are -- is believable. It is my responsibility to rule as a
23 matter of law whether certain testimony admissible but once
24 the testimony is admitted whether or not you believe it is
25 solely for you twelve to decide. In deciding whether to

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1 believe a witness, you have the right to consider the interest
2 of the witness, any bias or prejudice of the witness, the
3 opportunity for the witness to have seen or heard the things
4 about which he or she may be testifying and the way the
5 witness acts on the witness stand; in other words, you have
6 the right to consider anything in the record that will help
7 you evaluate the testimony of the witnesses and that
8 necessarily means that it is your duty to pay close attention
9 to the witnesses, observe them, listen to them and pay close
10 attention to the lawyers and to the Court. I ask that you do
11 not let your thoughts wander but give strict attention to the
12 testimony so that at the end of the testimony, after arguments
13 of counsel and the charge on the law you will be in a position
14 to determine what the true facts are and to apply the law to
15 those facts and thus render a verdict. I thank you once again
16 for being prompt this morning, I do know that you were here
17 ahead a time, the bailiffs, uh, inform me of these things and
18 I appreciate that, I ask that you continue to be prompt in
19 your jury service.

20 Now, as I indicated yesterday Juror Number 99, Ms., uh,
21 Zepora Lyles, Ms. Lyles you are now hereby officially
22 appointed the forelady, uh, of this jury. Uh, Ms. Lyles, uh,
23 you become the spokesperson for this jury, it's also your duty
24 at the end to write the verdict of the jury but I will give
25 you further instructions about that at the conclusion of the

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1 case. Once again, Ms. Lyles, I ask, uh, that ma -- madam
2 forelady, that you always sit in the seat that which you are
3 seated and for my alternates I ask that you always seat in
4 those seat and once again I remind everyone else here that
5 you're rotarians now and you can sit left or right, front or
6 back, whichever you choose, you can swap seats as much as or
7 as little as you like, it's fine with me.

8 Anything from the State?

9 MR. BARNETTE: None from State, Your Honor.

10 THE COURT: From the defense?

11 MR. POOLE: No, sir.

12 THE COURT: Okay, we're ready to begin the trial a this
13 case. Um, sir.

14 MR. BARNETTE: May it please the Court, Your Honor.

15 THE COURT: Yes, sir.

16 MR. BARNETTE: Alright. Madam fore [sic], ladies,
17 gentlemen jury, I'd like to introduce somebody to ya. This
18 (indicating) is Mindy Slotin and her husband Mark Slotin,
19 Mindy's the victim in this case and I'm gonna be tellin' you a
20 little bit about her and about case here.

21 Let me take you back to August 7, 2015. Mark Slocombe
22 [sic] he owns Imagination Station, if you're familiar in
23 Spartanburg it's down on Main Street, it's right across from
24 the Denny's building and Imagination Station you see it there.
25 The front is on Main Street, the back of it actually exits on

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1 Dunbar Street. That day Mark Slotin was workin', he had
2 owned, he's owned that shop about thirty years. Uh, his wife
3 she works for Avon but, uh, when he needs help at times,
4 she'll come in durin' her lunch period to help, her lunchtime,
5 to help take care of the store, this day he needed some help
6 so she comes in around lunchtime, around noon. Mark has been
7 helpin' two people in there, the defendant and Sandra Pearson,
8 his girlfriend, they'd been in there for a period a time
9 lookin' at the different toys, books, things like that and,
10 uh, basically they picked out sumtin', left there just said
11 that, We'll leave, we'll come back. Well Mark had went for
12 his lunch period, he leaves, Mindy stays there in the store
13 and is workin' in the store. As she's in the store, she
14 notice they come back in, course she says, Well I have your
15 gift for ya, and they, and they say, the defendant decides he
16 wants start lookin' around some more. He asked her to come
17 back in the back a the store, you'll see there's (indicating)
18 the front of where you come in, the counters 'bout in the
19 center a the store and there's a area in the back that's kind
20 of partitioned off a little bit with books and things like
21 that, she goes back and she's helpin' show him somethin',
22 suddenly he hits her, knocked her to the ground and she'll
23 tell ya about that experience. He takes a gun out, puts it to
24 her head, he tells Ms. Pearson go lock the door and she locks
25 the door. He puts duct tape around her wrist, tells her go

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1 over the cash register at gunpoint, makes her push it, opens
2 it up. He takes her back in the storage area and there what
3 is there's a, you have the store and you have the storage area
4 that's right in the back there, there's a doorway, you'll see
5 pictures and things, he takes her in the back and he continues
6 wrappin', he -- she's completely wrapped around here
7 (indicating), wraps her legs, was lookin' at her face-to-face,
8 Miss, I'm gonna go shoppin' for toys, if I hear anything'll be
9 the last thing you'll hear. He goes back in the store, she's
10 able to loosen herself, thank goodness they weren't super
11 tight, she's able to get out, start tearin' some tape off, she
12 runs out the back a the store and goes to Lemon Peel, tells
13 the folks there, they call 911. Police arrive there and
14 you'll be hearin' from investigators from the city,
15 Investigator Norkett, Investigator Cloran goes in does crime
16 scene, takes the pictures you will see, they also check for
17 fingerprints and when he went back in he took approximate
18 hundred dollars, he also took an iPad and her ring and you'll
19 hear, uh, Mindy tell ya about that. Well the drawer is
20 actually, you'll see pictures of it, was actually dumped and
21 apparently there's actually coins still on the floor. All
22 that cash register on the bottom of it his fingerprints they
23 find and all fingerprints were usable but two of 'em come back
24 to defendant's in this case, Corey Brown, that's how they
25 start tryin' to locate him. They found out he lives on [REDACTED]

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1 College Street here in Spartanburg which is approximately 1.1
2 miles if you Google it from the store to that residence and he
3 lives with Sandra Pearson and they get the ID off fingerprint
4 the next day, so they locate him Saturday night, uh, police
5 goes there, knocks on the door and you'll hear gentleman talk
6 about this, uh, Ms. Pearson comes to the door, uh, she does
7 have two s -- two, uh, teenaged children but they were gone
8 and course they ask Ms. Pearse [sic] they take her outside,
9 they see the defendant run upstairs. Uh, they basically
10 barricade the area, bring their SWAT team, everything,
11 eventually talk him out of the residence. Uh, they'll go in,
12 you'll hear the officers talk about goin' in, a search warrant
13 is executed. At that time they find a .32 caliber Colt pistol
14 which is very similar, Mindy will tell ya it's the gun that,
15 basically looks like the gun that was used by him, they also
16 find duct tape in the residence, used and new duct tape.

17 Like I said, the judge told ya, you'll be hearin' the
18 evidence and I know you'll be payin' attention. This is a
19 very serious case in this situation. Actually, I wanted to
20 introduce her right up front to ya so you can see, she'll
21 bitness -- she's gonna testify, she's gonna be the first
22 witness matter a fact. She's gonna tell ya exactly what she
23 went through, you're gonna see pictures, you're gonna see
24 bruising that was left from the assault in this case, that
25 she's gonna describe exactly what happened to her that day.

OPENING STATEMENTS

1 Ladies and gentlemen, after ya -- we present all the evidence
2 and testimony, I'll be coming back to speak to you for, uh,
3 the last time, at that time I'm gonna ask you return guilty
4 verdicts on all four counts against this defendant for what he
5 did to Mindy Slotin. Thank you very much. Thank Your Honor.

6 THE COURT: Thank you, solicitor.

7 MR. POOLE: May it please the Court, ---

8 THE COURT: Yes, sir, Mr. Poole.

9 MR. POOLE: --- Mr. Barnette. Good mornin', ---

10 UNIDENTIFIED JURORS: Mornin'.

11 MR. POOLE: --- madam lady and -- or members the --
12 ladies and men of the jury, it's good to see ya, it's good to
13 see, uh, one or two familiar faces that I've not see in a
14 while and it's good to see all of ya, thank ya for bein' here.
15 I know you don't have much of a choice about it but
16 nevertheless thank you for bein' here 'cause you're gonna have
17 a big function to do. How many have tried a jury or a trial
18 in common ple -- uh, general sessions court before? Okay, we
19 have two experienced veterans here. Uh, the burden of proof
20 in general sessions because a person's liberty is involved is
21 that the case has to be proven beyond a legitimate doubt, each
22 and every element of a crime has to be proven by the State
23 beyond a reasonable doubt, uh, the judge will explain that to
24 ya but a reasonable doubt is a doubt that would cause a
25 reasonable person to hesitate to act and and in saying welcome

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1 to court, court is is going to be sort of like a a microcosm
2 of life that we all go through, you'll -- we're -- you'll hear
3 testimony and we'll be talking a lot about facts. For
4 instance, now right here I have pulled at random one of the
5 indictments that charges, uh, our client and of course you
6 know Mr. Paul Neely, he and I are friends and colleagues, we
7 work together and is our duty to the best of our ability to
8 defend Mr. Corey Brown who is the named defendant in these
9 indictments and that's what we're intend to do, so this
10 indictment for instance is kidnapping and the judge just read
11 it to you, it consists of one sentence and, uh, if a child
12 3-years-old were to see this, he would have, he or she would
13 have no idea what it would be, it's just markings on paper but
14 what we getting, I'm getting at is that these are allegations
15 at this point, they are not facts, and in the course of me
16 doin' this for several years now I've often wondered what a
17 fact is, how -- what's the best definition of a fact, I don't
18 know if any of you have thought about that or not, but the
19 best definition I have come across is one that was given by a
20 twentieth century mathematician philosopher, he said and this
21 is the smallest definition I found of a fact, A fact is a
22 thought that is true. Now think about that for a minute. A
23 fact is a thought that is true. Well, don't we usually think
24 that statements are true if proven? Well, see, we think in
25 our minds we have mental impressions, we don't think

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1 necessarily always in terms of words, we may speak -- think
2 partly with words or in words but that's not all of it, we
3 have mental impressions, we have what we see, what we feel,
4 what we understand, we have our life experiences and all that.
5 If I tell you I s -- that my car, my old brown Buick is parked
6 right behind you out here in s -- a park -- parking space and,
7 uh, that's a string of of let -- of words put together because
8 I have an impression that's been left on my mind that I put it
9 there, parked my car there this mornin' before came to work.
10 Now, that will have nothing of importance to you unless it
11 became important for some reason and I had to establish this
12 fact as a fact by taking you out in the parking lot and I
13 point to the car and I say, That is my old brown Buick, and
14 then you can say, Well, if we believe Roger then that's his
15 old brown Buick.

16 Now I don't mean to trivialize the seriousness of, uh,
17 these proceedings but what we got in this room are two
18 domains: one is the legal domain and one is the world of
19 facts. Facts have to be established through evidence, that
20 is, through testimony, through exhibits, and a fact is a
21 thought that is true. You are what is -- are called the "fact
22 finders" in these cases, as Judge Kelly told you he is the
23 legal expert in this courtroom. He will tell you what the law
24 is and then you will determine what the facts are and it
25 doesn't just stop there. A fact doesn't become a fact, an

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1 allegation does not become a fact until each and every one of
2 you makes a decision that it is true because that's what
3 counts in this court, true facts.

4 At the end a this case, you will be given the law and
5 after that you'll begin your deliberations and by the time you
6 get to that point you will have heard all of the testimony and
7 make your, make your individual decision whether or not the
8 State has established the facts to the degree that the
9 defendant is proven guilty beyond a reasonable doubt. Now all
10 that's a mouthful but it's so important to the justice system
11 and our criminal justice, uh, everybody. Uh, the law comes
12 from several sources, one source is over there on the corner
13 of that witness stand, the source that we'll be dealing with
14 here South Carolina statutes. The judge will tell you what
15 those statutes are, tell you what the elements of each crime
16 is and as you are all here and experienced but different, each
17 one of you is individual and different and each of you bring
18 different experiences, knowledge, understanding of wisdom, of
19 life circumstances to the table and you'll literally be around
20 a table as you already have been to talk about this a little
21 while later. Use your common sense, understand human nature,
22 know that fear can be involved, that bias can be involved,
23 that perceptions can be involved, that understanding can be
24 involved, that everything concerning the human realm is
25 involved, so thank you for being here, thank you for listening

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1 to me and all that Mr. Brown's asking is for the benefit of
2 the doubt. Thank you.

3 THE COURT: Thank you, Mr. Poole. Solicitor.

4 MR. BARNETTE: May it please the Court, Your Honor, I
5 call Mindy Slotin [sic] to the stand, please.

6 (Whereupon, the witness came forward.)

7 THE CLERK: Please place your left hand on the Bible and
8 raise your right.

9 MINDY SLOTIN, having been first
10 duly sworn, testified as follows:

11 THE CLERK: Thank you.

12 THE COURT: Ma'am, once you're situated there if you
13 would tell us your full name and spell your last name for my
14 court reporter, please.

15 THE WITNESS: Mindy Slotin, S-L-O-T-I-N.

16 THE COURT: Thank you, ma'am. Solicitor.

17 MR. BARNETTE: Thank Your Honor.

18 DIRECT EXAMINATION BY MR. BARNETTE:

19 Q. Uh, ma'am, where do you live at? what town?

20 A. I live in Spartanburg.

21 Q. And what kinda work do ya do, ma'am?

22 A. I'm, currently I'm employed by Avon corporate.

23 Q. Okay. And, uh, how long you been with Avon?

24 A. I've been with them a little over ten years.

25 Q. And, uh, is Mark Slotin your, uh, husband, ma'am?

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Yes, he is.

2 Q. And, uh, what does he own, ma'am, what does he run?

3 A. He owns Imagination Station.

4 Q. And what is that, ma'am?

5 A. Imagination Station is a specialty toy store.

6 Q. Okay. And how long has he owned that store?

7 A. Approximately thirty years.

8 Q. Okay. And, uh, where's it located at, ma'am?

9 A. It's, uh, downtown on Main Street in Spartanburg across
10 the street from the Denny's building.

11 Q. Back on August 7th 2015, uh, did you go to the store that
12 day, ma'am?

13 A. I did.

14 Q. About what time did you go?

15 A. Around noon.

16 Q. And if you would, uh, tell the jury when you arrived
17 there what did ya see or what was goin' on.

18 A. Uh, when I arrived at the store to relieve my husband,
19 there were two customers in the store that he was helping and
20 showing toys and he told me that they had been in there for
21 quite sometime.

22 Q. And was this a man and woman?

23 A. It was a man and a woman.

24 Q. Okay. And, uh, did he leave immediately Mr. Slote
25 [sic]?

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1 A. He didn't leave immediately, he just didn't quite, I I
2 believe he didn't quite have the comfort factor because they
3 had been in the store for such a long time to just leave, he
4 wanted to complete whatever they were trying to do.

5 Q. And, uh, did they pick out anything or give him somethin'
6 to keep?

7 A. They finally picked out a gift and brought it to the
8 counter. Uh, my husband asked them if they would like it to
9 be wrapped and they said yes and he wrapped the gift and they
10 said, then said, We've got little more shopping to do, we'll
11 come back in a little while and pick it up and pay for it.

12 Q. After they left what happened then, ma'am?

13 A. After they left, uh, a couple a customers came in, bought
14 somethin' and left and then I believe an estimate would be
15 maybe fifteen minutes later.

16 Q. And Mark left by this time?

17 A. Oh, yeah, Mark left as soon as they left. As soon as
18 they left, he left, ---

19 Q. Go ahead, ma'am, I'm sorry.

20 A. --- uh, to go get some lunch ---

21 Q. Um-hum.

22 A. --- and probably, uh, roughly fifteen minutes after he
23 had gone and the customers had gone, the couple, the original
24 couple came back into the store ---

25 Q. Okay.

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1 A. --- and as they walked toward the counter, I was behind
2 the counter and I said, Oh, we've got your gift all ready for
3 you, and the man said, Is that man still here, I said, No,
4 he's not here right now, said, Well, I wanted to ask him about
5 one other thing, and he walked to a section a the store that
6 is partially obscured by a display and I had to kinda get a
7 little, move close to him to see what he was going to ask me
8 about and he picked somethin' off the shelf, put down, he
9 said, Is this appropriate for a 2-year-old, and I said,
10 Absolutely not, and the next thing that I realize is I was
11 laying on the floor. He had a gun pointed at my face and he
12 had hit me in the head with that gun, it just woulda knocked
13 me to the floor. I looked at him and he was pointing a gun at
14 me and I guess my first, I remember sayin', This this this
15 isn't happening, isn't real, I was just this doesn't happen
16 each day, You better believe it's real, four letter word, you
17 just shut up. He then told me to stand up and led me at
18 gunpoint, oh, oh, no, while I was sittin' there he, while I
19 was on the floor he took out duct tape and duct taped my hands
20 together and as he was doin' that he noticed I had rings on
21 and just slipped those off of my finger, ring bands, so he
22 duct taped me then he said, Let's go to cash register, and he
23 led me to the cash register at gunpoint.

24 Q. As you go in the cash register, did he say anything to
25 the lady with him?

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1 A. He did. The lady was at the counter and as as I had, as
2 we took a couple a steps he looked at her, he said, Lock the
3 door, and she then chain the front door to the store and she
4 didn't, went to the fronta the store and it's just a bolt that
5 you turn unlock the door, so she came back to the counter, he
6 told me to open the cash register which again and then he
7 said, Come with me, and he walked behind me with the gun on me
8 the whole time to the stockroom or storage room that's in the
9 back a the store where we keep just extra merchandise and he
10 told me to sit on the floor and, uh, he duct taped my ankles
11 together and he duct taped around my body in this this
12 (indicating) part a my body around my arms, around my chest
13 and he put a piece a duct tape over my mouth, he told me to
14 lay down on my stomach and all this while he had a gun pointed
15 at me and then he got really close and he said, I'm goin' toy
16 shoppin', if I hear a sound comin' out of this room, it will
17 be the last sound you ever hear.

18 Q. After he left ya, ma'am, what happened then?

19 After he left I tried to process what had happened and it
20 didn't take me long to get this feeling that I needed to get
21 out of there and I got my arms free, I tore the duct tape off
22 my mouth, I got one leg free and there's a back entrance in
23 the stockroom that goes out into Dunbar Street, I ran out that
24 door, ran to the nearest place that I got to that was just a
25 couple stories down that had a back entrance, so I, so I was

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1 runnin' down Dunbar Street, I ran in there and, uh, I just,
2 there were two young girls workin' and I come outta my place.

3 Q. And did the police come shortly after that?

4 A. Police came very quickly.

5 Q. Did you still have some a the duct tape on you?

6 A. Absolutely. I just stood there waitin' for the police.

7 Q. Uh, how close was this man to you when he was puttin' the
8 duct tape on you?

9 A. Meaning? He was ---

10 Q. If you would ---

11 A. --- less ---

12 Q. --- walk ---

13 A. --- than an arms length, okay. Does that make s -- I
14 just, I guess.

15 Q. Let me walk toward ya here and you just tell me 'bout
16 where.

17 A. He was like right there (indicating), right there.

18 Q. So you got a very good luck this person.

19 A. I got a very good look at him when he came to the counter
20 to, originally before Mark left for lunch, to bring that
21 present and put it on the counter and I would stand at the
22 counters lookin' at him, Mark turned around to wrap the
23 present I saw him that whole time and I saw him, when he was
24 duct taping me I saw him, saw him the whole time.

25 Q. Do you see the person that did do to you that day, do you

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1 see him in the courtroom here today, ma'am?

2 MR. NEELY: Objection, Your Honor, this is defense's
3 objection, uh, from their motion in limine.

4 THE COURT: Yes, and it's overruled for those reasons
5 stated.

6 MR. NEELY: Thank you, Judge.

7 THE COURT: Go ahead answer the question.

8 BY MR. BARNETTE:

9 Q. Uh, ma'am, if you would do you see the man the courtroom
10 today that did that to ya?

11 A. I do.

12 Q. Can you identify where he's at and what he's wearing,
13 ma'am.

14 A. He's wearin', uh, he's sitting at the table with the
15 defense attorneys, he's, uh, wearing a tie and a light-colored
16 shirt and glasses.

17 MR. BARNETTE: Your Honor, I would like the record
18 reflect that she's identified the defendant this case.

19 THE COURT: So order.

20 BY MR. BARNETTE:

21 Q. And how sure are ya that -- of that, ma'am?

22 A. Absolutely without a doubt positive.

23 Q. That was the man that did this to ya.

24 A. Yes, it is.

25 Q. Okay. Let me show you some pictures, ma'am, if I could.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 Before I show ya these pictures, ma'am, uh, walk, uh, how much
2 money was taken outta the cash registers?

3 A. I believe it was just around a hundred dollars.

4 Q. And did he also take somethin' else with him, I know he
5 took your rings.

6 A. He took my rings and he took, I had an iPad on the
7 counter, he took the iPad.

8 Q. Let me show what's been marked as state exhibits and I'll
9 probly go through, hand all these up. State Exhibit 13, let
10 me just go ahead and and I'll hand 'em to you once I call 'em
11 out. State Exhibit 14, 15, 16, 17, 18, 19, 20, 25, 29, 37,
12 40, 41, 42, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56,
13 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, if you would take your
14 time looking through those, ma'am, see if those pictures
15 fairly represent the store as well as your injuries and things
16 that was on ya at the time and what you can do is just flip
17 'em over and ---

18 A. Okay.

19 Q. --- then once you look at 'em just take your time.

20 (Whereupon, the witness examined the exhibits.)

21 Let me also add State Exhibit 48 to that also, ma'am.

22 Does all these pictures fairly represent the store as well as
23 yourself, all that was on ya and the injuries you received,
24 ma'am?

25 A. (The witness nodded in the affirmative.) Yes.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: Your Honor, I'd like to enter these into
2 evidence this time.

3 MR. POOLE: No objection, Your Honor, we've reviewed all
4 the a -- those exhibits.

5 THE COURT: Okay, they're ---

6 MR. BARNETTE: May I ---

7 THE COURT: --- in ---

8 MR. BARNETTE: --- publish 'em to the jury, Your ---

9 THE COURT: That ---

10 MR. BARNETTE: --- Honor?

11 THE COURT: --- they're admitted without objection, yes,
12 sir, you may publish.

13 (State's Exhibit Nos. 14, 15, 16, 17, 18, 19, 20, 25, 29,
14 37, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54,
15 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 and 66,
16 photographs, admitted into evidence.)

17 BY MR. BARNETTE:

18 Q. Let me go ahead and publish State Exhibit 13.

19 A. Okay.

20 Q. Can ya tell to the jury what this is, ma'am, and would
21 you like to step down or is it, can you see it from there?

22 A. I can see it and and that's the very fronta the store
23 facing Main Street.

24 THE COURT: Excuse me, solicitor, if if she would step
25 down and come around to this (indicating) microphone, my court

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1 reporter will be able to ---

2 MR. BARNETTE: Hear better.

3 THE COURT: Yes.

4 (Whereupon, the witness left the stand.)

5 BY MR. BARNETTE:

6 Q. If you would step around here (indicating), ma'am, and
7 that way, you can just come right here (indicating) if you
8 want to, that way you can speak to the rest ---

9 A. Alright.

10 Q. --- of 'em. And can you still see it okay from there?

11 A. Yeah, I can.

12 THE COURT: Thank you.

13 MR. BARNETTE: Thank Your Honor.

14 BY MR. BARNETTE:

15 Q. Show you State Exhibit No. 14, ma'am, if you would tell
16 the jury what this is, ma'am.

17 A. That's, uh, probably what you see when you first walk
18 into the store, the very fronta the store.

19 Q. And this store is located in the City a Spartanburg,
20 Spartanburg County, is that right, ma'am?

21 A. Right, right, right in the middle a Main Street.

22 Q. Show ya State Exhibit 15, can you tell us what this is,
23 ma'am.

24 A. Uh, that's that's a similar view of probably five steps
25 into the store, it's just at the, at the first one-third a the

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 store.

2 Q. And is this the counter area right here (indicating), ---

3 A. That's the ---

4 Q. --- was where ---

5 A. --- counter area right there and it's kind of a ---

6 Q. Let me show ya State Exhibit No. ---

7 A. Pretty much have needed that to show ya whatever shape it
8 has that you're ---

9 Q. Let me show you State Exhibit 16, if you would tell the
10 jury what this is, ma'am.

11 A. That's on one side a the counter and you could see the
12 counter has angles and goes as 1, 2, 3, 4, 5 angles, so it's
13 that whatever that kind of a shape would be and then behind
14 that are shelves that we use to wrap presents so that's
15 probably the the center of the store.

16 Q. Let me show ya State Exhibit 17, can you tell the jury
17 what this is, ma'am.

18 A. Uh, those are cabinets under the counter that from behind
19 the counter you can see those cabinets where trash is stored,
20 where the the register is placed, you see a calculator.

21 Q. And this was the register, is that ---

22 A. That's ---

23 Q. --- right, Mindy?

24 A. --- the cash register.

25 Q. Is that, afterwards I guess after you went back was that

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 where the cash register drawer was afterwards, ma'am?

2 A. It was on the floor in front, on the floor in that
3 vicinity, yes.

4 Q. I believe State Exhibit 18 just shows the, uh, a closer a
5 picture a this cash drawer in the floor, is that right, ma'am?

6 A. Right, that's correct.

7 Q. State Exhibit No. 19, could you tell the jury what this
8 is, ma'am.

9 A. Um, it's the counter, it's the part a the counter behind
10 the, uh, those cards is where the register is.

11 Q. If you would tell us what State Exhibit 20 is, ma'am.

12 A. Uh, that's the shelf that is directly across the counter
13 from ---

14 Q. Where was it exactly? Did you go back in this
15 (indicating) area with, uh, the defendant in this case? Where
16 was it? back in that area?

17 A. Um, ---

18 Q. I know it's hard to orient it, it might be better ---

19 A. Well no, I -- it was, it was back on, it was still a
20 little bit further back, ---

21 Q. If you would, ---

22 A. Oh, ---

23 Q. --- just point the laser pointer ---

24 A. Okay.

25 Q. --- approximately if you could.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 A. I would -- I think it was on ---

2 Q. Alright, finish this (indicating) one, I'm sorry, where
3 this drawer is.

4 A. Uh, it was on the other side of this, ---

5 Q. Thank you, ---

6 A. --- that ---

7 Q. --- ma'am.

8 A. --- that particular fixture.

9 Q. Oh, okay. And just show ya State Exhibit 25, uh, this is
10 the floor area fronta the counter, is that right, ma'am?

11 A. Yes.

12 Q. And was there later some coins found there ---

13 A. Yes.

14 Q. --- in that location? Showing ya State Exhibit 29,
15 that's just another picture a the floor, is that right, ---

16 A. Yes.

17 Q. --- and it is showin' some coins there also? State
18 Exhibit 32 or 37, if you would tell us what this is, ma'am.

19 A. Okay. Uh, he, that's the very back of the store and you
20 can see the door there that leads to the, uh, stockroom that's
21 open, it's beyond that, the door.

22 Q. Show ya State Exhibit No. 40, ma'am, what is this?

23 A. That's the stockroom.

24 Q. Okay. And, uh, was this area that you were ---

25 A. That's where he told me to lay down on my stomach in

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 front, it was right in front of the refrigerator.

2 Q. Okay. Showing ya State Exhibit No. 41, uh, what is this
3 right here (indicating), ma'am?

4 A. It's duct tape that I found off of myself.

5 Q. Okay. State Exhibit 42 I believe just a closer view of
6 that, is that the item we're talkin' about?

7 A. Yes, it's duct tape.

8 Q. Show State Exhibit 44, can you tell us what this is,
9 ma'am.

10 A. Uh, that's the back entrance from the storeroom onto
11 Dunbar street, it's really the employees' entrance.

12 Q. Show ya State Exhibit 45, uh, can you tell us what that
13 is, ma'am.

14 A. Again, it's the, uh, employees' entrance onto Dunbar
15 Street.

16 Q. And this is from Dunbar Street into the store, is that
17 right?

18 A. Exactly. There's a little brick ---

19 Q. Show ya State Exhibit for ---

20 A. --- I don't know what you call it, then steps down to to
21 to Dunbar Street.

22 Q. And State 46 what is that, ma'am?

23 A. That's the again, the back, the employee entrance from
24 from the parkin' spaces, you can see it to from Dunbar
25 Street.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Okay. Show ya State Exhibit 47, uh, can you tell us what
2 that is a picture of, ma'am.

3 A. Uh, that's the sidewalk that I ran down to get to the
4 Lemon Peel to ask them to call 911 ---

5 Q. And is ---

6 A. --- and that's ---

7 Q. --- that the Lemon Peel ---

8 A. --- that's the Lemon Peel right there.

9 Q. Showin' State Exhibit 48, ma'am, is you the -- is that
10 you once the police arrive there, ma'am?

11 A. That's me.

12 Q. Okay, and then you still had duct tape on you, on your,
13 around your arms as well as your, uh, ---

14 A. Around my su -- 'round my foot, I think I still had some
15 duct tape on it too.

16 Q. Showing you State Exhibit 49, uh, can you tell us what
17 that is, ma'am.

18 A. Duct tape.

19 Q. Was that on, still on your leg, ma'am?

20 A. It was still on my leg.

21 Q. Let me go back State Exhibit 48 for a second, was this
22 also piece of the duct tape right there (indicating), ma'am?

23 A. I'm sorry?

24 Q. Was that still -- was that another piece a the duct tape?

25 A. Yes.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Okay. Showing you State Exhibit 50, is this a picture of
2 you after the event, ma'am?

3 A. Yes.

4 Q. Showing you State Exhibit 51, uh, can you tell us what
5 that is, ma'am.

6 A. Those are bruises on my arms, well on my wrists I've got
7 some swelling on my wrist.

8 Q. What about your right wrist, what is that?

9 A. That is ---

10 Q. Was that from the assault, ma'am?

11 A. Yes.

12 Q. I show ya State Exhibit 52, can you tell us what that is,
13 ma'am.

14 A. Those are bruises and marks on my calves from the duct
15 tape and from bein' hit I guess or from the, from the fall but
16 may have been left from the duct tape.

17 Q. I believe State Exhibit 53 is just another picture of
18 your right leg, is that right, ma'am?

19 A. Yes, it is.

20 Q. Pictures 54 just another angle of your, uh, ---

21 A. Yes.

22 Q. --- right leg, ma'am?

23 A. Yes.

24 Q. State Exhibit 55, uh, is that a, can you tell us what
25 that is, ma'am.

1 A. Both, that those are the marks really that were left from
2 the duct tape that were around this (indicating) part of my
3 body.

4 Q. And did the police take that off of ya ---

5 A. The police ---

6 Q. --- and kept that?

7 A. --- took that off of me.

8 Q. And did they come back later and take a couple more
9 pictures, ma'am?

10 A. He did.

11 Q. Okay. And showin' ya State Exhibit 56, is this when they
12 came back to take more pictures of you, ma'am?

13 A. It is.

14 Q. Did some a the bruising come out more detail after that?

15 A. Yes, it was, yes.

16 Q. Showin' State Exhibit 57, can you tell us what that is,
17 ma'am.

18 A. It's it's the, where the bruising got a little bit worse,
19 you know, as of over, bigger always over time.

20 Q. Okay. Showing you State Exhibit 58, can you tell us what
21 that is, ma'am.

22 A. It's bruising.

23 Q. That was to your right arm, upper arm, is that right,
24 ma'am?

25 A. Yeah, right there (indicating).

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. State Exhibit 59, is that just another picture of the
2 bruising, ma'am?

3 A. I think that is, it's a a picture of the same bruising
4 just closer up.

5 Q. State Exhibit 60, can you tell us what that is, ma'am.

6 A. Bruising on my, on my ---

7 Q. Okay.

8 A. --- right hand it looks like, my right hand, right arm.

9 Q. Showin' ya State Exhibit 61, is that bruising on your
10 left arm, ma'am?

11 A. On my left a -- on my left arm toward my wrist and, uh,
12 uh, closer up to my bicep I guess.

13 Q. State Exhibit 62, is that just another picture of the
14 bruising ---

15 A. 'nother picture ---

16 Q. --- ma'am?

17 A. --- of bruising, yes.

18 Q. State Exhibit 63, is that just a picture a the bruising
19 on your left, uh, upper left arm, ma'am?

20 A. Yes.

21 Q. Okay. And State Exhibit 64 is that bruising to your
22 right, uh, or your left wrist, I'm sorry?

23 A. Yes.

24 Q. State Exhibit 65, is that just a picture of bruising on
25 your left leg?

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Yes.

2 Q. And picture 66 is that bruising that is shown on your
3 leg, closer up picture of it?

4 A. Yes.

5 Q. He used a gun is that right, ma'am?

6 A. Yes.

7 Q. Let me show ya what's been marked as State Exhibit 75,
8 does that fairly represent the weapon he used?

9 A. It's very, if it's not the same, it's very similar.

10 Q. It's very similar to that?

11 A. Yes.

12 MR. BARNETTE: Okay. Your Honor, I'd like to move State
13 Exhibit 75 into evidence.

14 MR. POOLE: No objection, Your Honor.

15 THE COURT: It's admitted without objection.

16 (State Exhibit No. 75, photograph, admitted into
17 evidence.)

18 MR. BARNETTE: May I publish it to the jury, Your Honor?

19 THE COURT: You may publish.

20 BY MR. BARNETTE:

21 Q. Showin' you State Exhibit 75, uh, that was, uh, very
22 similar to the gun that he used ---

23 A. Yes.

24 Q. --- or was there. And just for ID purposes just showin'
25 State Exhibit No., what number, 10, I believe this is

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 collected by the city, was that the duct tape they collected
2 from ya, ma'am, or appears to ---

3 A. Uh, ---

4 Q. --- be?

5 A. --- it it, I believe it is, yes.

6 Q. And they collected duct tape from ya, is that right,
7 ma'am?

8 A. That is correct.

9 Q. And there's other pieces a that too, is that right,
10 ma'am?

11 A. Yes, sir.

12 Q. And that was the duct tape we saw in picture, is
13 that ---

14 A. Yes.

15 Q. --- right? And for ID purpose let me show you State
16 Exhibit 27, does that appear to be the gun ---

17 A. It appears ---

18 Q. --- that he ---

19 A. --- to, yes.

20 Q. I'll have the evidence people que -- testify about that.
21 If you would have a seat again, thank you.

22 (Whereupon, the witness returned to the witness stand.)

23 BY MR. BARNETTE:

24 Q. And he used duct tape, is that right, ma'am?

25 A. Yes.

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Gonna show you on State Exhibits 24 Exhibit, does that
2 appeal [sic] similar to the roll that he used that ---

3 A. Yes, ---

4 Q. --- day?

5 A. --- it does, ---

6 Q. Okay.

7 A. --- silver duct tape.

8 Q. That appears to be similar what he used that day. That
9 was State Exhibit 24, Your Honor, just markin' it for ID
10 purpose a this time. Ma'am, uh, you talked to the police
11 afterward, is that right, ma'am?

12 A. Yes.

13 Q. And gave 'em as much information as you could?

14 A. Yes.

15 Q. What kinda condition was you in after that? Had you ever
16 been through anything like that in your life?

17 A. Oh my gosh, no. I was, uh, extremely upset and that's
18 probably, uh, not even a good adjective to use. I was, I was
19 distraught ---

20 Q. Um-hum.

21 A. --- and extremely upset.

22 Q. And the police, uh, processed your alls o -- uh, store,
23 is that right?

24 A. They did.

25 Q. And ya'll indicate, I believe you and Mark indicated what

MINDY SLOTIN - DIRECT EXAMINATION BY MR. BARNETTE

1 parts they touched and things like that that you knew of.

2 A. Yeah, yes, ---

3 Q. Okay.

4 A. --- absolutely.

5 Q. Okay, and they processed the scene, is that right?

6 A. Yes.

7 Q. And they took the pictures we saw yourself as well as
8 the, ---

9 A. Yes.

10 Q. --- uh, also. Let me ask you one more quick time, make
11 sure it's clear in the jury's mind, the man that did this to
12 ya is sitting where?

13 A. He's ---

14 MR. NEELY: Same objection, Your Honor.

15 THE COURT: Yes, sir. Oh, uh, it's, uh, it's overruled
16 and you may answer that question as well.

17 BY MR. BARNETTE:

18 Q. Please tell the jury the man that did this to you where
19 is he sitting in the court?

20 A. The man is sitting right there (indicating) and I'm
21 lookin' right at him.

22 Q. And that is there any question in your mind?

23 A. There is not one single doubt whatsoever that that's who
24 it was.

25 Q. Okay. Thank you, ma'am, please answer any questions

MINDY SLOTIN - CROSS-EXAMINATION BY MR. POOLE

1 defense may have, please.

2 CROSS-EXAMINATION BY MR. POOLE:

3 Q. Good morning, Ms. Slotin.

4 A. Morning.

5 Q. My name is Roger Poole and I wanna tell you somethin'
6 personally, please, ma'am. I'm very sorry that you were
7 treated this way and I want you to know that I don't feel like
8 you or anybody else should have been treated in this manner,
9 you understand me, please?

10 A. I do.

11 Q. And I really mean that.

12 A. Okay.

13 Q. When this happened to you and you made your way out,
14 where -- is the Lion Peel?

15 A. It's the Lemon Peel ---

16 Q. Lemon Peel?

17 A. --- is the ---

18 Q. Okay, ---

19 A. --- name of this ---

20 Q. --- is that a restaurant?

21 A. No, it isn't, it's a a shoe store, clothing store.

22 Q. It's a what?

23 A. Uh, shoes, women's shoes and clothing.

24 Q. Is that on Main Street also?

25 A. They have an entrance on Main Street, they have an

MINDY SLOTIN - CROSS-EXAMINATION BY MR. POOLE

1 entrance on Dunbar Street also.

2 Q. Okay, so you went to the entrance on the Dunbar Street.

3 A. Correct.

4 Q. And that, uh, they allowed you to make the telephone call
5 to 911? They called?

6 A. I asked them to call 911.

7 Q. How long did it take for law enforcement to show up?

8 A. Just a few minutes, it was very fast.

9 Q. Okay. And what was the nature of your contact with law
10 enforcement? do they ask you for a description? what was your
11 conversation like?

12 A. The conversation was, if it, uh, if I can remember was
13 basically that store had been robbed and that I had been tied
14 up and hit at gunpoint and at that time I didn't know if the
15 people were still in the store, if they were in the store, I
16 had ran, I'd left the store so, I mean, that was basically
17 what I told 'em initially.

18 Q. Right, okay.

19 A. But I describe 'em I think and as the conversation went
20 on they, I could describe what they were wearing, uh, I could
21 describe their ethnicity, I could describe, uh, what the
22 girl's hair looked like 'cause it, uh, she had kind of a
23 unique hairstyle, uh, other than that I really, I think
24 that's about all I could describe to them, to the ---

25 Q. Of course ---

MINDY SLOTIN - CROSS-EXAMINATION BY MR. POOLE

1 A. --- police.

2 Q. --- you were very very distraught.

3 A. Was very upset, ---

4 Q. I can understand that.

5 A. --- very upset.

6 Q. When -- the -- when we get information from the State on
7 a case it's always mostly in the form of writing and I'm
8 asking you as I'm reading a part of the incident report, uh,
9 the male is described as a black male with dark skin
10 approximately 5'10 and 160 pounds, wearing blue jeans and a
11 dark t-shirt, do you remember giving that information to law
12 enforcement?

13 A. No.

14 Q. Okay.

15 A. No. Now I I could maybe insi -- in my description he
16 cou -- law enforcement could have surmised that that's what
17 because height-wise the best, I don't, I can't judge height, I
18 mean, it's usually like they're this (indicating) much taller
19 than me would be the way I would describe. I don't, I don't
20 know how to judge height and weight, you know, as far as a big
21 person or a medium-size ---

22 Q. Okay.

23 A. --- person or a small person.

24 Q. Okay, so you don't know how this information specifically
25 got into the report of course, do you?

MINDY SLOTIN - CROSS-EXAMINATION BY MR. POOLE

1 A. I do, I do not believe that I gave a definite weight or a
2 definite height, uh, like I said I I could have said this
3 (indicating) much taller than me and somebody coulda looked at
4 me and said she's this (indicating) tall, so that means he
5 must be so and so, I don't, I don't ---

6 Q. Somebody ---

7 A. --- know.

8 Q. --- could have read that as being 5 feet ---

9 A. No, ---

10 Q. --- 10 inches?

11 A. --- I said somebody could have surmised that. No, I
12 mean, I could no more do that than I can tell you the make of
13 a car that's passing me on the street.

14 Q. Alright. Uh, let's go a little bit further. There's
15 another description a female in the report approximately
16 5 feet 6, heavysset weight with neck length straightened hair
17 wearing a dark sleeveless shirt and cut-off blue jeans, she
18 was also carrying a small black purse, do you recall anything
19 about that information?

20 A. That sounds like me, ---

21 Q. (Indiscernible cross-talk.)

22 A. --- that I would've said that.

23 Q. How would you have, uh, described her her height?

24 A. Her height, I think I would, I know she was heavysset,
25 that that, you know, that part, height-wise I don't know how I

MINDY SLOTIN - CROSS-EXAMINATION BY MR. POOLE

1 woulda described her, that ---

2 Q. They got a figure of 5 feet 6 inches.

3 A. Well everybody's taller than me ---

4 (Laughter.)

5 --- so that's ---

6 Q. You're you're 5'2, aren't ya?

7 A. On a good day.

8 (Laughter.)

9 Q. Oh, so ---

10 A. Yes.

11 Q. --- that you just ---

12 A. She was, she was, she was, if if I remember, I mean,
13 again, I'm not this, that I would not swear on the Bible
14 somebody's exact height 'cause I'm just not, that's not, ---

15 Q. You don't feel comfortable ---

16 A. --- that's not my skill set to be honest with you.

17 Q. Okay, that's fair enough. I've described to you that the
18 descriptions indicated in the report as being 5'10 for the
19 male and 5'6 for the female and that would be a 4-inch
20 difference, would it not?

21 A. Yes.

22 Q. Okay. Alright, thank you, Ms. Slotin.

23 THE COURT: Anything, solicitor?

24 MR. BARNETTE: Uh, no further questions, Your -- this
25 witness, Your Honor.

MOTIONS AND MATTERS

1 THE COURT: Ma'am, you my step down, please be careful.

2 (Whereupon, the witness left the stand.)

3 MR. BARNETTE: Your Honor, we're gonna call Sandra
4 Pearson to the stand very shortly.

5 THE COURT: Uh, see the lawyers just for one sec.

6 (Whereupon, a bench conference was held off the record.)

7 THE COURT: Alright. Madam forelady, ladies and
8 gentlemen, I understand the next witness is gonna be just a
9 few minutes there, uh, actually more than a few minutes and I
10 really don't like to break up testimony if I don't have to,
11 uh, so we're gonna take a, uh, take a little morning break for
12 about fifteen minutes, let you refresh yourselves and, uh, let
13 us refresh ourself, uh, actually, I want another cup a that
14 good coffee they have around here, I hope you gotten some this
15 morning 'cause it really is good here. Uh, madam forelady,
16 ladies and gentlemen, this trial is certainly not at an end,
17 do not discuss anything whatsoever about this case and I will
18 try to always tell you that before each and every break, do
19 not discuss the case, don't think about it, you are at work
20 and the last thing you wanna do when you're on break is think
21 about work so go back and talk about the ball game or
22 somethin' you're gonna do at the mountains, lake or beach this
23 weekend, don't talk about work, okay. Madam forelady, if
24 you'll take the jury out for about a 15, 18-minute break.

25 (The following takes place outside the presence of the

MOTIONS AND MATTERS

1 jury.)

2 MR. BARNETTE: She's in the jail room.

3 THE COURT: She's in, okay. Alright, uh, let's be in,
4 uh, let's be in, let's let's be in recess in this case -- yes?

5 MR. BARNETTE: The defen -- no, I mean, the defendant
6 can't go in the jail room, that's the problem we got,
7 co-defendant's in there.

8 THE COURT: Oh, oh, okay. Sir, you have to take your
9 break ---

10 POLICE OFFICER: I'll take him over here.

11 THE COURT: --- right ---

12 MR. BARNETTE: Okay, we're we're good, they took care of
13 it.

14 THE COURT: They can go across the way, okay.

15 MR. BARNETTE: Think they've already took care of it.

16 THE COURT: Uh, we're in recess in this case for about
17 fifteen or eighteen minutes.

18 (Whereupon, a discussion was held off the record.)

19 THE COURT: Alright, let's be in recess for about fifteen
20 minutes.

21 MR. BARNETTE: Thank Your Honor.

22 (Whereupon, a recess was taken.)

23 THE COURT: Ready?

24 MR. BARNETTE: State's ready, Your Honor.

25 THE COURT: Defense ready?

MOTIONS AND MATTERS

1 MR. POOLE: Yes, sir.

2 THE COURT: Alright, we'll have our jury.

3 THE BAILIFF: You ready for 'em?

4 THE COURT: Yes, sir.

5 THE BAILIFF: We're ready for 'em.

6 (Whereupon, a discussion was held off the record.)

7 (The following takes place in the presence of the jury.)

8 THE COURT: Madam forelady, is the jury okay, need
9 anything? E ---

10 JURY FORELADY: We're fine.

11 THE COURT: Everybody's good.

12 JURY FORELADY: Yes.

13 THE COURT: Alright. Solicitor.

14 MR. BARNETTE: Your Honor, I'd like to call Sandra
15 Pearson to the stand.

16 THE COURT: Sure.

17 (Whereupon, the witness came forward.)

18 THE CLERK: You'll place your left hand on the Bible and
19 raise your right. Down there (indicating). Down there.

20 SANDRA ELAINE PEARSON, having been
21 first duly sworn, testified as follows:

22 THE CLERK: Thank you.

23 MR. BARNETTE: Your Honor, I'm gonna do this: Court ---

24 THE COURT: Yes.

25 MR. BARNETTE: --- reporter asked, Ms. Pearson, I'm gonna

SANDRA ELAINE PEARSON - DIRECT EXAMINATION BY MR. BARNETTE

1 move that up to ya is that okay?

2 THE WITNESS: Uh-huh.

3 MR. BARNETTE: Thank you.

4 THE COURT: Ma'am, tell us your full name and spell your
5 last name for my court reporter, please.

6 THE WITNESS: My full name is Sandra Elaine Pearson, my
7 last name is P-E-A-R-S-O-N.

8 THE COURT: Thank you, Ms. Pearson. Solicitor.

9 DIRECT EXAMINATION BY MR. BARNETTE:

10 Q. Uh, Ms. Pearson, uh, where are you origin -- are you
11 originally from Spartanburg, ma'am?

12 A. No, I'm originally from Gaffney ---

13 Q. Got a ---

14 A. --- but I moved out here in Spartanburg.

15 Q. Okay. And do -- and did ya, how long have you lived in
16 Spartanburg, ma'am?

17 A. I lived in Spartanburg for I'll assume, uh, 'bout
18 fifteen, uh, fifteen years.

19 Q. Goin' back to August 7th 2015, is that date important to
20 ya, ---

21 A. Um-hum.

22 Q. --- August 7th? Why is ---

23 A. Um-hum.

24 Q. --- it important to ya, ma'am?

25 A. Because it was my birthday.

1 Q. Okay. And, uh, on that day where did ya live at,
2 ma'am?

3 A. I stayed at [REDACTED] College Street Apartment [REDACTED]

4 Q. And who stayed with ya there, ma'am?

5 A. It was me, my kid and Corey Andrew Brown.

6 Q. Okay. Is that, uh, is that the defendant ---

7 A. That's ---

8 Q. --- Mr. Brown?

9 A. --- defendant right there (indicating), ---

10 Q. Okay.

11 A. --- yes. Yes, sir.

12 Q. Okay. And, uh, how long had, uh, Mr. Brown lived with ya
13 at that time?

14 A. We been stayin' there at least about four months.

15 Q. Okay. And, uh, on August 7th 2015, uh, what happened
16 that day, ma'am?

17 A. I woke up that mornin' and we had got in a little
18 argument and he asked let's take a walk and that's exactly
19 what we did so we walk down the street downtown and I walked
20 down through there with him and I stop down to the drug store
21 get a soda and bag a chips and we went in this toy store, like
22 he said, continued walkin', so we went this toy store, he
23 said, Look around, so that's exactly what I did, so I stepped
24 back out to smoke me a cigarette, then we went back in and he
25 asked this woman what kinda toy it was, they stepped on the

SANDRA ELAINE PEARSON - DIRECT EXAMINATION BY MR. BARNETTE

1 side ---

2 Q. Let me slow ya down for a second ---

3 A. Okay.

4 Q. --- if I can. Wa, uh, was this (indicating) the
5 gentleman in there, Mr. Slotin?

6 A. Yes, yes, yes, sir.

7 Q. What is he in there originally when ya'll went into the
8 store?

9 A. Yes, sir.

10 THE COURT: Solicitor, hang on one second. Ma'am, if
11 you'll -- there you go, sit about right there, that mic'll
12 pick ya up right there.

13 THE WITNESS: Okay.

14 THE COURT: Thank thank you.

15 MR. BARNETTE: Thank you.

16 THE WITNESS: Yes, sir.

17 COURT REPORTER: Thank you.

18 MR. BARNETTE: Thank Your Honor.

19 BY MR. BARNETTE:

20 Q. And, uh, did he, uh, and ya'll was lookin' in the store
21 did -- was he talkin' to both of ya'll at that time, you and
22 Mr. Brown?

23 A. Yes, sir.

24 Q. And, uh, did ya'll step out for a little bit before, uh,
25 uh, before goin' back into the store did you and Mr. Brown

1 step out?

2 A. Yes, sir.

3 Q. Okay. And, uh, where'd ya'll go when you stepped back
4 outta the store?

5 A. We just walked a little bit down the street a little
6 bit.

7 Q. Okay. And well before ya left had had ya'll discussed
8 about a gift or sumtin' or Mr. Brown had said sumtin' 'bout a
9 gift?

10 A. Yes, sir.

11 Q. And, uh, did Mr. Slotin keep that gift for for ya'll?

12 A. Yes, sir.

13 Q. And, uh, was Ms. Slocombe [sic], did she come in there at
14 some point or while ya'll was in there the first time?

15 A. Yes, sir.

16 Q. Okay. When you came back in, uh, the second time, uh,
17 was Ms. Slocombe the only one there at that time?

18 A. Yes, sir.

19 Q. If you would tell the jury what happened at that point.

20 A. We came back in the second time and he said, Look around,
21 so that's what I did, so I looked around and I picked up a
22 book and I put it back down and he asked the woman to step to
23 the side, he pointed at a toy, so she went over there to the
24 side, uh, to a toy, a toy so she was tellin' him it's not for
25 big kids, it's for little kids, so I heard her scream and when

1 she come off on the side a the thing he had a gun to her head
2 and her hand was duct taped and he told her to open up the
3 damn presh -- I meant the register and that's what she did and
4 she told him to, Take what you want, just don't hurt me.

5 Q. What did you, what he tell you to do while ---

6 A. He told ---

7 Q. --- this was goin' on?

8 A. --- me to go look the door and that's, Go lock the damn
9 door, and that's exactly what I did.

10 Q. Okay. Uh, did he have the gun on her the whole time?

11 A. Yes, he did, he pulled her hair back and he had that gun
12 pointed to her head, yes, sir, he did.

13 Q. And did she open the cash register for him?

14 A. Yes, she did.

15 Q. What happened after that, ma'am?

16 A. He took the money and he took her back through the little
17 door where a storage room at, after he took her back through
18 there, I don't know what he did. I didn't go back there, I
19 stayed right there at the door until he come back 'bout a few
20 seconds and then we left.

21 Q. Okay. And, uh, what else did he take, ma'am, with him?

22 A. He took a iPad and her rings.

23 Q. Okay. Did he also take cash outta the cash register?

24 A. Um-hum, yes, sir, he did.

25 Q. Do you know how much it was?

1 A. It was like a hundred, like a hundred and su -- I don't
2 know how much it was, I know it was a hundred and sumtin'.

3 Q. Well is there some change taken also?

4 A. Yes, sir, it was.

5 Q. And, uh, where'd ya'll go after, uh, you left to -- how'd
6 ya'll leave the store?

7 A. We walked. We walked back downtown toward the bank and
8 we walked on to the the home and we stayed there to the house
9 like he said, Stay here, don't leave, and that's exactly what
10 we did.

11 Q. Did you know he was gonna do a robbery when he went back
12 in the second time, ma'am?

13 A. Yeah, 'cause I seen the gun, yes.

14 Q. So he had the gun with him too, you'd seen it?

15 A. Yes.

16 Q. Okay. Uh, when you got back to the house that day, this
17 was like on Friday I think, August 7th, what did ya'll do at
18 that point? what happened?

19 A. We stayed at the house and I cooked dinner and my boys
20 was there and I was downstair the whole time with him, we was
21 talkin' and after I got through cookin' me and him was
22 talkin', I went on upstairs in our bedroom and we were just
23 sittin'there watchin' TV, we didn't go nowhere after that, we
24 just stayed there the whole entire time till the next day.

25 Q. What happened the next day?

SANDRA ELAINE PEARSON - DIRECT EXAMINATION BY MR. BARNETTE

1 A. The next day I woke up, he went to the store. I don't
2 know how long he was gone, I say about five or ten minutes he
3 came back so I decides to cook dinner after that, so that's
4 what I did and the boys was downstairs playin' they game like
5 they always do and so they left and went to they homeboy house
6 but I say around 'bout six o'clock that's when I notice, I
7 seen a officer police comin' to the door and they said, Ma'am,
8 could you step down and that's exactly what I did, I did
9 everything they asked me to do and then he ran back upstairs.

10 Q. You said "he", who you talkin' about?

11 A. I'm talkin' 'bout Corey Andrew Brown.

12 Q. So Corey Brown was downstairs but he ran upstairs when
13 the police showed up.

14 A. Yes, he did, yes, sir.

15 Q. Okay. And, uh, how long was he inside the house before
16 he came out or do you know?

17 A. He was inside the house for a minute I know that, I don't
18 know how long he was in but they told me to step over there
19 for a minute while they had me so I wouldn't be hurt because
20 they asked me was he armed and I said, Yes, sir, he was.

21 Q. Okay, and and you knew he had a gun.

22 A. Yes, sir.

23 Q. Let's see where -- did you put 'em back in order?

24 COURT REPORTER: They might be.

25 MR. BARNETTE: Your Honor, uh, State Exhibit 75 is

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1 already into evidence like to publish to the jury.

2 THE COURT: Yes, sir.

3 BY MR. BARNETTE:

4 Q. Show ya State Exhibit 75, whose gun is that, ma'am?

5 A. That's Corey Andrew Brown.

6 Q. Okay. And showin' ya State, what's been marked for State
7 Exhibit 27, is that his gun, ma'am?

8 A. Yes, m -- yes, sir, it is.

9 Q. And, uh, in the apartment, uh, did he have duct tape
10 also?

11 A. Yes, sir, he did.

12 Q. Was that the duct tape he used to wrap up, uh, ---
13 (Indiscernible cross-talk.)

14 A. Yes, sir.

15 Q. And that was, uh, ya'll, it was in ya'lls apartment, is
16 that right?

17 A. Yes, sir.

18 Q. Let me show you State Exhibit 24, was this duct tape in
19 your alls apartment, ma'am?

20 A. Yes, sir.

21 (Whereupon, a discussion was held off the record.)

22 Q. Let me show ya these, uh, exhibits been marked into
23 evidence, ma'am. State Exhibit 67, I'll just go ahead and go
24 through 'em let ya look at 'em in a second here. State
25 Exhibit 68, State Exhibit 69, State Exhibit 70, 71, 72, 73,

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1 74, I may stop, let me do this this way. Let me just show ya
2 State Exhibit 67, 68, 69 and 70, ma'am, let me let ya look
3 through those real quick.

4 (Whereupon, the witness examined the exhibits.)

5 Those pictures fairly represent, uh, the residence that
6 you're at, ma'am?

7 A. Yes, sir, it does.

8 Q. Let me let ya see State Exhibit 79, State Exhibit 80, 81
9 and 82 and 83, are these items that was in your alls
10 apartment, ma'am?

11 A. Yes, sir.

12 Q. Let ya look through 'em there. Is those, all these
13 pictures fairly represent what was in your apartment and your
14 apartment?

15 A. Yes, sir.

16 MR. BARNETTE: Your Honor, I'd like to move these into
17 evidence this time.

18 (Whereupon, defense counsel examined the exhibits.)

19 MR. POOLE: Without object -- objection.

20 THE COURT: Without objection. They're admitted without
21 objection.

22 (State's Exhibit Nos. 67, 68, 69, 70, 79, 80, 81, 82 and
23 83, photographs, admitted into evidence.)

24 MR. BARNETTE: Thank Your Honor. Permission to publish
25 these to the jury, Your Honor.

1 THE COURT: You may publish.

2 BY MR. BARNETTE:

3 Q. Let me show you State Exhibit 67, ma'am. Uh, which
4 apartment was your alls? was it on the left or I guess way
5 we're lookin' at be lookin' at to the left, is that right,
6 ma'am?

7 A. Yes, sir.

8 Q. State Exhibit 68, what is that a picture of, ma'am?

9 A. That's the picture of our door, that's the picture of our
10 duplex.

11 Q. Okay. And that was the door you came to when the police
12 came to, is that right?

13 A. Yes, sir.

14 Q. And that was the door that you came out with police?

15 A. Yes, sir.

16 Q. And did, uh, so Corey Brown he came down the step and he
17 ran up the stairs when he saw the police?

18 A. Yes, sir.

19 Q. Okay. Show ya State Exhibit 69, uh, this is a picture of
20 your alls side the duplex, is that right?

21 A. Yes, sir.

22 Q. And it had two stories in it?

23 A. Yes, sir.

24 Q. Okay. And the stairs are right at the doorway going up
25 to the, uh, ---

1 A. Yes, sir.

2 Q. Okay. Let me show ya State Exhibit 79, uh, was that
3 the duct tape that he used in the, uh, robbery, ma'am, on
4 Ms. Slote [sic]?

5 A. Yes, sir.

6 Q. And State Exhibit 80, is that just another picture,
7 closeup picture of the, uh, duct tape roll?

8 A. Yes, sir.

9 Q. Think State Exhibit 81 is just a picture of a new duct
10 tape role, is that right, ma'am, that was at ya'lls
11 apartment?

12 A. Yes, sir.

13 Q. State Exhibit 82 was that a copy of your, uh,
14 identification card, ma'am?

15 A. Yes, sir.

16 Q. And then State Exhibit 83, uh, did Corey Brown pay the
17 Duke Power bill at the location there?

18 A. Yes, sir.

19 Q. That's the bill that he paid, is that right?

20 A. Yes, sir.

21 Q. Show ya State Exhibit Number 70, uh, off your alls
22 bedroom what room was this here (indicating) upstairs?

23 A. That was our bedroom.

24 Q. Okay. Is this like a closet or storage area right here
25 (indicating)?

1 A. It's the storage area.

2 Q. Okay. Uh, was this door the way it was?

3 A. No, sir, it was not, it wasn't no holes, no nothin' in
4 it.

5 Q. Okay, so there was no holes or anything in that storage
6 or closet area.

7 A. No, sir, it wasn't.

8 Q. So he ran back upstairs after you went with the police,
9 is that right?

10 A. Yes, sir.

11 Q. And, uh, did it take a, an hour or so for him to
12 eventually come out of the apart [sic] or I don't know, you
13 may a been in police custody at the time.

14 A. Yes, sir.

15 Q. Okay. Now, ma'am, you've pled, uh, to armed robbery in
16 this case, haven't you, ma'am?

17 A. Yes, sir.

18 Q. Uh, that's ju -- that's what you feel like you're guilty
19 of in this case, is that right?

20 A. Yes, sir.

21 Q. And there is no recommendation of sentencing on you, is
22 there? You're -- you ---

23 A. We've had ---

24 Q. --- realize, you realize the judge is gonna be the one to
25 sentence you, ma'am.

1 A. Yes, sir.

2 Q. And you realize there's no recommendation of the sentence
3 that's gonna be on it.

4 A. Yes, sir.

5 Q. It'll be up to the judge to determine what that sentence
6 is.

7 A. Yes, sir.

8 Q. And you hadn't had any promises made by the State or
9 anything about that.

10 A. No, sir.

11 Q. Now you've had a kidnapping charge dismissed, is that
12 right?

13 A. Yes, sir.

14 Q. And you feel like you weren't guilty a the kidnappin'
15 'cause you knew 'bout the robbery.

16 A. No, sir, I'm not guilty of that.

17 Q. And you, and you didn't participate in the duct
18 taping, ---

19 A. No, sir, ---

20 Q. --- the ---

21 A. --- I didn't. No, sir, I didn't.

22 Q. The only thing you knew about was the gun and the
23 robbery, is that right?

24 A. Yes, sir, that's it.

25 Q. And you didn't have a gun with ya, is that right?

1 A. No, sir, I didn't. I don't own now.

2 Q. Okay, that was his gun.

3 A. His gun, not mines, his. His gun, not mines.

4 Q. Okay. And the gentleman lived with ya can you identify
5 him for us, ma'am.

6 A. Corey Corey Andrew Brown, right there (indicating) ya'll.

7 Q. Okay, and what, and what is he wearin', ma'am, if you can
8 say?

9 A. He was wearin' a blue shirt ---

10 Q. I mean, what's he wearin' today, I'm sorry.

11 A. Uh, he's wearin' a suit, a tie and black pants.

12 MR. BARNETTE: Okay. Your Honor, I'd like the record to
13 show she's identified the defendant in in the courtroom.

14 THE COURT: Okay, so noted.

15 BY MR. BARNETTE:

16 Q. And what was he wearin' that day, maybe I should ask you
17 that?

18 A. He was wearin' a blue shirt and some black shorts and
19 blue Nikes that day.

20 Q. Now was that the day that the police came and ---

21 A. Yes, sir.

22 Q. The day the police came, is that right?

23 A. Yes, sir.

24 Q. Do you remember what he was wearin' the day a the
25 robbery?

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1 A. No, not exactly.

2 Q. Okay, but he was the one that did the robbery, the
3 kidnappin', he had the gun?

4 A. Yes, sir. Yes, sir.

5 MR. BARNETTE: Okay, one moment, Your Honor, please.

6 THE COURT: Yes.

7 Q. Please answer any questions defense may have for ya,
8 ma'am. Thank you.

9 A. Yes.

10 MR. POOLE: Your Honor, ---

11 THE BAILIFF: Your Honor, the jury.

12 UNIDENTIFIED JUROR: Are the juries allowed any
13 questions?

14 THE COURT: No, ma'am, jurors, uh, not allowed to ask
15 questions. Thank you.

16 UNIDENTIFIED JUROR: Thank you.

17 MR. BARNETTE: Let me turn this -- Roger, let me turn
18 this off or it's ---

19 MR. POOLE: Please.

20 MR. BARNETTE: Okay.

21 CROSS-EXAMINATION BY MR. POOLE:

22 Q. Ms. Pearson, uh, you and you Corey Brown are about the
23 same height, aren't you?

24 A. Yes, sir.

25 Q. And how tall are you?

1 A. I say I'm 'bout 5'8.

2 Q. 5'7, 5'8, is that right?

3 A. Yes, sir.

4 Q. Then ya'll are the same height height.

5 A. Yes, sir.

6 Q. Okay, well, and, uh, you have a lawyer representing you,
7 Mr. Michael Morin sitting right back here (indicating) in the
8 back?

9 A. Yes, sir.

10 Q. He's a fine lawyer, right?

11 A. Yes, sir.

12 Q. And ya'll talked about this case, didn't you?

13 A. Yes, sir.

14 Q. You talked about all a your charges ---

15 A. Yes, sir.

16 Q. --- before you pled guilty, uh, ---

17 A. Yes, sir.

18 Q. --- to armed robbery in January.

19 A. Yes, sir.

20 Q. You were charged with kidnapping.

21 A. Yes, sir.

22 Q. And didn't ya'll talk about the hand of one is the hand
23 of all as the law in South Carolina?

24 A. Yes, sir.

25 Q. That if you're involved with somebody and if you're there

1 and you help in any manner such as lock a door and somebody is
2 kidnapped that you could be, you're guilty of kidnapping?

3 A. Yes, sir.

4 Q. Ya'll talked about that?

5 A. Yes, sir.

6 Q. And you got this kidnapping charged dismissed.

7 A. Yes, sir.

8 Q. And you're testifying today.

9 A. Yes, sir.

10 Q. And you have not been sentenced yet.

11 A. No, sir.

12 Q. And you have been given the impression that if your
13 testimony is favorable to the State then you hope to get a
14 light a sentence possible on the armed robbery charge, don't
15 you?

16 A. Yes, sir.

17 Q. And that the kidnapping charge carried a maximum of
18 thirty years ---

19 A. Yes, sir.

20 Q. --- you understand all that?

21 A. Yes, sir, I do.

22 Q. So you're getting benefited for your testimony, aren't
23 ya, already?

24 A. Yes, sir.

25 Q. And you're hoping for a greater benefit, aren't you?

1 A. Yes, sir.

2 Q. So you have a reason to try to profit and help yourself
3 out by being where you are testifying the way you are today,
4 don't you?

5 A. No, sir, I'm just tellin' the truth, ---

6 Q. Ju ---

7 A. --- that's all, ---

8 Q. --- are you tellin' ---

9 A. --- the truth.

10 Q. Okay, well let's go back over what the truth is, by the
11 way you just testified. You said you got up that morning and
12 what did ya'll do?

13 A. We was arguin' a little bit and he asked let's take a
14 walk that day and that's exactly what we did.

15 Q. Let's take a walk, so where did you walk to?

16 A. We walk downtown and I stopped down at a store, Smith
17 Drug Store to get a soda and a bag a chip and we kept on
18 walking that day.

19 Q. Okay. And, uh, you downtown, you went to Smith's
20 Drugstore, that's the drugstore that's been in Spartanburg on
21 Main Street for decades, right?

22 A. Yes, sir.

23 Q. Alright, and you got a drink?

24 A. A bag a chips.

25 Q. And a bag a chips, okay. How long were ya'll in that

1 store?

2 A. I went in that store and just got me sumtin', I say about
3 a minute, not even long ---

4 Q. Um-hum.

5 A. --- and he was outside.

6 Q. Okay, and then where did you go from there?

7 A. He said, Keep walkin', so we kept walkin' and we enter,
8 go onto this toy store Imagine Toy Store.

9 Q. Okay, and, uh, what did you do in there?

10 A. He said, Let's look around, and that's exactly what I
11 did. I looked around, ---

12 Q. At ---

13 A. --- I touched a book lookin' at a book and that's about
14 it.

15 Q. Okay. When was the first time you saw a gun?

16 A. When we came in the toy store, I realize that he had the
17 gun on his side and I noticed that.

18 Q. Only after you got into the store did you notice the gun.

19 A. Yes, sir.

20 Q. Is this the first time ya'll were in the store?

21 A. Second time.

22 Q. Second time. Okay, may I approach the witness, Your
23 Honor?

24 THE COURT: Yes.

25 Q. Ms. Wear, uh, Ms. Pearson, I'm showing you a document and

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1 ask you if that's (indicating) your signature.

2 A. Yes.

3 Q. Okay, and you gave this signature to law enforcement
4 appears to be on August 8 ---

5 A. Yes, sir.

6 Q. --- at 1940 hours which would have been 7:40?

7 A. Yes, sir.

8 Q. Okay. And would you read the first sentence, ---

9 A. I woke ---

10 Q. That's good ---

11 A. --- up this morning and s -- I woke up this morning and
12 said me and Corey was arguin' and which that we was. He asked
13 me to walk with ---

14 MR. BARNETTE: But, ---

15 THE COURT: --- him ---

16 MR. BARNETTE: --- Your Honor, I I don't mind him asking
17 questional statement but, you know, it's not for, that hadn't
18 shown that's exactly what she testified to so it's gotta be
19 for impeachment purposes.

20 THE COURT: Mr. Poole.

21 MR. POOLE: Oh, I'm getting to that.

22 THE COURT: Okay, I'll give you a little latitude on ---

23 MR. POOLE: Okay.

24 THE COURT: --- cross. Go ahead.

25 A. We was arguin', he asked, he asked me to walk with him

1 and I did. I didn't know where we was goin'. He went in, I
2 went into a drug store, I bought a soda and some candy, he
3 said, Let's keep on walkin', I did. We went in the toy ---

4 Q. Now now don't don't skip this part right here right after
5 you said, I did.

6 A. I did. He pulled a gun out on my back and said, Walk, I
7 did, and we went in the toy store, he said, Look around,
8 that's what I did next.

9 Q. Okay, stop right there. Now you've testified a moment
10 ago that you didn't see a gun until you got into the toy
11 store, ---

12 A. Yes.

13 Q. --- is that right?

14 A. Yes, sir.

15 Q. But your test -- but your t -- one day after this
16 occurred you gave a written statement saying that he put a gun
17 in your back, ---

18 A. Yes, sir.

19 Q. --- in the street ---

20 A. Yeah.

21 Q. --- in broad daylight, in ---

22 A. Yes.

23 Q. --- the middle of the day, right?

24 A. Yes, sir.

25 Q. So you lied then or are you lying now?

1 A. No, I'm not lying about nothin', ---

2 Q. Okay.

3 A. --- everything that I said is nothin' but the truth.

4 Q. Okay. Well did he have a gun in your back walking down
5 Main Street in the daylight in the middle of August yes ---

6 A. We was ---

7 Q. --- or no?

8 A. Yes, we was on the sidewalk when he pulled it.

9 Q. So you're changing testimony right now, aren't ya?

10 A. No, I'm not.

11 Q. You testified to this (indicating) jury and everybody in
12 this courtroom that you didn't see a gun until you got into
13 the toy store, didn't you? Everybody heard it.

14 A. Yeah.

15 Q. Alright, explain the difference.

16 A. The first time when we walked that's when he had the gun
17 but we left out the toy store. I didn't realize that he had
18 that gun until we come back up when me and him was arguin' and
19 we went in that toy store that's when he had the gun 'cause it
20 was in his pocket.

21 Q. Okay, but you say in your statement that he had a a gun
22 in your back, go walkin' down Main Street to give the
23 impression that you were doing something against your will.

24 A. Yeah, he scared me.

25 Q. Well you didn't see the gun until you were in a toy

1 store?

2 A. I seen the gun in his pocket and he had the gun in his
3 pocket.

4 Q. Well that's, you didn't say that while ago nor than it is
5 that in that statement right here, is it?

6 A. No.

7 Q. What wh -- what's happening here, is -- are ya, are you
8 starting to remember things a little different from what
9 happened? Why don't you just admit you're makin' this up.

10 A. No, I'm not makin' nothin' up.

11 Q. Well you said you went to the door and locked the door,
12 didn't ya?

13 A. Yes, he asked me to lock the door and he had the gun
14 then.

15 Q. Okay, so you were an accessory, right? You were
16 accessory to armed robbery, kidnapping, weren't you?

17 MR. BARNETTE: Objection, Your Honor, asks for a legal
18 conclusion by a witness.

19 THE COURT: Mr. Poole.

20 THE WITNESS: No.

21 MR. POOLE: She's had the advice of counsel, she
22 knows ---

23 THE COURT: Okay, let's move along.

24 BY MR. POOLE:

25 Q. Did you at any point in time start to run from the toy

1 store?

2 A. Yeah, I started to run out the door but I didn't. He
3 asked me to stay and said, Do not run, and that's exactly what
4 I did.

5 Q. You didn't testify to that a moment ago though, did
6 you?

7 A. No.

8 Q. But that's in your statement now, right?

9 A. I know, yeah.

10 Q. It is? So there's another discrepancy, right?

11 A. I started, I s -- I s --- I started to run, he said, Get
12 back. Yeah, I started to run, he said, Get back ---

13 Q. Okay, but you ---

14 A. --- so ---

15 Q. --- had te ---

16 A. --- I didn't.

17 Q. You didn't testify to that while ago, did you?

18 A. No, I didn't.

19 Q. Another discrepancy. And then read this last sentence
20 here (indicating), please.

21 A. He did. He he did. He took that woman and I don't know
22 what he did and that's exactly what he did, I don't know
23 what's he did.

24 Q. So you don't know anything, in this statement you're
25 giving the impression that you don't know anything about any

1 duct taping.

2 A. No, ---

3 MR. BARNETTE: Your Honor, ---

4 A. --- no, ---

5 MR. BARNETTE: Hold on ---

6 A. I don't know nothin' about no duct tapin'. If the
7 witness is here ---

8 THE COURT: Alright, hang on, ma'am, hang on, got
9 objection.

10 MR. BARNETTE: Your Honor, I'm gonna object to this, I
11 mean, you know, let the statement speak for itself, don't
12 paraphrase it or whatever from that standpoint.

13 MR. POOLE: I think an inference can be drawn here,
14 Judge.

15 THE COURT: Okay.

16 MR. BARNETTE: No, I -- well I I understand but that that
17 he may infer that but may be different from what the sta, uh,
18 statement says from that standpoint.

19 THE COURT: Well ask her a question about it, he's
20 on cross so I'm give some latitude. Go ahead, Mr. Poole.

21 MR. POOLE: Thank you, Judge.

22 BY MR. POOLE:

23 Q. So what we have here, Ms. Pearson, is this statement that
24 you gave the day after this occurred ---

25 A. Yes, sir.

SANDRA ELAINE PEARSON - CROSS-EXAMINATION BY MR. POOLE

1 Q. --- differs in a lotta respects from the testimony
2 you just gave when you're being asked questions by
3 Mr. Barnette, right?

4 A. Yes, sir.

5 Q. And, furthermore, you have had the kidnapping charge
6 dismissed knowing the hand of one is the hand of all.

7 A. Yes, I understand all that.

8 Q. And you're up here for a reason and it's purely selfish
9 and personal.

10 A. No, I'm up here to tell the truth and that's exactly what
11 I have done: told the truth.

12 Q. Why didn't you tell the truth on August 8th then?

13 A. I did tell the truth, I was just scared. You would be
14 scared too if somebody point a gun at you.

15 Q. Well now you're getting back to the point that he was
16 pointing a gun at you but you didn't say that a moment ago
17 when you were first sworn and gave your first line a
18 testimony, correct?

19 A. Yes, sir.

20 MR. POOLE: That's all the questions I've got.

21 THE COURT: Thank you. Solicitor.

22 MR. BARNETTE: Just couple follow-up, Your Honor.

23 THE COURT: Sure.

24 MR. BARNETTE: Thank you.

25 REDIRECT EXAMINATION BY MR. BARNETTE:

1 Q. Let me ask you, ma'am, back on August 7, 2015 did you
2 think you'd be goin' doin' a robbery?

3 A. No, sir, I didn't. I thought we was goin' to walk, walk
4 around that day. I didn't know he was goin' to do a robbery,
5 no, sir.

6 Q. Okay. Matter a fact, that was your birthday.

7 A. That was exactly right, that was my birthday.

8 Q. Are you tellin' the truth today this jury what you told
9 today?

10 A. Yes, sir, I am. I told nothin' but the truth.

11 Q. And you realize that the judge will sentence you on the
12 armed robbery.

13 A. Yes, sir, I do realize that.

14 Q. And your face up7 possible 30 years on that sentence too.

15 A. Yes, sir.

16 Q. And talking to your attorney you felt like the
17 kidnappin' charge you didn't know about that, did you?

18 A. I didn't know nothin' 'bout that. I didn't have no
19 kidnap for nobody, I aint do none of that.

20 Q. But you knew about the robbery 'cause he had the gun.

21 A. Yes, sir.

22 Q. Thank you, ma'am, please answer any questions defense may
23 have.

24 THE COURT: Anything from defense?

25 MR. POOLE: No, sir.

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1 THE COURT: Thank you. Ma'am, you may step down, please
2 be very careful.

3 (Whereupon, the witness left the stand.)

4 MR. BARNETTE: We'd ask the witness be excused, Your
5 Honor.

6 THE COURT: Any objection to witness be excused?

7 MR. POOLE: No, sir.

8 THE COURT: Alright, ma'am, you're excused.

9 (Whereupon, a discussion was held off the record.)

10 THE COURT: Madam forelady, ladies and gentlemen the
11 jury, yeah, it, uh, is my custom to break for lunch sometime
12 between 12:30 and about a quarter till or ten till 1 p.m. and
13 we are right in that, uh, time window, it's about 12:30, uh, 2
14 or so, uh, had to look because the last time I was here, uh,
15 and I travel around, that clock was wrong but it's, it looks
16 like it's right today but nonetheless we're in that time
17 frame. Uh, we're gonna break for lunch and let you go and en,
18 uh, enjoy lunch, uh, I will tell you once again, madam, uh,
19 forelady and ladies and gentlemen, you are not free to discuss
20 this case with anyone, you are not free discuss it with each
21 other, try or try to learn anything about this case, as I
22 previously told you, uh, all of the evidence in this case must
23 come from this courtroom, okay. Now havin' said that, uh,
24 again, don't think about it, you're goin' to lunch and you're
25 at work here so don't be thinkin' about work when you go to

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1 lunch. We're gonna ask you to be back in the jury room about
2 seven or eight minutes until two o'clock so we're gonna give
3 you a good hour and fifteen minutes or so, by the time you get
4 to your car, you be back about, uh, seven or eight minutes, I
5 will already be here. Uh, traditionally I bring my lunch, I
6 don't leave, I just throw it in microwave and I'll be here and
7 waitin' on you so we'd like to get started again promptly at 2
8 p.m., uh, alright. Madam forelady, if you will take your jury
9 out and be excused for lunch.

10 (The following takes place outside the presence of the
11 jury.)

12 THE COURT: Anything from the State?

13 MR. BARNETTE: Not from the State, Your Honor.

14 THE COURT: From defense?

15 MR. POOLE: No, sir.

16 THE COURT: Be ready to go at two?

17 MR. BARNETTE: We're good.

18 MR. POOLE: Two o'clock.

19 MR. NEELY: Yes, sir.

20 THE COURT: Two o'clock, thank you.

21 (Whereupon, a recess was taken.)

22 THE COURT: Think they need a minute to get the evidence
23 back.

24 (Whereupon, a discussion was held off the record.)

25 THE COURT: Everybody ready?

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1 MR. BARNETTE: State's ready, Your Honor.

2 MR. POOLE: Yes, sir.

3 THE COURT: Okay, have jury.

4 (The following takes place in the presence of the jury.)

5 THE COURT: Madam forelady, any matters for the jury?

6 Any matters to the jury?

7 JURY FORELADY: No.

8 THE COURT: Everybody's good.

9 JURY FORELADY: Yes.

10 THE COURT: Alright. Solicitor.

11 MR. BARNETTE: May it please the Court, Your Honor, ---

12 THE COURT: Yes.

13 MR. BARNETTE: --- like to call Mary Stone to stand,
14 please.

15 (Whereupon, the witness came forward.)

16 THE CLERK: Place your left hand on the Bible and raise
17 your right.

18 MARY CAROLINE STONE, having
19 been first duly sworn, testified as follows:

20 THE COURT: Ma'am, once you are seated there if you will
21 pull that microphone up just a little bit and tell us your
22 full name and spell your last name for my court reporter,
23 please.

24 THE WITNESS: My name is Mary Caroline Stone, S-T-O-N-E.

25 THE COURT: Thank you, ma'am. Solicitor.

MARY CAROLINE STONE - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: Thank Your Honor.

2 DIRECT EXAMINATION BY MR. BARNETTE:

3 Q. Ms. Stone, uh, I know you're soft-spoken and that I'm
4 gonna have to ask you talk loud enough so this lady right here
5 (indicating), can hear you, okay, over there. Uh, Do you live
6 in Spartanburg, ma'am?

7 A. Yes, sir.

8 Q. And uh, back on August 7th of 2015, uh, where was you
9 working at that time, ma'am?

10 A. The Lemon Peel.

11 Q. Okay. Is that located on Main Street?

12 A. Yes, sir.

13 Q. Is that a couple doors down from the Imagination Station?

14 A. It is.

15 Q. Uh, 'round lunchtime, around one o'clock that day can you
16 tell the jury did somebody come into the, to your alls store
17 that day?

18 A. Yes, this lady here (indicating).

19 Q. Ms. Slocombe [sic] right here (indicating) came in your
20 store?

21 A. Yes, sir.

22 Q. Uh, how -- tell us what happened when she came in the
23 store.

24 A. She walked in, she was extremely upset, um, there was
25 tape hanging from her ankles, from her upper body and her

MARY CAROLINE STONE - DIRECT EXAMINATION BY MR. BARNETTE

1 wrists. Uh, she wa -- she requested we call 911, she was
2 very, very upset.

3 Q. Uh, did did somebody call 911 for her?

4 A. Yes, sir, customer in the store.

5 Q. And, uh, you said she was very emotional, very upset?

6 A. Yes, sir.

7 Q. Did she appear to be in shock or from that standpoint
8 or . . .

9 A. Very much so.

10 Q. And, uh, did ya'll try to calm her down?

11 A. Yes, sir, we did.

12 Q. And, uh, did the police come shortly after that?

13 A. Yes, sir.

14 Q. Okay. And, uh, what was her concern about the store?
15 what did -- what was she worried about happenin' back at the
16 store?

17 A. She was worried about her husband, she was worried about
18 him coming into the store.

19 Q. And she didn't know if those folks were still there or
20 not at the time?

21 A. No, sir.

22 Q. And, uh, later on did she come back to to visit ya'll
23 couple days later?

24 A. Um, she did. She came back to the Lemon Peel and she
25 brought me a bouquet of flowers.

MARY CAROLINE STONE - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Okay. If you would or I'm gonna let you see State
2 Exhibit 48, it's already into evidence, did it appear the tape
3 that she had on her as well as on her ankle?

4 A. Yes, sir.

5 MR. BARNETTE: Your Honor, may I publish this to the
6 jury? I'll ---

7 THE COURT: Yes, sir.

8 MR. BARNETTE: --- just hand it to 'em, they've already
9 looked at it or seen the picture already. Thank you, ma'am,
10 please answer any questions the defense may have for ya,

11 THE WITNESS: Okay.

12 MR. BARNETTE: --- ma'am.

13 MR. POOLE: We have no questions of this young lady.

14 THE COURT: Alright, thank you. Ma'am, you may step
15 down, please be careful.

16 MR. BARNETTE: And, Your Honor, we'd ask the witness be
17 excused.

18 THE COURT: Any objection?

19 MR. POOLE: None.

20 THE COURT: Ma'am, you are excused, you may stay or
21 leave, whichever you choose.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Yes, ma'am.

24 (Whereupon, the witness left the stand.)

25 MR. BARNETTE: Investigator Norkett be the next witness

CHRISTY NORKETT - DIRECT EXAMINATION BY MR. BARNETTE

1 for the State, Your Honor.

2 (Whereupon, the witness came forward.)

3 THE CLERK: You'll place your left hand on Bible, raise
4 your right.

5 CHRISTY NORKETT, having been
6 first duly sworn, testified as follows:

7 THE COURT: Officer, if you will tell us your full name
8 and spell your last name for the court reporter, please.

9 THE WITNESS: My name is Christy Norkett, N-O-R-K-E-T-T.

10 THE COURT: Thank you. Solicitor.

11 DIRECT EXAMINATION BY MR. BARNETTE:

12 Q. Uh, where do you work at, ma'am?

13 A. I work for the Spartanburg Police Department.

14 Q. What is your position there, ma'am?

15 A. I'm a forensics investigator.

16 Q. And how long you been in law enforcement, ma'am?

17 A. Seventeen years.

18 Q. And back on August 7, 2015 was you called to Imagination
19 Station?

20 A. Yes, I was.

21 Q. And was you called there because of robbery,
22 kidnapping, ---

23 A. Yes, sir.

24 Q. --- weapons charge? And, uh, did, uh, you process that
25 area?

1 A. Yes, I did.

2 Q. And who else was with ya when you processed it?

3 A. My partner, uh, Investigator Cloran.

4 Q. Okay. And several a the pictures we've seen was those
5 pictures that was taken by you all?

6 A. Yes, sir, uh, we did.

7 Q. Okay. And, uh, in talkin' to to information, everything,
8 did you all try for fingerprints ---

9 A. Yes.

10 Q. --- throughout the store? And, uh, what areas did you
11 try to focus on?

12 A. I I focused on the, uh, cash register, the, uh, counter
13 area around the cash register, and the plastic drawer that had
14 fallen from the cash register on the floor.

15 Q. Go through here. Let me show you what's is marked as
16 State Exhibit No. 1, is that a Google Map of the area around
17 the, uh, area we're talkin' of Imagination Station?

18 A. Yes, it is.

19 Q. And on part, another part, another map that's part a this
20 exhibit is there also a map showing, uh, Magination Station
21 location going to, uh, [REDACTED] College St -- uh, Street here in
22 Spartanburg?

23 A. Yes, sir.

24 Q. And does those maps fairly represent the areas we're
25 talking about?

CHRISTY NORKETT - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Absolutely.

2 Q. And these areas are both in Spartanburg County and the
3 City a Spartanburg, ---

4 A. Yes, sir, ---

5 Q. --- is that right?

6 A. --- both in the city limits.

7 MR. BARNETTE: Your Honor, I'd like to enter State
8 Exhibit 1 into evidence at this time.

9 (Whereupon, defense counsel examined the exhibit.)

10 MR. POOLE: Without objection.

11 THE COURT: Okay, they're admitted without objection.

12 (State Exhibit No. 1, Google Maps, admitted into
13 evidence.)

14 BY MR. BARNETTE:

15 Q. And the picture that we saw earlier that was described by
16 other witnesses, are those pictures that you took at the
17 Imagination Station?

18 A. Yes, sir.

19 Q. And did you collect some items at the Magination
20 Station?

21 A. I did.

22 Q. Let me s -- let ya look at State Exhibit No. 6, if
23 you would open you can, ma'am, State Exhibit 4, State Exhibit
24 5, State Exhibit No. 2.

25 A. You want me to go ahead and open?

1 Q. You ca -- if you can, go ahead like to, ma'am. State
2 Exhibit 3, State Exhibit 12, State Exhibit 11, State
3 Exhibit 9 ---

4 A. You want 'em removed from the bags or just ---

5 Q. Just open to verify 'em for now, ---

6 A. Okay.

7 Q. --- don't wanna enter 'em into evidence here. If you
8 would just take a look make sure they're items we're talking
9 of.

10 A. Yeah.

11 Q. State Exhibit 38, State Exhibits 86 and 88.

12 A. Okay.

13 (Whereupon, the witness opened the exhibits.)

14 They're sealed, I I'm the one that sealed them so, I
15 mean, they've not been opened.

16 Q. And you're the one that opened now, you sealed these
17 originally, is that ---

18 A. I originally did the seals on 'em but they've not been
19 opened since I sealed them ---

20 Q. Okay.

21 A. --- or it doesn't appear that they have.

22 Q. Okay.

23 (Whereupon, the witness opened the exhibits.)

24 A. Sorry. I remember all of them.

25 Q. And these are items that was collected by you or by the

CHRISTY NORKETT - DIRECT EXAMINATION BY MR. BARNETTE

1 team, is that right, ma'am?

2 A. Yes.

3 MR. BARNETTE: Okay. Your Honor, I'd like to move State
4 Exhibit 3, let me just go through these here, State Exhibit
5 88, 86, 38, 3, 12, 2, 9, 11, 6, 4 and, uh, ---

6 THE WITNESS: Five.

7 MR. BARNETTE: --- 5 into evidence this time.

8 MR. POOLE: Without objection.

9 THE COURT: Without objection they are admitted.

10 MR. BARNETTE: Thank Your Honor.

11 (State's Exhibit Nos. 88, latent print 2.1 and 2.2; 86,
12 latent print 1; 38, five latent print cards; 3, Encyclopedia
13 of Immaturity; 12, quarters; 2, first play puppy; 9, piece of
14 duct tape from wrist; 11, roll of duct tape; 6, alphabet
15 stacking blocks; 4, Kidoozie toy, and; 5, chemistry book
16 admitted into evidence.)

17 BY MR. BARNETTE:

18 Q. If you would go ahead and pull Exhibits 3, ones in the
19 bags I guess would be the easiest ones to start with.

20 A. Okay, to stand?

21 THE COURT: Yes, ma'am.

22 Q. And if you wanna come down here (indicating) you can so
23 the jury can see ya.

24 A. Okay. Which one did you want, sir, I'm sorry.

25 Q. Uh, be 1, 2 -- let me get the pictures too, talk about

CHRISTY NORKETT - DIRECT EXAMINATION BY MR. BARNETTE

1 'em, rest of 'em unless they're over here. Let me let ya look
2 at State Exhibits, might be easier to show you those pictures
3 first then the items, ---

4 A. Okay.

5 Q. --- 30, 31, 33, 34, 35 and 36. Take a look at those,
6 ma'am, see if these fairly represent.

7 (Whereupon, the witness examined the exhibits.)

8 A. Yes, sir, they do.

9 Q. And let me let ya like 43, is that picture also represent
10 what you saw?

11 A. Yes, sir, it does.

12 MR. BARNETTE: Your Honor, I'd like to enter State's
13 Exhibits 30, 31, 33, 34, 35, 36 and 43 into evidence.

14 MR. NEELY: Alright.

15 MR. POOLE: Without objection.

16 THE COURT: They're admitted without objection.

17 (State's Exhibit Nos. 30, 31, 33, 34, 35, 36 and 43,
18 photographs, admitted into evidence.)

19 MR. BARNETTE: Your Honor, may I publish these to the
20 jury?

21 THE COURT: You may.

22 MR. BARNETTE: We dim, turn the lights down.

23 BY MR. BARNETTE:

24 Q. And, uh, what, the information you received directly in
25 two of these items to test were fingerprints, is that right,

1 ma'am?

2 A. Yes, sir.

3 Q. And these are the items you also collected off, is that
4 correct?

5 A. Yes. I I collected 'em and Investigator Cloran processed
6 those.

7 Q. Okay. First I'm gonna be showin' ya State Exhibit 30
8 and, uh, can you tell us what this was, ma'am.

9 A. That is the, um, just see, let me, it's a, it's a child,
10 uh, it's a toy, it's like a a puppy for, uh, for young
11 children to touch and and grab on, ---

12 Q. Okay.

13 A. --- that's one of the items we have here.

14 Q. State Exhibit 2 what was that, ma'am?

15 A. That was a book that, uh, was shown to the defendant that
16 he actually, they actually touched.

17 Q. State Exhibit 3?

18 A. That is the toy that they requested to have gift-wrapped
19 and were going to return, pay for.

20 Q. State Exhibit No. 4?

21 A. That's the cash register at Imagination Station.

22 Q. State Exhibit No. 5 or actually State Exhibit 35, that's
23 a placard of five exhibits, State Exhibit 35, excuse me.

24 A. That's the, uh, chemistry book that they also looked at.

25 Q. Okay, State Exhibit, uh, 36?

1 A. That's the alphabet and that's, uh, that's the stacking
2 blocks that they they looked at as well for the child.

3 Q. Okay. State Exhibit, uh, 43?

4 A. That is, uh, showing the piece of, uh, duct tape that,
5 uh, Ms. Slotin said she removed from herself in the back a the
6 storage area.

7 Q. Okay. We saw some other pictures that showed in full
8 wide range, that's where she was laying down at.

9 A. Yes, sir, that's where she was laid down.

10 Q. Let me show you what's State Exhibit 17's already been
11 entered evidence, uh, can you tell the jury about this
12 picture.

13 A. That is the, there at the bottom is the white piece a
14 plastic, that's the tray or the cash drawer area that that
15 was, uh, dropped in the floor, uh, that I processed with the
16 cash register and the, uh, counter area there for
17 fingerprints.

18 Q. And State Exhibit 18.

19 A. That's the same, uh, that's the closer in shot of the
20 drawer that the money was in.

21 Q. Okay. Uh, and ya'll processed, you processed the area,
22 the, I guess the cash drawer, is that right?

23 A. Yes, sir, I did.

24 Q. Okay. And then Investigator Cloran did the, uh, items,
25 is that right?

1 A. Yes, sir, he did.

2 Q. Okay. And if you would just wanna pull these items out,
3 uh, one at a time just show 'em that who did touch the items.

4 A. This is, this (indicating) is the Encyclopedia of
5 Immaturity. Uh, Mr. Slotin took us around and actually showed
6 us the items. He, was, uh, had very good memories to every
7 item that they they went to and looked at that he showed them
8 and everything that they, he knows they touched we requ -- we
9 req -- we collected for evidence.

10 Q. Okay.

11 A. This is the one here (indicating).

12 Q. And that's State Exhibit ---

13 A. Three.

14 Q. --- 3, yes, ma'am.

15 A. Make sure that was correct.

16 Q. Yeah, just go ahead if you want to, just pull 'em out.

17 A. This is, uh, No. 4, this is the Kidoozie toy which was
18 the one that was in the gift wrap and this, that's the actual
19 toy there (indicating). You see that there's dark color on
20 it, that's from the fingerprint dust that we used but that's
21 the toy that they aksed, they had, uh, asked to have it
22 gift-wrapped and were gonna come back purchase.

23 (Whereupon, a discussion was held off the record.)

24 Number 6, this is the, uh, the nesting stacking boxes,
25 uh, that ya'll saw in the pictures there, it also has the

1 fingerprint dust all over it. This is another item that they
2 actually touched and looked at.

3 Q. And that was State Exhibit No. 6.

4 A. No. 5. This is the, uh, chemistry book set that they
5 looked at that, uh, again, they touched or what have ya, it
6 was processed for fingerprints.

7 Q. That was State Exhibit No. 5. And, uh, show ya State
8 Exhibit No. 9, can you tell the jury what that is and, uh,
9 show it to 'em, you'll have it.

10 A. This is a piece of duct tape to our recovery. When I
11 first arrived on scene and first encountered Ms. Slotin, she
12 was holding a piece of, uh, duct tape in her hand. If you can
13 see this here (indicating), that's the duct tape, it's got her
14 hair actually still attached to it.

15 Q. Next one. Let me also show ya, talkin' about tape, State
16 Exhibit 8, ---

17 A. Yes, sir.

18 Q. --- State Exhibit 7 and 10, what are these items,
19 ma'am?

20 A. These are also ---

21 Q. I'll tell you what, uh, does these, are these items that
22 you collected ---

23 A. Yes, ---

24 Q. --- before?

25 A. --- these are items that I collected.

CHRISTY NORKETT - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: Your Honor, I'd like to enter State
2 Exhibit 7, 8 and 10 into evidence at this time.

3 MR. POOLE: Without objection.

4 THE COURT: They're admitted without objection.

5 (State Exhibit Nos. 7, 8 and 10, pieces of duct tape,
6 admitted into evidence.)

7 BY MR. BARNETTE:

8 Q. Okay, go ahead, please. If you want me to open it or you
9 need to open it. Yeah, uh, can she pull her pocket knife out
10 to cut it?

11 THE COURT: Oh, sure.

12 THE WITNESS: Thank you, sir, it's a tool I use for work.

13 BY MR. BARNETTE:

14 Q. Don't cut yourself.

15 A. We do that so nobody else can tamper with it. We don't
16 want anybody else mess --

17 Q. You might wanna open this one, need any help?

18 A. Shouldn't.

19 (Whereupon, a discussion was held off the record.)

20 If you would take it out, let the jury see it if you
21 would.

22 A. This (indicating) is a piece a duct tape that I removed
23 from Ms. Slotin, uh, it also, you can see it has got small
24 piece of her hair still stuck to it as well.

25 Q. Sorry.

1 A. Sorry 'bout that.

2 Q. That's alright, excuse me.

3 (Whereupon, a discussion was held off the record.)

4 And go ahead that's State Exhibit 8, ---

5 A. Yeah.

6 Q. --- or State Exhibit 10. I'm sorry, go ahead, excuse me.

7 A. Number 10. This (indicating) is the piece that I removed
8 from her ankles, well it was actually stuck to the side of her
9 her left ankle, it was hangin' down right here (indicating)
10 and, uh, that's what I saw, one a the first things I saw when
11 we first walked up to her.

12 Q. And State Exhibit No. 7.

13 A. This is the original, 7 this is the piece that that was on
14 the floor in the, uh, the storage area that she was able to
15 get out of herself that we recovered. The edges are kinda
16 tattered a little bit from bein' torn at.

17 Q. Okay, uh, at the cash register you collected, uh, try,
18 uh, latent prints ---

19 A. Yes.

20 Q. --- from that? And was you able assess or collect some
21 latent prints?

22 A. Yes, sir, I did.

23 Q. And, uh, let me show ya what's been marked as State
24 Exhibit 38. Was those latent prints that you got from the
25 cash register door area?

CHRISTY NORKETT - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Yes, sir, it is, it's five prints, yes, sir.

2 Q. Okay.

3 MR. BARNETTE: Your Honor, I'd like to enter this into
4 evidence at this time.

5 (Whereupon, defense counsel examined the exhibit.)

6 (Whereupon, a discussion was held off the record.)

7 MR. POOLE: Without objection.

8 THE COURT: It's admitted without objection.

9 (State Exhibit No. 38, five latent print cards, admitted
10 into evidence.)

11 BY MR. BARNETTE:

12 Q. And you submitted these, who was these submitted to,
13 ma'am, after you collected them?

14 A. These were submitted to our, uh, fingerprint technician
15 Lou, uh, Jones.

16 Q. And and, uh, she tested 'em and and did the
17 comparison, ---

18 A. Yes, sir, ---

19 Q. --- that correct?

20 A. --- she did.

21 Q. And let me show ya State Exhibit eighty s -- which it
22 comes outta this package, State Exhibit 86 and 88, was those
23 two that, was those some a the prints that you, uh, took off
24 the cash drawer?

25 A. Yes, sir, it is, it's got my information on the back

1 where they were at and everything.

2 MR. BARNETTE: Your Honor, I believe these are already
3 entered into evidence, I would like to publish 'em to the jury
4 at this time.

5 THE COURT: Yes, sir.

6 BY MR. BARNETTE:

7 Q. If you would, ma'am, c'mon down with me for a second.

8 (Whereupon, the witness left the stand.)

9 A. If you were over here (indicating) ---

10 Q. Right here (indicating)? If ---

11 A. Uh-huh.

12 Q. --- you would and then do this (indicating) one. Okay,
13 this is State Exhibit 86, if you would this is the back the
14 card if you would explain that to the jury if you would.

15 A. Yes. This (indicating) is my horrible drawing of a, uh,
16 cash register drawer and what I do to indicate where I found
17 the print that is on the opposite side I put a "x" and I draw
18 my little line that says "print" there, that was the bottom
19 side of the the cash register drawer that the little plastic
20 piece that you saw laying on the floor and that's where I
21 found that print when I was fingerprintin' and checkin' it for
22 the prints and that's just all the information showing what I
23 did, where it was at and all.

24 Q. Okay, and show State Exhibit 15 it came off the bottom of
25 this, of the, uh, ---

1 A. Yes, sir.

2 (Indiscernible cross-talk.)

3 Q. --- cash drawer?

4 A. Right there in the center, the center the little tray
5 area.

6 Q. Okay. And on the other side, uh, that's the print that
7 you lifted off of that cash drawer, is that right?

8 A. Yes, sir, it is.

9 Q. Okay. And showing you State Exhibit 88 was this another
10 print that you got off of the, uh, move this down a little
11 bit, is that another print that you got off the cash drawer?

12 A. Yes, it is. That's, uh, showing that I pulled it off of
13 the left side of that separate little, uh, tray area where the
14 "x" is.

15 Q. And this is the bottom the cash drawer, ---

16 A. Yeah, that's ---

17 Q. --- right along the ---

18 A. --- the the bottom, not the curved part where the actual
19 change would be, it's on the flat flatter area that you could
20 actually see in the picture there, that part of it, the
21 bottom, ---

22 Q. Okay.

23 A. --- on the outside.

24 Q. On the outside, thank you.

25 A. Um-hum.

1 Q. Okay. And then just reversing that there was two
2 possible prints that you lifted off that, is that right?

3 A. Yes, sir.

4 Q. Alright. The exhibit marked? And it's marked 2.1, 2.2?

5 A. Yes.

6 Q. Then goin' back State Exhibit 86 that's marked as 1.1, is
7 that right, ma'am?

8 A. Yes, sir, two of 'em, Ms. Jones did that.

9 Q. Now Ms. Jones did that but she did the analysis on
10 9he ---

11 A. Yes.

12 Q. --- fingerprint after you lifted it?

13 A. Yes.

14 Q. If you would please have a seat.

15 A. Yes, sir.

16 (Whereupon, the witness returned to the stand.)

17 Q. And Investigator, uh, Cloran he did the, uh, other items
18 that we talked about: ---

19 A. Yes, sir.

20 Q. --- the toys and so forth, is that right, ---

21 A. Yeah, ---

22 Q. (Indiscernible cross-talk.)

23 A. --- while I, while I did the one part, he did the other
24 at the same time so that we could get everything together.

25 Q. Okay. In meeting with, uh, Ms. Slotin, how how was she

CHRISTY NORKETT - CROSS-EXAMINATION BY MR. NEELY

1 when you first got there or talked to her?

2 A. When I first got there the the one a the best things that
3 I can say is she kinda looked shell-shocked, I mean, her eyes
4 were very, uh, she doin' everything she could to hold back
5 tears while she was talkin' to us, she was extremely upset,
6 her whole body seemed to be shaking the entire time we were
7 talking to her. Uh, I've I've talked with a lotta people that
8 have been involved in things over the years and she probly one
9 the most upset I've ever seen.

10 MR. BARNETTE: One moment, Your Honor, please.

11 THE COURT: Yes.

12 MR. BARNETTE: Please answer any questions the defense
13 may for you, ma'am, ---

14 THE WITNESS: Yeah.

15 MR. BARNETTE: --- thank you.

16 CROSS-EXAMINATION BY MR. NEELY:

17 Q. Investigator Norkett, uh, and and you might have
18 testified to this earlier, how long have you been in law
19 enforcement?

20 A. Seventeen years, sir.

21 Q. All in capacity of an investigator?

22 A. As a patrol officer and canine handler, different things
23 but that I've also been in forensics.

24 Q. How long have you been in Spartanburg County?

25 A. Seventeen years.

1 Q. Okay, so ---

2 A. Spartanburg City, not county.

3 Q. That's my mistake.

4 A. Yeah.

5 Q. Spartanburg City. Over the course a those seventeen
6 years you become familiar with the city?

7 A. Very much so, sir.

8 Q. You know how to get from point A to Point B on the
9 fastest possible route?

10 A. Yes, sir.

11 Q. Okay. Uh, from Smith's Drugstore to the Imagination
12 Station, ---

13 A. Yes, sir.

14 Q. --- how far is that?

15 A. Uh, not exactly sure but it would take less than a minute
16 to walk that way ---

17 Q. Okay.

18 A. --- roughly.

19 Q. Let me take you back to the course of your investigation.

20 A. Um-hum.

21 Q. Alright, through your training and your experience you've
22 learned that you wanna be thorough, ---

23 A. Very.

24 Q. --- and accurate ---

25 A. Yes.

1 Q. --- and gather everything that's gonna help ya'll solve
2 this case ---

3 A. Yes.

4 Q. --- and a toy store like the Imagination Station you're
5 not gonna go through and just pull every item off ---

6 A. Correct.

7 Q. --- the shelf ---

8 A. Correct.

9 Q. --- because whoever committed this crime didn't go
10 through and touch every single piece of evidence.

11 A. Um-hum.

12 Q. Right, so all the evidence that that we've seen here
13 today Mr. Slotin walked you through that store ---

14 A. Yes.

15 Q. --- and you testified just a minute ago that he had a a
16 very good memory ---

17 A. Yes.

18 Q. --- and you testified just a little bit ago that every
19 single thing that we just showed the jury was -- were items,
20 uh, that Mr. Slotin told ya that they touched, ---

21 A. Yes.

22 Q. --- that they touched.

23 A. That's what I said, yes.

24 Q. Okay, thank you. All total you collected five prints?

25 A. Yes.

1 Q. Right, and we just showed the jury your drawings.

2 A. Beautiful, yes.

3 Q. Now on those drawings of the cash reg -- of of the, of
4 the drawer, ---

5 A. Um-hum.

6 Q. --- each latent print that you lifted ---

7 A. Um-hum.

8 Q. --- they were on the bottom of the drawer.

9 A. Yes.

10 Q. Now when you're collecting those prints, you dusted the
11 entire tray, ---

12 A. Yes, I did.

13 Q. Top?

14 A. And bottom ---

15 Q. And bot ---

16 A. --- inside, out, ---

17 Q. Inside.

18 A. --- all the dimensions, yes.

19 Q. Well but the only latent prints that we were able to lift
20 were from the bottom.

21 A. Correct which wo -- should have been inside the drawer of
22 the actual cash register instead of on the floor but yes.

23 Q. It'd be a fair statement to say that at the start a the
24 day that drawer was inside the cash register, ---

25 A. Correct.

CHRISTY NORKETT - REDIRECT EXAMINATION BY MR. BARNETTE

1 Q. --- not on the floor where you found it when you were ---

2 A. Correct, sir, ---

3 Q. --- dustin' for prints.

4 A. --- nobody shoulda messed with it, got that right.

5 Q. And we just showed the jury, you just showed the jury,
6 excuse me, a whole bunch of duct tape, ---

7 A. I did.

8 Q. --- duct tape that was on Ms. Slotin?

9 A. Yes, it was.

10 Q. You dusted that duct tape for prints?

11 A. We use a different process than regular fingerprint dust
12 but yes, we did process it for fingerprints.

13 Q. There were no fingerprints on ---

14 A. None a that ---

15 Q. --- that though ---

16 A. --- prints was was, uh, enough ridge detail to be able to
17 use them.

18 Q. Okay. Thank you.

19 A. Yes, sir.

20 MR. BARNETTE: Just couple follow-ups, Your Honor.

21 THE COURT: Yes.

22 MR. BARNETTE: Alright.

23 REDIRECT EXAMINATION BY MR. BARNETTE:

24 Q. And, uh, basically you can get prints, a lotta times
25 they're not readable, is that right, ---

1 A. Correct.

2 Q. --- 'cause you got the ridge detail concern matter.

3 A. Yes, yes.

4 Q. To show how a print can be, if I just took my hand, did
5 that (demonstrating), what I just do that print?

6 A. You smeared it, you smudged it.

7 Q. Right, so that would be on the, couldn't read it, could
8 ya?

9 A. Correct.

10 Q. So usually are there areas where there's really no
11 activity on a lotta these things?

12 A. Yes, sir.

13 Q. Okay. So it's up -- it's you just don't automatically
14 get a fingerprint, it's not like CSI.

15 A. No, it's completely different. If we could get the same
16 print that they get every hour on CSI every time we went out,
17 it would be wonderful but that's that's that doesn't happen
18 quite that way, no.

19 Q. Okay, but you found a print actually on the bottom a this
20 cash drawer.

21 A. I did.

22 Q. And it's like, uh, that shoulda been inside the ca -- the
23 bottom shouldn't even been touched, I mean, shouldn't even
24 been opened, is that ---

25 A. Correct, it should not have -- there's nobody else

1 shoulda been able to touch that.

2 Q. And matter a fact if I turn it over by touching the
3 bottom, nobody else, nobody touches that ---

4 A. Correct, ---

5 Q. --- usually.

6 A. --- nobody, that there's no, there's no reason for them
7 to be there at all.

8 Q. So there's not any activity on that part of the, uh, cash
9 drawer.

10 A. No, sir.

11 Q. So that for the prints that one a the reasons why the
12 prints mighta been so easily obtained.

13 A. Yes, sir, 'cause usually that be more clean than what
14 anything else with other fingerprints on it 'cause you touch
15 stuff every day, all day long and you'll leave your your
16 prints behind but nobody shoulda been touching the bottom a
17 that drawer.

18 Q. Okay. Like that, uh, knob on that door right there
19 (indicating), people touch it all the time so prints would
20 just go over top, you you couldn't get a readable prints off
21 of all that, could ya?

22 A. Very rarely 'cause, I mean, also 'cause every time you
23 turn the handle your handle slide so more than likely it's
24 gonna be a smudge or smeared print that's gonna be, uh,
25 unreadable as far as for use, uh, to compare it to any others.

1 Q. Okay, and like I say you try to get fingerprints at every
2 scene but they're hard to get at times.

3 A. Yes, they can be.

4 Q. Okay. Thank you, please answer any questions defense may
5 have for you.

6 THE COURT: Mr. Neely?

7 MR. NEELY: Nothin', Judge.

8 THE COURT: Alright. Thank ya, officer, you may step
9 down, please be careful.

10 THE WITNESS: Thank you, sir.

11 (Whereupon, the witness left the stand.)

12 MR. BARNETTE: We ask the witness being excused, Your
13 Honor?

14 THE COURT: Any objection?

15 MR. NEELY: None.

16 THE COURT: Officer, you may stay or go, whichever you
17 choose.

18 THE WITNESS: Thank you, sir.

19 MR. BARNETTE: I like to call Investigator Cloran to the
20 stand.

21 THE COURT: Alright.

22 (Whereupon, the witness came forward.)

23 THE CLERK: Please place your left hand on the Bible,
24 raise your right.

25 SHANE CLORAN, having been

SHANE CLORAN - DIRECT EXAMINATION BY MR. BARNETTE

1 first duly sworn, testified as follows:

2 DIRECT EXAMINATION BY MR. BARNETTE:

3 Q. Where do you work at, sir?

4 A. Spartanburg Police Department.

5 Q. And what's your position there, sir?

6 A. Forensics investigator.

7 Q. And how long you been there in law enforcement, sir?

8 A. Approximately two and a half years.

9 Q. Okay. Uh, back on August 7th 2015 was you called, uh,
10 to, uh, Imagination Station to process the crime scene?

11 A. Yes, sir.

12 Q. And, uh, did you and Officer Norkett go over and process
13 that, sir?

14 A. Yes, sir.

15 Q. And did you, uh, and I can go through all the evidence
16 again but like I said, uh, really what I wanna focus on did
17 you process the items like the Chemistry Book, the toy, things
18 like that?

19 A. Yes, sir.

20 Q. And, uh, let's see, find the print card here. Let me
21 show ya State Exhibit 39, was those the prints or the cards
22 that you obtained from those items?

23 A. Yes, sir.

24 Q. And, uh, course was some unreadable and a lot of 'em not
25 readable?

SHANE CLORAN - CROSS-EXAMINATION BY MR. POOLE

1 A. Yes, sir.

2 Q. Uh, but you submitted those, who'd you submit those to
3 once you collected 'em?

4 A. These I took to our AFIS operator Lou Jones.

5 MR. NEELY: Objection, Your Honor, that's somethin' we
6 discussed in pretrial.

7 THE COURT: Can see the lawyers.

8 (Whereupon, a bench conference was held off the record.)

9 BY MR. BARNETTE:

10 Q. Okay, was that submitted to Lou Jones, the fingerprint
11 examiner?

12 A. Yes, sir.

13 Q. And, uh, did she do the examination on those
14 fingerprints?

15 A. Yes, sir.

16 Q. Okay. Uh, if you would please answer any questions
17 defense may have for ya, sir.

18 A. Yes, sir.

19 Q. Thank you.

20 CROSS-EXAMINATION BY MR. POOLE:

21 Q. Investigator Cloran, you've said that you looked at
22 certain fingerprints, you processed for certain fingerprints,
23 that right?

24 A. Yes, sir.

25 Q. How many in number?

SHANE CLORAN - CROSS-EXAMINATION BY MR. POOLE

1 A. I couldn't give ya an exact number. Uh, once we arrived
2 on scene Investigator Norkett, after we took photographs she
3 started an area, I started an area at the front door and we
4 started liftin' prints.

5 Q. Okay. Well can you give me an estimate?

6 A. Let's see, uh, this says twenty-two sets of latent prints
7 removed from front door, chemistry book, Kidoozie toy and the
8 toy box, uh, I'm assumin' the alphabet toy box that's in one a
9 these packages.

10 Q. Twenty-two sets of fingerprints.

11 A. Yes, sir.

12 Q. Uh, that's a lotta prints, right?

13 A. Yes, sir.

14 Q. And you said some were readable and some were not
15 readable.

16 A. I'm not the AFIS operator, ---

17 Q. Okay.

18 A. --- I just look at 'em.

19 MR. NEELY: Objection again, Your Honor.

20 Q. You just looked at them?

21 A. If if I see what appears to be ---

22 Q. Okay.

23 A. --- in my ---

24 Q. Um.

25 A. --- work a relatively decent print, ---

SHANE CLORAN - CROSS-EXAMINATION BY MR. POOLE

1 Q. Yeah.

2 A. --- I'll put it on a card, submit it ---

3 Q. Okay.

4 A. --- to the operator, yes.

5 Q. Okay, and to whom you submit, this lady back over here
6 (indicating) on the second pew?

7 A. Yes, depending on the circumstances sometimes they'll be
8 turned in for evidence, sometimes they'll be taken directly to
9 her for a rush.

10 Q. Okay, that's the process.

11 A. Yes.

12 Q. Okay, thanks.

13 THE COURT: Any anything?

14 MR. BARNETTE: No further questions, Your Honor.

15 THE COURT: Okay. Sir, you may step down, please be
16 careful.

17 THE WITNESS: Thank you.

18 (Whereupon, the witness left the stand.)

19 MR. BARNETTE: Your Honor, I'd like call Investigator
20 Jones to the stand.

21 MR. NEELY: Your Honor, may we approach the bench for a
22 sec?

23 THE COURT: Sure, we can approach, c'mon up.

24 (Whereupon, a bench conference was held off the record.)

25 THE COURT: Solicitor.

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: Your Honor, I call Investigator Jones to
2 stand, please.

3 (Whereupon, the witness came forward.)

4 THE CLERK: Place your left hand on Bible, raise your
5 right.

6 LOU JONES, having been first duly
7 sworn, testified as follows:

8 THE COURT: Investigator, once you're seated there if you
9 will tell us your full name, spell your last name for my court
10 reporter, please.

11 THE WITNESS: Lou Jones, J-O-N-E-S.

12 THE COURT: Alright. Solicitor.

13 DIRECT EXAMINATION BY MR. BARNETTE:

14 Q. Where do you work at, ma'am?

15 A. Spartanburg Police Department.

16 Q. And what's your position there, ma'am?

17 A. I'm a latent print examiner.

18 Q. Okay. And, uh, how long you been that position, ma'am?

19 A. I've been examining prints for twenty-six years.

20 Q. Okay. and could you give the jury and the Court a little
21 bit about your background, educational background,9 your
22 training, ma'am.

23 A. I have training in the History of Fingerprinting, Basic
24 Fingerprinting, Fingerprint Comparison, Fingerprint
25 Classification, Analysis of Friction Ridge Detail, Complex

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 Latent Print Comparison, I have a diploma from American
2 Institute of Applied Science for Basic Forensics 101,
3 Demystifying Palm Prints, Advanced Palm Prints Comparison and
4 Advanced Latent Comparison Ridgeology.

5 Q. And how many times you been qualified as a latent print
6 examiner, ma'am, in state court?

7 A. Five times prior to this one.

8 MR. BARNETTE: Uh, Your Honor, I believe, uh, I'd like to
9 move her as qualify an expert in latent prints.

10 THE COURT: Anything?

11 MR. NEELY: No objection.

12 THE COURT: Okay. Uh, at this time, ladies and gentlemen
13 of the jury, normally a person cannot give opinion testimony,
14 when a person testifies they must testify as to what they have
15 either seen, heard, sensed or s -- uh, perceived by smell or
16 somethin' that nature; however, there is an exception where
17 someone is qualified due to their education, experience,
18 knowledge, skill or training, that person is permitted to give
19 an opinion in certain areas if qualified, uh, as an expert.
20 Uh, this witness is qualified as an expert in latent print,
21 uh, latent fingerprint analysis. Ladies and gentlemen, that
22 does not mean that you must accept her opinion but it is
23 evidence that you may use in any way that you see fit and give
24 what weight and credibility you believe is appropriate.
25 Solicitor.

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: Thank Your Honor.

2 BY MR. BARNETTE:

3 Q. Uh, ma'am, did you s -- receive some prints from the
4 crime scene, uh, folks on this case?

5 A. Yes.

6 Q. And, uh, let me show you what's been marked State
7 Exhibit 38 and 39, was these, uh, some a the prints that you
8 received in this case, ma'am?

9 A. Yes.

10 Q. And, uh, I believe I took two a the cards out, one
11 exhibit that you may be looking for. I'll show ya State
12 Exhibit 86 and 88, was these two a the prints that was, uh,
13 taken from, uh, State Exhibit 38?

14 A. Yes.

15 Q. Okay. And, uh, this is a Friday, what was usual about
16 that Friday on August 7th 2015?

17 A. Actually it was the day, my day off, um, I usually don't
18 work on Fridays, it happened to be my birthday.

19 Q. Oh, so actually you was brought in once the robbery was
20 done to do, to work on this special, is that right, ma'am?

21 A. Yes.

22 Q. And, uh, did you work through the, all these prints, take
23 a look at 'em?

24 A. I did.

25 Q. Was some of 'em readable and some were not?

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Some were and some were not.

2 Q. Okay. Uh, showin' ya State Exhibit 86 and 88, I guess
3 these are the prints from the cash drawer that was found by
4 Investigator Norkett, did you find some readable prints on
5 that, ma'am?

6 A. Yes, I did.

7 Q. Okay. And, uh, I believe you did a, did a diagram for us
8 here on one of 'em.

9 A. I did.

10 Q. Let me show ya State Exhibit 87, was this the, uh, uh,
11 diagram that you did comparin' the one a these prints that was
12 lifted from the cash drawer compared to the defendant's
13 fingerprint?

14 A. Yes.

15 Q. Okay.

16 MR. BARNETTE: Your Honor, I would like to enter State
17 Exhibit 87 into evidence this time.

18 MR. NEELY: Alright. No objection.

19 THE COURT: It's without objection, it's admitted.

20 (State's Exhibit No. 87, blow up print comparison
21 diagram, admitted into evidence.)

22 BY MR. BARNETTE:

23 Q. If you would c'mon down with me for a minute, ma'am, if
24 you would.

25 (Whereupon, the witness left the stand.)

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 And I believe was this print 1.1 that you took first?

2 A. It was.

3 Q. Okay. So show the jury which one that was, that's State
4 Exhibit 86.

5 A. This is ---

6 Q. Hold on for one second for me if you would. And just to
7 remind the jury where that was found, that was actually found
8 from the, uh, cash drawer, so the information was submitted by
9 O -- uh, Investigator Norkett, is that right?

10 A. Yes.

11 Q. Okay, thank you. Thanks. And, uh, did you, uh, you ran
12 the print with, the print that you got off this here you ran
13 through a database, is that right, ma'am?

14 A. That is correct.

15 Q. Alright. And, uh, you may turn the lights back up,
16 please. I'll let you go ahead and explain it now.

17 A. Okay. Can I, can I take a piece a paper, I wanna just
18 block out this one for just a minute to show the jury exactly
19 what I do, not the ---

20 Q. Or here, why don't we do it this way. Let me see if we
21 can . . .

22 (Whereupon, a discussion was held off the record.)

23 A. No, I need, I need that whole print.

24 Q. You need it whole? Now ---

25 A. Yeah.

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. --- does that help?

2 A. No, let let ---

3 Q. That ---

4 A. --- no, let me just show them ---

5 Q. Okay, ---

6 A. --- what ---

7 Q. --- I'll ---

8 A. --- what I do.

9 Q. --- let you show, I apologize.

10 A. Okay. When I get a fingerprint, this (indicating) is
11 exactly what I get. This is not here yet, okay, so what I do
12 is examine this fingerprint. What I'm looking for is friction
13 ridge detail, that's those lines in your finger. These lines
14 in your finger do a lotta stuff, they're they're not
15 continuous ridges. They may be short ridges, they may be
16 1 inch long, they could be 2 inch long so with this print here
17 (indicating) that was lifted from the crime scene there's a
18 lotta information here. With this print I can tell by the
19 ridge flow what type of print it is. They are whorl prints
20 which are circle prints, there, uh, uh, loop prints, that's
21 when you have a ridge that's going on one side making a a
22 looping formation in the middle and there is, these are the
23 pattern types, there three basic pattern types. Another one
24 is an arch print and that's when you have a ridge that just
25 goes straight in, they could rise in the middle and go out the

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 other side, so this (indicating) print with all this
2 information here I can tell the the core a the print, I can
3 tell the delta the print, I can tell the curvature of the
4 print so I will know that this is going to be a round print, a
5 "whorl" print is what, is what they say. Also, these
6 princh -- prints will run like this (indicating) as a
7 continuous print and all of a sudden it will stop, it's called
8 an "ending ridge." You have a ri -- a print here (indicating)
9 so I'm lookin' all -- at all the information in this
10 (indicating) print. I don't even have this print yet so I
11 will go in and mark points of identification. Like there's a
12 ridge here (indicating) and it just stops, that's an ending
13 ridge. There's a ridge here (indicating) and it stops, it's
14 called an "ending ridge." All these ridges that'll just stop
15 it's the ending ridge. This ridge of right here (indicating)
16 it'll stop and this (indicating) is the the delta part of the
17 ridge of this print and what I mean by the "delta part" is
18 where you have two ridges, one separates this (indicating) way
19 and the other one separates this (indicating) way so right in
20 front of it's called the "delta" so there that ridge stops,
21 this ridge comes here (indicating) it stops, so that's what
22 I'm looking for, I'm markin' these (indicating) points of
23 identification are to search a database. This, and I don't
24 know anything about what's over here (indicating) yet but so
25 when this (indicating) print comes back and I've searched that

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 database, I already know what I'm looking for. I'm looking
2 for these (indicating) points that I've already marked.

3 Now in this case when this print came back this is what
4 you have to do next. If you see one that's similar to the
5 markings or look like the print that you've already searched,
6 you already know that you're not looking for a couple of
7 pattern types so right away you're gonna know that you're
8 looking for a whorl print, the one that goes a around. I'm
9 looking at ridge flow and ridge curvature, that the the ridges
10 are curving this (indicating) way, the ridges are flowing in
11 this (indicating) direction, so I'm gonna start ---

12 Q. Ask you to step back so they can see too, ---

13 A. Okay.

14 Q. --- it's hard for them as well ---

15 A. I'm sorry.

16 Q. --- it's hard for everybody to see.

17 A. So I'm starting with marking those points of
18 identification. I start clockwise position from 1, 2, 3, 4,
19 all the way around in clockwise position. I'm gonna start
20 with .1 here (indicating) and but and it's, and the points
21 have got to be in the same position on both prints, ---

22 Q. Okay.

23 A. There's an ending ridge here (indicating) that means that
24 it stops and ends, that means .1 that ridge stops and ends. I
25 have to be able to count those points from ---

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Let me hold ---

2 A. Oh.

3 Q. --- it like this, uh, she can't see ---

4 A. Can you ---

5 (Indiscernible cross-talk.)

6 Q. --- behind the ---

7 UNIDENTIFIED JUROR: Wanna say can you pass it around
8 or ---

9 UNIDENTIFIED JUROR: We can't, ---

10 Q. Let me do ---

11 UNIDENTIFIED JUROR: --- we we can't see it.

12 Q. --- this here. Let's see. Right there. Can we do it
13 like that to just show the information you showed earlier, I
14 know it's turned sideways?

15 A. Okay, I've got it.

16 Q. And let you go, I've got a laser pointer too here, so ---

17 A. Well ---

18 Q. --- you wanna look up here ---

19 (indicating), ---

20 A. Oh.

21 Q. --- and just point like that (indicating), it might be
22 easier to do.

23 A. Well actually it's easier for me to point over here
24 (indicating) ---

25 Q. Okay, that be ---

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 A. --- but they won't be able to see the other one that I'm
2 comparing it to 'cause you'll only have one print here
3 (indicating).

4 Q. Okay. Why don't we do this: why don't we, uh, let them,
5 uh, just sh -- uh, tell 'em what you did on the first print,
6 what ya did before you even got this and then I'll put 'em,
7 try and put 'em both together ---

8 A. Okay.

9 Q. --- that way.

10 A. Alright, that that's fine. There's a ridge here
11 (indicating) it runs and it stops here (indicating), you can
12 see there's ridge past that. I count over to 1, 2 ridges and
13 there's another ridge here (indicating) that stops here
14 (indicating), that's point number 2, uh, I'm doing the
15 curvature of the ridge flow of a core of the print here
16 (indicating). These (indicating) ridge are not straight,
17 they're curving around. This (indicating) one's curving
18 around here (indicating) and I've marked a point of
19 identification ---

20 Q. Okay.

21 A. --- here (indicating) which is called "bifurcation."
22 What a bifurcation is is when you have one ridge it splits
23 into two, so what I'm marking here (indicating) are ending
24 ridges and bifurcation and I do in the clockwise position here
25 (indicating).

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Okay.

2 A. I will count down from this (indicating) bifurcation 1,
3 2, 3, 4 and there's a ridge here (indicating), it stops here
4 (indicating). I'm gonna count down again 1, 2, 3, 4 and that
5 another ridge is coming down here (indicating) and stops, so
6 that's what I'm doing all the way around the print.

7 Q. And this is actually a part of a print, is that right,
8 that's not the whole print?

9 A. That's not the whole print but this is, there's a lot of
10 information within this print here (indicating) 'cause you can
11 actually see where those ridge are separated, where they end
12 and where they stop, ridge ending and where they bifurcate
13 where they split up. You can actually see ridge flow, ridge
14 curvature with this half pattern there. (indicating).

15 Q. What kinda, that what's the quality a this print in your
16 opinion?

17 A. This is a good quality print 'cause you can see, you can
18 actually see the ridges in this, in this print, you can
19 actually see where they stop.

20 Q. And then you compared it, uh, so you put this information
21 into the database, is that right, ma'am?

22 A. This is the one I put into the database and this is the
23 comparison of both of 'em together.

24 Q. And then a course you compare and I'm gonna let you go
25 ahead and do this, you, uh, compared the points from the one

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 print to the known print, is that right?

2 A. Yes. In order to do a comparison too, you have to make
3 sure that the same amount of ridges are intervening in between
4 point 1 and 2 so if you have two points, two ridges coming
5 from .1 and 2 you've gotta have too the same relative location
6 of the other print, so they've gotta be exactly those same
7 locations all the way around in both sides of prints, so I did
8 on this particular, uh, ---

9 Q. I'll let ya do -- why don't ya go explain to one group at
10 a time so you can show comparison of the two prints and I'll
11 turn this off so ya'll ---

12 A. Oh, okay.

13 Q. --- or hold it for ya.

14 A. I'm gonna start with this group over here. I have marked
15 this ridge here ---

16 COURT REPORTER: She needs to speak up.

17 A. --- print stops here (indicating) ---

18 THE COURT: Okay, court reporter ---

19 A. (Indiscernible cross-talk.)

20 THE COURT: --- can't hear.

21 Q. And ---

22 COURT REPORTER: She needs to speak ---

23 Q. --- can you talk a little bit louder so she can hear
24 ya, ---

25 A. Oh, I'm sorry.

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. --- for the court reporter, the court reporter behind ya,
2 I'm sorry.

3 A. Oh, okay. We're gonna start with a point of
4 identification here (indicating), ridge point, it's a ridge
5 ending, 1 the the number 1 that I've already marked here
6 (indicating) and we're gonna start right here's (indicating)
7 same one. I'm gonna count over 1, 2, 3 and there's a ridge
8 here (indicating) where it stops, that you can tell by the
9 stopping of the ridge that the ridge starts here (indicating),
10 all of a sudden there's no ridge there (indicating). The same
11 thing goes here (indicating). Here's the ridge it stops here,
12 I'm gonna go over 1, 2 and we're gonna get to that, the
13 curvature a the core that print there (indicating), the bottom
14 of it, yeah, that's where the ridge stop in here (indicating),
15 it's a little thicker here (indicating), 1, 2 and that's the
16 ridge, the curvature there.

17 Q. If you will c'mon down and we'll do it, we'll do it in
18 threes, how 'bout that.

19 A. Okay.

20 Q. We'll do a middle section, ---

21 A. Got it.

22 Q. --- come back, let them see ---

23 A. Okay.

24 Q. --- it.

25 A. Okay. These these (indicating) are the points that I've

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 marked here (indicating) where the ridge end. I started with
2 .1 here (indicating), this ridge ending because the ridge
3 starts here (indicating), it starts all the way around here
4 (indicating) and it goes to here (indicating). I gotta go
5 over 1, 2, the 3 and the 4 is gonna be a ridge ending 'cause
6 you have this ridge here (indicating) and it stops right here
7 (indicating), the same thing's gonna happen here (indicating)
8 where this will widen. Gonna count over 1, 2, 3, 4, where
9 that ridge is it stops here (indicating) and this is what
10 we're gonna have to do all the way around, they've gotta be in
11 the same relative location for each each print, even in the
12 delta area the print got more area, like you have number 12
13 and number 9. I get over here (indicating) 12 and 9, those
14 ridges stop here (indicating). You have maybe a 1, 2, a
15 3-inch ridges curving down here (indicating), you want the
16 curvature and ridge flow is the same as that (indicating).
17 Q. If you would show the folks down here (indicating).

18 A. Um-hum. We're gonna start here (indicating) where I mark
19 mark point of identification number 1 where that ridge ends.
20 I've gotta count over 1, 2, 3 and 4 and I'm I'm gonna go
21 downward to number 2, down just a little bit here (indicating)
22 and this is 1, 2, 3, 4, a 1. This is where that ridge is here
23 (indicating) number 1. I count 1, 2, 3 and 4, that's that
24 ridge there (indicating) but it has to be done this way, you
25 will not know it's going to be identification unless you can

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 count each point between the intervenings between those
2 ridges. You've gotta also make sure when you're counting the
3 ridges and looking at the ridges that are marked, you're gonna
4 look at the points that are not marked making sure that same
5 ridge flow is going there and there's nothin' in between those
6 ridges that's not in both patterns.

7 Q. Thank you, ma'am.

8 (Whereupon, the witness returned to the stand.)

9 You okay?

10 A. Um-hum.

11 Q. And was this print a match with the fingerprints of, uh,
12 the defendant this case Corey Brown?

13 A. Yes, it was, number 2 finger which is the right index
14 finger.

15 Q. Okay. And was any a the other prints a match with his?

16 A. Also on, uh, on latent print ---

17 Q. I almost had it.

18 A. --- 2.1.

19 Q. Okay, and I think it's State Exhibit 88.

20 A. Yes, it was a match for his left index finger.

21 Q. Okay. And just show the jury the State Exhibit 88, that
22 was also a another print that was found by Investigator
23 Norkett on the bottom of the tray, is that right, ma'am?

24 A. Yes.

25 Q. So those were both matches the fingerprints from the

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 defendant Corey Brown.

2 A. Yes.

3 Q. Uh, did you look at other fingerprints from other sources
4 like the door, uh, different other areas, the books and
5 everything they brought to ya?

6 A. I did.

7 Q. And do ya have your report with ya, ma'am?

8 A. I do.

9 Q. Uh, was there any other matches with anybody else that
10 was submitted to ya?

11 A. I made a total of, out of these thirty-three prints a
12 total of nine identifications.

13 Q. Okay. And who was the people you identified with those
14 prints, ma'am?

15 A. The other person or persons there was a Mark Slotin and a
16 Sandra Elaine Pearson.

17 Q. Okay. And, uh, Mr. Slocin [sic] his prints I guess he's
18 the owner so it's expected to be there.

19 A. That's correct.

20 Q. And, uh, there was Sandra Pearson.

21 A. Elaine Pearson.

22 Q. Pearson. And where was her prints, uh, the ones that
23 couldn't be readable where were they identified at?

24 A. Hold on one second. Uh, Number 8, they were on bottom of
25 a box toy, they were on front of a box toy, the back of a a

LOU JONES - DIRECT EXAMINATION BY MR. BARNETTE

1 box right toy, they they were on toys. Uh, ---

2 Q. And those are prints, uh, collected by Investigator
3 Cloran?

4 A. Yes.

5 Q. Okay. Those was the items found of, Ms. uh, Pearson's
6 prints was found on the toys, is that right?

7 A. That is correct. There was all some, uh, some on the
8 front of a alphabet bar.

9 Q. Um-hum, but the only three prints that you found was the
10 defendant's on the cash drawer, Ms. Pearson's and, uh, Mark
11 Sloan -- Slotin's, is that right?

12 A. Yes. Cash ---

13 Q. And ---

14 A. --- drawer was the only ones for, uh, Corey Andrew Brown.

15 Q. So his was found the cash drawer. He was the only one
16 found the cash drawer.

17 A. Correct.

18 Q. Okay. And, uh, you use the same process on all these
19 prints that we just, you just described to the jury, is that
20 right, ma'am?

21 A. That is correct.

22 Q. Okay.

23 MR. BARNETTE: One moment, Your Honor, please.

24 THE COURT: Yeah.

25 MR. BARNETTE: Please answer any question defense may

LOU JONES - CROSS-EXAMINATION BY MR. NEELY

1 have for ya, ma'am. Thank you.

2 THE COURT: Mr. Neely.

3 CROSS-EXAMINATION BY MR. NEELY:

4 Q. You just testified that you you've examined thirty some
5 odd prints?

6 A. Yes.

7 Q. Uh, you examined all of the prints that In --
8 Investigator Cloran lifted from the toys and the books and and
9 the merchandise.

10 A. I did, that was turned into me, yes.

11 Q. And a number a those prints were readable, ---

12 A. Yes.

13 Q. --- okay, and the one's that you're able to read and
14 identify they came back to Sandra Pearson.

15 A. Except for the ones for the cash drawer.

16 Q. The ones sent to you by Investigator Cloran, ---

17 A. Yes.

18 Q. --- that that's the toys and the, and the alphabet bar?

19 A. Yes.

20 Q. Okay. And those prints came back to Sandra Pearson.

21 A. That is correct.

22 Q. Okay. And then again, like you just testified, the only
23 prints that came back to Corey Brown were on the cash drawer.

24 A. That's correct.

25 Q. Okay. Let me ask you about this database, ---

LOU JONES - CROSS-EXAMINATION BY MR. NEELY

1 A. Okay.

2 Q. --- alright? When prints go into the database, let's say
3 as a, uh, as a young lawyer studying for the bar exam you go
4 and you get your fingerprints taken, those prints are gonna be
5 a hundred percent unique ---

6 A. Yes.

7 Q. --- because when you go and you take those prints you're
8 going to roll each finger.

9 A. They're supposed to be done that way.

10 Q. They're not always done that way.

11 A. They're not always done that way.

12 Q. So you don't always have somebody's fingerprints ---

13 A. I ---

14 Q. --- at ---

15 A. --- always have ---

16 Q. --- hundred percent accurate?

17 A. I don't always have the full fingerprint.

18 Q. Okay. Ideally you would have somebody roll each
19 fingerprint and if they didn't get it right they could back up
20 and do it again.

21 A. It j -- it just depends. If it's a ink print, a ink
22 print a lotta, you can't roll back and and do it again. We
23 have what they call "Livescans" now and then you can roll back
24 and do those again.

25 Q. Okay. And the ide -- again, the ideal way to do it is to

LOU JONES - CROSS-EXAMINATION BY MR. NEELY

1 roll each ---

2 A. Yeah, roll from from nail to nail.

3 Q. Because your entire fingerprint runs ---

4 A. From nail to nail.

5 Q. --- from nail to nail.

6 A. Yes.

7 Q. Okay. Now, uh, I wanna ask you about or I wanna talk to
8 you about imperfections on a fingerprint. When when we're
9 born, you know, our our fingerprints are in tact.

10 A. Yes, uh, first trimester pregnancy is when the
11 fingerprint development start.

12 Q. And then life happens, ---

13 A. Well, yeah.

14 Q. --- sometimes people get burned, ---

15 A. Yes.

16 Q. --- sometimes there's scarring, ---

17 A. There is.

18 Q. --- uh, there's any number of ways that you could disrupt
19 the pattern on -- of a fingerprint.

20 A. There is.

21 Q. Also, when somebody, when an investigator's taking
22 fingerprints sometimes the dust'll smudge.

23 A. Well actually fingerprints are 98.5 to 99 percent water
24 so that means they are very fragile, so yes, they can smear.

25 Q. Okay, so they can smear.

LOU JONES - CROSS-EXAMINATION BY MR. NEELY

1 A. Yes.

2 Q. Sometimes the surface that we're tryin' to lift the
3 prints from are imperfect, maybe there's a crack.

4 A. That that is true. Some prints are more, uh, some
5 surfaces are more conducive of fingerprints.

6 Q. Sometimes there might be if it's a wood surface there
7 might be a splinter that gets in the way of the lift.

8 A. Uh, some details on a print sometimes you cannot read 'em
9 if if the, if there are, that are really dirty, they're not
10 conducive of fingerprints, some surfaces aren't.

11 Q. So when we look at State's Exhibit and we have spots like
12 this (indicating) ---

13 MR. BARNETTE: Your Honor, I think you need to let the
14 witness point it out, not the attorney to the jury.

15 MR. NEELY: Your Honor, I I'm askin' a question on
16 cross-exam.

17 THE COURT: Uh, he he's askin' her a question, point to
18 what ya need.

19 BY MR. NEELY:

20 Q. We have spots like this (indicating), ---

21 A. Yes.

22 Q. --- you don't know because you've never actually seen the
23 person's hands who you're comparin', whether that's an
24 imperfection from the print or if that's an imperfection on
25 their hand.

LOU JONES - CROSS-EXAMINATION BY MR. NEELY

1 A. Can I take a look at what you're talking about, a closer
2 look to what you're talking about?

3 Q. Sure.

4 A. Okay, sorry.

5 Q. Okay. I'm talking in in in this area specifically right
6 here (indicating) where it appears to be incomplete. You
7 don't know that's caused by some imperfection on the person
8 whose print you're trying to identify, you don't know if
9 that's caused by an imperfection on the surface the print was
10 lifted from, ---

11 A. Those prints are smeared so it it sometimes, uh, there is
12 a double tap a movement of the print so those ridges are outta
13 line so I didn't try to make an identification in that area.

14 Q. Okay, so that narrows the the area that we're tryin' to
15 make an identification from.

16 A. It does, it does.

17 Q. And with this particular print we're already dealing with
18 I I believe you testified a half print.

19 A. That is correct.

20 Q. Now on the right you'll -- you have a database print, ---

21 A. Yes.

22 Q. --- for Corey Brown.

23 A. Yes.

24 Q. On the left you have what you've testified to as a half
25 print.

LOU JONES - CROSS-EXAMINATION BY MR. NEELY

1 A. Yes, but to make an identification you don't need but a
2 quarter-size or maybe a nickle-size print to make an
3 identification if there's sufficient ridge detail.

4 Q. Okay. Now I believe you testified yesterday that when
5 you put the original latent print into the database that
6 eighteen hits came back.

7 A. No, that's not what I testified to yesterday. I had
8 eighteen possible matches, possible. It's up to the latent
9 examiner to look at those prints to make the identification.
10 A computer system can't make those identification 'cause
11 they can't count the ridges, they don't see what else is
12 within those -- that pattern, other characteristics that are
13 there.

14 Q. Right, but based on the latent print you had eighteen
15 possible hits that narrowed down what you were gonna compare
16 it to.

17 A. Yes, and let me say this: it's up to also the latent
18 examiner to put how many possible matches you want to come
19 back. If I want to put ninety-nine and look at all
20 ninety-nine, I guess I could've looked at all ninety-nine. In
21 my experience of searching through the database, normally the
22 hit will come back in the first five positions.

23 Q. Okay, so you have an unlimited number of hits that you
24 could have come back.

25 A. I have a a a number of of prints that you can have come

LOU JONES - CROSS-EXAMINATION BY MR. NEELY

1 back but they're scored so the highest one are at the top.

2 Q. Okay, so when you're workin' with a half print ---

3 A. Yes.

4 Q. --- and you have an unlimited number of hits that you
5 could have come back, you limited the number of hits you
6 wanted to come back.

7 A. You limit it to the area of the search is what you limit
8 it to.

9 Q. Okay. Now you don't know what's on the other half of
10 that print ---

11 A. No, I do not.

12 Q. --- and it could be completely different than what's on
13 the other half of Mr. Brown's print.

14 A. No, the possibility is that, as I said before in order to
15 make an identification you don't need a whole print,
16 everybody's print, even every finger on your hand is
17 different, you only need a small point to make that
18 identification.

19 Q. You weren't in the store when this happened.

20 A. No.

21 Q. You didn't see Corey Brown touch that cash drawer?

22 A. No, I did not.

23 Q. You don't know anything about Corey Brown.

24 A. I do not.

25 Q. You don't know if he works at a company that manufactures

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 cash drawers.

2 A. No, I do not.

3 Q. So you don't know when, how that fingerprint possibly got
4 onto that cash drawer.

5 A. I have no idea how it got there, all I know is that it
6 was there and it is a match for this particular print that was
7 in the database.

8 Q. Thank you, Ms. Jones.

9 MR. BARNETTE: Just couple on redirect, Your ---

10 THE COURT: Yes, sir.

11 MR. BARNETTE: --- Honor.

12 REDIRECT EXAMINATION BY MR. BARNETTE:

13 Q. You had two prints that matched, is ---

14 A. I ---

15 Q. --- that right?

16 A. --- did.

17 Q. Okay. And, uh, talking about the database what what
18 number did this come up on the ranking?

19 A. Number one.

20 Q. So it was the number one match ---

21 A. It is.

22 Q. --- in the database. And a course you verify that and
23 check to make sure everything's correct, is that right?

24 A. I do.

25 Q. And, uh, that was a match for the defendant's print, is

LOU JONES - REDIRECT EXAMINATION BY MR. BARNETTE

1 that right, ---

2 A. It was.

3 Q. --- on both fingerprints from the cash drawer.

4 A. It was.

5 Q. Okay. Thank you, ma'am.

6 THE COURT: Anything at all?

7 MR. NEELY: Nothing, Judge.

8 THE COURT: Ma'am, you may step down, please be careful.

9 (Whereupon, the witness left the stand.)

10 MR. BARNETTE: We'd ask the witness be excused, Your
11 Honor.

12 THE COURT: Any objection?

13 MR. NEELY: No objection.

14 THE COURT: Ma'am, you may stay or leave, whichever you
15 choose.

16 THE WITNESS: Yes.

17 THE COURT: Your Honor, I'd like to call Investigator
18 Burgess to the stand.

19 THE COURT: Alright.

20 (Whereupon, the witness came forward.)

21 THE CLERK: If you'll place your left hand on the Bible,
22 raise your right.

23 COURTNEY BURGESS, having been
24 first duly sworn, testified as follows:

25 THE CLERK: Thank you.

COURTNEY BURGESS - DIRECT EXAMINATION BY MR. BARNETTE

1 THE COURT: Ma'am, tell us your full name, spell your
2 last name for my court reporter, please.

3 THE WITNESS: Courtney Burgess, B-U-R-G-E-S-S.

4 THE COURT: Thank you. Solicitor.

5 MR. BARNETTE: Thank Your Honor.

6 DIRECT EXAMINATION BY MR. BARNETTE:

7 Q. Uh, where do you work at right now, ma'am?

8 A. I work for the Spartanburg County Sheriff's Office.

9 Q. And what is your position there, ma'am?

10 A. I'm a latent fingerprint examiner.

11 Q. Okay. And prior to that where did you work at, ma'am?

12 A. I worked for Spartanburg, uh, City Police Department.

13 Q. And what was your position there, ma'am?

14 A. Uh, while I was there I was a forensic investigator, uh,
15 I also verified any latent fingerprint matches that, uh,
16 Investigator Jones would, uh, would would make.

17 Q. Okay. Uh, if you would tell the jury little bit 'bout
18 your educational background training here.

19 A. Okay. Uh, I have a bachelor of science from West
20 Virginia University in Forensic Identification, I've completed
21 courses in the Science and Technology of Latent Fingerprints,
22 uh, Latent Fingerprint Comparison and Identification, uh,
23 Advanced Palm Print Identification and Advanced Latent
24 Ridgeology Comparison.

25 Q. And your cla -- I believe the, uh, Forensic

1 Identification that was first of its kind the country, right,
2 West University?

3 A. Correct.

4 Q. And, uh, part of your latent print training did you have
5 to take a class and go through a final exam on?

6 A. Yes. Uh, in each class that I've attended we had to make
7 approximately, well at least fifty identifications. Uh,
8 basically they would give you a stack of latent fingerprints
9 from crime scenes and a stack of ten-print cards which are the
10 known fingerprints, the fingerprints that are in the database.
11 Anytime your fingerprint is rolled we call that a "ten-print
12 card" because they put all ten of your fingerprints on a card,
13 um, so that's just kinda what we call it a ten-print Card. We
14 had to compare the latents to the ten-print cards, uh, we were
15 not allowed to make any misidentifications in order to pass
16 the classes.

17 Q. Well obviously you passed the class, didn't you?

18 A. Correct.

19 Q. Uh, how many prints have you looked at in your career,
20 ma'am?

21 A. Uh, I would say thousands of verifications, uh, while I
22 was at the city, uh, helping Ms. Jones, uh, and since I've
23 been at the county actually doing latent print comparisons I
24 would say at least probably two thousand identifications and
25 verifications.

COURTNEY BURGESS - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. BARNETTE: I know we've heard this before, Your
2 Honor, but I'd like to move her as an expert in fingerprint
3 analysis again.

4 MR. NEELY: Your Honor, we're gonna renew our objection
5 to Ms. Burgess being qualified as an expert.

6 THE COURT: I understand. Uh, she's now qualified as an
7 expert in in the area of fingerprint analysis and
8 verification, uh, over objection.

9 Ladies and gentlemen, once again, a person cannot
10 normally give testimony unless they testify to what they see,
11 hear, smell or sense, uh, and or some other perception;
12 however, there is an exception where someone is qualified due
13 to their education, experience and knowledge, this witness,
14 uh, so possesses that and is qualified fingerprint analysis
15 and verification expert. Once again that does not mean that
16 you must accept her opinion but it is evidence for you to use
17 in any way you see fit and give what weight and credibility
18 you believe is appropriate, okay. Solicitor.

19 MR. BARNETTE: Thank Your Honor.

20 BY MR. BARNETTE:

21 Q. Ms. Burgess, did you, uh, verify the prints that, uh,
22 Investigator Jones looked in this case?

23 A. Yes, I did.

24 Q. And did you verify all those prints?

25 A. Yes, I believe so.

COURTNEY BURGESS - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. And if you would tell them what veri -- verification
2 means.

3 A. Basically, verification I just go back over her work, uh,
4 and make sure that I get the same results that she does. I
5 don't actually resubmit any latent fingerprints into the
6 database, I just compare the crime scene prints to the
7 ten-print cards, uh, that were supplied.

8 Q. Okay. And just showin' ya State Exhibit 86 and 88, uh,
9 are you familiar with those cards, ma'am?

10 A. Yes.

11 Q. Okay.

12 MR. BARNETTE: And, Your Honor, these are already into
13 evidence, like to publish 'em to the jury again.

14 THE COURT: Yes.

15 BY MR. BARNETTE:

16 Q. Show 'em 1.1 which I believe is the print that, uh, we
17 used in the diagram that Investigator Jones described.
18 Showin' the back a that, back a the, can you tell us, uh,
19 where you verifi -- I mean, where you marked it "verified" at,
20 ma'am?

21 A. Yes, sir. Right at the bottom there (indicating)
22 underneath the drawing it says "verified" and it's got my
23 initials on there.

24 Q. And, uh, showing the other print that was, uh, identified
25 as the defendant's in this was State Exhibit 88, can you tell

COURTNEY BURGESS - CROSS-EXAMINATION BY MR. NEELY

1 us about that one, ma'am.

2 A. Same thing. Uh, below the drawing "verified CWB",
3 that's . . .

4 Q. So you agree with her findings in this case.

5 A. I did.

6 Q. Are these prints a match with the defendant in this case
7 Corey Brown?

8 A. Yes, they are.

9 Q. And what kinda quality prints were these, ma'am?

10 A. They were, uh, pretty pretty good. Uh, like Ms. Jones
11 testified it was a half of a print but it was very clear. Uh,
12 you can see the details very easily in the print.

13 Q. And no question it came from him in this case.

14 A. No question.

15 Q. Okay. If you would please answer any questions the
16 defense may have for ya, ma'am.

17 THE COURT: Mr. Neely.

18 CROSS-EXAMINATION BY MR. NEELY:

19 Q. Ms. Burgess, you just testified that verification you're
20 goin' back over Ms. Jones's work, ---

21 A. Correct.

22 Q. --- now you're not resubmitting the latent prints?

23 A. Correct.

24 Q. So you're not getting those same hits from the database.

25 A. That's correct.

1 Q. So when you take a look at that latent print, you're not
2 comparin' it to the eighteen or however many hits are comin'
3 back.

4 A. Correct.

5 Q. So basically your job is tell Ms. Jones that she's
6 correct.

7 A. Yes. I go back, uh, like I said, I take the actual
8 latent that was lifted from the crime scene, I look at the
9 ten-print card that's included in the, uh, in the envelope
10 which would have been Mr. Corey Brown's fingerprint card and
11 just make sure that I get the same finger that she did just by
12 doing -- finding analyzing the print and finding the the same
13 points.

14 Q. Now there's always a chance that, uh, had you had those
15 other matches from the database that you would have come to a
16 different conclusion if you had had something else to compare
17 it to.

18 A. Uh, in this case I don't think so, no ---

19 Q. But ---

20 A. --- and ---

21 Q. --- there's always that chance.

22 A. Uh, it's very rare to have a false positive, uh, in ---

23 Q. But there ---

24 A. --- this case.

25 Q. --- is a chance.

COURTNEY BURGESS - CROSS-EXAMINATION BY MR. NEELY

1 A. There's always a chance but this is a very clear print,
2 uh, his ten-print is also a very clear print, uh, the points
3 are, they're very clear and they're all in the same locations.

4 Q. You've been doin' this for two and a half years?

5 A. Um, well I've been verifying fingerprints for a little
6 over ten years, uh, but I've been actually examining
7 fingerprints, doing the same thing Ms. Jones does for little
8 over a year.

9 Q. Thank you Ms. Burgess.

10 A. Um-hum.

11 THE COURT: Anything?

12 MR. BARNETTE: Nothin' else, Your Honor, ---

13 THE COURT: Be ---

14 MR. BARNETTE: --- we'd ask the witness be excused.

15 MR. NEELY: No objection.

16 THE COURT: Thank you, ma'am, you may step down. You may
17 stay or go, whichever you choose.

18 THE WITNESS: Thank you.

19 (Whereupon, the witness left the stand.)

20 MR. BARNETTE: Your Honor, I call Lieutenant Doug Harwell
21 to stand, please.

22 THE COURT: Okay.

23 (Whereupon, the witness came forward.)

24 THE CLERK: Place your left hand on the Bible and raise
25 your right.

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 DOUG HARWELL, having been
2 first duly sworn, testified as follows:

3 THE COURT: Lieutenant, once you get situated tell us
4 your full name and spell your last name for my court reporter,
5 please.

6 THE WITNESS: Yes, I'm, Lieutenant Doug Harwell,
7 H-A-R-W-E-L-L.

8 THE COURT: Thank you.

9 DIRECT EXAMINATION BY MR. BARNETTE:

10 Q. If you would, sir, please tell us where you work at.

11 A. I work for the Spartanburg Police Department.

12 Q. And, uh, what is your position there, sir?

13 A. I'm lieutenant over Criminal Investigations Division.

14 Q. Okay. And how long you been in law enforcement, sir?

15 A. Uh, twenty-seven, goin' on twenty-eight years.

16 Q. Uh, was you involved in the investigation of the armed
17 robbery of the, uh, and kidnapping and assault case involving
18 Imagination Station?

19 A. I was.

20 Q. And, uh, just showing State Exhibit 1 for the jury here,
21 this is just showing a map of, uh, the area around Imagination
22 Station? Is that where the Imagitation Nation [sic] is
23 approximately at?

24 A. Yes.

25 Q. And is this, uh, Main, East Main Street right here

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 (indicating)?

2 A. Yes, sir.

3 Q. Is this the Denny's, uh, plaza over in this (indicating)
4 area?

5 A. Yes, sir.

6 Q. And is this (indicating) Dunbar Street behind it?

7 A. It is, yes.

8 Q. Uh, through the investigation did ya'll receive
9 information that they got fingerprint hit concernin' the
10 two suspects in the robbery?

11 A. Yes.

12 Q. And was that fingerprint hit back to Corey Brown and, uh,
13 Sandra Pearson?

14 A. Yes.

15 Q. And, uh, did -- was they located be livin' at [REDACTED] College
16 Street ---

17 A. Yes.

18 Q. --- [REDACTED] here in Spartanburg?

19 A. Yes.

20 Q. Let me show you the other part -- other map State
21 Exhibit 1, just don't know if it's big enough to --
22 fortunately my eyesight's not as good as it used to be,
23 apologize. Showin', and this where, uh, Magination Station
24 is, is that right, approximate at 180 East Main Street?

25 A. Yes.

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Okay. [REDACTED] College Street is in this (indicating)
2 location, is that right?

3 A. It is, yes.

4 Q. Is this the Beacon or the medical school there
5 (indicating), that area right there (indicating), sir?

6 A. Yes, sir.

7 Q. Is this the, is this (indicating) the administration, is
8 this ---

9 A. Excuse me me.

10 Q. --- is this the administration building where the old
11 sheriff's department used to be, I guess where you pay your
12 taxes and stuff now?

13 A. Yes, sir, right across from the auditorium.

14 Q. Okay. And it's approximately, uh, by Google it's
15 approximately, oops, went too far, I apologize, let me go back
16 out, it's approximately 1.1 miles walking, uh, if you go
17 St. John Street away from Magination Station to College Street
18 address, is that right?

19 A. Yes, sir.

20 Q. Okay. Uh, did you go to, uh, once ya'll located, had the
21 fingerprint information did ya'll go to, uh, [REDACTED] College
22 Street?

23 A. We did.

24 Q. Okay. And when you arrived there, uh, did Ms. Pearson,
25 uh, come out first outta the, outta the residence?

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 A. I was not there at at the time she come out.

2 Q. Okay. When did you get there, sir?

3 A. I got there right before, uh, right after Mr. Brown I
4 think had left the house.

5 Q. Okay. So you went in all and did ya'll obtain a search
6 warrant to go ---

7 A. We did.

8 Q. --- in the residence? And did you go inside, uh, with
9 other officers?

10 A. I did.

11 Q. And did you collect the evidence from inside their ---

12 A. I did.

13 Q. --- apartment? Okay. And did ya'll take pictures inside
14 the apartment, sir?

15 A. Yes.

16 Q. I know some a these already been marked into evidence
17 but, uh, make sure, State Exhibit 67, and I'll just go and
18 list 'em through, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78,
19 79, 80, 81, 82 and 83, if you would, sir, go ahead and go
20 through those and see if those fairly represent what you saw
21 that day.

22 (Whereupon, the witness examined the exhibits.)

23 A. Yes, sir, they are.

24 MR. BARNETTE: Your Honor, I'd like to move these into
25 e -- I realize some a these already into evidence but I wanna

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 move these into evidence one that have not been entered into
2 evidence at this time.

3 (Whereupon, defense counsel examined the exhibits.)

4 MR. POOLE: No objection.

5 THE COURT: They're, uh, they're admitted without
6 objection.

7 (State's Exhibit Nos. 67, 68, 69, 70, 71, 72, 73, 74, 75,
8 76, 77, 78, 79, 80, 81, 82, and 83, photographs, admitted into
9 evidence.)

10 BY MR. BARNETTE:

11 Q. Now when you arrived there, whatever, was there, uh, how
12 many officers were around the scene at that time?

13 A. There was a number of officer around the scene at that
14 time.

15 Q. And, uh, obviously would they have been around the area
16 for a while?

17 A. Yes.

18 Q. Okay. Uh, just showing you State Exhibit 67, I think
19 they've already seen some a these pictures already, is that
20 the front a the residence we're talkin' about?

21 A. Yes, sir, it is.

22 Q. State Exhibit 68 is the door into the residence?

23 A. Yes.

24 Q. Okay. State Exhibit 69, uh, is this a two-story, ---

25 A. It ---

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. --- uh, ---

2 A. --- is.

3 Q. Okay. State Exhibit 70, uh, is this a closet or storage
4 area off of one a the bedrooms upstairs?

5 A. Yes, sir, it is.

6 Q. Okay. Showin' State Exhibit 71 which I don't think jury
7 has seen, can you tell us what we're seein' here, sir?

8 A. That's the the previous picture of the closet area,
9 that's (indicating) the floor the closet area.

10 Q. And you start seein' like a a part of a gun at that point
11 or the butt of a gun?

12 A. Yes, sir.

13 Q. Showin' another picture it's closer up State Exhibit 72
14 can you tell the jury what we're seein' here?

15 A. That's a box of bullets and the gun.

16 Q. Okay. State Exhibit 73, what is that, sir?

17 A. That's the gun, sir.

18 Q. And that's where ya'll found it, is that right?

19 A. Yes.

20 Q. Okay. State Exhibit 74, what is that, sir?

21 A. Box a bullets, sir.

22 Q. Okay. State Exhibit 75?

23 A. A better picture of the gun.

24 Q. Okay. And State Exhibit 76, uh, what is that, sir?

25 A. That's the gun after it's made safe.

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 Q. Okay. And is that the magazine that was taken outta the
2 gun?

3 A. Yes, sir.

4 Q. And is there -- is that where the bullets are held in the
5 gun?

6 A. It is.

7 Q. Okay. And showin' State Exhibit 77.

8 A. That is the magazine.

9 Q. And did it have bullets in it, sir?

10 A. It does.

11 Q. Showin' you State Exhibit 78, uh, what is that, sir?

12 A. That is the box of bullets.

13 Q. And was there bullets missing from the box?

14 A. Yes.

15 Q. Approximately how many, sir, looks like?

16 A. Looks like there's, uh, four missing from that box.

17 Q. Or is it nine actually?

18 A. Nine, I can't see the top of it.

19 Q. Yes, sir. Show you State Exhibit 79, uh, was this, uh,
20 duct tape that you found at the scene?

21 A. Yes, sir, it was on the floor in the top left bedroom I
22 believe.

23 Q. Okay, sir. State Exhibit 80?

24 A. That's a better picture of the duct tape.

25 Q. Okay. State Exhibit 81?

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 A. That's a roll of brand new duct tape that was lyin' in
2 the floor of the bedroom.

3 Q. State Exhibit 82, uh, was ---

4 A. That's ---

5 Q. --- this an ID card found Ms. Pearson's?

6 Q. Yes.

7 Q. And State Exhibit 83?

8 A. That is a Duke Power bill, it's a photograph of a Duke
9 Power Bill with the name Corey Brown as the resident [REDACTED]
10 [REDACTED] College Street.

11 Q. Okay, sir. And let me show you these items here.
12 Turn lights back on, thank you, ma'am. Think this State
13 Exhibit 23, was this the actual bill that you all collected

14 A. It is.

15 MR. BARNETTE: Your Honor, I'd like to, uh, enter this
16 into evidence at this time.

17 MR. POOLE: Without objection, Your Honor.

18 THE COURT: It's without objection.

19 (State's Exhibit No. 23, Duke Power bill, admitted into
20 evidence.)

21 BY MR. BARNETTE:

22 Q. Let me show ya State Exhibit, uh, 24, sir, I
23 believe, ---

24 A. Yes, sir.

25 Q. --- if you would take a look inside that and see if those

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 are the items that you collected.

2 (Whereupon, the witness examined the exhibit.)

3 A. Yes, sir, they are. That's the the new, uh, roll of duct
4 tape and the used roll of duct tape.

5 MR. BARNETTE: Your Honor, I'd like to enter these into
6 evidence this time.

7 THE COURT: Okay.

8 (Whereupon, defense counsel examined the exhibit.)

9 MR. POOLE: Without objection.

10 THE COURT: It's admitted without objection.

11 (State Exhibit No. 24, new and used rolls of duct tape,
12 admitted into evidence.)

13 MR. BARNETTE: May I publish them to the jury, Your
14 Honor?

15 THE COURT: Yes.

16 BY MR. BARNETTE:

17 Q. Are these (indicating) the two duct tape rolls that ya'll
18 found?

19 A. Yes.

20 Q. And is this (indicating) the used duct tape?

21 A. Yes.

22 Q. And was it -- this one's new, not opened yet.

23 A. Right, yes.

24 Q. Let me show you State Exhibits I believe there's gonna be
25 marked three separate exhibits actually, State Exhibit 26, 27,

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 28, was ---

2 A. Yes.

3 Q. --- that the gun you collected as well as the bullets, as
4 well as the magazine?

5 A. Yes, sir.

6 MR. BARNETTE: Your Honor, I'd like to enter these into
7 evidence this time.

8 (Whereupon, defense counsel examined the exhibits.)

9 MR. POOLE: Without objection.

10 THE COURT: That they're admitted without objection.

11 (State's Exhibit No. 26, case of bullets, State's Exhibit
12 No. 27 gun and State's Exhibit No. 28, magazine, admitted into
13 evidence.)

14 BY MR. BARNETTE:

15 Q. Take this out. So this was the gun that you actually
16 found, is that right, sir?

17 A. Yes, sir.

18 Q. Okay. And that's what was found in the closet, the floor
19 a the closet area or a storage area?

20 A. Yes.

21 Q. And this (indicating) was the magazine that actually had,
22 if you would step down for a second, sir.

23 (Whereupon, the witness left the stand.)

24 Does the magazine have bullets in it? If you would let
25 the jury see it there.

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 A. Slides out.

2 (Whereupon, a discussion was held off the record.)

3 Q. And it was in this gun is that right, sir?

4 A. Yes.

5 Q. And is this (indicating) the actual, uh, case a bullets
6 that ya'll found?

7 A. Yes.

8 Q. And if you will go and pull that out, sir.

9 (Whereupon, the witness complied.)

10 Just pull it down here so they can see ya down here too.

11 A. Alright.

12 Q. And what, now these type bullets that have -- are -- is
13 used for that weapon, sir?

14 A. Yes.

15 Q. And how many bullets are missing?

16 A. None.

17 Q. Okay, so go ahead and put 'em back in the box.

18 (Whereupon, the witness complied.)

19 And that was found in the apartment where Corey Brown
20 was, is that right, sir?

21 A. Yes, sir.

22 MR. BARNETTE: One moment, Your Honor, please.

23 THE COURT: Sure.

24 MR. BARNETTE: One moment, Your Honor, I just wanna check
25 one thing with the court reporter's file.

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 (Whereupon, a discussion was held off the record.)

2 BY MR. BARNETTE:

3 Q. Okay, so let me let ya look at State Exhibit 21 and State
4 Exhibit, uh, 32, was these items that was also collected at
5 the scene? Look at those, sir.

6 (Whereupon, the witness examined the exhibit.)

7 A. Yes.

8 Q. Okay. Gonna let you look at State Exhibit 32 also.

9 (Whereupon, the witness examined the exhibit.)

10 A. Yes.

11 Q. These two items was collected, uh, Your Honor, I'd like
12 to enter State Exhibits 32 and 21 into evidence this time.

13 (Whereupon, defense counsel examined the exhibits.)

14 (Whereupon, a discussion was held off the record.)

15 MR. BARNETTE: Your Honor, I believe they have an
16 objection 21 but there is money that was found the wallet
17 they're gonna allow to go in, don't have an objection to it
18 which I don't have any problem with that. They don't have an
19 objection I believe to 32 which is the coins that was found in
20 the residence.

21 THE COURT: Okay, so we're putting in ---

22 MR. NEELY: Just the currency.

23 THE COURT: Just the currency which is ---

24 MR. BARNETTE: Number State Exhibit 32.

25 THE COURT: State's Exhibit 32's without objection.

DOUG HARWELL - DIRECT EXAMINATION BY MR. BARNETTE

1 MR. POOLE: That is correct.

2 THE COURT: Okay.

3 (State's Exhibit No. 32, coins, admitted into evidence.)

4 BY MR. BARNETTE:

5 Q. If you would go ahead and pull State Exhibit 32, pull the
6 coins out be able to see that if you would, sir.

7 (Whereupon, the witness complied.)

8 (Whereupon, a discussion was held off the record.)

9 BY MR. BARNETTE:

10 Q. Is these the coins that ya'll found in the residence,
11 sir?

12 A. Yes.

13 MR. BARNETTE: Your Honor, may I publish these to the
14 jury?

15 THE COURT: Yes.

16 MR. BARNETTE: And, Your Honor, there's one exhibit I'm
17 tryin' to find, I apologize. There's gotta be more somewhere.

18 (Whereupon, a discussion was held off the record.)

19 MR. BARNETTE: Right in fronta my nose, apologize.

20 BY MR. BARNETTE:

21 Q. State vers -- uh, State Exhibit Twenty-s -- two was that
22 also collected from the scene, sir, from the wallet of the
23 individual?

24 A. Yes.

25 MR. BARNETTE: Okay. Your Honor, I'd like move State

DOUG HARWELL - CROSS-EXAMINATION BY MR. POOLE

1 Exhibit 22 into evidence at this time. You mind if I open it,
2 this is the cash?

3 (Whereupon, defense counsel examined the exhibit.)

4 MR. POOLE: Without objection.

5 THE COURT: Alright, it's without objection.

6 (State Exhibit No. 22, \$50 cash, admitted into evidence.)

7 BY MR. BARNETTE:

8 Q. And how much money, the paper money was found total, uh,
9 out of his wallet, sir?

10 A. Uh, \$50.

11 Q. Okay, sir.

12 MR. BARNETTE: One more, Your Honor, I just wanna make
13 sure I get all the exhibits.

14 (Whereupon, a discussion was held off the record.)

15 MR. BARNETTE: You would, sir, please answer any
16 questions that, uh, defense may have for ya, sir.

17 CROSS-EXAMINATION BY MR. POOLE:

18 Q. Just a few questions, lieutenant.

19 A. Yes.

20 Q. Lieutenant Harwell, uh, could you hold up that small duct
21 tape, small amount there.

22 A. Yes.

23 Q. That's 'bout the most common duct tape we have around
24 this area at least tell -- isn't it?

25 A. Well I'm I'm not s -- I'm not an expert on duct tape but

1 that's what I've got at my house about that s -- that size
2 width.

3 Q. So you have duct tape at your house.

4 A. Yes.

5 Q. And just about probably everybody in this room has duct
6 tape about like that in their house, don't they?

7 A. They probly do, sir.

8 Q. And and there's nothing unusual about that other roll of
9 duct tape, is there?

10 A. Roll a duct tape, sir.

11 Q. Roll a duct tape is a roll a duct tape, right?

12 A. Yes.

13 Q. And we don't have any evidence that the open, that that
14 is, the used duct tape was transported by Corey Brown to
15 Imagination Station, do we?

16 A. Not that I'm aware of.

17 Q. And as far as the, uh, currency is concerned, we don't
18 have any information as a result of this investigation that
19 this is the currency taken from Imagination Station, is that
20 correct?

21 A. No, sir.

22 Q. And as far as the change is concerned, we don't have any
23 evidence as a result of the investigation that this is the the
24 change that was taken ch -- taken from Imagination Station, do
25 we?

DOUG HARWELL - CROSS-EXAMINATION BY MR. POOLE

1 A. Not sure I understand what's your question. That you're
2 you're wantin' to know ---

3 Q. Do we know ---

4 A. --- that we have ---

5 Q. --- if this ---

6 A. --- a ---

7 Q. --- this, where the the the the coins are?

8 A. Yes.

9 Q. We don't have anything saying that this is what Corey
10 Brown took from Imagination Station, do we, ---

11 A. No, sir.

12 Q. --- in this case, is that correct?

13 A. No, sir, I I don't, not that I'm aware of.

14 Q. Okay, ---

15 A. Not sure ---

16 Q. --- these ---

17 A. --- I understand ---

18 Q. --- are just ---

19 A. --- what your question is but, yeah.

20 Q. Okay, that that these were just items that were taken
21 from from where where he was supposedly living, right, ---

22 A. Yes.

23 Q. --- including but not limited to his, ---

24 A. No, s ---

25 Q. --- uh, ---

DOUG HARWELL - CROSS-EXAMINATION BY MR. POOLE

1 A. --- I I think this is the same kinda duct tape that was
2 used to tie regard to ---

3 Q. Would ya -- which ---

4 A. --- to bind the victim ---

5 Q. --- that ---

6 A. --- and ---

7 Q. --- which we ---

8 A. --- I think ---

9 Q. --- all ---

10 A. --- that ---

11 Q. --- know is the most common.

12 A. --- change come out of a a cash drawer, I think that
13 that's ---

14 Q. But we don't know ---

15 A. Well ---

16 Q. --- if that ---

17 A. --- we've got that change ---

18 Q. --- if this what's in evidence right here (indicating) is
19 what was used or obtained from Imagination Station, do we?

20 A. No, sir, I I'm not sure I understand what you're -- if
21 you're askin' me that did we see, ya know, Mr. Brown take this
22 tape from Imagination Statement -- Station to his apartment,
23 no, I don't think we've got a witness that seen him going down
24 the street with this but I think we can, uh, take it for what
25 it's worth. I mean, this is the same kinda duct tape that ---

DOUG HARWELL - CROSS-EXAMINATION BY MR. POOLE

1 Q. Well duct tape ---

2 A. (Indiscernible cross-talk.)

3 Q. --- my my -- and I don't wanna get in argument with you,
4 uh, ---

5 A. I ---

6 Q. --- ya know.

7 A. --- don't know, I'm just tryin' to answer your
8 question.

9 Q. Okay. That duct tape right there (indicating) is the
10 most common duct tape there is: that color, fabric, width and
11 dimension, is that right?

12 A. Wow, I'm, like I say I'm not an authority on duct tape,
13 sir.

14 Q. Well, don't you have that same type at your house?

15 A. Yes.

16 Q. Alright.

17 A. I can, I can testify that I've I've got duct tape
18 presumably at my house, yes.

19 Q. And we can't tie the currency and/or coins to Imagination
20 Station, can we, they were just simply taken from ---

21 A. Ima ---

22 Q. --- his residence.

23 A. Well that we seized those coins from his residence, yes.

24 Q. That's all.

25 A. Yes.

DOUG HARWELL - REDIRECT EXAMINATION BY MR. BARNETTE

1 Q. Thank you.

2 A. Yes.

3 MR. BARNETTE: Just a couple on redirect, Your Honor.

4 THE COURT: Yes.

5 REDIRECT EXAMINATION BY MR. BARNETTE:

6 Q. Lieutenant Hartwell [sic], we know duct tape was used in
7 Imagination Station, ---

8 A. Yes.

9 Q. --- uh, on Mrs. Slotin, is that ---

10 A. Yes, ---

11 Q. --- right?

12 A. --- on the victim.

13 Q. Okay. We know coins were taken from ---

14 A. Yes.

15 Q. --- Imagination Station, we know money was taken from
16 Imagination Station, ---

17 A. Yes.

18 Q. --- okay, we know a gun was used at Imagination
19 Station, ---

20 A. Yes, it had.

21 Q. --- and this is a gun that, uh, has been identified ---

22 A. Yes.

23 Q. --- basically similar to the gun that was used at
24 Imagination Station, ---

25 A. Yes.

DOUG HARWELL - RECROSS-EXAMINATION BY MR. POOLE

1 Q. --- so all these items obviously you collected because
2 they were mentioned or used potentially at Magination Station.

3 A. Yes.

4 Q. Pretty interesting coincidence, isn't it, sir?

5 A. Yes, sir.

6 Q. Thank you, sir, that's all the questions I have.

7 RECROSS-EXAMINATION BY MR. POOLE:

8 Q. Uh, just to reemphasize the solicitor's statement
9 "potentially" used, right, that was the way he said --
10 asked ---

11 A. Yes.

12 Q. --- asked the question "potentially."

13 A. Yes.

14 Q. Okay.

15 THE COURT: Alright, thank you. Officer, you may step
16 down, please be careful.

17 (Whereupon, the witness left the stand.)

18 MR. BARNETTE: Your Honor, we take a short break, just
19 wanna check on one, uh, one other thing.

20 THE COURT: Well let's just see the lawyers real quick.

21 (Whereupon, a bench conference was held off the record.)

22 THE COURT: Madam forelady and ladies and gentlemen of
23 the jury, uh, we're gonna be breakin' a few minutes early
24 today, uh, and I've a -- and and I'm happy to tell you what it
25 is, has nothin' to do with this case right here. You might

MOTIONS AND MATTERS

1 have seen some other people come in the courtroom, uh, the
2 Attorney General has asked me to handle somethin', uh, this
3 afternoon, I've got a little little somethin' to do here does
4 not require your attention, it has nothin' to do with this
5 case and so the lawyers are all too happy to stop right now
6 too so they can wrap up these exhibits and so forth so we are
7 gonna stop a little bit early, uh, earlier than we usually do
8 today, it's about eleven minutes to 4 p.m. This case is not
9 over, uh, and it's it's it's not ready for you to discuss,
10 it's not ready for you to talk to anybody about so I'm gonna
11 ask you, uh, not to do that, I'm gonna charge you not to do
12 that, do not discuss this case with anyone, do not try to
13 learn anything outside this courtroom about this case, this
14 case will continue, uh, tomorrow morning.

15 Now tomorrow morning I'm gonna ask you -- we don't have
16 anything in the mornin', right? My law clerk here. Okay,
17 we're starting at nine o'clock in the mornin'. I will be here
18 as usual, I'm here about eight o'clock or slightly before and
19 I get some coffee, uh, and I don't have any, uh, body on my
20 schedule in the morning to answer a question about so you're
21 it, you're first up, so we'll start at 9:00 tomorrow mornin'
22 so please be here about 8:45, 8:47, somethin' like that, get
23 that last cup coffee, get that last drink a water, use
24 facilities, uh, uh, and we'll be ready to go at 9:00 sharp,
25 uh, in the mornin'. Uh, with that, uh, madam forelady, gonna

MOTIONS AND MATTERS

1 let you go to the jury room and then be dismissed from there.
2 Again, don't discuss the case with anyone, don't think about
3 it, don't talk about it, have a good evenin'.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Anything from the State?

7 MR. BARNETTE: Not from the State, Your Honor. There's
8 two exhibits I have to check on, uh, one of 'em a picture I'm
9 not too worried about. There was a twenty-two fingerprints
10 that Investigator Cloran had got, I thought I'd entered those
11 into evidence, I don't think they have an objection to 'em
12 'cause they've been testified to so I just wanna move those
13 into evidence, uh, State Exhibit 39 if there's no objection to
14 that.

15 THE COURT: Alright, is there an objection to that or you
16 want ---

17 MR. BARNETTE: That was Cloran where he collected the
18 prints off the toys. I thought I entered it into evidence
19 but, uh, I just wanna make sure that was clear on the record.

20 MR. POOLE: No objection.

21 THE COURT: Okay, they're they're admitted without
22 objection.

23 (State's Exhibit No. 39, twenty-two sets of fingerprints,
24 admitted into evidence.)

25 THE COURT: Anything from the defense?

MOTIONS AND MATTERS

1 MR. POOLE: No, sir.

2 THE COURT: Okay, uh, we'll be in recess in this case,
3 we're gonna start the morning at nine o'clock, I'll be here,
4 uh, no later than eight o'clock a.m. downstairs drinkin'
5 coffee if anybody needs me.

6 MR. POOLE: Yes, sir.

7 (Proceedings July 13, 2016)

8 (Whereupon, a discussion was held off the record.)

9 THE COURT: Okay, good morning everyone. We are -- I
10 need the indictments, please. We're back on, uh, the record
11 with the matter of the State vs. Corey Brown Andrew Brown.
12 Solicitor.

13 MR. BARNETTE: Uh, Your Honor, there's, uh, there is one
14 other matter of we had Exhibit 43 which was, uh, inner, uh,
15 introduced with, uh, Investigator Norkett, I've just talked to
16 my court reporter just to make sure that I did enter it in
17 evidence, make sure there's no objection to it. I wanna gonna
18 go ahead and make sure it's been moved into evidence from
19 there and I've shared that with the defense.

20 THE COURT: Exhibit 43 bein' offered.

21 MR. POOLE: No objection.

22 THE COURT: It's it's admitted without objection.

23 (State's Exhibit No. 43, photograph, admitted into
24 evidence.)

25 MR. BARNETTE: And, Your Honor, I believe it was admitted

MOTIONS AND MATTERS

1 earlier but I just wanna make sure for the record it was
2 clear.

3 THE COURT: I understand, in an abundance of caution.

4 MR. BARNETTE: Yes, sir.

5 THE COURT: Solicitor, you have another witness?

6 MR. BARNETTE: Uh, no, sir, State would rest at this
7 time.

8 THE COURT: State rest, okay.

9 MR. BARNETTE: Alright.

10 MR. POOLE: Your Honor, uh, may we be heard briefly?

11 THE COURT: Yes, sir.

12 MR. POOLE: Uh, at this point in time for the sake of the
13 record we would renew, uh, our objections to the Court's
14 ruling on four points: Uh, we would, uh, renew our objection
15 based upon the Court's ruling in our *Jackson v. Denno* hearing,
16 we would renew our objection to the Court's ruling in the
17 *Biggers* hearing and the nature of a *Biggers* hearing and our
18 request, the Court's ruling on our request for voir dire, I
19 think the Court made an exhibit of our, uh, voir dire, we've
20 asked the Court to ask of the jury pool about three, four
21 different questions and I think that has been made an exhibit
22 and correct me if I am wrong that ---

23 COURT REPORTER: I haven't done 'em, I haven't ---

24 THE COURT: I don't, I don't know it has been made an
25 exhibit but you can make it one.

MOTIONS AND MATTERS

1 MR. NEELY: Okay.

2 MR. POOLE: You have ---

3 MR. NEELY: Okay.

4 MR. POOLE: --- your other copy?

5 MR. NEELY: Not with me. Your Honor, we will provide the
6 Court with another copy.

7 THE COURT: Okay. Alright.

8 MR. POOLE: Okay, well he'll get that into the
9 record ---

10 THE COURT: Yes, sir.

11 MR. POOLE: --- and we'll circle the questions that we we
12 would ask.

13 THE COURT: Yes, sir, I believe it was 'bout the last
14 four.

15 MR. POOLE: I believe it was.

16 MR. NEELY: That is correct, Your Honor.

17 THE COURT: Alright.

18 MR. POOLE: And, finally, the, uh, we object to allowing
19 Courtney Burgess to testify as an expert witness in this case
20 and, uh, that's our renewal of those objections and I believe
21 Mr. Neely has a motion for a directed verdict.

22 MR. NEELY: Your Honor, at this time defense would move
23 for a directed verdict as to all four counts, uh, of the
24 indictments presented.

25 Uh, as to the armed robbery and kidnapping charge, it's

MOTIONS AND MATTERS

1 defense's position that the State's case is circumstantial and
2 the legal requirement at that point, uh, is substantial
3 evidence and we would, uh, ask the Court to, uh, direct a
4 verdict because the the circumstantial evidence provided has
5 not met that substantial evidence standard.

6 As to the weapons charge, the testimony from the stand is
7 that the gun that has been placed into evidence is similar to
8 the one that was allegedly used at the commission of this
9 crime, uh, but again that evidence is circumstantial and so I
10 believe that the substantial evidence, uh, standard instead of
11 a scintilla would apply and so we'd ask the Court to direct a
12 verdict as to that charge.

13 Finally, Your Honor, as to the assault and battery of a
14 high and aggravated nature, in the indictment the State
15 alleged that Mr. Brown committed the crime of assault and
16 battery of a high and aggravated nature, to wit, by striking
17 the victim Mindy Slotin in the head with a handgun causing
18 injuries to the victim all in violation of Subsection 16-3600.
19 Your Honor, the standard for an assault and battery of a high
20 and aggravated, uh, is when a person commits an assault and
21 battery and (A) great bodily injury to another person results
22 or (2) uh, a person who violates this subsection is guilty of
23 a fel -- excuse me, Your Honor, uh, or (B) a officer attempts
24 to enter another person with the present ability to do so and
25 the act is accomplished by means likely produce death or great

MOTIONS AND MATTERS

1 bodily injury, uh, or occurred durin' the commission of a
2 robbery, burglary, kidnapping or death. I think the important
3 point here, Your Honor, is that the State has given us notice
4 that what they're seeking to convict Mr. Brown is that injury
5 standard and the evidence that has been presented at this
6 point is evidence of bruising. There's been, uh, nothing that
7 rises to the level of moderate bodily injury let alone great
8 bodily injury. I believe the proper charge to move forward on
9 at this point is assault and battery third degree.

10 THE COURT: Solicitor.

11 MR. BARNETTE: Thank Your Honor. Uh, first thing there's
12 direct evidence, uh, no question. Ms. Slotin testified 'bout
13 what happened to her, identified the defendant, we had the
14 co-defendant testify concernin' that, no question on the
15 robbery, no question the armed robbery and no question on the
16 weapon. She said they had the gun, that was the gun that
17 basically he had. She said, Ms. Slocombe [sic] said it was
18 similar to that point.

19 Uh, concern the assault and battery it's the present
20 ability to do so, commission of a robbery, kidnapping or
21 anything like it, that's exactly what happened this case, he
22 had ability to do that. Obviously he pointed the weapon, hit
23 her with the weapon, uh, duct taped her, so forth, to me
24 that's an ABHAN this situation and I'd say in the light most
25 favorable to the State that should deny all motions on that

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1 point.

2 THE COURT: Yes, sir. Uh, as to the directed verdict my
3 motion, that all of those motions, uh, are denied, uh,
4 alls -- as to all those counts in that this court is not
5 concerned, uh, this court is is, uh, concerned not with the
6 weight of the evidence but whether there's any evidence and
7 actually I'm I'm holding here, uh, where this court was
8 affirmed in 2015 after an appeal where our appellate court,
9 uh, said that in ruling on a directed verdict motion the
10 Court, uh, shall consider or is concerned with the existence
11 of evidence, not its weight, that's *State v. Weston* at 367
12 South Carolina 279, 2006, so, uh, there that again, this court
13 would not weigh the evidence, that's for the trier of fact.
14 Solicitor, as to the other other objections.

15 MR. BARNETTE: Uh, yes, sir, the first one concerns
16 statement. We never entered the statement into evidence in
17 fronta the jury, uh, therefore, I think the, uh, *Jackson v.*
18 *Denno* is moot from that standpoint because it never was
19 introduced in fronta the jury from that standpoint.

20 Uh, tryin' to remember all four points. The second point
21 was basically, uh, Courtney Burgess, uh, obviously she's
22 qualified, she had the education, the training, the
23 background, everything, do not see any issue with that. Uh,
24 I'm tryin' to remember the other two points they made as I was
25 looking at the other, uh, ---

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1 THE COURT: The, ---

2 MR. POOLE: *Biggers*.

3 THE COURT: --- uh, ---

4 MR. BARNETTE: On ---

5 THE COURT: --- *Biggers*, ---

6 MR. BARNETTE: --- *Biggers* motion I think that ---

7 THE COURT: --- voir dire.

8 MR. BARNETTE: --- no question think Court ruled
9 correctly on that, that was basically a a media was one that
10 did that release. Uh, the Court heard her testify, met all
11 requirements identification, all five elements is usually done
12 all the cases. She was very close to him, had ability to see
13 him, spent time with him and even the identification she made
14 later was just two days afterwards from that standpoint and
15 like I said the police had no involvement that whatsoever and
16 the one call that was made from the jail to her was under the
17 Victims' Rights Act, it's required. Like the Court pointed
18 out, we don't know if that was an officer or not, could have
19 e -- could have been jail personnel that worked there, uh, I
20 know they work at direction a law enforcement, they have to
21 contact every victim in every case and that's what they
22 did ---

23 THE COURT: Yes.

24 MR. BARNETTE: --- from that standpoint but I just ask
25 you deny all those, uh, and I think you have in previous, uh,

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1 rulings in their case, Your Honor.

2 THE COURT: Yes, they have been previously denied, uh,
3 Mr. Poole, and and, uh, uh, and, uh, they are again.

4 MR. POOLE: Thank you, sir.

5 THE COURT: Yes, sir. Anything else, gentlemen?

6 MR. POOLE: No, ---

7 MR. NEELY: Your Honor, ---

8 MR. POOLE: --- sir.

9 MR. NEELY: --- not at ---

10 THE COURT: Okay, ---

11 MR. NEELY: --- this time.

12 THE COURT: --- the State has now rested, uh, and I know
13 we don't have the jury here, I'm gonna let the State do that
14 again for formality in fronta the jury but rather bring my
15 jury back and forth, back and forth is there anything from the
16 defense at this time or is it, are you gonna put up a defense?

17 MR. NEELY: Uh, Your Honor, at at this time I would like
18 to just put on the record, uh, in preparation a this trial
19 Mr. Poole and myself have have met with Mr. Brown at the
20 detention facility and before we entered the courtroom today I
21 again spoke to Mr. Brown and advised him of his, uh, Fifth
22 Amendment constitutional right to remain silent if he so
23 chooses. Uh, I advised him that he can take the witness stand
24 but he is under no obligation, that is his constitutional
25 right and his alone. I instructed him that the Court will ask

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1 him whether or not he wishes to testify, that decision is, uh,
2 one hundred percent up to his because it is his right to waive
3 and I, uh, advised him that should he choose to remain silent
4 that the Court will instruct the jury at the appropriate time
5 they are not to use that silence against him, so it is my
6 belief and Mr. Poole's belief as well that Brown was, uh,
7 thoroughly advised of his rights by counsel at this point.

8 THE COURT: Okay, so he is not going to testify as that's
9 your belief.

10 MR. NEELY: That is my belief but, Your Honor, I would
11 request that you ---

12 THE COURT: Oh, I am, ---

13 MR. NEELY: --- ask him.

14 THE COURT: --- yes, sir.

15 MR. NEELY: Oh.

16 THE COURT: Uh, Mr. Brown, if you would stand please.
17 Madam clerk, will you swear him in.

18 THE CLERK: Sir, if you'll raise your right hand.

19 COREY ANDREW BROWN, having been
20 first duly sworn, testified as follows:

21 EXAMINATION BY THE COURT:

22 Q. Sir, you are Corey Andrew Brown?

23 A. Yes, sir.

24 Q. Mr. Brown, you are in custody, have you taken any
25 prescription medication or any substance that affects your

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1 reasoning or thinking ability?

2 A. No, sir.

3 Q. Do you understand clearly the English language?

4 A. Yes, sir.

5 Q. You understand what what I'm, uh, asking you and telling
6 you at this point?

7 A. Yes, sir.

8 Q. Mr. Brown, at this time I'm gonna explain certain rights
9 that you have but if you do not understand something I say
10 please stop me. If you need for me to explain anything in
11 more detail, I will do so and at any time you wanna speak to
12 either or both of your lawyers, you stop me and I'll let ya do
13 so, okay?

14 A. Yes, sir.

15 Q. Sir, we have reached the stage of this trial where you
16 may present a defense. You have the right to claim
17 protections given to you by the Fifth Amendment to the
18 Constitution of the United States and this amendment states in
19 part, "No person shall be compelled in any criminal case to be
20 a witness against himself." You have the right to claim
21 protections given to you by Article 1 Section 12 of the South
22 Carolina Constitution which states in part, "No person shall
23 be compelled in any criminal case to be a witness against
24 himself," this means that you cannot be required to testify in
25 this case. You have the right to testify on your own behalf;

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1 however, no person can make you testify, this is a personal
2 right and no person can waive this right except you. If you
3 decide to testify, you'll be subject to the same rules that
4 govern other witnesses and you may be examined and
5 cross-examined on any relevant issue in this case.
6 Additionally, if you have any convictions involving dishonesty
7 or false statement or for crimes punishable by imprisonment
8 for more than one year and this court determines the probative
9 value of admitting that evidence outweighs its prejudicial
10 effect to you, the solicitor will be able to introduce your
11 record to attack your credibility. If you decide to testify,
12 this decision on your part must be freely, intelligently and
13 voluntarily made with knowledge of the protections given to
14 you by the Constitutions of the United States and the State a
15 South Carolina and the consequences of your decision. If you
16 decide not testify, I will instruct the jurors that they
17 cannot give the fact that you did not testify any
18 consideration whatsoever and that there is to be absolutely no
19 prejudice to you because you did not testify. It is entirely
20 up to you as to whether or not you testify, you may speak with
21 your lawyers, your family and friends or anyone else but the
22 final decision is yours and yours and alone. Sir, do you
23 understand what I have explained to you?

24 A. Yes, sir.

25 Q. Do you have any questions about what I have explained?

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1 A. No, sir.

2 Q. Have you discussed with your lawyer whether you should or
3 should not testify?

4 A. No, they had, they had told me, yes.

5 Q. Okay. Have you discussed it with your lawyer?

6 A. Yes, sir.

7 Q. Okay. Do you wish to talk to your lawyer anymore at this
8 time?

9 A. No, sir.

10 Q. Do you wish to testify?

11 A. No, sir.

12 Q. Is that your decision and your decision alone?

13 A. Yes, sir.

14 Q. Did anyone force you, threaten you, make you not testify
15 today?

16 A. No, sir.

17 Q. Anyone talk you into not testify?

18 A. No, sir.

19 Q. Did either or both of yours lawyers pressure you in any
20 way not to testify?

21 A. No, sir.

22 Q. Thank you, sir, you may be seated.

23 THE COURT: Anything further, Mr. Neely?

24 MR. NEELY: Not at this time, Your Honor.

25 THE COURT: Okay. Does the defense wish to put up a, put

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1 up a case?

2 MR. POOLE: No, sir, uh, and, in fact, uh, I guess we
3 could say that we rest at this point ---

4 THE COURT: Okay.

5 MR. POOLE: --- uh, but, uh, I think for the sake of the
6 record and just to be sh -- certainly maintain the integrity
7 of it I once again renew our objections to the Court's rulings
8 on the four points mentioned already in the record, I won't
9 name them ---

10 THE COURT: Yes.

11 MR. POOLE: --- but, uh, they're they're known by
12 everybody here ---

13 THE COURT: Yes.

14 MR. POOLE: --- but, uh, I'm renewing that motion now
15 that the case proffer is over for both sides.

16 THE COURT: Yes, sir.

17 MR. BARNETTE: And, Your Honor, just respond, I remember
18 number 3 now it's the voir dire questions from that
19 standpoint, uh, I think the questions was asked before that
20 completely covered the record concernin' that point, anything
21 beyond that would be jury, basically you do your jury charge
22 from that standpoint, they'd start askin' legal questions and
23 askin' the basically opinion questions on different things and
24 obviously you'll cover that in your jury charge when you get
25 it to the jury.

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1 THE COURT: Yes, and defense motions are denied once
2 again. Mr. Neely, you have another motion?

3 MR. NEELY: Yes, sir, at at this time, uh, because the
4 defense has now rested we would again renew our motions for
5 directed verdict, same arguments, uh, made as when the State
6 rested so I won't rehash those but we we do renew our motions
7 on all four counts.

8 THE COURT: Alright, thank you, sir, and that's denied as
9 well, okay, for the same reasons I heretofore state. Anything
10 else from anybody? Both State and the defense, defense has
11 now rested, the State call a rebuttal witness?

12 MR. BARNETTE: Uh, no, sir.

13 THE COURT: Okay, alright. Now what we'll do is, uh,
14 let's bring the jury in and then we'll, uh, we will let each
15 side rest in fronta the jury if you wanna do that and then I'm
16 gonna send the jury back out and we're gonna have a charge
17 conference, that sound good? Okay, we'll have our jury.

18 (The following takes place in the presence of the jury.)

19 THE COURT: Good morning, ladies and gentlemen, I trust
20 everyone had a good evening.

21 UNIDENTIFIED JURORS: Good morning.

22 UNIDENTIFIED JUROR: Morning.

23 THE COURT: Madam forelady, any matters from the jury?

24 JURY FORELADY: No.

25 THE COURT: Okay. I did receive a, uh, a, uh, uh,

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1 questions here, uh, from a juror which were typewritten, I've
2 shared those with the lawyers and I will tell the jury I
3 believe that when I give my closing statements I will address
4 many of those so we'll see what happens from there, okay.
5 Solicitor.

6 MR. BARNETTE: Uh, State would rest, Your Honor.

7 THE COURT: Okay, State has now rested its case. Does
8 defense?

9 MR. POOLE: Defense rests also.

10 THE COURT: Defense has now rested its case, okay. Uh,
11 madam forelady and ladies and gentlemen, uh, that means that
12 the State rested, they are, will call no more witnesses they
13 will present, no more evidence, the defense has now rested
14 which means they will call no witnesses and present no more
15 evidence than has been already presented. Uh, we're very
16 close now to the, to the case coming to you for your
17 consideration, uh, with that, uh, what, and I know you're only
18 here a matter of seconds but, uh, uh, that's the way it
19 happens sometimes, we're gonna send you back to the jury room
20 and for a few minutes and this is gonna be a little, maybe
21 thirty minutes or so, the reason for that is is that the
22 lawyers are gonna have to go through all these exhibits here,
23 those exhibits belong to you, I need the lawyers to verify
24 that that everything is here, uh, and I'll explain more about
25 that later but I need them to do that real -- well, it'll take

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1 few minutes, uh, for them to do that, uh, and then we're gonna
2 bring you back and and we're gonna have, uh, closing
3 statements from the lawyers and the jury charge and then the
4 case will be coming to you, so, madam forelady, you'll take
5 your jury out, don't begin deliberating yet, you don't, you
6 haven't heard the closing statements, I haven't charged you on
7 the law and you certainly don't have these in your possession
8 which they are coming back to you. Uh, I will tell ya ahead a
9 time, uh, and and my security will make sure, there is one
10 exhibit that has a firearm ammunition and a magazine in the
11 same box, I will not allow the firearm and the ammunition to
12 be in your presence at the same time, uh, so I will send one
13 of those pieces back and at whatever time you want the other
14 piece you'll have to send me the firearm and then I will send
15 the ammunition but I will not allow those to be in the same
16 room at the same time, okay. Madam forelady.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Anything from the State?

20 MR. BARNETTE: None from State, Your Honor.

21 THE COURT: Anything from defense?

22 MR. POOLE: No, sir.

23 THE COURT: Okay, gentlemen, if we could, uh, if we
24 could, uh, be in recess here, uh, we'll we'll be right back,
25 uh, with you folks, we've got to go over, uh, uh, some jury

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1 charges and it, we're gonna be thirty minutes or so, I have
2 'em already printed. My law clerk, uh, for those that are
3 students that are sitting here, uh, this lady is my law clerk
4 and she prepares the jury charges and she's done that last
5 night and in advance, uh, of of today and so I wanna share
6 those with the lawyers but we'll back with you momentarily.
7 Let's retire to the visitin' judge's chambers and let's go
8 over these.

9 (Whereupon, a recess was taken.)

10 THE COURT: Alright, we're back on the record, uh, it it,
11 we're back on the record in the matter of South Carolina vs.
12 Corey Andrew Brown, uh, it is now about 10:44, uh, a.m., uh,
13 defense counsel, the solicitor and I have, uh, conferred, uh,
14 in a jury charge conference for about the last hour, uh, and I
15 understand and certainly are able to make objections at the
16 appropriate time if there are any but I think that we, uh,
17 concur on on the jury charge and the verdict form, okay.
18 Ready to go, solicitor?

19 MR. BARNETTE: I am, Your Honor, just one thing just
20 for a house. This (indicating) is, uh, the GoState articles
21 that was on, uh, ---

22 THE COURT: Yes.

23 MR. BARNETTE: --- Herald-Journal, ---

24 THE COURT: Yes.

25 MR. BARNETTE: --- let them take a look at it. I was

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1 gonna just add that to supplement Court Exhibit 4.

2 THE COURT: And, Mr. Neely, wasn't there somethin' else
3 you needed? Is there somethin' else you needed to put in the
4 record?

5 MR. POOLE: No, that's it.

6 MR. NEELY: Your Honor, there is, uh, it is the defense's
7 voir dire, ---

8 THE COURT: Yes.

9 MR. NEELY: --- uh, specifically questions 11, 12, 13 and
10 14. I'll have to go to my office and print a copy.

11 THE COURT: That we might have -- hang on.

12 MR. POOLE: Let me see.

13 MR. BARNETTE: Is this them?

14 MR. NEELY: I know the Court had mentioned, uh, making
15 them an exhibit.

16 THE COURT: Hang one second.

17 MR. POOLE: We got.

18 MR. NEELY: Judge, we have a copy.

19 THE COURT: Do have a copy, okay.

20 (Whereupon, a discussion was held off the record.)

21 MR. NEELY: Two separate court's exhibits there.

22 MR. BARNETTE: You want those separate from this
23 (indicating), Judge, or you wanna put together with Court
24 Exhibit 4?

25 THE COURT: You can make 'em separate if you want. I'm

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1 gonna make this one too.

2 MR. BARNETTE: Okay, think we had 5 and I guess we have
3 6 ---

4 COURT REPORTER: Okay.

5 MR. POOLE: Uh, we certainly ---

6 MR. BARNETTE: --- and that'll (indicating) ---

7 MR. POOLE: --- want ---

8 MR. BARNETTE: --- be 7.

9 (Whereupon, a discussion was held off the record.)

10 (GoUpstate news articles marked Court's Exhibit No. 5,
11 questions from the jury marked Court's Exhibit No. 6 and
12 defense voir dire marked Court's Exhibit No. 7 for
13 identification.)

14 THE COURT: Okay, everybody ready now? Okay, we'll have
15 our jury.

16 THE BAILIFF: Okay.

17 (The following takes place in the presence of the jury.)

18 THE COURT: Madam forelady, any matters from the jury
19 before we begin?

20 JURY FORELADY: No.

21 THE COURT: Okay, please give your attention, uh, to the
22 lawyers.

23 MR. BARNETTE: May it please the Court, Your Honor, ---

24 THE COURT: Yes.

25 MR. BARNETTE: --- both counsel. Madam forelady, ladies

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1 and gentlemen of the jury, the one thing I'll submit to you,
2 you'll have the evidence in front of ya, all the evidence in
3 this case presented through testimony, through the evidence
4 and everything points this (indicating) man guilty on all
5 counts. You heard from the vict a this case Mindy Slotin.
6 Here's a lady workin' with her husband's where his shop's been
7 for thirty years, tryin' to help folks find toys for their
8 kids and different things. She told ya what happened that
9 day, she told ya about the interaction between her and the
10 defendant, that she told ya how close he was to her, told her
11 about the shock that she went through when she got knocked
12 down, she couldn't believe this was happening to her and he
13 basically said, Well this is what's happenin', you heard and
14 I'll let you see what is said but you, what she said. Duct
15 taped around hands where he's face-to-face with her. Goes to
16 the cash register where force her to open it up, after she
17 opens it he takes her in the back room then finishes duct
18 tapin' her, circlin' around her legs and her mouth. Imagine
19 that might be the last thing she ever see. He's got the gun
20 right on her and says, I'm gonna go toy shoppin', if I hear
21 anything will be the last thing you hear. Now just imagine
22 how close she was to bein' the last thing that she thought she
23 could see. Let's say you wait for ten seconds if you're
24 lookin' at somebody, just imagine that you thought you were
25 gonna be dyin' or somethin' horrible was gonna happen to you.

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1 Let's wait for ten seconds startin' now, look at my face.

2 (Pause.)

3 That's ten seconds. Just imagine lookin' at that face,
4 rememberin', etched it in my mind. She has that etched for
5 rest her life, it's the face that she'll never forget what
6 happened. She testified, she told ya about luckily she was
7 able to get free, she was able to go to Lemon Peel and you
8 heard young lady there talk about how distressed, still
9 wrapped in the duct tape that you got pictures of that and you
10 found duct tape that was left in the store in the back storage
11 room that she still actually had in her hands. The type of
12 person she is couple days later she went back and thanked this
13 lady with a bouquet for bein' there for her, that's the type
14 of person that she is and that she was worried about her
15 husband. You've heard her testify, it's as powerful as you
16 could ever see in this courtroom and she told ya exactly what
17 happened her that day.

18 The co-defendant this case Ms. Pearson testified and I
19 won't get to, uh, get up, speak again, this the only chance I
20 get to speak to ya, obviously defense will get a chance to
21 speak with you, she has pled guilty the armed robbery and she
22 did not plead guilty to kidnappin' but she knew the robbery
23 was gonna happen. I'm sure on her birthday she never dreamed
24 that he was gonna do what he did this lady right here
25 (indicating). Duct tape and you saw the bruises on her, you

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1 saw everything and she talked to the police the next day when
2 she was captured and a course, you know, anybody, it's human
3 nature, I know bein' an ex-school teacher myself years ago
4 when kids get in trouble or people get in trouble they wanna
5 minimize what they would do and obviously she's gonna try to
6 make herself look as well as like a gun stickin' in her back
7 forcin' her go in there, truth is there's no gun in her back,
8 I'm sure Ms. Slocombe [sic], whatever may call the police
9 doin' whatever but here's the thing about the testimony she
10 gave to ya yesterday: You remember Ms. Slocombe's testimony.
11 You remember Ms. Slotin describin' that she went over, touched
12 the books and everything and we had the fingerprints to verify
13 that that Ms. Pearson was there, her fingerprints was found on
14 those items, the toys they touched and Ms. Slotin told you
15 what happened. Ms. Pearson what she testified to yesterday is
16 what happened. He hits her, hears a noise, comes out, said,
17 You need to open that cash register, got her hands there, You
18 go lock the door, he tells her go lock the door, he proceeds
19 to do the rest of it Ms. Slotin, that's the true story. They
20 can say she's lying to minimize, sure, I mean, they can argue
21 all they can but the bottom line is Ms. Slocombe told you what
22 happened, what Ms. Pearson told you happened yesterday is what
23 happened. This defendant comes in and he steals the money,
24 his fingerprints are found on the bottom the cash drawer,
25 you'll have the pictures back there, you'll have these two

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1 right here (indicating). You see where the money was dumped
2 or basically the drawer was dumped once he had the money and
3 the two fingerprints actually found on the back on the bottom
4 of those drawers, you have the actual prints and you had the
5 testimony Investigator Lou Jones, a lady that's been doin'
6 this for twenty sumtin' years and they're so thorough they
7 even have it verified by another young girl and she told ya
8 how the database this is number one and she went through
9 detail and going through and describing it to ya and you can
10 take this back too and look at it. This (indicating) is the
11 blown up print from 1.1 and you can see the points that match
12 and they told ya how delicate these fingerprints are, they're
13 mostly made outta water, just even movin' your hand can smear
14 it, turn the knob can smear it, but the one part that's never
15 hardly touched on a cash drawer is the bottom of it, Ya know,
16 you're always puttin' money in there: cash, coins, everything,
17 that's the area been touched and obviously you're gonna smear
18 prints, mess 'em up, these prints is very good quality prints,
19 ya know why, 'cause nobody ever touches the bottom of that
20 cash drawer 'cause it's obviously in the cash drawer like
21 Investigator Norkett testified to.

22 Another thing was interesting too and you'll have this
23 back with ya, you remember the pictures of the coins or the
24 quarters on the floor and you actually have the coins on on
25 bottom the floor. I'm sorry, four quarters was found on the

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1 floor, you see picture of the coins that was collected on the
2 floor, you have those. Ms. Pearson testified, you heard
3 Ms. Slotin testify the defendant took money: coins, dollar
4 bills approximate hundred dollars worth, he also took rings
5 and an iPad. They go home that night, she cooks dinner. The
6 next day the defendant gets up and he goes out to the store,
7 whatever, where he could got rid a the iPad, the rings,
8 whatever, he went himself but the interestin' thing, now this
9 (indicating) is the coins found inside the residence and this
10 the residence that Ms. Pearson and the defendant lived in, the
11 College Street address, it's kinda odd that you got all those
12 quarters and ya dimes altogether, things like that. Why are
13 those coins in there together? I submit to ya they came from
14 cash register, they found 'em their residence. Then ya also
15 got money that was found, okay, the most amazing thing is it's
16 \$50, they're all fives like you have in a cash register, if
17 you had the money that's put together with it, it's gonna be
18 close to a hundred dollars.

19 And like I said thanks to the hard work of those, of the
20 police department finding the fingerprints and like I said
21 they found fingerprints for Ms. Pearson as well as the
22 defendant, that's how they tracked 'em down and you'll have a
23 map where they lived at, they live approximately 1.1 miles
24 from the location where the robbery occurred. Ms. Pearson
25 testified when the police came she went to the front door, she

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1 immediately went out with them, the defendant ran up the
2 stairs and it's his residence too 'cause obviously we have the
3 electric bill there showin' he's payin', I'll let -- you'll
4 have that electric bill with ya as well as a picture of. He
5 goes upstairs, he's there for a period a time 'fore he comes
6 out to the police and upstairs there's a closet right off
7 their bedroom and you got that picture which you'll see, it's
8 the closet area that you remember she said there was on
9 opening up there that wasn't up there, that wasn't open,
10 course she saw it. In that same closet there was a gun hidden
11 in the floor, put in the floor there, very odd place but the
12 gun, you'll have the loaded magazine in it as well as the
13 sh -- the, uh, bullets that was used. You'll see it's in the
14 bottom and the police, the search warrant look for everything,
15 you can't see it on that (indicating) picture if you just look
16 in that closet; however, when the police started looking
17 closer they actually started seein' the butt of a gun. They
18 looked closer, actually found the gun and the ammunition and
19 you'll have these pictures back with it. And this is the same
20 gun that was collected by the police department, it's got the,
21 uh, obviously for safety reasons have a lo -- it wasn't in
22 that lock at the time and it had the loaded magazine in there
23 and I showed this gun Ms. Slotin, showed her pictures
24 of it, this is very similar to the gun that was used or the
25 firearm. Ms. Pearson said this was his gun, had the gun on

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1 him that day. This (indicating) is the gun that was used in
2 that robbery, ladies and gentlemen, they also had the bullets
3 which he had plenty a time to go hide or try to hide while the
4 police was outside.

5 Didn't stop there. Police also collected duct tape there
6 and I'm s -- I'm sure people have this at their homes but the
7 duct tape it's exact type, you look at it, that was used in
8 the robbery, and used tape, Ms. Pearson said this (indicating)
9 is what he used and obviously duct tape was used. And the
10 police tried to get, you know, they collected the, and you'll
11 have the piece a duct they collected from her at the scene, he
12 said tried to do fingerprints but obviously it's a different
13 type testing and they couldn't get any prints off of it 'cause
14 obviously it has to be flat, perfect, not touched or whatever,
15 it's just very wrinkled, tore up, very hard to get any kinda
16 prints off it.

17 Now, ladies and gentlemen, if you take all this evidence,
18 all the evidence comes to one conclusion: this (indicating)
19 defendant did a horrible thing to this lady right here
20 (indicating). She's ID'd him, his co-defendant's testified
21 against him, told the same story that happened that day to
22 Ms. Slote [sic], his fingerprints on the bottom of the cash
23 drawer the money was robbed from that was done, the gun that
24 he used was identified by her as bein' a similar weapon,
25 identified by Ms. Pearson bein' the gun that was found at his

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1 house, the duct tape that was used was found at his house, the
2 coins found at his house came from the cash register, the
3 dollar bills that was found his wallet came from the cash
4 register, all a this evidence tells you one thing, and the
5 judge will give ya this charge, he'll talk about reasonable
6 doubt, he will tell you if you are firmly convinced a the
7 defendant's guilt, you must find him guilty. I submit to you
8 all the evidence that has been submitted in this case points
9 to no other, other explanation other this defendant right here
10 (indicating) and that evidence will leave you firmly convinced
11 that he did this crime and, ladies and gentlemen, he did do
12 this crime, she told you, all the evidence points to it,
13 everything speaks the truth. What I'm gonna ask ya do, ladies
14 and gentlemen, is find him guilty of all counts: assault
15 charge, the armed robbery, the kidnapping, possession of
16 weapon, he's guilty of it all 'cause we cannot have this type
17 crime occur in Spartanburg. This (indicating) lady deserves
18 justice, that's all I'm gonna ask you to do. Thank you very
19 much for your time. Thank Your Honor.

20 THE COURT: Thank you.

21 MR. POOLE: May it please the Court, ---

22 THE COURT: Yes, sir.

23 MR. POOLE: --- Mr. Barnette. Could I have some help in
24 moving this?

25 MR. NEELY: Yes.

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1 MR. BARNETTE: Sure.

2 (Whereupon, a discussion was held off the record.)

3 MR. POOLE: Thank you for your help.

4 MR. BARNETTE: Welcome.

5 MR. POOLE: It's gotten to where I can't speak without my
6 notes so I carry this around whenever I make closing arguments
7 just about every time. Thank you for the attention that you
8 have expressed durin' trial of this case. I've noticed you as
9 you have listened to the testimony that has been said from the
10 witness stand and I noticed you when you looked at the
11 exhibits as they were presented to you and thank you for your
12 time, I wanna say that up front and I really do mean it. It's
13 a pleasure to have tried this case with ya'll here, it's
14 really good to see ya because you went through a vetting
15 process where you were de -- determined to be the best people
16 to sit on this jury and I know that what all you decide will
17 be the right thing.

18 Corey Brown is charged with assault and battery the first
19 degree, kidnapping, armed robbery and possession of a weapon
20 during the commission of vi -- of violent crime and the State
21 again has the burden of proving his guilt beyond a reasonable
22 doubt. Mr. Barnette gave you one aspect of what is going to
23 be told to you about reasonable doubt but recall again and the
24 jur -- judge will tell you that a reasonable doubt is any
25 doubt that causes a reasonable person to hesitate to act and I

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1 would submit to you to there is plenty of reasonable doubt in
2 this case, plenty of it all over the place. I did not
3 minimize yesterday nor do I minimize today or try to say that
4 Ms. Slotin did not suffer a traumatic experience, I
5 understand that and it's my heartfelt, my heart goes out to
6 her for what she had to go through. The sure identification
7 that Mr. Barnette refers to I submit to you that Ms. Slotin,
8 Mrs. Slotin underwent a very traumatic and serious experience,
9 she was very upset and pretty much in sock -- shock that was
10 what Mary Stone in Lemon Peel said. We all know that if
11 you're under s -- tremendous stress and if you're under that
12 much pressure and you're so disoriented that there's always
13 possibility for misidentification and the way that law
14 enforcement went about handling this case kinda bothers me a
15 a, to a great deal. There were no law, uh, lineups shown to
16 Ms. Slotin, I didn't hear of any, uh, of of of with the, uh,
17 defendant's picture in it where she could pick it out and have
18 an independent ID made during the course of the investigation,
19 it, uh, doesn't exist. Also, in the police information, the
20 law enforcement information, his height was described and
21 certain other features were described that are incompatible
22 with his physical features: He is 5 feet 7 tall, not 5 feet 10
23 for instance. There other, some variations in what the
24 description was and what was there written in the law
25 enforcement records. Uh, Ms. Slotin testified that the gun in

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1 the photo was similar to the gun that she saw, she also said
2 that the gun appeared, and I wrote this down verbatim,
3 appeared to be the gun that she saw and she said that the duct
4 tape, uh, that this duct tape right here (indicating) is
5 similar to the duct tape that was used to bind her. Now
6 I I -- this place is ubiquitous, this (indicating) thing's
7 ubiquitous, it's everywhere, uh, it it's even become the butt
8 of jokes that you can hold anything together with a duct tape.
9 This is the standard duct tape that is sold in all stores and
10 I'd, uh, I be willing wager that most, if not all of ya'll
11 have this type of duct tape in your homes. Similarities don't
12 make a case, ya'll. When you talk about similarities, you got
13 to really have is firmer connection than what we've got
14 between ev -- everything that's been introduced in this case.
15 When we have, uh, uh, testimony made of the similarities of
16 the gun appeared to be similar the gun that was used, I want
17 to say and I do believe there were varying descriptions of the
18 gun than the one that has been introduced into evidence and
19 also despite the lack of photo lineups being shown to
20 witnesses, etc., and and Ms. Slotin, uh, fingerprint evidence
21 on the gun, we didn't hear anything about that. The gun is a
22 a metallic instrument, the magazine is a metallic instrument
23 and I don't believe it was even dusted to see if, uh, Mr.
24 Brown's fingerprints were on it. Now I guarantee you if his
25 fingerprints were on that gun ya'll would be hearing about

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1 that, you certainly would because that would almost close
2 coffin lid but we don't have that. And talking about
3 fingerprints we had two people to testify, the first lady was
4 a Lou Jones qualified as an expert and I I want you to, the
5 judge will give you an instruction about the weight that you
6 can give to an expert, I believe he said one time when the
7 second lady, the young lady Courtney Burgess to get -- was
8 gonna testify, he says you don't have to accept her opinion,
9 he'll give you a a full charge on expert testimony but let's
10 don't be he -- too much holding in awe of somebody labeled
11 expert and let us not further be of held in awe of a
12 predominant mindset in our culture of scientific naturalism.
13 During the cross-examination by my co-counsel Mr. Neely, here
14 (indicating) is one of the fingerprint comparisons that
15 Ms., what's her name Banks, Jones rather, Ms. Jones testified
16 to. She pointed out this (indicating) is a full fingerprint
17 and a fingerprint rolls from nail to nail, this (indicating)
18 is a partial fingerprint and and the points on this partial
19 fingerprint only relate to what is less than a half of a print
20 and; furthermore, thi -- is this this area right here
21 (indicating) which reduces the comparison size and she makes,
22 you know, a great detail about, you know, 1, 2, 3 matches up
23 with 1, 2, 3, etc., etc., etc., but what is a missing is the
24 potentiality of there being a difference in this area right
25 here (indicating) or this area right here (indicating). What

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1 we have under analysis is a very tiny portion of a fingerprint
2 and a fingerprint alone I submit to you this this is not a
3 sufficient weight to make a conviction against Mr. Brown, this
4 is not a sufficient weight so take it for what it is and by
5 the way and I don't know why this occurred but there was no
6 similar board put up here on that second so-called fingerprint
7 that she talked about and went through the same analysis and
8 procedure on that other fingerprint, there's supposedly two,
9 why didn't she have another one made to show exactly how much
10 detail, etc., etc., etc., that could be displayed on that
11 fingerprint? Further their similarities of of of overall
12 fingerprints, there were no fingerprints detected on the duct
13 tape and she examined thirty or more prints and there were
14 eighteen possible matches, that's a lot of, lot of stuff,
15 there's a lotta fingerprints found in that place. Now
16 Courtney Bridges -- Burgess she testified in her, quote,
17 expert capacity that, uh, yes, uh, Ms. Jones was right, now
18 that's simply just verification. She did not go through what
19 Ms. Jones went through, Ms. Jones went through a database.
20 This is not a double blind test, this was sit -- certainly a
21 verification, a follow-up. She took the work product of
22 Ms. Jones with who she works on a constant basis and compared
23 it as if said, uh, to her, uh, well, you're right, Lou, just
24 give that the weight that I think you should give it which is
25 not much. Um, excuse me, I didn't mean to turn my back on ya

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1 but similarity, give this the weight which is probably about
2 pound, uh, all quarters, ya know, in one place. Well I tell
3 ya what, in my old Buick, my old brown Buick in my ashtray I
4 keep quarters, you keep quarters, lotta people keep quarters
5 in one place, there might be this (indicating) many quarters
6 between some cushions in certain houses, there's no connection
7 between this and the money taken from Imagination Station. I
8 can't put my hands, excuse me again, on the \$5 bills but
9 because they're the same denomination doesn't mean a thing
10 either, it's a coincidence but it just doesn't matter, it
11 doesn't matter, it doesn't mean this came from Imagination
12 Station and if you got \$50 in 5s and \$19 in coins, that
13 doesn't add up to a hundred dollars that was taken and you
14 remember the testimony of Lieutenant Doug Harwell, I believe
15 he may have been the last witness yesterday afternoon, he
16 conducted a search, no iPad was found in that home where Corey
17 Brown lived, no rings were found in the home where he lived,
18 uh, he, but, man, I don't know about the duct tape which we're
19 not gonna go over that ground anymore, he went on about coins
20 and currency which I'm not gonna say anything else about that
21 but I think it's important that we got that gun, why don't we
22 have a fingerprint, e -- nothing was mentioned about even
23 taking any fingerprints from that gun and magazine.

24 Well now we come to the fun part: Sandra Pearson. I
25 don't know if I've got -- had a witness on a witness stand to

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1 testify like she did, she changed her story while she was
2 sitting up there. Before before she took this (indicating)
3 witness stand she had her place marked out. She had had a
4 kidnapping charge dismissed and she, that lowered her exposure
5 to incarceration by thirty years, isn't that somethin' to be
6 motivated by? And she's already pled the armed robbery but
7 but hadn't been sentenced yet because you know what, that is
8 contingent on how cooperative she was going to be. A judge
9 will pass sentence on her in the future, she will have to do
10 some time but she's not believable, she is lying through her
11 teeth.

12 She said that, in her statement she told ya one story, I
13 think it changed three or four times in her variations while
14 she was testifying and then when I confronted her with a prior
15 statement she says something completely different. She said
16 that, uh, Corey Brown from Smith's Drugstore and I believe
17 most of ya probly know where all this -- these places are, uh,
18 Smith's Drugstore to Imagination Station in the middle a the
19 day, he had a gun pressed in her back, that was in her
20 statement. She didn't mention it on the witness stand. What
21 she said on the witness stand is that she saw a gun come out
22 inside the store of Imagination Station and she claims she
23 didn't have anything to do with the kidnapping. In South
24 Carolina the law is the hand of one is the hand of all. If
25 you hanging around and you participate in being present and,

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1 uh, helping out by locking a door then you are assisting and
2 you are guilty of a crime by accomplice liability theory, so
3 her her testimony is absolutely incredible.

4 I think that just about covers everything that I I want
5 to tell tell ya because the way this system works and because
6 of what the law is the State has to prove its case on each and
7 every one of these charges beyond a reasonable doubt. These
8 charges consist of elements and I know you'll listen closely
9 as Judge Kelly tells you what these elements are but I con --
10 firm conviction of his guilt and whether or not the State has
11 proved each one of these elements beyond a reasonable doubt, I
12 submit to you it's insufficient to meet the standard required
13 and that's what we are, this is a government of laws and not
14 men and as citizens what you're charged to do is to render a
15 verdict that speaks the truth; in fact, that's what verdict
16 means, it comes from the latin veredicti, to speak the truth
17 and I'm convinced that all of ya'll, the twelve of you who
18 decide and deliberate in this case will agree with me that the
19 State has failed to make its burden and return the verdict of
20 not guilty against Corey Brown. Thank you very much. Is this
21 in your way, Judge?

22 THE COURT: No, sir. Madam fore -- bailiff.

23 THE BAILIFF: Your Honor, may I approach, please?

24 THE COURT: Yes, sir -- yes, ma'am, I'm sorry.

25 (Whereupon, a bench conference was held off the record.)

JURY CHARGE

1 THE BAILIFF: Thank you, Your Honor.

2 THE COURT: Thank you. Madam forelady and ladies and
3 gentlemen of the jury, you have seen and heard the evidence as
4 well as the arguments of counsel, it is now my duty and
5 obligation to instruct you on the law applicable to this case,
6 it will then be your solemn duty and obligation to begin your
7 deliberations through which process you will decide the facts,
8 apply the law as I instruct it and render a fair and impartial
9 decision, it is your exclusive duty to determine what the
10 facts are in this case, you do that based on your own common
11 sentence, examination and evaluation of the testimony and
12 other evidence received during the trial of this case. You
13 twelve jurors alone will decide what effect, value and weight
14 is to be given to any particular testimony or other evidence
15 presented, quite simply your ultimate goal is to find the
16 truth in this case and by doing so you will have fulfilled
17 your obligation as jurors in giving both the State and
18 the defendant a fair and impartial trial based on the
19 evidence presented and the law applicable to this case.

20 The indictments in this case charge the defendant with
21 assault and battery in the first degree, kidnapping, armed
22 robbery and possession of a weapon during the commission of a
23 violent crime, specifically they allege that Corey Andrew
24 Brown did in the City of Spartanburg, County of Spartanburg,
25 State a South Carolina on or about August 7, 2015 commit the

JURY CHARGE

1 above-referenced offenses in violation of the laws of South
2 Carolina. I'll remind you that the fact that the defendant
3 was arrested, charged and indicted is not evidence in this
4 case and cannot be considered by you as evidence of guilt nor
5 does it create any presumption or inference of guilt. The
6 char -- the documents are simply the formal written
7 instruments which contain the charges made against him, they
8 are the formal documents by which the cases are brought before
9 this court.

10 The defendant has pled not guilty to all indictments and
11 that plea puts the burden on the State a South Carolina to
12 prove him guilty beyond a reasonable doubt. A person charged
13 with committing a criminal offense in South Carolina is never
14 required to prove himself innocent. I charge you it is a
15 cardinal, important and vital rule of law that in all criminal
16 trials no matter what the seriousness of the charge may be for
17 which he stands charged the defendant is always presumed to be
18 innocent of the crime for which the indictment was issued
19 unless guilt has been proven by evidence satisfying you of
20 that guilt beyond a reasonable doubt. This presumption of
21 innocence does not end when you begin your deliberations but
22 it accompanies the defendant throughout the trial until you
23 reach a verdict of guilt based on evidence satisfying you of
24 that guilt beyond a reasonable doubt. The presumption of
25 innocence is like a robe of innocence placed about the

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1 shoulders of the defendant which remains with him from the
2 moment of his arrest and continues until it has been stripped
3 from his shoulders by evidence satisfying you of his guilt
4 beyond a reasonable doubt. The presumption of innocence is
5 not mere legal theory nor is it a legal phrase, it is a
6 substantial right to which every defendant is entitled unless
7 you twelve jurors are satisfied from the evidence of his guilt
8 beyond a reasonable doubt.

9 I remind you that during this trial you and I have
10 certain duties to perform. As the trial judge it is my
11 responsibility to preside over the trial and I also have the
12 duty to rule on the admissibility of evidence offered durin'
13 the trial. You are to consider only the competent evidence
14 before you, you are to consider only the testimony which has
15 been presented from the witness stand, any exhibits which have
16 been made a part of the record and any stipulations of
17 counsel; additionally, I have the duty to charge you the law
18 applicable to the case. As presiding judge I am the sole
19 judge of the law and it is your duty as jurors to accept it
20 and apply it as I now state it to you. I remind you and I
21 charge that if you already have any idea as to what the law is
22 or what the law ought to be or what the law should be and it
23 does not agree with what I now tell you the law of this state
24 is, you must abandon your idea because you are sworn to accept
25 it and apply it as I state it to you.

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1 Ladies and gentlemen, every case tried in this court
2 before a jury you, the jury, become the sole and exclusive
3 judge of the facts. A trial judge cannot make any statement
4 or comment about a fact in a case. You, the jury, are the
5 sole judges of the facts, you are not to infer from anything
6 that I have said during the progress of this trial in ruling
7 upon evidence or otherwise or anything that I say now during
8 my instructions to you that I have an opinion about the facts
9 in this case. I charge you that the law of this state does
10 not allow me to have an opinion about the facts in this case,
11 this is a matter solely for you to determine. As jurors it is
12 your duty to determine the effect, value, weight and truth of
13 the evidence presented during the trial.

14 The State has the burden of proving the defendant guilty
15 beyond a reasonable doubt. Ladies and gentlemen, proof beyond
16 a reasonable doubt is proof that leaves you firmly convinced
17 of the defendant's guilt. There are very few things in this
18 world that we know with absolute certainty and in criminal
19 cases the law does not require proof that overcomes every
20 possible doubt. A reasonable doubt may also be described as
21 the kind of doubt that would cause a reasonable person to
22 hesitate to act. If you have such a doubt as to the guilt of
23 the defendant, he is entitled to a verdict of not guilty.
24 Reasonable doubt may arise from evidence which is in the case
25 or from the absence or lack of evidence in a case. Based on

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1 your consideration of the evidence if you are firmly convinced
2 that the defendant is guilty of the crimes charged, you must
3 find him guilty; on the other hand, if you think there is a
4 real possibility that he is not guilty, you must give him the
5 benefit of the doubt and find him not guilty. You twelve
6 alone must make the determination of whether or not reasonable
7 doubt exists as to the guilt of the defendant.

8 Now, ladies and gentlemen, there are two types of
9 evidence whiss [sic] are generally presented during a trial:
10 direct evidence and circumstantial evidence. Direct evidence
11 directly proves the existence of a fact and does not require
12 deduction. Circumstantial evidence is proof of a chain of
13 facts and circumstances indicating the existence of a fact.
14 Crimes may be proven by circumstantial evidence. The law
15 makes no distinction between the weight or value to be given
16 to either direct or circumstantial evidence; however, to the
17 extent the State relies on circumstantial evidence, all of the
18 circumstances must be consistent with each other and when
19 taken together point conclusively to the guilt of the accused
20 beyond a reasonable doubt, if these circumstances merely
21 portray the defendant's behavior as suspicious, the proof has
22 failed. The State has the burden of proving the defendant
23 guilt -- guilty beyond a reasonable doubt and this burden
24 rests with the State regardless of whether the State relies on
25 direct evidence, circumstantial evidence or some combination

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1 of the two.

2 I instruct you, ladies and gentlemen, and emphasize the
3 fact the defendant did not testify is not a factor to be
4 considered by you in any way in your deliberation and in your
5 consideration of the question of guilt or innocence of the
6 defendant, it must not be considered by you in any manner
7 whatsoever. A defendant has the constitutional right to
8 remain silent and the assertion of this right must not be
9 considered by you in your deliberations. Again, I repeat and
10 with emphasis you are to draw no conclusion whatsoever from
11 the fact the defendant in this case did not testify, the fact
12 he did not testify should not be discussed in the jury room.
13 The burden of proof as I previously stated is squarely on the
14 State. The defendant is not required to prove his innocence,
15 the burden of proof remains on the State to prove guilt beyond
16 a reasonable doubt.

17 Under the Constitution of South Carolina you are the
18 finder of facts and necessarily you must determine the
19 credibility of witnesses who have testified. Credibility
20 simply means believability. It becomes your duty as jurors to
21 analyze and to evaluate the evidence and determine which
22 evidence convinces you of its truth. In determining
23 believability of witnesses who have testified, you may believe
24 one witness over several or several witnesses over one. You
25 may believe a part of the testimony of a witness and you may

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1 reject the remaining part of a testimony of that same witness.
2 You may believe the testimony of a witness in its entirety or
3 reject the testimony of a witness in its entirety. You may
4 consider whether any witness has exhibited to you any
5 interest, bias, prejudice or other motive in this case. You
6 may also consider the appearance and manner of a witness while
7 on the witness stand: was the witness straightforward
8 answering questions or hesitant in responding, simply put do
9 you believe the witness was tellin' the truth. You may
10 consider how the witness came to know the facts to which he or
11 she testified and whether or not the witness had an
12 opportunity to hear, observe or perceive a fact by means of
13 their senses. Whatever your good judgment and common sense
14 tells you is the most believable testimony is the testimony
15 you should accept and reject the testimony which you find not
16 to be credible or believable.

17 The rules of evidence ordinarily do not permit witnesses
18 to testify to opinions or conclusions, an exception to this
19 rule exists for witnesses we call "expert witnesses" and a
20 witness who by education and experience has become expert in
21 in some art, science, profession or calling may state an
22 opinion as to relevant and material matter in which the
23 witness claims to be an expert and may also state the reasons
24 for the opinion. Ladies and gentlemen, you should consider
25 expert testimony received in this case like any other evidence

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1 and give it the weight you think it deserves. If you decide
2 the opinion of an expert witness is not based on sufficient
3 education and experience or you conclude that the reasons
4 given in support of the opinion are not sound or that the
5 opinion is outweighed by other evidence, you may disregard the
6 opinion testimony entirely. An expert witness's testimony is
7 to be given no greater weight than that of other witnesses
8 simply because the witness is an expert; further, you are not
9 required to accept an expert's opinion even though it is not
10 contradicted.

11 Ladies and gentlemen, criminal intent is a necessary
12 element of each crime that must be proved by the State beyond
13 a reasonable doubt. Criminal intent is always a matter that
14 must be determined by the jury from the circumstances
15 surrounding the situation. There is no way to prove intent to
16 a mathematical certainty. There's no way medical science can
17 dissect a person's brain and determine what he had in mind.
18 The law says that criminal intent may be inferred from the
19 circumstances shown to have existed, this is how a jury makes
20 a determination of whether or not the element requiring intent
21 was present. Criminal intent is a state of mind which
22 operated jointly with an act is the commission of a crime.
23 Criminal intent is a mental state, a conscious wrongdoing so
24 it is up to you twelve juror to determine what the defendant
25 intended to do based on the circumstances shown to have

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1 existed. I tell you that the State must prove criminal intent
2 beyond a reasonable doubt just as the State must prove every
3 element beyond a reasonable doubt. It is not necessary to
4 es -- it is not necessary to establish intent by direct and
5 positive evidence but intent may be established by inference
6 in the same way as any other fact by taking into consideration
7 the acts of the parties and all the facts and circumstances of
8 the case. While the State may prove motive, it is unnecessary
9 to do so but however the State must always improve intent or
10 prove intent.

11 Ladies and gentlemen, the defendant is charged with
12 assault and battery first degree. For the purposes of this
13 code section which is, uh, in our Code of Laws 16-3-600, great
14 bodily injury means bodily injury which causes a substantial
15 risk of death or which causes serious permanent disfigurement
16 or protracted loss or impairment of the function of a bodily
17 member or organ. A person commits the offense of assault and
18 battery in the first degree if the person unlawfully injures
19 another person and the act occurred during the commission of a
20 robbery, burglary, kidnapping or theft or offers or attempts
21 to injure another person with the present ability to do so and
22 the act is accomplished by means likely to produce death or
23 great bodily injury or occurred durin' the commission of a
24 robbery, burglary, kidnapping or theft.

25 The defendant is charged with kidnapping and under that

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1 code section of the South Carolina codes sets forth the
2 following: Whoever shall unlawfully seize, confine, inveigle,
3 decoy, kidnap, abduct or carry away any other person by any
4 means whatsoever without authority of law is guilty of
5 kidnapping. State must prove beyond a reasonable doubt the
6 elements of kidnapping: that the defendant did unlawfully
7 seize, confine, kidnap, abduct or carry away any other person
8 by any means whatsoever without authority of law. South
9 Carolina's kidnapping statute requires proof of an unlawful
10 act taking one of several alternative forms: seizure,
11 confinement, kidnapping, abduction or carrying away.
12 Kidnapping is the intentional taking of a person and
13 compelling her to be detained against her will. It is the
14 willful and unlawful seizing of a person against her will with
15 the intent to cause her to be confined, imprisoned or
16 detained, it is false imprisonment with the element of
17 abduction added. The essence of the offense of kidnapping is
18 the unlawful secret holding or imprisonment of a person. An
19 essential element of the offense of kidnapping is that a
20 taking or detention of that person kidnapped is without lawful
21 authority. Kidnapping means the carrying away of a person by
22 unlawful force or by fraud and against her will or her seizure
23 and detention for the purpose of so carrying her away. The
24 gravamen of the offense of kidnapping is some form of
25 compulsion but the requisite force or compulsion need not

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1 consist of the use of actual physical force or violence or of
2 expressed stress.

3 The defendant is charged with armed robbery and under
4 that code section, which is 16-11-330 of our Code of Laws, to
5 convict a defendant of armed robbery, the State must prove
6 that the defendant committed a robbery while armed with a
7 pistol, dirk, slingshot, metal knuckles, razor, or other
8 deadly weapon or while alleging either by action or words that
9 he was armed while using a representation of a deadly weapon
10 or any object which a person present during the commission of
11 the robbery reasonably believed to be a deadly weapon.

12 Robbery is larceny from the person or the presence of another
13 by violence, intimidation, or by putting such person in fear.
14 A thing is in the presence of a person in respect to robbery
15 which is so within his reach, inspection, observation, or
16 control that he could if not overcome by violence or prevented
17 by fear retain his possession of it. Robbery is basically
18 larceny compounded or aggravated by intimidation or force used
19 in the taking of property from the person or in the presence
20 of another.

21 Now what is a deadly weapon? that is a factual matter
22 that you, the jury, must decide or determine. You must answer
23 that question factually based on the evident -- evidentiary
24 record before you. A deadly weapon is any article,
25 instrument, or substance which is likely to cause death or

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1 great bodily harm. Whether an instrument or object has been
2 used as a deadly weapon depends on the facts and circumstances
3 of every case.

4 Larceny is the felonious taking and carrying away of
5 goods of another against the owner's will or without her
6 consent with the intent to appropriate them to one's own use
7 and to permanently deprive the owner of possession of her
8 property. There are five elements the State must establish
9 beyond a reasonable doubt to prove larceny, each of the
10 elements must be present to make out the crime of armed
11 robbery the elements of larceny are a taking, the act of
12 carrying away the property of the person of the personal
13 property of another without the consent or against the will of
14 the owner and with the intent to steal. The carrying away of
15 stolen property is an indispensable element of larceny and can
16 be established by the slightest removal of the property with
17 felonious intent.

18 The defendant must intend to permanently deprive the
19 owner of possession by converting the property to his own use;
20 additionally, the elements of larceny, the crime of robbery
21 requires two additional elements and they are the property
22 must be taken from the person or immediate presence of another
23 and the taking must be accomplished by violence, intimidation
24 or by putting that person in fear, this violence must be
25 actual personal violence or the threat of. The degree of

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1 force used is immaterial so long as such force or threat of
2 force is actually sufficient to overcome the victim's
3 resistance.

4 The defendant is charged with possession of a firearm
5 during the commission of a violent crime and that code section
6 which is 16-23-490 says that if a person is in possession of a
7 firearm or visibly displays what appears to be a firearm
8 during the commission of a violent crime and is commit -- and
9 is convicted of committing or attempting to commit a violent
10 crime as defined by law, he is guilty of possession of a
11 weapon during the commission of a violent crime. A firearm is
12 defined as any machine gun, automatic rifle, revolver, pistol
13 or any weapon which will or is designed to or may readily be
14 converted to expel a projectile. Our Code of Laws provides
15 that armed robbery is a violent crime. For you to find the
16 defendant guilty of the separate offense of possession of a
17 firearm during the commission of a violent crime, you must
18 first find the defendant guilty of either committing a violent
19 crime or attempting to do so, in this case the crime of armed
20 robbery. If you find the defendant guilty of armed robbery,
21 you must then determine whether the State has proved beyond a
22 reasonable doubt that he was in possession of a firearm or
23 visibly displayed what appeared to be a firearm during the
24 commission of that violent crime. Possession means more than
25 simply havin' a object in his possession, conviction of

JURY CHARGE

1 possession requires proof of possession either actual or
2 constructive coupled with knowledge of the firearms presence.
3 Possession can be shown by either actual possession or
4 constructive possession. Actual possession occurs when the
5 firearm is in the actual physical custody of the person
6 charged with possession. Proof of constructive possession
7 along with knowledge of the presence of a firearm is
8 sufficient to support a conviction for for possession of a
9 firearm. To prove constructive possession the State must show
10 the defendant had dominion or control or the right to exercise
11 dominion or control over the firearm. Constructive possession
12 may be established through either direct or circumstantial
13 evidence and possession may be shared. Possession requires
14 more than mere presence, possession may be inferred from the
15 circumstances and may be imputed to anyone who has the power
16 and intent to control the disposition and use of the firearm.

17 Now, ladies and gentlemen, you have been selected as fair
18 and impartial jurors sworn to impartially try and determine
19 the facts of this case and when you do so you will have
20 complied with your oath and fully discharged your duty as
21 jurors. You are to decide this case according to the
22 testimony that you heard from the sworn witnesses along with
23 any other evidence introduced before and during the trial.
24 During your deliberations you may only discuss this case in a
25 jury room with your fellow jurors because they have seen and

JURY CHARGE

1 heard the same evidence you have seen and heard; however, you
2 must not discuss the case with anyone else until you have
3 returned a verdict and the case has ended. Whenever a member
4 of the jury requires a break for smoking, restroom or
5 otherwise, ma -- madam forelady, please discontinue all
6 deliberations until those jurors or that juror return.

7 Ladies and gentlemen, your verdict must be a unanimous
8 verdict. Madam forelady, when the jury agrees on the verdict,
9 you will indicate your verdict in the space provided on the
10 verdict form that I will provide and sign your name as the
11 foreperson, please knock on the door and inform the bailiff
12 you have reached a verdict and at that time we will return the
13 entire jury to the courtroom and receive the verdict.

14 Now, madam forelady, this (indicating) is the jury form
15 of which I speak. My law clerk makes this in every case that
16 we try, it's simply two pieces of paper, sometimes it's three
17 but it's two in this case and it's just a form, it has the
18 caption of the case up here (indicating) and some docket
19 numbers and there's no significance to that other than it
20 matches these indictments. It says, The State a South
21 Carolina vs. Corey Andrew Brown, it has four questions on here
22 that's the jury must answer. It says, We the jury, number 1,
23 We the jury unanimously find beyond a reasonable doubt the
24 defendant Corey Andrew Brown on the charge of assault and
25 battery first degree not guilty and guilty. I tell you there

JURY CHARGE

1 is no significance to which comes first guilty or not guilty
2 or not guilty and then guilty, it simply means that they have
3 to go on the piece of paper in one direction or another, this
4 is a form I use in every case. The second one, We the jury
5 unanimously find that bey -- beyond a reasonable doubt the
6 defendant Corey Andrew Brown the charge of kidnapping not
7 guilty or guilty. Number 3, We the jury unanimously find
8 beyond a reasonable doubt the defendant Corey Andrew Brown the
9 charge of armed robbery not guilty or guilty. As I told you
10 in my jury instructions and it's printed here (indicating), if
11 your verdict for question 3 on the armed robbery is not
12 guilty, madam forelady, it says, Stop here and sign your name
13 below; however, if the jury, if your verdict for question 3 is
14 guilty, please answer the next question which is question 4.
15 Questions 4 is, We the jury unanimously find beyond a
16 reasonable doubt the defendant Corey Andrew Brown the charge
17 of possession of a weapon during commission of violent crime
18 not guilty or guilty then there's a certification here that is
19 a unanimous verdict of the ju -- of jury, it already has
20 today's date on that and the, and, uh, Spartanburg, South
21 Carolina, there's a place, madam forelady, for you to sign.
22 Now, madam forelady, again and, ladies and gentlemen, there's
23 no significance to the the, to how these questions are on
24 here, 1, whether number 1 is number 1 or number 3 it just so
25 happens that my law clerk put 'em in this particular order,

JURY CHARGE

1 there's no significance to it. I also charge you that each
2 question stands on its own. You may find the defendant not
3 guilty of all charges, you may find the gui -- defendant
4 guilty of all charges, you may defi -- you may find the
5 defendant, uh, guilty on some and not guilty on others, again,
6 these are separate and distinct charges that must -- that are
7 before you.

8 Okay. Again, I tell you before you retire that there is
9 one, uh, piece of evidence that has the firearm and the
10 ammunition and a loaded magazine that is in one exhibit, all
11 exhibits belong to you. In just a moment or two I'm gonna ask
12 you to retire to your jury room and not begin your
13 deliberations at this time. All of these exhibits belong to
14 you and I'm gonna ask the lawyers to come up and once again
15 verify with my court reporter because she has a record of
16 them, she, you saw her putting stickers on 'em, each of 'em
17 has a number, she's gonna verify with the lawyers that all of
18 those are here, I tell ya that because I practiced law for
19 twenty-five years before comin' to the bench, I didn't mean to
20 do it but I did do it, oftentimes when I was talkin' to a jury
21 I picked up an exhibit, I walked over, I talked to the jury
22 about it, I returned to my table and I laid it on the table,
23 therefore that document, that exhibit would be missing so I'm
24 gonna ask the lawyers and madam court reporter to confirm that
25 everything is here. Once they confirm that everything is here

JURY CHARGE

1 I will send that evidence to you along with this form, madam
2 forelady. When you receive that evidence and this form, that
3 is your signal to begin deliberations in this case. When the
4 evidence comes back along with this (indicating) form, I will
5 ask my alternates to come out of the jury room at that time,
6 it would only be proper for the twelve of you to be together
7 and the alternates will be segregated, they will have a place
8 for you, okay, but you will remain segregated from the twelve
9 durin' their deliberation at that time. When the evidence
10 comes back, I will only send the the firearm itself in this
11 case, the ammunition and that magazine will remain in the
12 custody of the clerk of court, at such time that you want to
13 review review that evidence, if you will kindly knock on the
14 door, tell the bailiff, I will then ask my bailiff to bring
15 the firearm back to madam clerk and my bailiff will then
16 return to you, return back to you with the other two pieces of
17 that, uh, particular item. I will not allow for safety
18 reasons, I will not allow ammunition and the weapon to be in
19 the same room at the same time. Also, I will tell you that
20 in the event that anyone, uh, needs to hear any testimony
21 further, uh, or view anything that's that that might have been
22 shown, you will ha -- we will return you to courtroom for that
23 purpose, okay.

24 Alright, madam forelady, I'm gonna ask you to take all
25 fourteen out but do not begin your deliberations until you

MOTIONS AND MATTERS

1 receive this and the verdict form, okay.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Matters from the State?

5 MR. BARNETTE: Uh, no objection to the jury charge, Your
6 Honor. I'd ask to selegate [sic] the two alternates soon as
7 possible 'cause the questions that Juror Number 19 asked.

8 THE COURT: Well you get, uh, the two alternates and to
9 go go ahead and take them to separate 'em.

10 THE BAILIFF: Yes, Your Honor.

11 MR. BARNETTE: That's okay. Thank Your Honor.

12 THE COURT: Alright, from the defense?

13 MR. POOLE: Nothing from the defense.

14 THE COURT: Okay. We'll be off the record here for a
15 minute. Gentlemen, if you'll come forward, make sure
16 everything's here.

17 (Whereupon, a discussion was held off the record.)

18 THE COURT: Ready?

19 MR. BARNETTE: Yes, sir.

20 THE COURT: And here's the jury form and that you --
21 alternates are already out?

22 THE BAILIFF: Yes, Your Honor.

23 THE COURT: Okay, they may begin and their lunch should
24 be here or very close.

25 MR. BARNETTE: Your Honor, did you wanna just verify on

MOTIONS AND MATTERS

1 the record we checked all exhibits or . . .

2 THE COURT: Yes, we will.

3 (Whereupon, a discussion was held off the record.)

4 THE COURT: Okay, gentlemen, lets let's, uh, have you
5 both examined the evidence?

6 MR. POOLE: Yes, sir.

7 THE COURT: Are all ---

8 MR. BARNETTE: Yes, sir.

9 THE COURT: --- exhibits present, accounted for?

10 MR. POOLE: They are present and accounted for.

11 MR. BARNETTE: Yes, sir, they are.

12 THE COURT: Okay, alright. Jury may begin its
13 deliberations. Thank you, gentlemen.

14 (Whereupon, the jury began deliberating at 12:03 p.m.)

15 (Whereupon, the jury reached a verdict at 12:30 p.m.)

16 THE COURT: Okay. Ladies and gentlemen, I think we have
17 everybody and I think we have a verdict, uh, and I will tell
18 everybody in the courtroom that the lawyers if not already
19 there'll be no outburst, okay, no celebrating, no ---

20 MR. BARNETTE: She's copyin' some, uh, information for me
21 that may be provided to the Court at a certain time, Your
22 Honor.

23 THE COURT: Okay, we'll wait on that.

24 MR. NEELY: Judge, you remind repeating that last
25 instruction for the defendant's benefit.

VERDICT

1 THE COURT: I will. There will, this is not a time for
2 celebration, uh, on either side, understand? This is a
3 courtroom, court a law, uh, we're not gonna have any outburst
4 whatsoever one side or the other and if anybody does that I'll
5 I'll be dealin' with that. I see Mr. Poole, Mr. Barnette
6 while you're standin' there a second that's ---

7 (Whereupon, a bench conference was held off the record.)

8 MR. BARNETTE: Your Honor, we're ready, uh, believe the
9 State's ready, Your Honor.

10 THE COURT: Okay.

11 (Whereupon, a discussion was held off the record.)

12 THE COURT: Ready? Have jury.

13 (The following takes place in the presence of the jury.)

14 THE COURT: Madam forelady, has the jury reached a
15 verdict?

16 JURY FORELADY: Yes, we have.

17 THE COURT: If you would hand up to the bailiff, please.

18 (Whereupon, the jury forelady complied.)

19 THE COURT: Madam clerk, will you publish.

20 THE CLERK: State of South Carolina, County of
21 Spartanburg in the court of general sessions Seventh Judicial
22 Circuit, the State of South Carolina vs. Corey Andrew Brown
23 Indictment 2016-GS-42-4752 through 2016-GS-42-4754, we, the
24 jury, unan -- unanimously find beyond a reasonable doubt the
25 defendant Corey Andrew Brown on the charge of assault and

VERDICT

1 battery first degree guilty. We, the jury, unanimously find
2 beyond a reasonable doubt the defendant Corey Andrew Brown on
3 the charge of kidnapping guilty. We, the jury, unanimously
4 find beyond a reasonable doubt the defendant Corey Andrew
5 Brown on the charge of armed robbery guilty. We, the jury,
6 unanimously find beyond a reasonable doubt the defendant Corey
7 Andrew Brown on the charge of possession of a weapon durin'
8 the commission of a violent crime guilty. I certify this
9 decision was unanimous decision of the jury, Zepora Lyles
10 fore -- or foreperson July 13th 2016, Spartanburg, South
11 Carolina. Ladies and gentlemen of the jury, if this is your
12 verdict and still your verdict please raise your right hand.

13 (Whereupon, the jury responded by raising hand.)

14 THE CLERK: So say you all.

15 THE COURT: Polling of the jury from State?

16 MR. BARNETTE: None from the State, Your Honor.

17 THE COURT: From the defense?

18 MR. POOLE: No, sir.

19 THE COURT: Okay. Ladies and gentlemen, uh, thank you
20 very much for your service in this matter, that does conclude
21 your service, uh, in this trial, uh, we have other matters
22 this week that will require some assistance from jurors. Uh,
23 your, uh, lunch is here, uh, when we dismiss you you may
24 return to your jury room and you may take your lunch there or
25 you may take the box lunch with you and leave, you're not

MOTIONS AND MATTERS

1 required to stay at the courthouse any longer. I will say
2 this that, uh, in the past I have had in other jurisdictions
3 I've had jurors that wanted to stay. If you would like to
4 stay for the remainder of these proceedings, uh, you may do so
5 but I would ask for you when you, uh, come outta the jury box
6 that you go and sit in the, uh, gallery or or the rest a the
7 courtroom and not, uh, in this area right here. Madam
8 forelady, I need you to come forward, please, as one a your
9 last matters is sign the indictments.

10 (Whereupon, the jury forelady came forward.)

11 (Pause.)

12 (Whereupon, a discussion was held off the record.)

13 THE COURT: Again, uh, madam forelady, ladies and
14 gentlemen, thank you for your service in this matter. Uh, at
15 this time I'm gonna excuse you back to the jury room unless
16 you would like to to join, uh, spectators in the gallery you
17 may do so, uh, you can take your lunch there, I mean, and you
18 can eat your lunch here or you are welcome to take the box
19 lunch with you and leave the courthouse. Call back after 6
20 p.m. this evening all of ya, thank you. Madam forelady.

21 (Whereupon, the jury left the courtroom.)

22 THE COURT: Matters from the State?

23 MR. BARNETTE: None from the State, Your Honor.

24 THE COURT: From the defense?

25 MR. POOLE: Your Honor, after after the jury verdicts

MOTIONS AND MATTERS

1 have been rendered, uh, we renew our motion for a directed
2 verdict, uh, based upon what Mr. Neely has already placed into
3 the record. We also renew our motion for, uh, already made
4 with regard to the *Jackson vs. Denno* hearing, the *Biggers*
5 hearing, request on voir dire and the objection to the expert
6 status, uh, of Courtney Burgess, we renew our objections on
7 that and with regard to all these motions and that in addition
8 to the, uh, motions thus far we move for a new trial.

9 THE COURT: Solicitor.

10 MR. BARNETTE: Your Honor, I think the jury, uh, reflects
11 the evidence in this case, uh, I know you ruled on previous
12 motions before, the goin' through the, uh, four points again,
13 uh, basically on the voir dire questions, Your Honor, I think
14 your jury, you know, when you questioned and give 'em the
15 jury the information that covered all his questions from
16 there, thought you properly answered all his questions. Uh,
17 Courtney Burgess, uh, obviously she was well-qualified through
18 her education and training and through her experience through
19 that situation, Your Honor. Uh, the *Jackson v. Denno* hearing
20 like we said before we never used his statement so that's
21 that's irrelevant in this case, uh, and then the, uh, *Biggers*,
22 uh, to us that I think the Court's exactly correct and the
23 analysis doesn't apply this situation. I think you correctly
24 based if off what ya observed about the witness in this case,
25 the victim in the case where she, uh, stated very clearly this

MOTIONS AND MATTERS

1 was individual, she, uh, met all the, uh, factors involved
2 with that. I think, uh, the assault and battery first is a,
3 uh, instead of doing ABHAN, we'd had the in chambers
4 conference and agreed to just do the lesser included offense
5 assault and battery first. I think that fits the evidence
6 better than the ABHAN charge did, obviously there's ample
7 evidence for that, uh, based off of what the testimony and
8 evidence was. The kidnapping, armed robbery there's no
9 question about that as well as the possession a the weapon,
10 Your Honor, and I'd ask you deny all their motions again, Your
11 Honor.

12 THE COURT: Okay. Uh, the motions, uh, for directed
13 verdict and and the motion to renew all directed verdict, the
14 ne -- direct verdict motion and all the motions, uh, is denied
15 and the motion for a new trial is denied. This court will not
16 invade the provence of the jury. Anything further?

17 MR. BARNETTE: Your Honor, I just wanna confer with,
18 uh, ---

19 THE COURT: Please.

20 MR. BARNETTE: --- counsel just to make sure . . .

21 (Whereupon, a discussion was held off the record.)

22 MR. BARNETTE: Can I go ahead and mark these as, uh,
23 court exhibits, I know you got enough of 'em already.

24 COURT REPORTER: Oh, I got plenty more room.

25 MR. BARNETTE: This will be 8 and 9.

MOTIONS AND MATTERS

1 (Whereupon, a discussion was held off the record.)

2 (Defendant's record from Milwaukee, Wisconsin marked
3 Court's Exhibit No. 8 and Defendant's record from Winnegabo,
4 Wisconsin marked Court's Exhibit No. 9 for identification.)

5 MR. BARNETTE: Your Honor, would you want us stand here
6 (indicating), would you want us to be at the bench?

7 THE COURT: Uh, I'm good right there and can ---

8 MR. BARNETTE: Okay.

9 THE COURT: --- you can -- she -- he can hear.
10 Solicitor.

11 MR. BARNETTE: May it please the Court, Your Honor, uh, I
12 believe the victim would like to address the Court at the
13 appropriate time, Your Honor, but to go over his prior record
14 that's what I was conferring with, uh, co-coun, I mean, uh,
15 counsel about this. I have, uh, he has a record from, uh,
16 Wisconsin, Your Honor, it's actually two different counties.
17 I've got Court Exhibit 8 which is the, uh, States Wisconsin
18 from Milwaukee County in that case, Your Honor, and, uh, in
19 that case, Your Honor, it appears that he's been convicted two
20 armed robberies and that it says PTAC and they said it's
21 Parties To a Crime which I'm not disputing from that
22 standpoint, he received those two convictions, uh, one of 'em
23 was in, uh, I'm readin' this right to the Court, he was
24 convicted on September 24th 1992, Your Honor, was sentenced to
25 forty-two months in in prison for that, he was getting credit

MOTIONS AND MATTERS

1 for I think 313 just gon -- assumin' that's days and that was
2 armed robbery, has PTAC beside of it in that case, Your Honor.
3 The second conviction was it says armed robbery PTAC, Your
4 Honor, and that occurred on April 4th, 1995, Your Honor, he
5 was sentenced to prison for 78 months concurrent to sentence
6 now serving, credit for 82 days in that. And, Your Honor, he
7 was also convicted in Milwaukee County of possession a
8 cocaine, it appears he got a 90-day sentence on that and then
9 possession of THC which I'm assumin' is marijuana, uh, he
10 received the
11 30 days consecutive to that, Your Honor, those convictions on
12 the December 22nd 2, uh, 2005, then in Winnebago County, Your
13 Honor, uh, he had two conviction, this is also made, and this
14 is on Court Exhibit 9, Your Honor, uh, Court Exhibit 8 was the
15 previous ones I state, Court Exhibit 9, Your Honor, he was
16 convicted of theft, movin' property, uh, \$10,000 value, uh, it
17 was on August 16, 2006, Your Honor, on that case. He received
18 a sentence of 4 years followed by 4 years extent a supervision
19 for a total length a 8s-year sentence, Your Honor, that time
20 and he was also convicted on the same date August 16th 2006
21 felon in possession of a firearm, uh, he was sentenced on that
22 4 years, uh, followed by 4 years extended supervision for 8
23 years, Your Honor, that was concurrent with the, uh, theft
24 charge in this case, Your Honor. If I can approach the bench,
25 Your Honor, I've had these marked as Court Exhibits 8 and 9

MOTIONS AND MATTERS

1 and shared them with defense counsel.

2 THE COURT: Yes, sir.

3 (Whereupon, counsel handed the exhibits to the Court.)

4 MR. BARNETTE: And, Your Honor, before, uh, Ms. Slotin
5 speaks I'd just like to comment. Your Honor, for her to go
6 through what she's went through and had to come testify in
7 this courtroom here today, I mean, yesterday and, uh, with his
8 prior record and everything, I think he deserves every second
9 of what this court can give him for the charges that he has.
10 Uh, this can't be tolerate in Spartanburg County. Uh, this
11 happened in broad daylight, uh, downtown Main Street, uh, at
12 lunchtime and, uh, thank God there was nobody else in the
13 store, any other kids or anything. This is a toy store that
14 people's known for thirty years and I think his record speaks
15 volumes. I know how the Court feels about prior records and
16 and obviously he has substantial prior record, uh, in this
17 case. I think Ms. Slotin may wanna address the Court, Your
18 Honor.

19 THE COURT: Ma'am, if you'd like to speak, I'd be happy
20 for ya to do so.

21 MS. SLOTIN: Can I just stand here ---

22 THE COURT: You may, ---

23 MS. SLOTIN: (Indiscernible cross-talk.)

24 THE COURT: --- yes, ma'am. Tell us your name again for
25 my court reporter.

MOTIONS AND MATTERS

1 MS. SLOTIN: Mindy Slotin.

2 THE COURT: Yes, ma'am.

3 MS. SLOTIN: I firmly believe that what he did he did
4 with a clear head and knew exactly what he was doing, I looked
5 into his eyes for longer than I wanna think, he knew exactly
6 what he was doing. He's not a nice person. If he had come in
7 that store and he, I said more than once take whatever you
8 want, don't hurt me, there was, uh, to be a violent person
9 like he is, it would be frightening to think that that man was
10 walkin' free in Spartanburg. There could have been children
11 in that store, he's and that he doesn't seem to have any
12 remorse for what he did or to take any responsibility for so I
13 think he deserves the consequences.

14 THE COURT: Thank you, ma'am. Anybody else, solicitor?

15 MR. BARNETTE: That be our presentation, Your Honor,
16 thank you.

17 THE COURT: Thank you.

18 MR. POOLE: May it please the Court.

19 THE COURT: Yes, sir.

20 MR. POOLE: Your Honor, on behalf Mr. Brown let me say
21 this: that, uh, he he now accepts responsibility for his
22 actions although it is too late and he is sorry for the pain
23 and harm that he has caused these people and this community
24 and he's not, he recognizes it's justice be done. Uh, he's
25 41 years of age, he was married and he has two children

SENTENCE

1 they're 18 and 13 years of age. He is from Wisconsin and he
2 calls these children once a week from jail and tries maintain
3 contact with them. He has a sixth grade formal education and
4 he has work worked at Williams Auto Detailing for two years.
5 He's been in South Carolina three years, came down here to be
6 with his sister and his parents are living in Wisconsin. He
7 knows that sentence must be imposed, the jury has spoken, he's
8 had his days in court and he asks only that recognizing
9 justice must be done that it be tempered with mercy.

10 THE COURT: Mr. Neely, anything?

11 MR. NEELY: I have nothin' to add, Your Honor.

12 THE COURT: Mr. Brown, be happy to hear from you, sir, if
13 you like to speak, you don't have to.

14 THE DEFENDANT: (Shook head in the negative.)

15 THE COURT: Okay.

16 (Pause.)

17 THE COURT: Mr. Brown, this has been a sad week for
18 everybody in this courtroom, it was a frightening and terrible
19 day the day that you went into that business with a firearm.
20 The legislature has set aside very stiff penalties for persons
21 who do so and this court intends to always follow what the
22 General Assembly says, you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: 2015-4753 on kidnapping, sir, you're confined
25 to State Department of Corrections for a period of 30 years,

SENTENCE

1 it's concurrent with other indictments, credit for time that
2 ya have served; 2015-4754, that's the armed robbery, State
3 Department Correction for maximum 30 years, it's concurrent
4 with all indictments, credit for time served; 2015-4752 that's
5 your assault and battery first degree, State Department
6 Correction for 10 years, concurrent with all indictments,
7 credit for time served and; finally, sir, 2015-4754A, that's
8 the possession of a weapon durin' a violent crime, State
9 Department Correction for 5 years, it's consecutive to all
10 indictments, I will give you credit for any time that ya have
11 served. Best of luck to ya. That concludes this hearing,
12 we'll be in recess until 2:30.

13 MR. BARNETTE: Thank Your Honor.

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CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on July 11, 12 and 13, 2016 at the time and place heretofore set forth; and that the foregoing pages numbered from 11 through 375, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

October 23, 2016



Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

STATE OF SOUTH CAROLINA)

County of Spartanburg)COREY A. Brown #368883)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2019 CP 4202915

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 AUG 20 AM 8:52INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee C I, Bishopville South
Carolina
2. Name and location of Court which imposed sentence General Sessions,
Spartanburg County
3. Name(s) of co-defendant(s) (if any) Sandra Pearson
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 15-GS-42-4753
 - (b) 15 GS- 42- 4754

378 (c) 15-GS-42-4752

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) ~~2016-07-13~~
- (b) July 13, 2016 35 years
- (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ yes
- (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. court of appeals
- ii. Supreme court of South Carolina
- iii. _____

(b) the result in each such Court to which you appealed:

- i. conviction was affirmed
- ii. Petition For writ of certiorari was denied
- iii. _____

(c) the date of each such result:

- i. December 13, 2018
- ii. March 7, 2019
- iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
- ii. _____
- iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) _____
- (b) _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 AUG 20 AM 8:52

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) See Attachment

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See Attachment

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. ~~Supreme Court~~ Direct appeal

ii. ~~Supreme Court~~ writ of certiorari

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. court of appeals South Carolina

ii. Supreme court South Carolina

iii. _____

iv. _____

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(c) the disposition thereof:

- i. conviction affirmed
- ii. writ of certiorari. Denied
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. December 13, 2018
- ii. march 7, 2019
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

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16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) have not exhausted remedies
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. paul K. Deely and J. Roger Poole
 ii. wanda H. Carter
Deputy Chief Appellate Defender
 iii. S.C. Commission on Indigent Defense
P.O. BOX 11589, Columbia S.C. 29211

(b) the proceedings at which each such attorney represented you:

i. at a trial

ii. on appeal

iii. _____

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19. State clearly the relief you seek in filing this application:

Reverse for new trial or vacate

20. Are you now under sentence from any other court that you have not challenged?

no

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

I, COREY A. BROWN, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

COREY A. BROWN

SWORN to and subscribed before me this 13
day of Aug, 2019.

Debra Eastman (L.S.)
Notary Public

My Commission Expires: 3/3/2021

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SPARTANBURG COUNTY
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**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Corey A. Brown, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Corey A. Brown
Applicant

SWORN or affirmed to and subscribed before me this

13 day of June, 2014.

Debra Estrada
Notary Public

My Commission Expires: 3/3/2022

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10A. Applicant states his Sixth Amendment Right to effective assistance of counsel has been violated.

11A. Applicant states his sixth amendment Right and S.C. corresponding laws to effective assistance of counsel has been violated by the following;

1) Counsel failed to investigate and research Applicant's co-defendant back ground history, and properly impeached her testimony at trial.

2) Counsel failed to investigate and research Victim's mindy Slotin's Identification Based off A mugshot on the news, were initially she could not provide a description of her assailant.

3. Had counsel properly investigated and research above Issues, Then counsel could of properly cross-examine the co-defendant and victim, their testimony would of lack ~~credibility~~ credibility, the outcome of trial would been different.

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SPARTANBURG COURT

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Corey A. Brown,	)	Case No.: 2019-CP-42-02915
S.C.D.C. No. 368883,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	(Counsel Appointed)
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the application for post-conviction relief filed by Corey A. Brown (Applicant) on August 20, 2019, Respondent would show this Court:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the October 2015 term of the Spartanburg County Grand Jury for assault and battery of a high and aggravated nature (2015-GS-42-04752); kidnapping (2015-GS-42-04753); armed robbery, and possession of a weapon during the commission of a violent crime (2015-GS-42-04754, Cts. I & II). Paul K. Neely and J. Roger Poole, Esqs., represented Applicant, and Barry J. Barnette, Esq., Solicitor for the Seventh Judicial Circuit, prosecuted the case. On July 11, 2016,¹ Applicant proceeded to trial before the Honorable R. Keith Kelly and a jury. The jury found Applicant guilty of the lesser-included offense of assault and battery, first degree, and as indicted for the remaining charges on July 13, 2016. Judge Kelly sentenced Applicant to imprisonment for concurrent

¹ The trial transcript's first page contains a scrivener's error which reflects a trial occurring in 2006.

terms of 10 years for A&B, 30 years for kidnapping, and 30 years for armed robbery. Judge Kelly additionally sentenced Applicant to a consecutive term of 5 years for the weapon.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Wanda H. Carter, Esq., who raised the following issue:

The trial judge erred in allowing identification testimony into evidence that emanated from a suggestive pre-trial out-of-court identification based on a media representation where a store worker identified appellant as the perpetrator in the case because of the likely link between police and state action connected to the media coverage, which in turn meant that the identifications were unreliable and inadmissible at trial.

By opinion decided October 24, 2018, the South Carolina Court of Appeals affirmed Applicant's convictions. State v. Brown, Op. No. 2018-UP-391 (S.C. Ct. App. filed Oct. 24, 2018).

Applicant filed a petition for rehearing on November 8, 2018, which was denied December 13, 2018.

By and through attorney Carter on January 7, 2019, Applicant petitioned the Supreme Court of South Carolina for a writ of certiorari, and raised the following issue:

The Court of Appeals erred in upholding the trial judge's denial of petitioner's motion to suppress the identification testimony in this case as it was tainted and inadmissible because the same emanated from a suggestive pre-trial out-of-court identification based on a media representation where a store worker identified petitioner as the perpetrator after viewing said median [sic] feeds where governmental involvement was connected to the media feeds and as a result, the witness identification at issue should have been dismissed or at the very least tested under Neil v. Biggers.

The Supreme Court denied certiorari by order dated March 7, 2019. The Remittitur was issued on March 18, 2019.

II. STATEMENT OF THE FACTS

Around noon on August 7, 2015, Mindy Slotin ("Victim") went to Imagination Station, a specialty toy store located on Main Street in Spartanburg, South Carolina, to provide temporary assistance to her husband, Mark Slotin ("Mark"), so he could briefly leave his store for a lunch

break. (Tr. pp. 111-112; pp. 164-166). When she arrived, Victim observed Slotin attending to a male customer and a female customer, and Slotin indicated to her the pair had been in the store for an extended period of time. (Tr. p. 112; p. 166). Slotin then continued to assist the customers for a few more minutes, and they eventually picked out an item, brought it to the store's check-out counter, and asked for it to be wrapped. (Tr. p. 112; p. 115; p. 166). After doing so, the male customer stated they had more shopping to do, indicated they would come back later to pick up their gift, and exited the store along with the female customer. (Tr. p. 112; p. 166). Slotin then left the store to go get some lunch, and Victim remained behind to tend to the store while her husband was gone. (Tr. p. 113; p. 166).

Approximately fifteen minutes later, the male customer and female customer returned to the toy store. (Tr. p. 113; p. 166). Upon returning, the male customer approached Victim at the check-out counter and inquired if Mark was gone, and Victim confirmed he was no longer present. (Tr. p. 113; p. 167). The male customer then indicated he wanted to speak with her about one more thing, escorted Victim to a location towards the back of the store, and the two proceeded to discuss a particular toy there. (Tr. p. 113; p. 167). At that point, the male customer suddenly pulled out a gun, struck Victim in the head with it, and knocked her to the floor. (Tr. p. 113; p. 167). He then pointed the gun at her face, struck her again with it, bound her hands with duct tape, stole her wedding and engagement rings, and directed her to the cash register at gunpoint. (Tr. pp. 113-114; p. 167). Once they reached the cash register, he asked his female accomplice to lock the store's door and forced Victim to open the register. (Tr. p. 114; p. 168). After Victim did so, he directed her to a back storage room at gunpoint, bound her arms and ankles with duct tape, and placed a piece of duct tape over her mouth. (Tr. p. 114; p. 168). He

then informed Victim he was going toy shopping, warned her he would kill her if she made a single sound, and left her in the storage room. (Tr. p. 114; p. 168).

Once Victim was alone, she broke free from the duct tape and quickly fled out of the store through a back door. (Tr. p. 121; p. 168). She then ran to a nearby store for help, and some people at that location alerted the police of the robbery. (Tr. pp. 121-123; pp. 168-169; p. 178; pp. 186-187; pp. 224-225). In response, officers from the Spartanburg Police Department rapidly proceeded to Victim's location, and Victim, who still had pieces of duct tape attached to her body, advised them of what had occurred while also providing them with descriptions of the two robbers.² (Tr. pp. 123-124; p. 187; p. 189; pp. 224-225; p. 227; p. 251; p. 288). The officers then quickly headed over to the toy store, but the robbers had absconded with roughly \$100 in cash, an iPad, and Victim's rings by the time they arrived. (Tr. p. 171; pp. 198-199; p. 227; p. 251; p. 288).

Shortly thereafter, forensic investigators from the police department travelled to the toy store and processed it for evidence. (Tr. pp. 184-185; pp. 227-228; p. 251). In doing so, the investigators located and collected a number of fingerprints, including from the front door, the cash register drawer, some toys, and a toy box. (Tr. pp. 227-228; pp. 238-240; p. 245; pp. 251-253). They then promptly submitted those fingerprints to a latent fingerprint examiner for analysis. (Tr. p. 242; pp. 251-252; pp. 255-257). Upon analysis, the latent fingerprint examiner determined two of the fingerprints collected from the cash register drawer were left by Applicant Corey Andrew Brown while the fingerprints collected from the toys and toy box were left by an

² Regarding the descriptions, Victim indicated she described the robbers' clothing and ethnicity, and she stated she indicated the male robber was taller than herself. (Tr. pp. 123-124; pp. 187-189). Additionally, based on the information allegedly contained in the police report, defense counsel questioned Victim as to whether she described the male robber as "a black male with dark skin" who was approximately 5'10", weighed 160 pounds, and was wearing blue jeans and a dark t-shirt. (Tr. p. 188). However, Victim stated she did not specifically remember providing all that information. (Tr. p. 188).

individual named Sandra Pearson.³ (Tr. pp. 269-271; pp. 283-285; p. 289). Based on that determination, Applicant and Pearson were identified as the suspects in the armed robbery. (Tr. pp. 289-290).

On the following day, officers from the Spartanburg Police Department travelled to Applicant and Pearson's apartment, which was located just over a mile away from the toy store. (Tr. pp. 289-290). When they arrived, Pearson immediately surrendered to them, but Applicant ran up the apartment's stairs and barricaded himself inside the home. (Tr. p. 200; p. 205). He then remained there for approximately an hour before finally surrendering to the authorities. (Tr. p. 205). Following Applicant's surrender, officers conducted a search of the home and they located a loaded gun, a box of ammunition, a roll of duct tape, various coins, and a wallet containing \$50 in cash. (Tr. p. 201; p. 291; pp. 293-295; pp. 300-301; p. 306).

A few days after that, Victim observed Applicant's mug shot either in a newspaper article on a news broadcast and on the sheriff department's website, and she immediately recognized him as the perpetrator of the armed robbery. (Tr. pp. 115-116; p. 118; pp. 124-126). Victim then quickly contacted the police and alerted them of her positive identification of Applicant as the armed robber. (Tr. p. 118; p. 126).

Subsequently, Applicant was indicted for armed robbery, kidnapping, assault and battery of a high and aggravated nature, and possession of a weapon during the commission of a violent crime, and he proceeded forward to trial. (Tr. p. 12; Indictments). At the outset of trial, defense counsel asked the trial judge to prevent Victim from identifying Applicant in the courtroom as her assailant. (Tr. p. 102). In support of that request, defense counsel asserted Victim's out-of-court identification was tainted and rendered unreliable because Victim observed Applicant's

³ Through her analysis, the latent fingerprint examiner also determined some of the fingerprints collected from the toy store were unsurprisingly left by Mark, who was the store's owner. (Tr. pp. 164-165; p. 270).

mugshot on a news broadcast, which he contended would result in Victim simply identifying the person she saw on the news broadcast as the robber. (Tr. p. 103). Defense counsel further contended the out-of-court identification resulted from police action in light of the fact the media must have obtained Applicant's mugshot from the police, and he argued permitting Victim to make an in-court identification under those circumstances would violate Applicant's due process rights. (Tr. pp. 102-103; p. 106; p. 108). In rebuttal, the solicitor asserted there was no intentional police involvement with the media displaying Applicant's photograph, and, even if there had been, Victim's identification was reliable under the totality of the circumstances. (Tr. pp. 104-106; pp. 108-110).

Following that discussion, the trial judge heard the matter *in limine*, and Victim testified during the hearing about the incident and her subsequent identification of Applicant as the armed robber. (Tr. pp. 111-127). During her testimony, Victim noted she was "[v]ery close" to the robber during the incident, which occurred around noon, and she indicated she was able to observe him for at least ten minutes while he was inside the toy store. (Tr. p. 111; pp. 114-115; p. 117). Additionally, Victim testified she stared at the robber's face throughout the incident, stated she would never forget his face, and asserted there was "not a doubt in [her] mind" Applicant was the perpetrator of the armed robbery. (Tr. pp. 115-117). Furthermore, Victim noted she was never asked by the police to make an identification of Applicant and only identified Applicant after seeing his mugshot either on a news broadcast or in a newspaper and while looking at the sheriff's department's website. (Tr. p. 118; pp. 125-127).

At the conclusion of Victim's testimony, defense counsel renewed his opposition to the admission of the identification evidence on the same grounds he had previously raised. (Tr. p. 128). However, the trial judge declined to exclude the identification evidence. (Tr. pp. 128-

130). In declining to do so, the trial judge concluded there was no governmental involvement in Victim's out-of-court identification of Applicant as the robber, and, as a result, he ruled Victim would be permitted to identify Applicant during trial. (Tr. pp. 129-130; p. 145).

Thereafter, the trial proceeded forward, and Victim recounted the harrowing details of the armed robbery to the jury, identified Applicant in the courtroom as the robber over defense counsel's objection, and indicated she was "[a]bsolutely without a doubt positive" of her identification. (Tr. pp. 164-189). In addition to that testimony, Pearson testified about her role in the armed robbery, acknowledged she had pled guilty to an armed robbery charge based on the incident, indicated Applicant was the perpetrator of the robbery, and identified him in the courtroom as the robber. (Tr. pp. 194-220). Furthermore, the law enforcement personnel involved in the investigation into the armed robbery testified about the discovery of Applicant's fingerprints on the cash register drawer from the toy store and the subsequent search of Applicant's nearby home, which led to the recovery of a loaded gun, duct tape, and cash. (Tr. pp. 227-247; pp. 251-253; pp. 255-273; pp. 281-285; pp. 288-306).

III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that:
 - a. "Counsel failed to investigate and research Applicant's co-defendant background history, and properly impeached her testimony at trial."
 - b. "Counsel failed to investigate and research victim's Mindy Slotin's identification based off a mugshot on the news, [where] initially she could not provide a description of her assailant."
 - c. "Had Counsel properly investigated and research above issues, then Counsel could of properly cross-examine the co-defendant and victim, their testimony would of lack credibility, the outcome of trial would been different."

Applicant requests relief as follows:

- “Reverse for new trial or vacate”

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant’s records from the South Carolina Department of Corrections, the trial transcript, Applicant’s appellate records, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Trial Counsel, Generally

Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel’s performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly

presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; see also *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

Failure to Investigate Coconspirator, Victim

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

As to his co-defendant, Applicant does not offer what, if anything, Counsel could have discovered regarding Pearson's background which would have changed the outcome of trial. To the contrary, the record reflects that Counsel impeached Pearson regarding the terms of the deal she struck with the prosecution in exchange for her testimony, as well as the inconsistencies between her trial testimony and prior statement to law enforcement. Counsel clearly reviewed the evidence against his client, prepared a thorough cross-examination, and endeavored to impeach Pearson. Even if any additional impeaching information exists, it would be merely cumulative to Counsel's cross-examination.

As to the victim, Applicant does not offer what, if anything, additional Counsel could have discovered regarding her identification of Applicant as the perpetrator. That Victim saw Applicant's mugshot on the news and thereafter contacted law enforcement to confirm he was

the perpetrator was fully litigated at trial, and then raised as an issue on appeal. Counsel effectively raised defenses based on the nature of Victim's identification of Applicant.

As to both of the above allegations, the evidence establishing Applicant's guilt is sufficiently strong that he cannot show prejudice. Applicant was definitively identified by the victim, inculpated by his coconspirator, left his fingerprints on the bottom of the cash drawer at the robbed toy store, and was arrested after a standoff with law enforcement. Applicant's residence was thereafter searched pursuant to a valid warrant and law enforcement recovered a loaded gun matching the description of the one used in the robbery, duct tape, and Applicant's wallet, which contained only cash in the same denomination as that which was stolen from the toy store. In light of this evidence, Applicant cannot realistically or sufficiently impeach Victim or Pearson's credibility where their versions of events are corroborated by the forensic evidence recovered from the scene—namely Applicant's fingerprint on the bottom of the cash drawer. For all of these reasons, Respondent denies Applicant is entitled to relief by way of these allegations.

Conclusion and Action Requested

Applicant can satisfy neither requirement of the Strickland test. However, the allegations of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

V. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. Rule 11(a), SCRCP. *Pro se* filings will not be considered at the PCR hearing. State v. Devore, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing a nullity where person was represented by counsel); Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no right to ‘hybrid representation’ that is partially, *pro se* and partially by counsel, substantive documents, with the exception of motions to *relieve* counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent, or in the alternative continue the matter to permit adequate time to investigate and address the claims. See Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases, . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases.”); Love v. State, Op. No. 27921 (S.C. Sup. Ct. filed Oct. 2, 2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); see also Rules 15(a)-(b), SCRCP (explaining how to amend a pleading).

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VIII. GENERAL DENIAL

Respondent denies each allegation not expressly admitted, qualified, or explained.

IX. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of trial counsel.

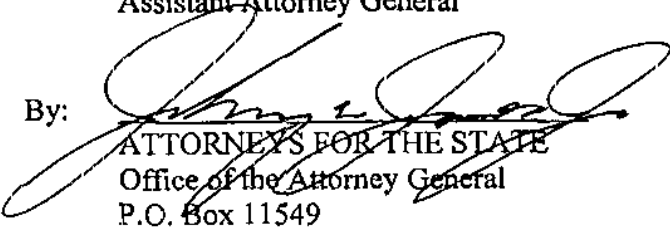
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General

By: 

ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

19 Nov., 2019

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

COREY A. BROWN, #368883

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

2019-CP-42-02915

AFFIDAVIT OF SERVICE BY MAIL

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

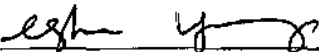
2019 NOV 25 AM 9:08

FILED

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney Wade Richey, Esquire
Richey & Richey, PA
PO Box 10916
Greenville, SC 29603-0916

DATED this the 19th day of November, 2019.


Meghan Young, Legal Assistant
For Respondent



ALAN WILSON
ATTORNEY GENERAL

November 19, 2019

The Honorable Amy W. Cox
Clerk of Court - Spartanburg County
PO Box 3483
Spartanburg, SC 29304-3483

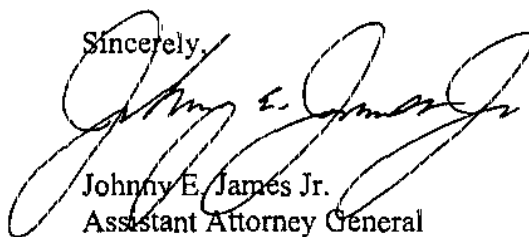
FILED
2019 NOV 25 AM 9:08
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

Re: Corey A. Brown, #368883 v. State of South Carolina
2019-CP-42-02915

Dear Ms. Cox:

Enclosed please find the original Return of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,



Johnny E. James Jr.
Assistant Attorney General

JEJ/my
Enclosure

cc: Rodney W. Richey, Esquire

State of South Carolina	)	
	)	
County of Spartanburg	)	
Corey Brown,	)	2019-CP-42-02915
	)	
Applicant,	)	
	)	
v.	)	Transcript
	)	
The State of SC,	)	of
	)	
Defendant.	)	Post-conviction
	)	Relief Hearing
	)	
	)	
	)	
	)	
	)	
	)	

Date: September 15, 2021

Time: 9:44 a.m.

Location: Spartanburg County Courthouse

180 Magnolia Street, Spartanburg, SC 29306

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable William A. McKinnon

For the Applicant: Rodney Richey, Esq.
Richey and Richey Law Firm
33 Market Point Drive
Greenville, SC 29607

For the Defendant: Chelsey Marto, Esq.
SC Attorney General's Office
1000 Assembly St. Room 519
Columbia, SC 29201

Also Present: J. Roger Poole, Esq.
Seventh Circuit Public Defender
1299 Brentwood Drive
Spartanburg, SC 29302

Paul Neely, Esq.
Seventh Circuit Public Defender
Greenville County Courthouse
305 East North St., Ste. 123
Greenville, SC 29601

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EXHIBITS

There were no exhibits marked during the course of this hearing.

1 PROCEEDINGS

2 THE COURT: Yes, ma'am.

3 MS. MARTO: Good morning, Your Honor. May it
4 please the Court.

5 THE COURT: Yes, ma'am.

6 MS. MARTO: We're here today in the case of
7 Corey Brown. Docket Number 2019-CP-42-02915.
8 Your Honor, I do hold the packet of the
9 pleadings if --

10 THE COURT: Please.

11 MS. MARTO: -- I may approach.

12 THE COURT: Please.

13 MS. MARTO: (To The Deputy) Thank you, sir.

14 THE DEPUTY: Thank you, ma'am.

15 THE COURT: (To The Deputy) Thank you, sir.

16 THE DEPUTY: Yes, sir.

17 MS. MARTO: Mr. Brown was indicted in the
18 October 2015 term of the Spartanburg County
19 Grand Jury for assault and battery of a high
20 and aggravated nature, kidnapping, armed
21 robbery, and possession of a weapon during the
22 commission of a violent crime. Mr. Paul Neely
23 and Mr. Roger Poole represented him.

24 And then on July 11th, 2016, he proceeded
25 to trial before the Honorable R. Keith Kelly

1 and a jury where he was found guilty of the
2 lesser included offense of assault and
3 battery, first degree, and as indicted for the
4 remaining charges. July 13 --

5 THE COURT: Kidnapping and armed robbery?

6 MS. MARTO: Yes. And possession of a weapon.

7 July 13th, 2016, Judge Kelly sentenced
8 him to 10 years for assault and battery, 30
9 for kidnapping, and 30 for armed robbery,
10 running concurrently, and then a consecutive
11 term of 5 years for the weapons possession
12 charge. He filed a timely notice of appeal,
13 which was perfected by Ms. Wanda Carter. By
14 opinion, decided October 24th, 2018, South
15 Carolina Court of Appeals affirmed the
16 convictions. He filed a petition for
17 rehearing November 8th, 2018, which was denied
18 December 13th, 2018.

19 And then by and through Attorney Carter
20 on January 7th, 2019, he petitioned the
21 Supreme Court of South Carolina. The Supreme
22 Court denied cert on March 7, 2019, and the
23 remitter was issued March 18th, 2019. This
24 application was filed August 20th, 2019, and
25 the State's return made November 19th, 2019.

1 As stated in his original application, he
2 claims ineffective assistance of counsel for
3 failure to investigate and research
4 applicant's, co-defendant's background history
5 and properly impeach her, failure to
6 investigate and research the victims
7 identification based off of the mugshot on the
8 news where he initially said she cannot
9 provide a description and stated that, "Had
10 counsel properly investigated and researched
11 and cross-examined co-defendant and victim,
12 their testimony would've lacked credibility
13 and the outcome of trial would've been
14 different." And I'll turn it over to Mr.
15 Richey at that.

16 MR. RICHEY: Your Honor --

17 THE COURT: Mr. Richey, good morning.

18 MR. RICHEY: -- those are the issues of an --
19 there's one issue about counsel failed to
20 pursue a plea offer in the case.

21 THE COURT: It's an additional?

22 MR. RICHEY: Yes, sir.

23 THE COURT: Okay.

24 MR. RICHEY: I call Mr. Brown.

25 (WHEREUPON, the witness was sworn.)

1 DIRECT EXAMINATION

2 BY MR. RICHEY:

3 Q Sir, state your name, please.

4 A Corey Brown.

5 Q And, Mr. Brown, are you in the South Carolina
6 Department of Corrections?

7 A Yes, sir.

8 Q And what are you there for?

9 A I'm there for assault and battery, felony
10 possession of a firearm, assault, and armed
11 robbery.

12 Q Okay. And did -- you were convicted in Spartanburg
13 County, correct?

14 A Yes, sir.

15 Q And who represented you?

16 A Roger Poole, and I don't know the other guy's name.

17 Q Okay. And you filed a claim for ineffectiveness of
18 counsel, correct?

19 A Yes, sir.

20 Q Because you believe that they did not effectively
21 represent you?

22 A Yes, sir.

23 Q And you're asking this Court to grant you a new
24 trial, correct?

25 A Yes, sir.

1 Q And you understand at a new trial you will start
2 over, correct?

3 A Yes, sir.

4 Q And that's what you want?

5 A Yes, sir.

6 Q Okay. Mr. Neely was the other lawyer --

7 A Okay.

8 Q -- okay? All right. You -- you filed in this
9 application -- let us go and get some background so
10 the Court can kind of know what supposedly
11 happened.

12 Okay. Where did this supposedly take place?

13 A I think downtown Spartanburg --

14 Q And --

15 A -- on Main Street.

16 Q And was it a home or business?

17 A Business.

18 Q It was a business, right?

19 A Yeah.

20 Q Okay. And what supposedly happened?

21 A They said -- well, supposedly a lady got duct-taped
22 and -- and I think she got pistol-whipped, she say
23 (verbatim), and then she got robbed.

24 Q Okay. And -- and you are alleging that you did not
25 do any of that, correct?

1 A Correct.

2 Q Okay. And there was a co-defendant in that case,
3 correct?

4 A Yes, sir.

5 Q A lady -- a defendant?

6 A Yes, sir.

7 Q Okay. And this lady was instrumental in the case
8 from a trial standpoint, correct?

9 A Yes, sir.

10 Q Okay. And did you have the opportunity to talk to
11 your lawyers about this lady?

12 A I talked to them, but the -- while I was in the
13 county jail, I guess he had a heart attack or he
14 had some type of surgery, so I didn't really see
15 him; and I really didn't get to talk to him about
16 the case what I -- like I talked with you. I
17 didn't get that one-on-one or nothing like that.
18 It's when he got out of the hospital whenever they
19 had to have a trial right away.

20 Q Okay. When you're referring to "he," who is he?

21 A Roger Poole.

22 Q Okay. And that's one of your lawyers?

23 A Yeah.

24 Q Okay. And this lady's name was Mindy? Do you
25 know --

1 A I think.

2 Q Yeah. Okay. And did you discuss with him -- did
3 you discuss with any of these lawyers about doing
4 any kind of investigation in terms of this lady's
5 background or anything like that?

6 A No. I talked to her -- the day I talked to him, we
7 went to court. I asked him -- he said he would --
8 he said he wasn't prepared, but he had the new guy.
9 And when -- and that's when I found out he got
10 somebody else to team up with him to take the case.
11 He said he couldn't do anything. He didn't --
12 didn't do no (verbatim) investigation because he
13 was -- been sick. He'd been having some health
14 issues and stuff like that.

15 Q Okay. And he said that the other lawyer, Mr.
16 Neely, had done most of the investigation?

17 A Yes, sir.

18 Q Okay. And did you talk to Mr. Neely?

19 A Yes, sir.

20 Q You did?

21 A Yes, sir.

22 Q And did you talk to him about what investigation he
23 had done in terms of this "Mindy" lady?

24 A Correct. He said he didn't do none.

25 Q "None?"

- 1 A He just got the paperwork two weeks ago and he
2 couldn't and he didn't have nothing to do with it.
3 He had to go to court. "I had to go to court."
- 4 Q Okay. So they told you that they'd, essentially --
5 well, let me let you say it. They -- did they know
6 anything about her background from your persona?
- 7 A No.
- 8 Q Did they know anything how to impeach her?
- 9 A No.
- 10 Q Okay. And you believe they were ineffective for
11 not having that information?
- 12 A Right.
- 13 Q Okay. Now, were you in any type of a relationship
14 with this lady?
- 15 A Yes.
- 16 Q You were?
- 17 A Yes.
- 18 Q Okay. And did you provide them any information
19 about her?
- 20 A No.
- 21 Q Okay. And so the information -- when you say
22 "research her background," what information were
23 you seeking about her background?
- 24 A That she had other -- that she had prior
25 convictions, and then with -- with them prior

1 convictions, again, they -- they -- well, the
2 paperwork I got, it was like she -- she wasn't
3 telling the truth. Like she told three or four
4 different stories on my case, and then she had the
5 same issues on another -- I think it was a drug
6 case or something that she lied about or something
7 like that. And they didn't know -- they didn't
8 bring up none of them issues. They didn't say none
9 of that about her prior conviction.

10 Q Okay. And did you have any other information about
11 her -- because you had some type of relationship
12 with her, did you have any of the information that
13 they couldn't have gotten as to her background?

14 A No. I didn't know none of it until they actually
15 gave me the paperwork myself (verbatim.)

16 Q Okay. No. I mean -- my question is: You knew
17 this lady some, right?

18 A Yeah.

19 Q Okay. And based off knowing her, did you know any
20 information about her personal life that you
21 could've gave the lawyers, other than any
22 paperwork? Like your dealings with her?

23 A Yeah. I could give -- they -- they're dealings and
24 stuff like that, but I didn't know nothing about
25 her, like -- her -- her history -- crime history

1 then.

2 Q And you said you could have -- say that again. I'm
3 sorry. I didn't --

4 A I said I could have told her, like, the day-to-day
5 basis, you know, of living together and things like
6 that, but that's all. I didn't -- I didn't know
7 nothing about, like, her criminal history or things
8 she had done before.

9 Q Okay.

10 THE COURT: Just a quick follow-up. Mr.
11 Brown, you said a couple of questions ago that
12 you didn't know anything about her background
13 until the attorneys gave you the papers. What
14 -- what did they give -- what do you mean by
15 "what did they give you"?

16 THE WITNESS: They gave me a Motion of
17 Discovery. That's what actually show in the
18 Motion of Discovery that she had other prior
19 convictions.

20 THE COURT: But you think what was in the
21 paperwork wasn't accurate?

22 THE WITNESS: Was in my paperwork?

23 THE COURT: No. I mean, you say that they
24 gave you paperwork with her prior records, so
25 what -- I -- I'm a little confused. What --

1 what are you saying they didn't find out or
2 didn't research?

3 THE WITNESS: They didn't -- they didn't bring
4 none of that up in court that she -- that she
5 -- that she lied --

6 THE COURT: Okay. I'm sorry. So --

7 THE WITNESS: -- in them other cases.

8 THE COURT: So you're saying they knew about
9 the prior convictions, but they didn't bring
10 them up in court, right?

11 THE WITNESS: They -- right.

12 THE COURT: That's what you're --

13 THE WITNESS: They didn't bring them up.

14 THE COURT: -- okay.

15 THE WITNESS: And then -- then she lied in
16 them, and then she lied in this because . . .

17 Q You said, "She lied in this"?

18 A In -- in my case, too.

19 Q Okay. How did she lie?

20 A Because she said, once, she said that -- I guess -
21 in her written statement, she said that me and her
22 walked together. I -- and -- and I walked in the
23 store, and I guess, I -- it appeared I had a gun.
24 And on the stand, she said I walked out on a plain
25 street in broad daylight with a gun in my hand, and

1 just walked in the store. And then -- and Mindy, I
2 guess, her husband was in there. And they never --
3 they never seen the gun or none of that. So I --
4 it -- that wasn't correct. They could've looked at
5 the street camera and see that I just didn't walk
6 down the -- the street in broad daylight with a gun
7 in my hand.

8 Q So you're saying the lady in the store?

9 A Yeah.

10 Q Okay. Okay. And in this case, there was a
11 identification question?

12 A Yes.

13 Q Okay. And that had to do with how the lady
14 originally identified you, correct?

15 A Yes.

16 Q And how was that?

17 A Through the news. She said that she seen my -- I
18 mean, she seen the lady that I'm in here with,
19 Sandra, my co-defendant. They seen -- she seen her
20 face on there, and then she see my face; so she
21 just assumed that I had something to do with it,
22 because they -- both of us was together.

23 And she said -- and I think -- I want to say
24 that PCR -- well, I can't remember the lady's name,
25 but she said she couldn't identify me. She didn't

1 know how tall I was, how big I was. She couldn't
2 tell you what did I have on. She didn't know none
3 of that. The only way she knew my face was because
4 she seen it on the news next to my co-defendant.

5 Q And I don't think -- that was Mindy, and Sandra was
6 the lady we were talking about previously --

7 A Yes. Yes.

8 Q -- right?

9 A Yes. Sandra.

10 Q Sandra is the lady you knew?

11 A Yes.

12 Q Mindy is the victim?

13 A Yes.

14 Q Okay. I want to clarify that because I think I
15 said Mindy when I was talking to you, but it's
16 Sandra.

17 Okay. And you believe your lawyer should have
18 investigated that ID?

19 A Yes, sir.

20 Q And impeached the credibility of that ID?

21 A Yes, sir. And then in the Motion of Discovery, the
22 -- the man said that me -- that he could not
23 identify me from a lineup and the woman said she
24 couldn't identify me, neither, from a lineup. They
25 said that in the -- in the --

- 1 Q When you say "man" and "woman," the -- the "Mindy"
2 lady was the lady at the store?
- 3 A Yes, sir.
- 4 Q And the man would be her husband?
- 5 A Her husband, yeah.
- 6 Q Who at the time this supposedly happened, he was
7 not at the store, correct?
- 8 A He -- they said we came back twice.
- 9 Q Okay. But --
- 10 A The --
- 11 Q Go ahead. I'm sorry. Go ahead.
- 12 A The first time, I guess, he was there.
- 13 Q Right.
- 14 A And then the second time, she was there, the -
15 Mindy; and her husband was there the first time.
- 16 Q Right. But when the supposed incident happened --
- 17 A Yeah.
- 18 Q -- on the second time, he wasn't there, right?
- 19 A No, sir.
- 20 Q Okay.
- 21 A He wasn't there.
- 22 Q All right. And you think your lawyer shoulda
23 (verbatim) investigated this Mindy lady's
24 background?
- 25 A Yes, sir.

1 Q Okay. And in terms of the case, did the lawyer
2 ever investigate or try to pursue a plea offer in
3 the case?

4 A No. They never came to me with a plea offer. I
5 asked them. They -- he said no they never -- that
6 nobody come to him with a plea at all.

7 Q Okay. Did you ask them about it?

8 A Yes.

9 Q You did?

10 A Yes.

11 Q What did you ask them?

12 A I asked them did they -- did they give me any kind
13 of plea offers or any kind of deals that they want
14 to do before I went to a jury trial, and he said,
15 "No."

16 Q If you had been presented with one, would you have
17 considered it?

18 A Yes. I would, yeah.

19 Q I'm going to ask you these questions in
20 anticipation of some of the State's questions,
21 okay?

22 A Uh-huh.

23 Q Okay. Your position is you did not do this,
24 correct?

25 A Yes.

- 1 Q That's your position? You didn't do it?
- 2 A No.
- 3 Q You were not there, correct?
- 4 A No. I was there. I took a part in it, but I
- 5 didn't -- I didn't have a gun. I didn't duct tape
- 6 the lady. I didn't beat the lady up or nothing.
- 7 Q Okay. Well, let me ask you this again, because I
- 8 think you -- you're saying that you were actually
- 9 there?
- 10 A No. I said no. I know that she was going there.
- 11 Q Okay.
- 12 A Sandra.
- 13 Q Okay.
- 14 A I knew Sandra was going to the store.
- 15 Q Okay. Okay. Let -- let me -- look. Now, I'm
- 16 confused. I'm going to try to clarify this.
- 17 A Okay.
- 18 Q This is a straightforward answer. On this
- 19 incident, were you or were you not there?
- 20 A No. I wasn't there.
- 21 Q Okay. There were two separate times that the
- 22 people went to the store the first time, correct?
- 23 A Yes, sir.
- 24 Q They didn't do anything --
- 25 A Right.

1 Q -- from what the transcript -- they didn't do
2 anything?
3 A Correct.
4 Q Then they subsequently came back sometime later
5 when this, Mindy's (verbatim) lady's husband was
6 not in the store, right?
7 A Right.
8 Q That's when all this went down --
9 A Correct.
10 Q -- the duct taping and all that, right?
11 A Yeah.
12 Q Were you there for that incident?
13 A No.
14 Q Okay. So you weren't there at all?
15 A I -- for the first incident, I came, but we -- we
16 was shopping. I was there for that. That's when
17 the man --
18 Q Okay.
19 A -- was there. Then, I had to go to work. So what
20 happened then, we left. I went to work and she
21 came back.
22 Q Okay. So --
23 A Yeah.
24 Q So she came back with somebody other than you?
25 A Yeah.

1 Q Okay. Did you tell your lawyers that?

2 A Yes.

3 Q Okay. And what did they say about that?

4 A That they were going to -- well, Roger Poole said
5 he was going to investigate it. I told him that --
6 that I wasn't -- it wasn't me. I was at work, and
7 I told him where I worked at and everything. And
8 he said, well, he'd check it out -- check into it.
9 But when I seen him, like, again, it was almost a
10 year later. And he's like, "Well, they -- they was
11 rushing me to go to court. He said he wasn't -- he
12 wasn't really -- wasn't that -- he really wasn't
13 that prepared for the case, but he knew the case,
14 but, no. Said we should be okay.

15 Q Okay.

16 A In a day or two, I came to trial.

17 Q Okay. And this Sandra lady testified against you,
18 right?

19 A Yes, sir.

20 Q And she said that you did all this stuff?

21 A Yes, sir.

22 Q Okay. Do you know why she did that?

23 A Well, my lawyer said she took a deal. She took a
24 deal and -- for ten years, I guess, and then to
25 testify on me as part -- part of the deal.

1 Q Okay. Okay. And do -- do you have any -- that's
2 your reason why she did -- said all this stuff in
3 the transcript about you supposedly did all this
4 stuff, correct?

5 A Right.

6 Q Because she got a deal?

7 A Because she got a deal.

8 Q Okay. And you think if your lawyers had properly
9 investigated that -- the case, then you would've
10 been found not guilty, correct?

11 A Yes, sir.

12 Q Okay.

13 MR. RICHEY: Thank you. Answer any questions
14 the State has for you.

15 THE COURT: Mr. Richey, if you don't mind, one
16 -- I'm -- I was a little unclear on what does
17 he believe that would've been found out about
18 Mindy, the victim, had she been investigated?

19 MR. RICHEY: He just said that he just
20 believed they should investigate her, because
21 there was -- that they could've found some
22 information. I don't know. He just -- he
23 just felt like Counsel should have set down
24 with him and told him about the results he got
25 from investigating them.

1 THE COURT: But there's no particular
2 information --

3 MR. RICHEY: No.

4 THE COURT: -- that he believes that should
5 have been discovered?

6 MR. RICHEY: Right. He just thinks that for
7 impeachment purposes they should've
8 investigated.

9 THE COURT: Okay. Thank you, sir.

10 MR. RICHEY: Thank you.

11 THE COURT: Uh-huh. Ms. Marto?

12 CROSS-EXAMINATION

13 BY MS. MARTO:

14 Q Good morning, sir.

15 A Good morning.

16 Q So you're represented by Paul Neely and Roger
17 Poole, correct?

18 A Yes, sir -- yes, ma'am.

19 Q Approximately how many meetings did you have with
20 either of them before trial?

21 A Well, before trial I had maybe four -- maybe four
22 or five with Roger Poole only. Then, once he said
23 he had some health issues, then he brought his
24 other guy over. I met with him on the date of the
25 trial --

1 Q Okay. So --

2 A -- in the room, and he was telling me that --
3 things that they was going to say, which they end
4 up didn't (verbatim) say in court; so I -- I was
5 confused by that. And Roger Poole was talking, so
6 I was writing notes down to the other guy, thinking
7 that he was going to say something to him about it
8 or nothing. He never came back to the table. They
9 never -- he never told them my notes or never brung
10 up none of the issues that I wrote on the piece of
11 paper. And I -- I don't know. I was just . . .

12 Q So did you really only talk about trial strategy?
13 Did -- where you shown the discovery in the case?

14 A I got the discovery in the case the day -- I -- I
15 want to say two days before the trial. He gave --
16 came in. He told me had some health issues; he
17 gave me this packet. So with -- then, I didn't see
18 them no more until the day of the trial. So I'm
19 asking him, like, "Look, this lady couldn't
20 identify me. I wasn't there." They -- and they
21 had a plan.

22 And they didn't go with the plan when they got
23 in the court. It was like the whole thing is --
24 everything changed. They didn't ask her none of
25 these questions, Mindy. They didn't ask Sandra

1 none of these questions or anything.

2 Then they -- so I just -- I wasn't -- I was
3 kind of writing stuff down on the paper like, "Why
4 he not saying this (verbatim)?" or, "Why he not
5 saying that?" And they just never done it. They
6 never said nothing.

7 Q So what evidence exactly did you want investigated
8 on the victim?

9 A She said that she couldn't identify me. So if she
10 -- if a person -- I don't -- I don't know if she
11 said that -- how can you not identify a person
12 that's been in your store, which I seen her before.
13 Her -- the first time I went in there, her and her
14 husband was there. While her husband was there, I
15 guess, she was in the store or somewhere else or
16 whatever. So how could you not identify me? So
17 they didn't bring that -- that up at trial at all.

18 Q They didn't bring that up at all?

19 A Unh-unh.

20 Q Do you remember a pretrial hearing about the
21 identification involving the victim?

22 A They -- yeah. And she said that she seen the --
23 the -- I don't know -- yeah. I guess, I don't know
24 what part of the trial it was. They asked her and
25 she said she seen my face on the news.

1 Q Okay. So there was a pretrial hearing concerning
2 identification, right?

3 A I know it was brung up. I don't know what part of
4 the stage it was.

5 Q Do you remember what the judge ruled on that?

6 A No.

7 Q No?

8 A No.

9 Q Would you be surprised to find out that the judge
10 ruled that the identification was admissible?

11 A No. I didn't. I wasn't --

12 Q You didn't know that?

13 A No. I didn't.

14 Q Okay.

15 THE COURT REPORTER: (To the witness) Can you
16 speak up, sir.

17 THE WITNESS: Okay.

18 THE COURT REPORTER: Okay. Thank you.

19 Q Concerning -- did the solicitor ask any questions
20 of Mindy at trial concerning identification? Do
21 you remember?

22 A No.

23 Q He didn't ask any questions at all?

24 A No.

25 Q Do you have any idea -- okay.

1 Do you have a transcript before you, sir?

2 A No. I don't.

3 Q No? Okay.

4 THE COURT: (To Ms. Marto) I can hand the
5 witness the Court's copy if that will work?

6 MS. MARTO: Thank you, Your Honor.

7 Q I'm trying to find the page.

8 Now, if you look at Page 185, sir. She had
9 gone through the incident itself. Can you start
10 reading around Line 18 for me, please?

11 A On 185?

12 Q Yes, sir.

13 A Let's see. "Please tell the jury the man that did
14 this to you. Where is he sitting in the court?"

15 "Maney (as spoken) is sitting -- the man is
16 sitting right there, identificating (as spoken.)
17 And I am looking right at him."

18 Q Okay.

19 A Keep going?

20 Q And then does it say on Line 23 when asked is -- if
21 she has question, she says, "There is not one
22 signal doubt whatsoever that that's who it is."

23 A Uh-huh.

24 Q Do you remember that now, or still "no" you don't
25 think she identified anybody in the courtroom?

- 1 A No. I don't. I don't.
- 2 Q You don't think she identified anybody.
- 3 A No. She -- she identified me, because she said she
4 seen me. Even in my PCR papers, she said that she
5 identified me because of the picture on the news.
- 6 Q That was the only reason?
- 7 A That -- that's how she -- I knew -- identified me.
8 On like -- on the -- on my PCR papers, she told the
9 -- the investigator, whoever, who's doing the case,
10 she said, "I couldn't tell you how big he was. How
11 tall he was. What he had on." And she -- and he
12 said that she -- she knew what the -- what Sandra
13 had on, because of her hair or pants or shirt.
- 14 Q Okay.
- 15 A But she didn't say that in here. But she said that
16 in my PCR papers after the -- the trial.
- 17 Q After the trial or --
- 18 A After the trial. She said she could not -- she
19 couldn't tell -- she couldn't tell the -- the
20 whoever that was doing the case that she couldn't
21 -- I -- tell them what I look like. How tall I
22 was; what kind of clothes I had on. She couldn't
23 tell them nothing, but she knew what the woman had
24 on.
- 25 Q Okay. Do you remember her during cross -- or, yeah

1 -- her during cross-examination saying she could
2 describe your ethnicity?

3 A No.

4 Q No? Okay. I'm looking at Page 187. And she does
5 note that she could identify what the co-defendant
6 was wearing, but she also states starting Line 19
7 of 187, "I described him, I think, and as the
8 conversation went on, I could describe what they
9 were wearing. I could describe their ethnicity,
10 and I could describe what the girl's hair looked
11 like." Do you remember that now, or no?

12 A Yeah.

13 Q Yeah? Okay. Okay. Now, did -- so -- the
14 co-defendant took the stand, correct?

15 A Yes.

16 Q And she testified?

17 A Uh-huh.

18 Q Ms. Sandra?

19 A Yes.

20 Q Is it your contention that your lawyers didn't do
21 any cross-examination, or that they should have
22 brought more up in cross-examination?

23 A They should've -- they should've questioned her
24 more. They -- there was questions that they didn't
25 ask right off.

1 Q Did they attempt to impeach her, you think?

2 A No.

3 Q No? Do you remember them asking if she got a deal

4 concerning her testimony?

5 A Yes.

6 Q You remember that?

7 A Yes.

8 Q What was her answer?

9 A Yes.

10 Q Her answer was yes? Is that she said on direct

11 examination as well?

12 A I just know that they asked her, and she said she

13 had got a deal.

14 Q Okay. Can you turn to Page 206 for me, please?

15 Starting with Line 8, it says, "And you hadn't had

16 any promises made by the State or anything like

17 that?"

18 "No, sir." Now she did have the kidnapping

19 charge dismissed, but she does state that she

20 didn't have any promises made concerning the deal,

21 right? Is that your understanding of the

22 transcript?

23 A Yeah.

24 Q Okay. Now, beyond the victim's testimony and the

25 co-defendant's testimony, was there anything else

1 brought at trial serving as evidence in the case?

2 A Well, I -- I wanted them to bring up the fact that

3 I -- I wasn't in possession of a firearm. They

4 didn't -- they -- I -- that wasn't on me -- on my

5 possessions; it wasn't on my person. You know,

6 I -- I was -- that was one of the things that I

7 wanted them to bring up as far as that goes. And

8 then they brung up, like -- and there was a, like,

9 I guess, some -- some fingerprints that they said

10 that was there. They -- they kept bringing that

11 up. It wasn't -- I remember that, that they -- it

12 wasn't my fingerprints, but they kept bringing that

13 up. They didn't really talk about that as well.

14 Q So they didn't find any of your fingerprints there?

15 A They said they found a -- a partial.

16 Q Do you --

17 A A partial.

18 Q -- know where that was found?

19 A In the cash register.

20 Q Underneath the cash register?

21 A Yeah.

22 Q Okay. And this is a robbery, allegedly, right?

23 A Yeah.

24 Q Armed robbery?

25 A (No answer.)

1 THE COURT REPORTER: (To the witness) Can you
2 repeat that answer? I -- I -- you're going to
3 have to speak into the mic. I'm sorry.

4 THE WITNESS: Oh.

5 THE COURT REPORTER: Thank you, sir. Your
6 last answer?

7 THE WITNESS: Yes.

8 THE COURT REPORTER: Thank you.

9 THE COURT: The court reporter's asking you,
10 sir, to repeat your answer --

11 THE WITNESS: Okay.

12 THE COURT: -- to your last question.

13 THE COURT REPORTER: Uh-huh.

14 THE COURT: Just -- just say it again.

15 THE WITNESS: Say what?

16 THE COURT: The court reporter's saying she
17 couldn't hear what you said. Can you say it
18 again?

19 THE WITNESS: What part?

20 THE COURT: You want to just re-ask the
21 question, Ms. Marto, about the -- the
22 fingerprint?

23 MS. MARTO: Oh, sorry, Your Honor.

24 Q Where was the -- was the fingerprint found
25 underneath the cash register?

1 A They said it was found, yeah.

2 Q Okay. And it was a robber -- or an armed robbery,
3 correct?

4 A No. The -- when -- the first one -- when I first
5 went there the first time, they -- they put -- had
6 a cash register open, and I went in there and I
7 grabbed some money. I didn't come back the second
8 time when the actual robbery, so it could've got on
9 there then.

10 Q Okay. So you're now stating that you did take
11 money from the store --

12 A Yeah.

13 Q -- right?

14 A I took some money, but I --

15 Q Okay.

16 A -- didn't -- I didn't rob them.

17 Q Okay.

18 MS. MARTO: One moment, Your Honor.

19 Q Now, did the victim ever testify that they saw you
20 with a gun?

21 A No. Not that -- I don't know. I don't know.

22 Q You don't know?

23 Page 167, starting with Line 11, "He had a gun
24 pointed at my face, and he had hit me in the head
25 with a gun. It would -- just would've knocked me

1 to the floor. I looked at him and he was pointing
2 a gun at me." Do you recall any of that now, or
3 no?

4 A I recall her saying that, but --

5 Q Okay.

6 A -- I was -- well, my -- my thing was if she said
7 that I done all of that, how could she not identify
8 me if I -- because she -- I didn't -- because she
9 said I didn't have on a mask. I guess, I didn't
10 have on no -- no gloves or nothing like that, but
11 she couldn't identify me.

12 Q She couldn't recall exactly how tall you were; is
13 that the issue?

14 A No. She -- she could not -- she couldn't -- she
15 said -- well, on them -- the papers that I got from
16 the PCR, she said she couldn't identify me. She
17 couldn't tell you how tall I was, how fat I was.
18 She said she -- nothing.

19 Q But she did identify what you were wearing and your
20 ethnicity, right?

21 A No. She didn't identify -- she just said she seen
22 my picture on the news. She couldn't tell -- she
23 never said like what I had on or none of that. She
24 never said that, that I can recall.

25 Q Do you recall me reading the transcript about how

1 she did say that, or no?

2 A She said that she knew what the lady was wearing
3 and what her hairstyle was. She never mentioned
4 that -- what I had on.

5 Q Okay.

6 A That's what I read.

7 Q Okay.

8 MS. MARTO: No further questions, Your Honor.

9 THE COURT: Mr. Richey?

10 MR. RICHEY: I -- I've got a few questions.

11 REDIRECT EXAMINATION

12 BY MR. RICHEY:

13 Q All right. You remember discussing this case with
14 me?

15 A Yeah.

16 Q Okay. All right. Well, let you ask you this
17 question, because I want to clear this up because
18 there was two supposed incidents. The first one --

19 A Yeah.

20 Q -- where the guy went in, and the second one,
21 right?

22 A Yeah.

23 Q Okay. In the first incident, did you take money or
24 do anything at the store?

25 A Yeah.

1 Q You did?

2 A Yeah.

3 Q You went in and you did what?

4 A The cash register was open and she was asking her

5 and -- and I grabbed -- I grabbed a couple of

6 dollars.

7 Q While she was talking to the lady?

8 A Yeah. Another customer.

9 Q Then you took money --

10 A I reached over there --

11 Q -- from the store?

12 A Yeah. I reached over there and grabbed -- grabbed

13 a couple of dollars. That was the first time, then

14 I didn't go -- I didn't go back the second time.

15 Q Okay. Let me ask you this question. And this is

16 basically off what's been said.

17 A Uh-huh.

18 Q Now, the co-defendant testified against you, right?

19 A Yes, sir.

20 Q They claimed to have your fingerprints, correct?

21 A Yeah.

22 Q The victim claimed that she identified you,

23 correct?

24 Q Doesn't -- I'm saying what they're saying. I ain't

25 saying it's true or false. I'm just saying what

1 they're saying, right?

2 A Yes, sir.

3 Q At any point, did you discuss that evidence, those

4 three things with your lawyers?

5 A No.

6 Q You did not?

7 A No.

8 Q They didn't discuss with you, "Hey, man. They got

9 your fingerprints off the register. The

10 co-defendants going to testify against you. The

11 lady's going to identify you. Hey, this don't look

12 great"?

13 A Right.

14 Q Did they ever discuss that with you?

15 A No.

16 Q So what'd they say about trying the case? Well,

17 did they say you're going to win, lose, or what?

18 A They said they got a good case. That's what they

19 said. They said they got a good chance of winning.

20 Q They told you they had a good chance of winning --

21 A Yeah.

22 Q -- your case?

23 A Yes, sir.

24 Q Okay.

25 MR. RICHEY: Thank you.

1 THE COURT: Ms. Marto?

2 MS. MARTO: No further questions, Your Honor.

3 THE COURT: Sir, you can step down.

4 (WHEREUPON, the witness was excused.)

5 MR. RICHEY: We call Mr. Poole.

6 THE COURT: Just -- just leave -- leave the
7 transcript there in case another witness needs
8 it. Thank you.

9 (WHEREUPON, the witness is sworn.)

10 DIRECT EXAMINATION

11 BY MR. RICHEY:

12 Q Can you state your name, please?

13 A My name is Roger Poole.

14 Q And, Mr. Poole, do you -- do you remember
15 representing Mr. Brown?

16 A Yes, sir. I do.

17 Q And how did you get his case?

18 A If I may refer to the file?

19 Q Were you at the public defender's office at that
20 time?

21 A I was at the public defender's --

22 Q Okay.

23 A -- office --

24 Q And --

25 A -- yes, sir. I was there up until last Friday.

1 I --

2 Q Okay.

3 A -- retired.

4 Q Okay.

5 A But I will go back on a part-time auxiliary basis.

6 Q Okay. And so you got assigned his case, correct?

7 A Yes. Yes, sir.

8 Q You were assigned his case?

9 And I'm just going ahead and list these
10 things. And -- and the first question that I have
11 for you: Mr. Brown's testimony, I asked him, "They
12 -- they supposedly have your fingerprints on the
13 register. The victim was -- identified you. The
14 co-defendant testified against you. Did you
15 discuss what that meant with your lawyer?" Did you
16 discuss those three items with him, and how they
17 would have an impact on his case?

18 A Well, we had to, yes. I -- I did. I've got dates
19 in here where I met with him on several occasions.
20 I gave him a copy of the discovery. I don't
21 remember when.

22 Q Uh-huh.

23 A And in the discovery, it was just blatant and
24 obvious who the witnesses would've been and what
25 they would have said.

1 Q Uh-huh. Well, do you -- do you recall telling them
2 he had a good case?

3 A I don't ever recall anybody --

4 Q Uh-huh.

5 A -- in this situation -- like this situation,
6 telling that they had a good case. The State had a
7 good case, but Mr. Jones (verbatim) had an uphill
8 battle. And so Mr. Neely and I did what we could
9 with the evidence that was against him to deal with
10 it the best way we could --

11 Q Okay. Did --

12 A -- so we had a plan.

13 Q Okay. Did you all try to pursue any kind of plea
14 offer in the case?

15 A I did. I spoke with Mr. Barnette. He felt so
16 strongly that they had a good case, he wasn't
17 offering anything.

18 Q Nothing?

19 A I couldn't get an offer from him.

20 Q Okay. In terms of the background of this, Sandra,
21 co-defendant, did y'all do an investigation into
22 her background?

23 A No. The only thing I had was her rap sheet, which
24 showed an arrest for assault and battery in 2000
25 with a non-conviction, a charge in 2005 for

1 prostitution and with no disposition. And that's
2 the only thing on her record.

3 Q Okay. And would those charges be admissible at a
4 trial if they're at conviction (verbatim)?

5 A No, sir.

6 Q Okay. So you -- so based off the rap sheet, you
7 didn't have any information -- any crimes that she
8 could be impeached with?

9 A No.

10 Q Okay. Did you discuss -- Mr. Brown testified that
11 he knew the lady. Did y'all discuss anything about
12 her background that may be used to impeach her
13 or -- or anything of that nature?

14 A Mr. Brown had lived with this lady for at least one
15 year prior to the commission of this crime. And I
16 didn't get, in my conversations with Mr. Brown,
17 into the dynamics of that relationship. I think
18 she has some children and the children were
19 downstairs and they lived upstairs. And that's
20 about all I knew about them.

21 Q Okay. And as to their identification, can you tell
22 me what resource y'all did to determine whether
23 valid -- you had a hearing, but that's what -- what
24 did you do to determine whether this was a valid
25 ID?

1 A Well, we sort of divided the workload up. Paul, he
2 helped me out. And Mr. Brown was correct; I had
3 some health problems --

4 Q I'm sorry.

5 A -- during the period of my representation of him.
6 And which has now led to my resignation and
7 retirement at 69. And some heart problems. But I
8 -- Paul was going to do the identification issue --

9 Q Uh-huh.

10 A -- from the victim, and in the context of a
11 Biggers.

12 Q Right.

13 A And that was done and it was done well by Paul. He
14 covered it thoroughly. We were in chambers. We
15 argued it to the judge out of the courtroom. We
16 argued it to the judge inside the courtroom. And,
17 basically, the judge said that there was just,
18 essentially, not enough of a State action for it to
19 rise to a Biggers analysis, because the mugshot
20 that was shown on the TV, from which the victim
21 made the identification, was a -- a mugshot from
22 the news channel, which routinely uses mugshots
23 without being given -- necessarily given to the
24 media by law enforcement.

25 Q And -- okay. And so at the time of the trial, you

1 were capable of trying the case or assisted in it.

2 You were capable of doing that, right?

3 A Yes, sir.

4 Q Okay. So in terms of -- as to these fingerprints,

5 did -- could you -- was there any investigation

6 done as to those? I mean, was there any issue of

7 whether they were done properly or anything like

8 that?

9 A Well, I think I covered that in the -- it should be

10 in the transcript. There was a -- a lady who was

11 going to be qualified as an expert in -- with

12 regard to fingerprint testimony, and it was her

13 first qualification as an expert in this --

14 Q Uh-huh.

15 A -- trial here. And I objected to that and gave the

16 reasons --

17 Q Right.

18 A -- it's in the transcript, again. And there were a

19 lot of fingerprints scattered, but she made a point

20 to -- I'm sure pointing out just a couple of them

21 and how they matched to Mister -- the defendant in

22 this case. And in my closing argument to the jury,

23 I showed that they -- basically, these prints were

24 -- were half-rolls or partials --

25 Q Right.

1 A -- and that the -- you don't have to be an expert
2 to see for yourself that these are -- these are
3 partial prints and, therefore, you can't ascribe
4 them to the defendant.

5 Q Right.

6 A That's the extent of the fingerprint.

7 Q Did -- did Mr. Brown ever tell you that he was --
8 that he took money from the register the first time
9 he was in there? The -- when he was in there the
10 first time?

11 A First time I heard that was today.

12 Q Okay.

13 A But when we first interviewed him, the -- he told
14 the interviewer that he and the co-defendant
15 actually did this crime. But he put most of the
16 blame on the co-defendant, saying that she had the
17 guns, and she gave one to him or something like
18 that.

19 MR. RICHEY: A moment, Your Honor. No other
20 questions.

21 THE COURT: Ms. Marto?

22 MS. MARTO: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. MARTO:

25 Q Good morning, sir.

- 1 A Good morning.
- 2 Q Now, how many -- roughly, how many times did you
3 meet with Mr. Brown?
- 4 A In my file, I've got 9/16/2015, 12/23/2015, April
5 of 2016, May 2016, June 2016, July of 2016.
- 6 Q Okay. So quite a few. What did y'all discuss?
7 The --
- 8 A The case.
- 9 Q -- case? The discovery in it?
- 10 A Yep. Well, you know, I never have gone to the jail
11 just to say, "how you doing?"
- 12 Q Right. Fair. Now, can you tell me what evidence
13 they had in the case, roughly?
- 14 A What's been said before. They had the -- the
15 identification of the victim, the fingerprint
16 evidence, and the testimony of the co-defendant who
17 was represented by -- counsel, at that time, was
18 Michael Morin; and he had secured for her --
19 Michael had secured for her a dismissal of the
20 kidnapping charge.
- 21 Q Okay.
- 22 A And her sentence hinged on to what degree of her
23 cooperation would be on the armed robbery.
- 24 Q Now, did you cross-examine the victim concerning
25 the identification?

- 1 A I don't remember if it was me or if it was Paul.
- 2 Q Okay. Do you remember the direct examination of --
- 3 concerning the identification of the defendant?
- 4 A I remember it, yes.
- 5 Q Yeah.
- 6 A But I -- I don't know what detail you're looking
- 7 for.
- 8 Q Did -- was the victim uncertain about who committed
- 9 the crime? Do you remember?
- 10 A No. She was -- she was pretty unflappable. She --
- 11 once she had seen the mugshot on television, she
- 12 was -- she was firm.
- 13 Q Okay. And you previously stated that y'all did a
- 14 pretrial motion concerning the identification as it
- 15 pertains to the mugshot, right?
- 16 A That is correct.
- 17 Q Okay. So did you think that you had much, I guess,
- 18 wiggle room, for lack of a better word, concerning
- 19 the identification on cross-examination?
- 20 A No. Because when -- if you were there and you saw
- 21 her demeanor and the way that she testified, she
- 22 was a good State's witness and the jury obviously
- 23 picked up on that.
- 24 Q Okay. Is there anything concerning the victim's
- 25 background you felt like you should have

1 investigated?

2 A Not that I'm aware of by her previous record.

3 Q Okay. Concerning the co-defendant, do you
4 remember, roughly, what y'all addressed in cross-
5 examination?

6 A Basically, the deals of -- the -- the plea deal
7 that she had secured and the contradictions in the
8 -- a prior statement that she had given to law
9 enforcement and her testimony.

10 Q Okay.

11 A So we did that pretty thoroughly.

12 Q And you stated you already had the rap sheet,
13 right?

14 A Pardon me?

15 Q You stated you already a rap sheet, correct?

16 A Yes.

17 Q Is there anything you felt like you should have
18 investigated concerning her background or
19 impeachment material?

20 A No.

21 Q No. Okay. And then you stated that you were
22 unable to procure an offer, because the solicitor
23 was unwilling to extend one, right?

24 A That's correct.

25 Q And he was firm in that?

1 A Pardon me?

2 Q He was firm in that stance on that --

3 A Yes. He was the top solicitor then and as he is

4 now.

5 Q Okay.

6 A So he would -- he just took that position.

7 Q Okay.

8 MS. MARTO: No further questions, Your Honor.

9 MR. RICHEY: No other questions. Call Mr.

10 Neely.

11 THE COURT: Mr. Poole, thank you, sir.

12 THE WITNESS: Thank you.

13 THE COURT: Any objections to excusing Mr.

14 Poole?

15 MR. RICHEY: No objection.

16 MS. MARTO: No, Your Honor.

17 THE COURT: Thank you, Mr. Poole, you're

18 excused.

19 THE WITNESS: Thank you, sir.

20 (WHEREUPON, the witness was excused.)

21 (WHEREUPON, the witness was sworn.)

22 THE WITNESS: Good morning, sir.

23 THE COURT: Good morning, Mr. Neely. Good to

24 see you again.

25 THE WITNESS: You too.

1 DIRECT EXAMINATION

2 BY MR. RICHEY:

3 Q Mr. Neely, you were in the representation of Mr.
4 Brown, correct?

5 A I was, yeah.

6 Q Okay.

7 A That's correct.

8 Q And you came in kind of second to Mr. Poole?

9 A I -- I did.

10 Q Okay.

11 A I believe Mr. Poole had the case. I wasn't even at
12 the Spartanburg County PD's office yet.

13 Q Oh, you were not at the office when he got it?

14 A Right.

15 Q Okay. And then you came in and assisted him, okay.

16 I'm going to ask you the same question I asked
17 Mr. Poole. You knew the facts of the case?

18 A I did.

19 Q Okay. And you knew they had something similar to a
20 fingerprint, right?

21 A Right.

22 Q You knew that you had a co-defendant testifying
23 against him, correct?

24 A (Nodded head up and down.)

25 Q And -- okay. And -- I lost my train of thought.

1 And -- and you knew that the victim was going to
2 identify them, correct?

3 A Right.

4 Q Did -- did you ever -- did y'all -- did -- in
5 discussions did -- was there any discussion about
6 him having a good case?

7 A No.

8 Q Okay. Nobody told him, "hey, you got a good case."

9 A No. With those facts, I would've never told any
10 client that they had a good case.

11 Q Okay. Did you tell him he had any chance of
12 winning?

13 A No.

14 Q Okay. Your part -- did you -- Mister -- Mr. Poole
15 said that y'all split some of it up.

16 A Correct.

17 Q And you had what part of it?

18 A My -- my biggest contribution of the case was the
19 identification issue.

20 Q Okay. So other -- the identification from the
21 victim?

22 A Sorry. The identification from the victim.

23 Q Right. And so you did all the research and the
24 investigation on that, correct?

25 A Correct.

1 Q And can you tell me what research you did on this
2 lady?

3 A Specific research into her background?

4 Q Yes.

5 A None. I -- I grew up in Spartanburg, and I'm very
6 familiar with the Imagination Station. They've
7 owned it for 30 years, so I'm familiar with them on
8 -- as a consumer, I guess. But, specifically, to
9 her background, Barry didn't provide us with a rap
10 sheet or anything, so she doesn't have a criminal
11 history.

12 I agree with Corey's assessment about her
13 identification of him. And that was one of the -
14 my points of emphasis when I cross-examined her at
15 the actual trial and at the pretrial hearing, was
16 that the description that she gave to law
17 enforcement, prior to Corey's arrest, was not
18 necessarily indicative of Corey. It didn't match
19 up with who I had been meeting with in the jail.

20 However, once she saw his mugshot on the news,
21 she called into law enforcement, and she was
22 adamant that that was the person -- the mugshot she
23 saw, that was the person that would come into the
24 Imagination Station and rob them. So I agree with
25 his assessment that she was basing his -- her

1 identification of him in court off of seeing the
2 mugshot on the TV, not off of seeing -- not off of
3 her recollection of who was in the store that day.
4 So that was the basis for our Biggers hearing, that
5 was our -- our basis for our cross-examination,
6 once we actually got to trial in front of the jury,
7 and at the pretrial hearing.

8 So in preparation for that, I researched all
9 of the Biggers factors, the -- the two prongs, and
10 any other identification case law that was out
11 there. And I think, looking back through the file,
12 there's five or six cases; I can't remember them
13 off the top of my head.

14 But we met in chambers with Judge Kelly and
15 with Mr. Barnett and Mr. Poole and myself and we
16 argued at length in chambers that her in-court
17 identification should be disqualified. She
18 shouldn't be allowed to identify Corey in court,
19 because she hadn't provided an adequate out-of-
20 court identification. And my position was that it
21 was based on improper police action, because what I
22 submitted to the court and what Judge Kelly let us
23 supplement for the record later -- and, ultimately,
24 he ruled against me on this issue -- was that it
25 was a State action, because everything I was able

1 to find on the news, and what she testified to, was
2 she was not able to recall which news source she
3 got her -- she was watching when she saw Corey's
4 mugshot. So I gathered all of the news sources
5 that were out there, all the media coverage
6 available, and every single one of them said,
7 "photo courtesy of Spartanburg PD," which to me
8 indicated that the mugshot had been provided by the
9 police for the purpose of putting his mugshot out
10 on the news. So my argument to the Court was that
11 this was a State action and her identification was
12 based on that State action. Judge Kelly disagreed
13 with me. The Court of Appeals disagreed with me.
14 The Supreme Court didn't hear it.

15 Q Okay. Well, let me -- let me clear something up
16 you said. This particular store you -- you been --
17 you've lived in Spartanburg, you're familiar with
18 this store?

19 A Right.

20 Q The people who work there, you don't have any
21 relationship with them?

22 A No. I don't know if I've ever encountered them
23 before I've actually --

24 Q Okay.

25 A -- cross-examined Miss --

1 Q You're just aware that the store -- and that what
2 they sell and all that, but the --

3 A Right. And I'd been in there several times, but I
4 don't think I've ever actually interacted with them
5 on a personal level.

6 Q Okay.

7 THE COURT: (To the witness) What -- what
8 kind of store is it?

9 THE WITNESS: It's a toy store.

10 MR. RICHEY: Toy store.

11 Q And were you present during any of the meetings
12 that Mr. Brown had with Mr. Poole?

13 A I believe in May, June, and July before trial I
14 was --

15 Q Okay.

16 A -- with Mr. Poole.

17 Q And do you know whether there was any kind of plea
18 offer pursued in the case? I mean, you heard what
19 Mr. Poole said.

20 A Roger -- and Roger would have been the one that was
21 pursuing the plea offer --

22 Q Yeah.

23 A -- but I -- but Barry was pretty unrelenting and --

24 Q So you -- oh, I'm sorry. Excuse me. I'm sorry. I
25 interrupted you. I'm sorry.

1 A No. Barry was pretty unrelenting and -- and not
2 willing to offer anything.

3 Q So your role in this case was just the
4 identification?

5 A And I believe I cross -- cross-examined one of the
6 fingerprint experts that were there. I believe
7 they had two: one to actually identify the
8 fingerprint and one to verify that the original
9 identification was correct. And I know I cross-
10 examined one of them, I believe. And so I learned
11 a lot about whirls and twirls and arches, but,
12 again, there's only so much you can do with two
13 experts are saying it's --

14 Q Okay.

15 A -- Mr. Brown's fingerprint.

16 Q Did Mr. Brown ever tell you that he took money from
17 that register previously?

18 A No. That was the first time I had heard that.

19 Q And --

20 A Our entire theory of the case was that it wasn't
21 him, that he hadn't been there.

22 Q Okay. That he hadn't been there at all?

23 A At all.

24 Q Okay.

25 MR. RICHEY: (To the witness.) Thank you.

1 Answer any questions the Attorney General may
2 have.

3 THE COURT: Ms. Marto?

4 CROSS-EXAMINATION

5 BY MS. MARTO:

6 Q Good morning, sir. Thank you for being here.

7 Now, you stated you handled the identification
8 issue, right?

9 A Correct.

10 Q And you proceeded with a pretrial motion?

11 A Correct.

12 Q And what was the judge's determination on that?

13 A He ruled against me.

14 Q Yeah. Okay. But it was addressed in court, right?

15 A It was.

16 Q And the -- her inability to identify the specifics
17 about the perpetrator was brought out in cross-
18 examination, as well, right?

19 A That was the main thrust of my cross.

20 Q Okay. Now, you stated that there was also
21 fingerprint evidence?

22 A Yes, ma'am.

23 Q And how did they determine that it was Mr. Brown?

24 Do you remember the process?

25 A They had a partial fingerprint that the initial

1 fingerprint expert from Spartanburg Police
2 Department got a hit on, I believe through AFIS,
3 and I remember her testifying that the partial
4 print could have been 18 people. And then they
5 looked at the -- the ridges and the whirls and the
6 arches and they determined that based on that
7 partial print, they were able to narrow it down
8 from the 18 to the one.

9 Q Was -- do you remember what number hit he was on
10 the database?

11 A I don't remember.

12 Q Would you be surprised to find out that he was
13 Number 1?

14 A No.

15 Q No? Okay. And you thought that the -- there was
16 quite a bit of evidence against him in this case,
17 correct?

18 A Yes, ma'am.

19 Q Okay. Is there anything that you felt like you
20 should have investigated concerning the
21 identification that you didn't? Was all this
22 addressed to Mr. Brown --

23 A It was.

24 Q -- during your meetings?

25 A It was.

1 Q Okay. And he seemingly understood it all?

2 A Yes, ma'am.

3 Q Was there anything that you thought you should have
4 brought out concerning the co-defendant on cross-
5 examination that wasn't?

6 A Mr. Poole did everything.

7 Q Okay. Okay.

8 MS. MARTO: No further questions, Your Honor.

9 MR. RICHEY: No other questions.

10 THE COURT: Any objections to excusing Mr.
11 Neely?

12 MR. RICHEY: No objections. And that --

13 MS. MARTO: No objection, Your Honor.

14 MR. RICHEY: -- should be -- we have no other
15 witnesses.

16 THE WITNESS: Thank you, Your Honor.

17 THE COURT: Thank you.

18 MR. RICHEY: No other witnesses.

19 THE COURT: The witness is excused. Any
20 witnesses from the State?

21 (WHEREUPON, the witness was excused.)

22 MS. MARTO: No witnesses, Your Honor.

23 THE COURT: Okay. Mr. Richey, argument?

24 CLOSING ARGUMENT

25 MR. RICHEY: Your Honor -- at this point, Your

1 Honor, Mr. Brown would rely on the testimony
2 he gave in this case and the transcript and
3 all the information and ask the Court to grant
4 his case.

5 THE COURT: All right.

6 MR. RICHEY: Thank you, Your Honor.

7 THE COURT: Ms. Marto? Any reply from the
8 State?

9 CLOSING ARGUMENT

10 MS. MARTO: Just very briefly. He's raised
11 three primary issues. Number one, being
12 failure to investigate the victim. I think
13 that both counsels credibly testified that
14 there is nothing left to investigate, and that
15 they did bring up the fact that she identified
16 him through the mugshot in cross-examination
17 pretrial. There wasn't much more they could
18 have done on that, that would've changed the
19 results.

20 Concerning the co-defendant testimony,
21 they did have a rap sheet. They did no prior
22 convictions. The issue was that it wasn't
23 admissible, and that also there was nothing
24 left that they could have investigated
25 concerning her in that the co-defendant and

1 the victim were very adamant that it was him.

2 Additionally, for evidence, there was a
3 fingerprint that popped up in the FBI website
4 stating that he was the number one hit.

5 And then concerning the plea offer, he's
6 not constitutionally entitled to one and the
7 solicitor was unwilling to extend one and so
8 there was nothing more counsel could have done
9 on that.

10 And so for these reasons, we request you
11 deny relief. Thank you.

12 THE COURT: Thank you, Counsel. I'm going to
13 take this matter under advisement.

14 MR. RICHEY: Thank you, Your Honor.

15 (Whereupon the within hearing was
16 concluded at 10:41 a.m.)

17 (*This transcript may contain quoted material.
18 Such material is reproduced as read or quoted
19 by the speaker.)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

CERTIFICATE

Be it known that Amber J. Payne took the foregoing proceeding and hereby attests:

that I was then and there a notary public in and
for the State of South Carolina-at-large;

that the witnesses were first duly sworn to testify to the truth, the whole truth, and nothing but the truth, concerning the matter in the controversy aforesaid;

that the foregoing transcript represents a true, accurate, and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

that I am neither a relative nor an employee of any of the parties hereto, nor of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

that, if a recording of an event was supplied by another party for purposes of transcription and I was not present during that event, the foregoing pages were transcribed to the best of my skill and ability; additionally, any identifications of speakers were provided to me by the party supplying the recording;

that, in the event of a nonappearance by the witness, the foregoing details for the nonappearance are accurate.

In witness thereof, I have hereunto affixed my signature and title.

Amber J. Payne, CVR

Date: 1/20/2022
Notary public for South Carolina
My commission expires August 12, 2029

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT	
	)		
Corey Brown, #368883,	)	Case No.: 2019-CP-42-02915	
Applicant,	)		
	)		
v.	)	ORDER OF DISMISSAL	
	)		
State of South Carolina,	)		
Respondent.	)		
	)		

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SPARTANBURG COUNTY
AMY W. COX

This matter comes before this Court by way of Applicant's post-conviction relief application filed August 20, 2019. Respondent made its return on November 19, 2019, requesting an evidentiary hearing be convened. An evidentiary hearing was held on September 15, 2021, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsels J. Roger Poole and Paul Neely also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In October 2015, the Spartanburg County Grand Jury indicted Applicant for assault and battery of a high and aggravated nature (2015-GS-42-4752), kidnapping (2015-GS-42-4753), armed robbery (count one) and possession of a weapon during the commission of a violent crime (count two) (2015-GS-42-04754). J. Roger Poole and Paul Neely, Esquires represented Applicant. Solicitor Barry

Barnette, Esquire, prosecuted the case. On July 11-13, 2016, Applicant proceeded to trial before the Honorable R. Keith Kelly, circuit court judge, and a jury. Applicant was found guilty as indicted on all counts. Judge Kelly sentenced Applicant to thirty years' imprisonment for kidnapping, thirty years' imprisonment for armed robbery, ten years' imprisonment for first degree assault and battery, and five years' imprisonment for possession of a weapon, with the weapons possession charge running consecutively to all other sentences and the remaining sentences running concurrently.

Applicant filed a timely notice of appeal on July 25, 2016 that was perfected by Wanda Carter, Esquire, through filing a petition for writ of certiorari raising the following question:

1. The trial judge erred in allowing identification testimony into evidence that emanated from a suggestive pre-trial out-of-court identification based on a media representation where a store worker identified appellant as the perpetrator in the case because of the likely link between police and state action connected to the media coverage, which in turn meant that the identifications were unreliable and inadmissible at trial.

The initial brief of Respondent was filed on August 8, 2017. Briefing concluded on September 20, 2017. The South Carolina Court of Appeals filed an order affirming the decision of the circuit court. *State v. Brown*, 2018-UP-391 (S.C. Ct. App. filed Oct. 24, 2018). A petition for rehearing was filed on November 8, 2018, and denied on December 13, 2018.

A petition for writ of certiorari from the Court of Appeals was filed January 7, 2019. The return was issued on January 8, 2019. The South Carolina Supreme Court denied certiorari on March 7, 2019. The remittitur was issued March 18, 2019.

Summary of Relevant Facts

On August 7, 2015, Mindy Slotin ("Victim") went to Imagination Station, a toy store, to provide assistance to her husband, Mark Slotin, while he took a break from work. Upon arrival, Victim observed Mark attending to a male customer and a female customer, and

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indicated to her they were in the store for a long time. (Tr. 112). Mark assisted them for a few more minutes, they picked out an item, brought it to the check-out counter, and asked for it to be wrapped. (Tr. 112). The male customer then stated they had more shopping to do and would come back to pick up the gift. (Tr. 112). After they left, Mark left the store and Victim remained behind to tend to the store. (Tr. 166).

About fifteen minutes later, the male and female returned. (Tr. 166). The male approached Victim at the check-out counter, asked if Mark left, and Victim answered affirmatively. (Tr. 166-67). The male indicated he wanted to speak with her about something, escorted Victim to the back of the store, and proceeded to discuss a specific toy. (Tr. 167). At that point, the male pulled out a gun, struck Victim in the head, and knocked her to the floor. (Tr. 167). He pointed the gun at her face, struck her again, bound her hands with duct tape, stole her rings, and directed her to the cash register at gunpoint. (Tr. 113-14, 167). He asked the female to lock the door and forced Victim to open the register. (Tr. 114, 168). After Victim complied, he directed her to a storage room at gunpoint, bound her arms and ankles with duct tape, and placed a piece of tape over her mouth. (Tr. 114, 168). He informed Victim he was going shopping, that he would kill her if she made a sound, and left her in the storage room. (Tr. 114, 168).

Victim ultimately broke free from the tape and fled out the back of the store. (Tr. 121, 168). She ran to a nearby store for help, and the people there alerted the police of the robbery. (Tr. 121-23, 168-69, 178, 186-87, 224-25). Officers proceeded to Victim's location, and Victim, who still had pieces of duct tape on her body, advised them of what occurred while describing the two robbers.¹ (Tr. 123-24, 187, 189, 224-25, 227, 251, 288). The officers quickly headed

¹ Regarding the descriptions, Victim indicated she described the robbers' clothing and ethnicity, and she stated she indicated the male robber was taller than herself. (Tr. 123-24, 187-89). Based on the information in the police report, Poole questioned Victim as to whether she described the

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over to the store, but the robbers had left with \$100 in cash, an iPad, and Victim's rings. (Tr. 171, 198-99, 227, 251, 288).

Shortly thereafter, forensic investigators went to the store and processed it for evidence. (Tr. 184-85, 227-28, 251). They located and collected a number of fingerprints, including from the front door, the cash register drawer, some toys, and a toy box and promptly submitted those fingerprints to a latent fingerprint examiner for analysis. (Tr. 227-28, 238-40, 242, 245, 251-53, 255-57). The latent fingerprint examiner determined two of the fingerprints collected from the cash register drawer were left by Applicant while the fingerprints collected from the toys and toy box were left by Sandra Pearson, Applicant's co-defendant. (Tr. 269-71, 283-85, 289).

The next day, officers travelled to Applicant's and Pearson's apartment. (Tr. 289-90). Pearson immediately surrendered to them, but Applicant ran up the stairs and barricaded himself inside. (Tr. 200, 205). He remained there for about an hour before surrendering. (Tr. 205). Officers conducted a search of the apartment and found a loaded gun, a box of ammunition, duct tape, various coins, and a wallet containing \$50 in cash. (Tr. 201, 182, 291, 300-01, 306).

A few days later, Victim observed Applicant's mug shot in the news and immediately recognized him as the perpetrator. (Tr. 115-16, 118, 124-26). Victim quickly contacted the police and alerted them of her positive identification of Applicant as the perpetrator. (Tr. 118, 126).

During pre-trial proceedings, Neely asked the judge to prevent Victim from identifying Applicant in the courtroom as her assailant, asserting that Victim's out-of-court identification was tainted and unreliable because Victim observed Applicant's mugshot on the news, which he contended would result in Victim simply identifying the person she saw on the news as the

male robber as "a black male with dark skin" who was about 5'10", weighed 160 pounds, and wearing blue jeans and a dark t-shirt. (Tr. 188). However, Victim stated she did not specifically remember providing all that information. (Tr. 188).

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robber. (Tr. 102-03). Neely contended the out-of-court identification resulted from police action, claiming the media must have obtained the mugshot from the police, and he argued permitting Victim to make an in-court identification under those circumstances would violate Applicant's due process rights. (Tr. 102-03, 106, 108). The prosecutor asserted there was no intentional police involvement with the media displaying Applicant's photograph, and, even if there was, Victim's identification was reliable under the totality of the circumstances. (Tr. 104-06, 108-10).

The judge conducted an *in limine* hearing on the matter, where Victim testified about the incident and her identification of Applicant as the perpetrator. (Tr. 111-27). During her testimony, Victim noted she was "[v]ery close" to the robber during the incident, which occurred around noon, and she observed him for at least ten minutes while inside the store. (Tr. 111, 114-15, 117). Victim testified she stared at the robber's face throughout the incident, stated she would never forget his face, and asserted there was "not a doubt in [her] mind" Applicant was the perpetrator. (Tr. 115-17). Victim noted she was never asked by the police to make an identification of Applicant and only identified him after seeing his mugshot. (Tr. 118, 125-27).

At the conclusion of Victim's testimony, Neely renewed his opposition to the identification's admission. (Tr. 128). However, the judge declined to exclude the identification, concluding there was no governmental involvement in Victim's out-of-court identification and ruled Victim would be permitted to identify Applicant during trial. (Tr. 128-30, 145).

Victim identified Applicant in the courtroom as the robber over defense counsel's objection, and indicated she was "[a]bsolutely without a doubt positive" of her identification. (Tr. 164-89). Additionally, Pearson testified about her role in the armed robbery, acknowledged she had pled guilty to an armed robbery charge, indicated Applicant was the perpetrator, and identified him in the courtroom. (Tr. 194-220). Furthermore, officers involved in the

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investigation testified about the discovery of Applicant's fingerprints on the cash register drawer from the store and the subsequent search of Applicant's nearby home, which led to the recovery of a loaded gun, duct tape, and cash. (Tr. 227-47, 251-53, 255-73, 281-85, 288-306).

Current Action before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Ineffective assistance of trial counsel, in that:
 - a. "Counsel failed to investigate and research Applicant's co-defendant background history, and properly impeached her testimony at trial."
 - b. "Counsel failed to investigate and research victim's Mindy Slotin's identification based off a mugshot on the news, [where] initially she could not provide a description of her assailant."
 - c. "Had Counsel properly investigated and research above issues, then Counsel could of properly cross-examine the co-defendant and victim, their testimony would of lack credibility, the outcome of trial would been different."

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of counsel
 - a. Failure to investigate and properly cross-examine co-defendant.
 - b. Failure to investigate victim's identification of Applicant based on the mugshot shown on the news.
 - c. Failure to request and secure a plea offer.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Testimony

Applicant stated he is in prison for assault and battery, armed robbery, assault, and possession of a firearm. Applicant stated the incident took place at a business in Spartanburg. Applicant testified that a woman "supposedly was duct taped" and robbed, but that he did not do it. Applicant stated he was convicted in Spartanburg and represented by Poole and another

attorney. Applicant stated he filed the PCR application based upon ineffective assistance of counsel and is now seeking a new trial. Applicant stated he understood that if granted relief he would have to start the process over again.

Applicant stated that Poole had a medical issue that impeded his ability to communicate with him about the case. Applicant testified that as soon as Counsel got out of the hospital he had to go to trial immediately. Applicant testified Poole told him he was not prepared on the day of trial because of his illness, but he brought Neely with him, who had done most of the investigation. He stated he spoke with Neely about the investigation, but no work had been done. He testified he had just gotten the paperwork two weeks prior.

Applicant stated that he did not commit the robbery and that, though he was there, he did not participate. He stated that he knew Pearson was at the store. He then backtracked, saying he was not there when the robbery occurred, stating that individuals entered the store, left for a few minutes, and re-entered and robbed the place. He stated he was there for the first incident, but had to go to work, left, and his co-defendant came back with someone else. He told Counsels this and they told him they would investigate it. He did not see Poole again until a year later, and was told that he was not prepared but everything would be fine.

Applicant stated he did not discuss Victim's background with his lawyers. Nobody knew anything about her background or how to impeach her. Applicant claimed Counsels were ineffective for failing to investigate the victim's background. Applicant stated that Victim told different stories on this case and his attorneys did not mention anything about that. Applicant stated that Victim originally identified him and Pearson because of the mugshot shown on the news and that Victim assumed he was involved because they were both there together before the incident occurred. Applicant stated that Victim could not identify other distinguishing features

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about him, such as height, weight, or clothing. Applicant stated that Victim could not identify him based on a physical lineup and that the two people were at the store at different times.

Applicant stated that Pearson was instrumental in the case. Applicant stated he was in a relationship with the woman but did not provide them with any pertinent information they could impeach her with. Applicant testified that she had a record but he did not know anything about her criminal history until he was given the discovery materials. Applicant stated that the information was included in there but was not brought up in court. Applicant stated Pearson lied because she said in a written statement that they walked together into the store and he appeared to have a gun, but in court stated that he walked down the street openly carrying a gun, despite others saying that he did not have one. Applicant stated that Counsels should have investigated that identity and impeached credibility on that basis. Applicant stated that Pearson testified against him and blamed him for the crime. He stated Counsels told him that she took a deal to testify against him in exchange for a ten year sentence.

Applicant stated that he was never given a plea offer, despite asking for one. He testified that he was told by Counsels that nothing was offered. Applicant claims that if he was presented with an offer he would have considered taking it.

On cross-examination, Applicant stated that he met with Poole four or five times before he began experiencing health issues. He stated he met with Neely the day of trial. Applicant stated he received the discovery about two days before trial. He stated he was given a packet and then did not see him again until the day of trial. Applicant testified that they had a trial plan that was abandoned at trial. He stated Counsels did not ask Mindy or Sandra anything at trial. He stated he wrote on paper to ask them to do certain things but they did not do it.

Applicant stated that Victim stated she could identify him, because he was in the store

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earlier and they saw him before. Applicant stated that Victim saw his face on the news. He stated he knows it was raised, but does not recall how the judge ruled. He testified he did not know that the judge ruled the identification was admissible. Applicant testified that the victim could not identify him based on his physical characteristics but knew what the woman was wearing. After being refreshed, Applicant stated he remembered the victim stating at trial what their ethnicities were and what they were wearing.

Applicant stated Counsels were ineffective for failing to question Pearson more and for failing to properly impeach her. Applicant stated that he recalled Pearson being offered a plea deal in exchange for her testimony, though she denied being promised anything from the State.

Applicant conceded that his fingerprints were found under the cash register. Applicant stated that they were under the cash register because he went into the store and took the money, clarifying that though he took the money he did not rob anyone.

Applicant stated he wanted Counsels to raise the fact that he did not have a gun at the time. He stated he did not know if Victim testified that they saw him with a gun. However, after being refreshed, Applicant stated that Victim claimed he had a gun pointed at her face. He then stated he recalled her saying that, but he stated that if that was the case she should have been able to identify him, stating that she could not identify him at all.

On re-direct, Applicant stated he took the money when he was in the store. He also stated that Counsels told him he had a good chance of winning at trial.

Counsel Poole Testimony

Poole stated he was assigned to and represented Applicant while he was working at the Public Defender's office. Poole stated he met with Applicant on several occasions and provided him with a copy of the discovery. Poole stated that the testimony of the witnesses was obvious

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from the beginning. Poole stated he does not remember anyone telling Applicant he had a good case. Poole testified that the State had a good case, but Applicant was facing an uphill battle. Poole stated he requested a plea offer, but none were provided, given the strength of the State's case.

Poole stated he had Pearson's rap sheet, which showed an arrest for assault and battery in 2000 with no conviction and an arrest for prostitution with no disposition. Poole stated that these charges were inadmissible and could not be used for impeachment purposes. Poole stated that Applicant lived with Pearson for at least a year prior to the crime and that they did not discuss the dynamics of the relationship, other than the fact that children lived in the home as well.

Poole stated him and Neely split up the work associated with the case. Poole stated he did have health problems during the course of representation that have now led to his retirement. Poole stated Neely handled the identification issue in a *Biggers* hearing, but that the judge found there was not enough State action to arise to a *Biggers* issue. He testified that Applicant's mugshot was shown on the news and the news routinely uses mugshots not directly obtained from law enforcement.

Poole stated that one of the fingerprint expert witnesses testified at the trial and that it was her first time to become qualified as an expert at trial. Poole stated he objected on this basis, which was overruled by the judge. He testified that a lot of fingerprints were gathered, a couple of which belonged to Applicant. Poole stated he argued in closing that the prints were partials and that even a non-expert could have seen that they were unreliably ascribed to Applicant.

Poole stated that the first time he heard Applicant admit to stealing the money was at the PCR hearing. Poole stated that when they first interviewed him he admitted to committing the crime, but put most of the blame on Pearson, saying she had the guns and gave one to him.

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On cross-examination, Poole stated that he and Applicant met in September, December, April, May, June, and July prior to trial. Poole stated they discussed the case and the discovery. Poole stated that the State had Victim's identification, the fingerprints, and Pearson's testimony, who had secured a dismissal of the kidnapping charge in exchange for her cooperation.

Poole stated he could not remember whether he or Neely cross-examined Victim. Poole stated that Victim was pretty unflappable about who committed the crime, especially after seeing the mugshot on the news. He testified he did not think there was wiggle room on cross-examination because she appeared very confident that Applicant was the perpetrator and that he was unaware of anything in her background that he should have investigated further.

He testified that the cross-examination of Pearson consisted of the plea deal she secured and contradictions between her trial testimony and prior statements. Poole stated that they had a rap sheet and did not think further investigations into her background were needed.

Poole stated that he did not obtain a plea offer because the Solicitor would not give him one. He stated that the elected Solicitor prosecuted the case personally, leaving him unable to ask for one further up the chain of command.

Counsel Neely Testimony

Neely stated he began working on this case when he arrived at the Public Defender's Office. Neely stated that he was aware of the facts of the case, that Pearson was cooperating with the State, that Applicant's fingerprints were found in the store, and that Victim identified Applicant. Counsel stated that no one told Applicant he had a good case in light of the facts and that he would never inform a client that he had a good case with the inculpatory evidence he had against him.

Neely stated that he and Poole split up the work associated with the case and he primarily

handled Victim's identification. Neely stated he researched this issue. He stated he did not look into Victim's background. He testified that he grew up in Spartanburg and was familiar with the store and its owner. Neely stated that he did not have a rap sheet on the victim. Neely agreed that the description she gave law enforcement prior to Applicant's arrest differed some from Applicant's actual appearance. Neely stated that the victim called the police and identified Applicant as the perpetrator after seeing his mugshot on the news. He testified that this was the basis for the *Biggers* hearing and their strategy in Court as it pertained to the identification of Applicant. Neely stated that after seeing Applicant's mugshot in the news Victim was adamant that he was the perpetrator.

Neely stated that they argued at length while in chambers that Victim's in-court identification should be disqualified because her out-of-court identification was inadequate. Neely stated that the defense's position on the identification was that governmental action improperly influenced the identification. He stated that he gathered all the news sources available on the case, but the photographs stated they were "courtesy of Spartanburg PD." He stated that the Court disagreed with the defense in their position that the photograph constituted improperly governmental action. Neely stated he was present during meetings concerning the case held in May, June, and July and that Solicitor Barnette was unrelenting and refused to offer a plea offer.

Neely stated that he cross-examined a fingerprint expert at trial. Neely stated that the day of the evidentiary hearing was the first time he heard of Applicant stealing the money and that their entire theory of the case, namely that Applicant was at work at the time of the robbery and, thus, not present, would have been undercut by this statement.

On cross-examination, Neely stated that Applicant was one of eighteen fingerprints that popped up on the fingerprint database. Neely stated he did not remember which number hit he

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was, but would not be surprised if he was number one.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the trial transcript, direct appeal records, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984). *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing

professional norms.” *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel’s performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies, if it is

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SPARTANBURG COUNTY
AMY M. COX

easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Failure to Investigate Victim's Background

Applicant alleges ineffective assistance of counsel for failure to investigate the victim's background. *Strickland* makes clear that counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim's validity is evaluated for "reasonableness [under] all the circumstances" with "a heavy measure of deference to counsel's judgments" applied. *Id.* However, counsel is required to, at minimum, "interview potential witnesses and make an independent investigation of the facts and circumstances of the case", *Ard v. Catoe*, 372 S.C. 318, 331-32, 642 S.E.2d 590, 597 (2007) (quoting *Troedel v. Wainwright*, 667 F.Supp. 1456, 1461 (S.D.Fla.1986), *aff'd*, 828 F.2d 670 (11th Cir.1987)), including aggressively re-examining all the government's forensic evidence and conducting analyses of all other available forensic evidence." *Id.* (quoting *American Bar Association Guidelines For The Appointment And Performance Of Defense Counsel In Death Penalty Cases*, reprinted in 31 Hofstra L.Rev. 913, 1015 (2003) (emphasis added)).

Counsel is not obligated to "investigate lines of defense that he has chosen not to employ at trial." *Strickland*, 466 U.S. at 682 (quoting *Washington v. Strickland*, 693 F.2d 1243, 1255 (5th Cir. 1982)). Further, "[w]hen counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough*, 540 U.S. at 5 (citing *Strickland*, 466 U.S. at 690).

Applicant claims Counsels were ineffective for failing to investigate Victim's

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PARTANBURG COUNTY
AMY W. COLE

background. However, Poole credibly testified that he was unaware of anything in her background that would have caused him to investigate her background. Neely credibly testified that he was familiar with the owners of the toy store, Victim included, because he grew up in Spartanburg. Neely also credibly testified he was not provided with a rap sheet for Victim like they were with Applicant's co-defendant. Accordingly, no deficiency is found on the part of either counsel. Additionally, no prejudice is found because Applicant has failed to show anything would have been uncovered if Counsels further investigated her, what that information consists of, or how it would have impacted trial proceedings. Thus, relief is denied on this ground.

Failure to Impeach Victim's Identification

This Court finds that Counsels adequately challenged Victim's out-of-court identification of Applicant. Specifically, a pre-trial motion was held on this matter, where Neely asked the judge to prevent Victim from identifying Applicant in the courtroom as her assailant, asserting that Victim's out-of-court identification was tainted and unreliable because Victim observed Applicant's mugshot on the news, which he contended would result in Victim simply identifying the person she saw on the news as the robber. (Tr. 102-03). Neely contended the out-of-court identification resulted from police action, claiming the media must have obtained the mugshot from the police, and he argued permitting Victim to make an in-court identification under those circumstances would violate Applicant's due process rights. (Tr. 102-03, 106, 108). The judge conducted an *in limine* hearing on the matter. (Tr. 111-27). Neely renewed his opposition to the identification's admission after testimony was taken from the Victim in the pre-trial motion. (Tr. 128). However, the judge declined to exclude the identification, concluding there was no governmental involvement in Victim's out-of-court identification and ruled Victim would be permitted to identify Applicant during trial. (Tr. 128-30, 145). Victim identified Applicant in the

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courtroom as the robber over Neely's renewed objection, and indicated she was "[a]bsolutely without a doubt positive" of her identification. (Tr. 164-89). While cross-examining Victim, Poole highlighted discrepancies between the description given to the police following the incident and Applicant. (Tr. 187-90).

This was confirmed at the PCR hearing, where Poole stated Neely handled the identification issue in a *Biggers* hearing, but that the judge found there was not enough State action to arise to a *Biggers* issue. He testified that Applicant's mugshot was shown on the news and the news routinely uses mugshots that are not directly obtained from law enforcement. Poole stated that Victim was pretty unflappable about who committed the crime, especially after seeing the mugshot on the news.

Also at the PCR hearing, Neely agreed that the description she gave law enforcement prior to Applicant's arrest differed some from Applicant's actual appearance. Neely stated that Victim called the police and identified Applicant as the perpetrator after seeing his mugshot on the news. He testified that this was the basis for the *Biggers* hearing and their strategy in Court as it pertained to the identification of Applicant. Neely stated that after seeing Applicant's mugshot in the news Victim was adamant that he was the perpetrator. Neely stated that they argued at length while in chambers that Victim's in-court identification should be disqualified because her out-of-court identification was inadequate. Neely stated that the defense's position on the identification was that police or governmental action improperly influenced the identification. He stated that he gathered all the news sources available on the case, but the photographs stated they were "courtesy of Spartanburg PD." He stated that the Court disagreed with the defense in their position that the photograph constituted improperly governmental action.

Based on the above, Counsels acted reasonably in handling the alleged unreliability of

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SPARTANBURG COUNTY
ANDY W. COX

Victim's out-of-court identification. A pre-trial hearing on this was held and a finding reached by the trial judge that was unfavorable to Applicant. Counsels also objected to the identification during trial and engaged in a vigorous cross-examination of Victim concerning the alleged unreliability of the identification. Thus, Counsels acted reasonably regarding this issue and, accordingly, were not deficient on this ground.

Further, no prejudice is found given the sheer amount of evidence indicating guilt. Applicant's fingerprints were found under the cash register, his co-defendant testified against him, Victim was unflappable in her identification of Applicant, and an executed search warrant revealed cash, ammunition, a gun, and duct tape were located in Applicant's apartment. Further, as soon as the police arrived, Applicant fled and refused to surrender to them for about an hour, indicating guilt. Thus, even if Counsels were deficient, no prejudice is found on this ground. Accordingly, relief is denied concerning this allegation.

Failure to Impeach Co-Defendant

Applicant alleges Counsels were ineffective for failing to investigate Pearson's background and to properly impeach her at trial. However, this Court finds both Counsels credibly testified that they possessed her rap sheet, but that none of the charges on the sheet were admissible as impeachment material. Poole credibly testified he did not think further investigations into her background were needed. Additionally, Poole did engage with her on cross-examination, highlighting that the kidnapping charge was being dismissed against her in exchange for her cooperation with the State and that she is looking for a more favorable outcome in her case by testifying against Applicant and pointed out contradictions between her trial testimony and prior statements. (Tr. 208-19). Accordingly, this Court finds that Counsels acted reasonably under the circumstances and, thus, no deficiency is found.

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SPARTANBURG COUNTY
AMY M. COX

Additionally, Applicant has failed to meet his burden of proof in showing what evidence would have been uncovered if further investigated or how it would have impacted trial proceeding. Further, as stated above, given the sheer amount of evidence against Applicant presented at trial, this Court finds any further impeachment of the co-defendant would not have had an impact on the results. Thus, Applicant cannot meet either prong of the *Strickland* analysis and, accordingly, relief is denied on this ground.

Failure to Secure Plea Offer

Applicant had no constitutional right to a plea offer, nor was the State required to keep the offer open in this case. Accordingly, this Court denies relief on this ground. “Prosecutors have broad powers in the plea bargain process[.]” *Reed v. Becka*, 333 S.C. 676, 684, 511 S.E.2d 396, 400 (Ct. App. 1999). *See Collins v. State*, 422 S.C. 250, 261, 810 S.E.2d 871, 877 (2018) (“[T]he decision whether to revive the expired plea offer rested exclusively with the solicitor.”); *State v. Langford*, 400 S.C. 421, 436 n.6, 735 S.E.2d 471, 479 n.6 (2012) (stating “[u]ndoubtedly, the solicitor has discretion in choosing how to proceed with a case, including whether to prosecute in the first place and whether he brings it to trial or offers a plea bargain”); *see also Weatherford v. Bursey*, 429 U.S. 545, 561 (1977) (finding “there is no constitutional right to plea bargain; the prosecutor need not do so if he prefers to go to trial”);

“Prosecutors may pursue a case to trial, or they may plea bargain it down to a lesser offense, or they can simply decide not to prosecute the offense in its entirety.” *Reed*, 333 S.C. at 684, 511 S.E.2d at 400-01. “The Judicial Branch is not empowered to infringe on the exercise of this prosecutorial discretion; however, on occasion, it is necessary to review and interpret the results of the prosecutor’s actions.” *Id.* Yet, plea offers must be analyzed within the bounds of judicial restraint. *Id.*

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SPARTANBURG COUNTY
AMY W. COX

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“[A] defendant has no constitutional right to plea bargain,” *id.* (citing *State v. Easler*, 322 S.C. 333, 471 S.E.2d 745 (Ct. App. 1996), *aff’d as modified*, 327 S.C. 121, 489 S.E.2d 617 (1997)), and “a trial judge is not required to accept a plea. *Id.* (citing *Santobello v. New York*, 404 U.S. 257 (1971)). “A plea agreement is only an ‘offer’ until the defendant enters a court-approved guilty plea. A defendant accepts the ‘offer’ by pleading guilty. Thus, until formal acceptance of the plea by the court has occurred, the plea binds no one, not the defendant, the State, or the court.” *Id.*, 333 S.C. at 688, 511 S.E.2d at 402 (citing *Harden v. State*, 453 So.2d 550 (Fla.Dist.Ct.App. 1984); *see also State v. Nesbitt*, 411 S.C. 194, 201 n.7, 768 S.E.2d 67, 71 n.7 (2015) (finding that “if the defendant enters into a negotiated plea agreement prior to the court’s acceptance of his guilty plea, that agreement is a mere executory promise that, standing alone, has no constitutional significance, as it binds neither the government nor the defendant.”)).

This Court finds Counsels were not ineffective on this ground because the State was unwilling to offer a plea deal to Applicant, despite their attempts at securing one. This was seemingly communicated to Applicant, who testified at the PCR hearing that Counsels told him they could not get the State to offer a deal. Poole credibly testified that because the prosecutor prosecuting the case was the elected Solicitor, he did not have wiggle room in attempting to reach out to someone up the chain of command for one after the prosecutor on the case refused to extend an offer. Accordingly, this Court finds that, despite Counsels attempts to secure an offer, none were offered and Applicant is not entitled to relief on this ground because he is not constitutionally entitled to an offer. Accordingly, relief is denied on this ground.

Conclusion

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his

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SPARTANBURG COUNTY
AMY W. COX

application. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 20 day of October, 2021.

William A. McKinnon
 WILLIAM A. MCKINNON
 Presiding Judge
 Seventh Judicial Circuit

Spartanburg, South Carolina.

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 SPARTANBURG COUNTY
 AMY W. COX



ALAN WILSON
ATTORNEY GENERAL

October 25, 2021

The Honorable Amy W. Cox
Spartanburg County Clerk of Court
Post Office Box 3483
Spartanburg, South Carolina 29304

FILED
2021 OCT 27 AM 8:29
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

Re: Corey Brown, #368883 v. State of South Carolina
2019-CP-42-02915

Dear Ms. Cox:

Enclosed please find the original Order of Dismissal signed by the Honorable William H. McKinnon, in the above-captioned case, for filing in your office.

Should you have any questions, please do not hesitate to call me at (803) 734-3737.

Sincerely,

/s Chelsey F. Marto
Chelsey F. Marto
Assistant Attorney General

CFM/ec

Enclosure

ARREST WARRANT

8/11/15 2015A4210202555

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

THE STATE
against

Corey Andrew Brown

Address:

Spartanburg, SC 29306-

Phone: (000)000-0000

SSN:

Sex: M

Race: B

Height: 5

7

Weight: 150

DL State:

DL #:

DOB:

Agency ORI #: SC0420100

Prosecuting Agency:

Spartanburg Police Department

Prosecuting Officer:

Jeffrey M Kirby - 1582

Offense:

Kidnapping / Kidnapping

Offense Code:

0095

Code/Ordinance Sec:

16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/☐ Municipality of

The accused

is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant
on

Corey Andrew Brown

August 8, 2015

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

180 Magnolia Street

P O Box 3483

Spartanburg, SC 29304

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCAS 10

Personally appeared before me the affiant Jeffrey M Kirby

being duly sworn deposes and says that defendant Corey Andrew Brown

did within this county and state on or about 8/7/2015

State of South Carolina (or ordinance of ☒ County/☐ Municipality of

Spartanburg

in the following particulars:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

FILED

CLERK OF COURT
SPARTANBURG COUNTY

violate the criminal laws of the

2015 AUG 11 AM 10:25

M. HOPE BLACKLEY

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on August 7, 2015 in the city of Spartanburg, county of Spartanburg, one Corey Andrew Brown did unlawfully seize, confine,
kidnap or abduct victim from Imagination Station without authority of law.

Based on police investigation. sh

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Spartanburg

Affiant's Address: 45 West Broad Street

Spartanburg, SC 29306-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/7/2015

defendant Corey Andrew Brown

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/☐ Municipality of

Spartanburg

) as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 8/8/2015

Signature of Issuing Judge

Daniel Ray Burns

Judge Code: 7067

Judge's Address

Spartanburg County Judicial Center

Spartanburg, SC 29306-2335

Judge's Telephone

(864)596-3424

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

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ARREST WARRANT
8/11/15 2015A4210202554

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Spartanburg

THE STATE
against

Corey Andrew Brown

Address:
Spartanburg, SC 29306-

Phone: (000)000-0000 SSN:

Sex: M Race: B Height: 5 7 Weight: 150

DL State: DL #:

DOB: Agency ORI # SC0420100

Prosecuting Agency: Spartanburg Police Department

Prosecuting Officer: Jeffrey M Kirby - 1582

Offense: Robbery / Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon

Offense Code: 0139

Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Corey Andrew Brown
on August 8, 2015

Signature of Constable/Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Spartanburg

Personally appeared before me the affiant Jeffrey M Kirby who
being duly sworn deposes and says that defendant Corey Andrew Brown
did within this county and state on or about 8/7/2015 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Spartanburg)
in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on August 7, 2015, in the city of Spartanburg, county of Spartanburg, one Corey Andrew Brown did take US currency from the
victim, Imagination Station, 180 East Main Street, Spartanburg, South Carolina with intent to deprive while armed with a handgun,
a deadly weapon.

Based on police investigation. sh

Signature of Affiant

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Spartanburg

Affiant's Address: 145 West Broad Street
Spartanburg, SC 29306-

Affiant's Telephone:

AUG 12 2015

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 8/7/2015 defendant Corey Andrew Brown
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 8/8/2015

Signature of Issuing Judge
Daniel Ray Burns
Judge Code: 7067

Judge's Address: Spartanburg County Judicial Center
Spartanburg, SC 29306-2335

Judge's Telephone: (864)596-3424

Issuing Court: ☒ Magistrate ☐ Municipal

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ORIGINAL

CERTIFIED COPY

CLERK OF COURT

8/12/15

ATED ORIGINAL

484

X

.. SENTENCE MADE

REPORTED

WITNESSES

INDEXED

CHECKED WARRANTS

Spartanburg City Police Department

CHECKED SIGNATURE

ASSESSMENT AND

ONE CARD MADE

TRAFFIC VIOLATION COPY

[Handwritten signature]

ARREST WARRANT NUMBER

2015A4210202555

ACTION OF GRAND JURY

[Handwritten signature]

OCT 23 2015

Foreperson of Grand Jury
Date:

VERDICT

Kidnapping
Guilty

[Handwritten signature]

Foreperson of Petit Jury
Date:

7/13/16

DOCKET NO.

15-GS-42-4753

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 23 2015

TERM

THE STATE

v.

COREY ANDREW BROWN

Indictment for

KIDNAPPING

SC Code: 16-03-910

CDR Code: 0095

Class FEL-A

CLERK OF COURT
SPARTANBURG, SC

2015 OCT 27 AM 9:05

M. HOPE BLACKLEE

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

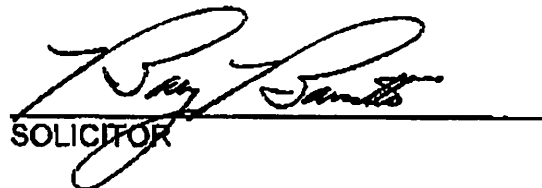
INDICTMENT

At a Court of General Sessions, convened on SEP 23 2015 the
 Grand Jurors of Spartanburg County present upon their oath:

KIDNAPPING

That the Defendant, Corey Andrew Brown, did in Spartanburg County on or about August 7, 2015, willfully and unlawfully with criminal intent seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Mindy Slotin, without authority of law, all in violation of Section 16-03-910, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

SENTENCE MADE

REPORT ENDED

3. CARD FULL

INDEXED

Spartanburg City Police Department

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

INVESTIGATION

ARREST WARRANT NUMBER

Count One - 2015A4210202554

Count Two - 2015A4210202558

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Pass. of A Weapon During the
Commission of A Violent Crime
Guilty Armed Robbery Guilty

Foreperson of Petit Jury

Date:

7/13/16

DOCKET NO. -

15-GS-42-4754

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 23 2015 TERM

THE STATE
v.

COREY ANDREW BROWN

Indictment for

ARMED ROBBERY; POSSESSION OF A
WEAPON DURING COMMISSION OF A
VIOLENT CRIME

SC Code: 16-11-330 (A); 16-23-490

CDR Code: 139; 549

Class: FEL/A; FEL/F

CLERK OF COURT
SPARTANBURG
2015 OCT 27 11:00 AM
M. HOPE BLACK

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on OCT 23 2015 the Grand
Jurors of Spartanburg County present upon their oath:

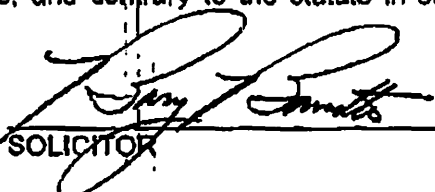
COUNT ONE – ARMED ROBBERY

That the Defendant, Corey Andrew Brown, did in Spartanburg County on or about August 7, 2015, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take property and/or currency from the person or presence of Mindy Slotin (Imagination Station), including but not limited to a U.S. Currency and an iPad Mini, by means of force, violence, and/or intimidation with the intent to deprive him permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

**COUNT TWO – POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME**

That the Defendant, Corey Andrew Brown, did in Spartanburg County on or about August 7, 2015 possess or visibly display a firearm or a knife during the commission of a violent crime, to-wit: ARMED ROBBERY, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

.. SENTENCE MADE ☒ **COMPUTER**
 REPORT ENDED ☒ **COMPUTER**
 1. CARD PULLED ☒ **WITNESSES**
 INDEXED ☒
 2. CHECKED WARRANTS ☒
 3. CHECKED SIGNATURE ☒
 Spartanburg City Police Department **COMPUTER**
 4. FINE CARD MADE ☒
 5. TRAFFIC VIOLATION COPY ☒

James L. DeLoach

ARREST WARRANT NUMBER

2015A4210202557

ACTION OF GRAND JURY

Leah OCT 23 2015
 Foreperson of Grand Jury
 Date:

VERDICT

Assault & Battery 1st Degree
 Guilty

James Lyle
 Foreperson of Petit Jury
 Date:

7/13/16

DOCKETED **15-GS-42-4752**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 23 2015

TERM

THE STATE

v.

COREY ANDREW BROWN

Indictment for
**ASSAULT AND BATTERY OF A
 HIGH AND AGGRAVATED NATURE**

SC Code: 16-3-600

CDR Code: 3411

Class FEL-C

CLERK OF COURT
 SPARTANBURG, SC
 2015 OCT 27 AM 9:59
 M. HOPE BLACKLEY

AP

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG }

INDICTMENT

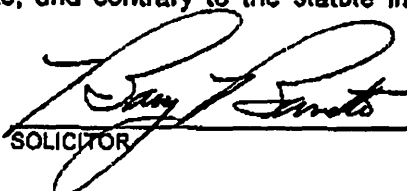
At a Court of General Sessions, convened on Oct 2 - 2015 the

Grand Jurors of Spartanburg County present upon their oath:

ASSAULT AND BATTERY OF HIGH AND AGGRAVATED NATURE

That the Defendant, Corey Andrew Brown, did in Spartanburg County on or about August 7, 2015, commit an act causing an unlawful injury to another person, and the act resulted in great bodily injury to the person, or the act was accomplished by means likely to produce death or great bodily injury to the person, to wit: by striking the victim, Mindy Slotin, in the head with a handgun, causing injuries to the victim, all in violation of § 16-3-600, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE: VS.

Corey Andrew Brown

AKA:

Race: BLACK Sex: M Age: 41

DOB: SS#:

Address: 180 South Pine Lake Drive, Apt. 26D

City, State, Zip: Spartanburg, SC 29306

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

IO: Kidnapping / Kidnapping

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS4204753

A/W#: 2015A4210202555

Date of Offense: 8/7/2015

S.C. Code § 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State.

ATTEST: Barnette, Barry 13039 x Corey Brown Roger Pude 4499
 BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar# 101474

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$
 § 14-1-206 (Assessments 107.5%) \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(3) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 56-1-286 (DUI Breath Test) \$25 \$
 Proviso 47.9 (Public Def/Prob) \$500 \$
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$150 \$
 § 50-21-114 (BLI Breath Test Fee) \$50 \$
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 *to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75Clerk of Court/Deputy Clerk C. PonceCourt Reporter: M. Woods

SCCA/217 (07/2016)

PTUP

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Presiding Judge A. SmithJudge Code: 7465Sentence Date: 13 July 2016

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE

VS.

Corey Andrew Brown

AKA:

Race: BLACK Sex: M Age: 41

DOB: SS#:

Address:

City, State, Zip: Spartanburg, SC 29306

DL #: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon- Count One (1)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation. ☐ Negotiated Sentence. ☐ Recommendation by the State.ATTORNEY: Barnette, Barry 13039 Barry Brown Barry Poole 4499
SC Bar# Defendant Attorney for Defendant SC Bar# 101474WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
and or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: All indictments
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee \$ —Payment Terms: —☐ Set by SCDPPPS —Recipient: —

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca
3% to County (if paid in installments)	\$ 3.75

TOTAL \$ 128.75Clerk of Court/ Deputy Clerk C. PooleCourt Reporter: M. Woods

SCCA 217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS4204754

A/W#: 2015A4210202554

Date of Offense: 8/7/2015

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon- Count One (1)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

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pmts. of \$ — beginning —\$ — paid to Public Defender FundOther: —☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.Presiding Judge A. Smith-BellJudge Codes: 2-165Sentence Date: 13 July 2016

