

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County
William A. McKinnon, Circuit Court Judge

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Jul 18 2022
S.C. SUPREME COURT

JASON CASH,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001437

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 Jason Andrew Cash, } 2015-GS-42-3776-3778
7 Defendant. } 2017-GS-42-495;496
8 } February 27, 2017 - March 2, 2017
9 } Spartanburg, South Carolina
10

11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE; and a jury
13

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23 Circuit Court Reporter
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1 (Proceedings February 27, 2017)

2 THE COURT: All right. This is Jason Andrew Cash.
3 Mr. Moore. You represent him.

4 MR. MOORE: Yes, sir. That's correct, Your Honor.

5 THE COURT: Do y'all have something you'd like to
6 address with me?

7 MR. MOORE: Your Honor, while we were doing jury
8 qualifications I was notified that Mr. Cash had made some
9 statements he was concerned about my ability to represent
10 him in this matter and may want to release me as his
11 attorney.

12 I just wanted to put that on the record prior to
13 selecting a jury and give the Court the opportunity to
14 address that issue now so we can figure out what we're
15 going to do.

16 THE COURT: All right. And are you retained or
17 appointed?

18 MR. MOORE: I was appointed, Your Honor.

19 THE COURT: All right. Mr. Cash, what would you like
20 to tell me about Mr. Moore's representation?

21 THE DEFENDANT: There has been severals times that Mr.
22 Moore has tried to get me to go with the state to help the
23 state. The state is not willing to come down off the
24 higher charge, so I said I wanted a jury trial.

25 Mr. Moore continues to insist that I go with the

1 state. I'm not inclined to do so at the moment. I want a
2 jury trial, and I don't feel like if I continue with a jury
3 trial that he will fully represent me to the best of his
4 ability.

5 THE COURT: All right. Well, I'm -- I'm not satisfied
6 that you have an appreciation for Mr. Moore's ability or
7 his willingness to represent you in either a plea or a
8 trial.

9 But you understand, Mr. Cash, that Mr. Moore's
10 obligation and duty to you is to let you know any offer the
11 state makes to you and also to give you advice on whether
12 he thinks that's a good idea or not. But the ultimate
13 decision is always yours. And Mr. Moore doesn't care
14 whether you accept the state's offer or whether you go to
15 trial. But I assume that you've asked his opinion on what
16 he thinks about the -- the future as far as what could
17 occur, how it might occur, what your chances are, what's
18 the best course of action to take. Have y'all had those
19 discussions?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. Well, that's what he's got an
22 obligation to do. He's got to give you advice. But you
23 always have the choice. It's always your decision as to
24 whether or not you want to plead guilty or accept the
25 state's offer or plea bargain or whether you want to have a

1 jury trial. That's always going to be your decision.

2 Mr. Moore knows that and he accepts that fact, but
3 he's got to properly advise you because, you know, if the
4 state makes an offer and he doesn't let you know what he
5 thinks of the offer and then you go and have a jury trial
6 and you get convicted, then you're down there in the jail
7 somewhere saying, well, he didn't explain that offer to me,
8 he didn't tell me that was a good deal or why I should take
9 it or shouldn't and that sort of thing. That's what those
10 discussions are about.

11 But, in any event, have you discussed with Mr. Moore
12 any offers made to you by the state?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you understand that if this trial gets
15 started that those offers are off the table, there won't be
16 any more offers.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: In other words, the state can dismiss the
19 charges if they want to because they always have that
20 right, but once we get started if they want to make a
21 recommendation or y'all want to negotiate a plea, I don't
22 have to go along with that, I don't have to do it.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: We'll continue with the jury trial. Do
25 you understand?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: So you just have a certain window of
3 opportunity to accept an offer if you want to accept one.
4 Once the trial starts, we're going to trial. Do you
5 understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Do you know what the state's
8 offer is?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. Do you want Mr. Bulsa to state it
11 so that we can be certain we're on the same page as to what
12 has been offered?

13 THE DEFENDANT: If nothing's changed since last
14 Thursday, I'm very clear on what the state's offer is.

15 THE COURT: Okay.

16 MR. BULSA: May I preserve it for the record, Your
17 Honor?

18 THE COURT: Yes, you may.

19 MR. BULSA: Back --

20 THE COURT: Listen to what Mr. Bulsa's got. He's the
21 prosecutor.

22 MR. BULSA: Thank you, Your Honor.

23 Your Honor, back with -- this case dates back to May
24 of 2015. I don't recall when Mr. Moore was assigned to the
25 case, but I presented a plea offer to Mr. Moore soon after

1 he was assigned the case. That plea offer was a negotiated
2 40 years if the defendant would cooperate fully and
3 testify.

4 During the preparation of the case for trial Mr. Moore
5 came to me and asked me if there was anything he could --
6 his client could do to minimize his exposure, and I said,
7 well, I'll remove the negotiated 40-year offer and,
8 basically, leave it open ended.

9 So depending on how he cooperates and testifies, Mr.
10 Moore would be able to argue for the minimum 30-year
11 sentence. So I actually lowered my initial offer of the
12 negotiated 40 years and opened it up to a potential 30
13 years. And that was discussed with the defendant on
14 Thursday of last week.

15 THE COURT: And the charges, it appears to me, that
16 are pending and I have on this trial docket are charges of
17 murder, attempted murder and kidnapping?

18 MR. BULSA: And there are two additional direct
19 indictments for burglary in the first degree and armed
20 robbery.

21 THE COURT: All right. Mr. Cash, you were aware of
22 the additional charges of burglary first and armed robbery?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And Mr. Moore has gone over the
25 indictments with you?

1 THE DEFENDANT: He may -- he told me about the
2 charges, yes.

3 THE COURT: In other words, you understand what you're
4 charged with in each indictment.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And he's explained to you what kind of
7 sentence could be imposed if you were convicted either by a
8 plea or by a trial?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And you understand it?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you understand what the state's offer
13 is.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Mr. Bulsa, how long does that
16 offer stay open?

17 MR. BULSA: Until we draw a jury.

18 THE COURT: Okay. Do you understand that Mr. Bulsa
19 says that once the jury is selected he's not allowing you
20 to plead to anything differently than what you're charged
21 with?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And he's not going to be making any sort
24 of recommendation. No charges are going to be --

25 MR. BULSA: I'll be making a recommendation after

1 conviction, Your Honor.

2 THE COURT: Okay. Well, I mean, it won't be anything
3 beneficial or helpful to the defendant.

4 MR. BULSA: No, sir, no, sir.

5 THE COURT: All right. Do you understand what your
6 situation is?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Now, you've indicated some
9 dissatisfaction with Mr. Moore. Are you now satisfied and
10 ready to proceed with his representation?

11 THE DEFENDANT: Don't have much choice, Your Honor.

12 THE COURT: Oh, certainly, you do. You have choices.
13 You have three. I assume you asked for an appointed
14 lawyer. Is that true?

15 THE DEFENDANT: Through the public defender's office.

16 THE COURT: Well, did you ask for the Court to appoint
17 you a lawyer? Well, did you hire, Mr. Moore?

18 THE DEFENDANT: No, sir.

19 THE COURT: All right. Did he come to you and say I
20 would be willing to represent you for nothing?

21 THE DEFENDANT: No, sir.

22 THE COURT: All right. Then he must have been
23 appointed.

24 Did you -- did you fill out an application with the
25 public defender's office?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And the public defender is
3 representing somebody else in your case, is that true?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And that's why you have separate lawyers.
6 So Mr. Moore was appointed in lieu of the public defender.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Otherwise, you would have the public
9 defender.

10 All right. So you have a court-appointed lawyer. So
11 that's one choice. If you -- if you meet certain criteria
12 you can have a lawyer appointed if you can't afford one,
13 you see. And that's been done in your case. So that's one
14 choice you have, and you have taken that choice. But you
15 can -- you can rescind it if you want to.

16 But your other two choices are you can hire a lawyer,
17 anybody you want to. You can get anybody in the world who
18 is licensed to practice in South Carolina. You can hire
19 them to represent you in this trial.

20 Now, I don't know if they can get ready by 2:30, but,
21 now, you talk to them about it, and if you've got enough
22 money they might get ready.

23 Your second choice is to hire one yourself, and that
24 hasn't been done, so I'm assuming that that's not an option
25 to you.

1 And then the third choice you have is to represent
2 yourself. You can be your own lawyer if you think that
3 would be helpful. I don't recommend that because that's
4 kind of like being your own doctor. If you need surgery, I
5 don't recommend you do it yourself unless you really know
6 what you're doing, and that's probably not the case in your
7 case, but I don't know.

8 what kind of experience have you had in criminal
9 court?

10 THE DEFENDANT: None, sir.

11 THE COURT: You wouldn't even know how to pick a jury,
12 would you, or who to pick?

13 THE DEFENDANT: No, sir.

14 THE COURT: All right. So those are your three
15 choices -- appointed lawyer, hired lawyer or represent
16 yourself. Which one do you want to pick?

17 THE DEFENDANT: I'll continue with the appointed
18 lawyer.

19 THE COURT: Okay. Now, you may need to talk to him
20 about the state's offer, because, like Mr. Bulsa says, once
21 this jury is selected -- and we're going to do that at
22 2:30 -- once a jury is selected there won't be any offers
23 available. You'll just have to let the jury decide what
24 the verdict is to be. Do you understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Court's in recess until 2:30.

2 (Whereupon, a recess was taken.)

3 MR. BULSA: Your Honor, the dilemma we were hoping to
4 avoid has arisen.

5 Ms. Cash, Nicole Cash, Bridgette Nicole Cash, is not
6 here in the courthouse as far as I know. We did have phone
7 contact with her. Investigator Tom Smith spoke with her
8 around 1:00 o'clock. I'm told that she said she stumped
9 her toe and she's sure it's broken. Sometime around that
10 time. We have not seen her.

11 THE COURT: Do you have any affidavits of service?

12 MR. BULSA: Yes, sir.

13 THE COURT: Do you have an affidavit of service?

14 MR. BULSA: Huh?

15 THE COURT: An affidavit of service.

16 MR. BULSA: It's on the back.

17 THE COURT: Who did the service?

18 MR. BULSA: Brian Dill.

19 THE COURT: Okay. And you've talked to her and she's
20 not coming? She's not here and she's not coming?

21 MR. BULSA: Tom Smith has spoken to her. I didn't
22 actually speak to her myself. I wanted a third party to
23 talk to her.

24 THE COURT: Is this her current and correct address,
25 [REDACTED] Woodland Avenue, Inman?

1 MR. BULSA: That was the address we had for her back
2 then. We understand that the family was in the process of
3 moving from that address. I don't know if they have yet or
4 not. I don't believe they have but...

5 THE COURT: This is where she was served?

6 MR. BULSA: Yes, sir.

7 THE COURT: Okay. Issue a bench warrant for Bridgette
8 Nicole Cash.

9 Bring her immediately before the Court upon her
10 arrest.

11 You might need to provide them some information, to
12 the sheriff's department.

13 MR. BULSA: That brings us to the ability to go
14 forward at this time.

15 I considered her a necessary witness against her
16 brother, so I'd rather not start until I know if we've got
17 her in pocket.

18 I have considered the alternative of going forward on
19 Mr. Lewis' case, and I will if I have to, but I would like
20 to at least have the rest of the afternoon to see if the
21 sheriff's office can get Ms. Cash and then to start this
22 case in the morning.

23 THE COURT: Okay. What about -- what's the next case
24 after this one?

25 MR. BULSA: After those two, there's a drug case

1 involving Don Smith.

2 THE COURT: He's in Anderson?

3 MR. BULSA: I don't know if he was released to go to
4 Anderson. I told Mr. Maxey to keep him here and wait until
5 we started our actual case.

6 THE COURT: How about y'all check and see if they're
7 available.

8 (whereupon, a recess was taken.)

9 (whereupon, Bridgette Nicole Cash was brought before
10 the Court in a separate proceeding.)

11 END OF PROCEEDINGS FEBRUARY 27, 2017
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1 (Proceedings February 28, 2017)

2 THE COURT: All right. Are we ready to proceed with
3 the State vs. Jason Andrew Cash?

4 MR. BULSA: Your Honor, Ms. Cash, Nicole Cash, has not
5 appeared after colloquy she had with the Court.

6 I met with her. She said she wanted to change her
7 story. I gave her that opportunity to meet with me this
8 morning at 9:00 o'clock. She did not appear in my office
9 at 9:00 o'clock, nor was she in the courthouse at
10 10:00 o'clock as directed by the Court.

11 THE COURT: All right. Well, the deputies have been
12 instructed if she's not here at 10:00 o'clock to pick her
13 up, place her in custody and to bring her down here.
14 Wilfully or unwilfully doesn't matter to me. But, in any
15 event, they're going to get her right this moment.

16 All right. Can we go ahead and select the jury, or do
17 we have some pretrial matters to address?

18 MR. BULSA: There is a matter of arraignment. The
19 defendant was charged by warrant on the attempted murder
20 and murder.

21 We sought direct indictments for kidnapping, armed
22 robbery and burglary in the first. Defense counsel has
23 been provided with a copy of those. I don't know if he
24 desires formal arraignment or wishes to waive arraignment.

25 THE COURT: Burglary first and armed robbery are the

1 ones that are directly indicted?

2 MR. BULSA: As well as kidnapping.

3 THE COURT: All right. Mr. Moore, have you discussed
4 with Mr. Cash the fact that he has been directly indicted
5 for the crimes of burglary first degree, kidnapping and
6 armed robbery?

7 MR. MOORE: Yes, sir, Your Honor.

8 THE COURT: And you have gone over the indictments
9 with him?

10 MR. MOORE: Yes, sir.

11 THE COURT: Does he wish to be arraigned on those
12 indictments, or does he waive arraignment?

13 MR. MOORE: He waives arraignment, Your Honor.

14 MR. BULSA: Your Honor, the state served the defense
15 with a pretrial motion regarding prior bad acts. I have
16 placed a copy on the bar for Your Honor.

17 It involves the defendant stealing from his
18 grandmother. He stole over a period of time in the month
19 prior to this incident up until about two days before.
20 This incident occurred on May 22nd.

21 Ms. Emma Cooke went to the police department,
22 sheriff's office, on May the 20th, just two days prior to
23 this, and gave a written statement, which I included with
24 my motion, setting out the items that she says he stole.
25 And also it includes a conversation, a brief conversation,

1 that she had with her grandson, Jason Cash, where he
2 commented that, I believe, that he would get it back and
3 told her why he did it.

4 When I met with Ms. Cooke I asked her if she
5 confronted her grandson about stealing these items, and she
6 said she did and his response was that he would get them
7 back or made good on it, that he would take care of it.

8 Your Honor, the reason I want to bring this case up is
9 many of the items that he stole were taken to the victim's
10 residence and pawned, we believe, or swapped for drugs. We
11 don't know exactly. What we do know, that many of the
12 items belonging to Ms. Emma Cooke were found at Carey
13 Mauldin's house after he was killed, and many items were
14 returned to Ms. Cooke by the police department.

15 It's our belief that that was part of the motive for
16 this crime because when confronted by his grandmother he
17 was going to try to go get some of those items back. We
18 believe it's a clear inference the jury can make that that
19 shows his involvement in the theft and robbery of
20 Mr. Mauldin and Ms. Scruggs. And we intend to call
21 Ms. Cooke if we need to have a hearing. I would like to
22 present the evidence.

23 THE COURT: Let me be sure I'm clear.

24 You're saying that he took these items from his
25 grandmother and took them to the Scruggs residence?

1 MR. BULSA: The victim's residence. That'd be Carey
2 Mauldin, yes, sir.

3 THE COURT: The Mauldin residence.

4 MR. BULSA: Yes, sir, where the incident happened,
5 yes, sir.

6 THE COURT: All right. And he took those items there
7 and traded them for drugs?

8 MR. BULSA: That's what we believe, yes, sir. We
9 don't know for sure because Mr. Mauldin is not alive.

10 But we know items were found. We know through some
11 other information that's not necessarily admissible that
12 the defendant was buying heroin from the Mauldin --
13 Mr. Mauldin.

14 THE COURT: But the items taken from Ms. Cooke were
15 found at the Mauldin residence.

16 MR. BULSA: Yes, sir.

17 THE COURT: Two days after they had been taken.

18 MR. BULSA: Yes, sir. Well, two days after she had
19 gone to the police. She sets out a range of -- a date
20 range of when the defendant was stealing from her beginning
21 back in April. Actually, it might be, actually, as far
22 back as March. But in April at least, and then continuing
23 on through May.

24 She lists in several instances how he would steal
25 credit cards and use her credit cards. She would confront

1 him, and he would then take more items and steal stuff from
2 their shed and then even went back to using credit cards
3 again. So it's a series of thefts from the grandmother.
4 And, yes, sir, there is direct evidence that items stolen
5 from Ms. Cooke were found at Mr. Mauldin's, plus Ms. Cooke
6 received those back from the sheriff's office.

7 THE COURT: And is there going to be some testimony or
8 evidence that there was a connection between the defendant
9 and Mr. Mauldin involving the sale of drugs -- sale and
10 purchase? Mr. Cash. Excuse me.

11 MR. BULSA: Mr. Cash. Well, that's one of the reasons
12 we wanted Ms. Nicole Cash here, is because she knows the
13 connection between the two parties. I believe Nicole Cash
14 also got some heroin from the Mauldins as well. I believe,
15 yes, sir, it could have direct evidence about Mr. Cash
16 getting drugs from Mr. Mauldin.

17 THE COURT: All right. Mr. Moore.

18 MR. MOORE: Yes, sir, Your Honor.

19 We would, obviously, object to the admission of these
20 prior bad acts.

21 The state says that one of the main reasons it wants
22 to have to them admitted is to establish motive. But he
23 also says that the items were returned to -- to the victim,
24 which kind of, I think, takes away from their argument. If
25 the motive was to go there and rob them and get these items

1 back, I mean, why did they not take them? The evidence is
2 these items were still there and the property was returned
3 to the victim.

4 I think by admitting this stuff that happened -- I'm
5 not sure if it was days or weeks prior to this incident --
6 it would have overall a more prejudicial effect on the jury
7 and, honestly, be a little confusing.

8 I don't think it goes to -- my understanding is
9 they're going to present a witness who has first-hand
10 evidence that's going to identify them there. So it's not
11 like they need these prior bad acts to confirm identity or
12 confirm motive. It doesn't confirm motive because they
13 were still there, and the police returned it to the victim.

14 I just don't think that they've made enough of a
15 connection. He says he's going to rely on Ms. Nicole
16 Cash's testimony to build this relationship between
17 Mr. Mauldin and Ms. Cash, but at this point she hasn't
18 appeared yet, and they haven't found her yet. So I don't
19 know if we can determine whether or not we'll be able to
20 establish that relationship. So we would object to those
21 prior bad acts being admitted.

22 MR. BULSA: Your Honor, I also have a couple of jail
23 calls where the defendant is talking with his father and
24 talking about the lawnmower that was taken over to the
25 victim's residence.

1 It's not completely clear, but I think linking that
2 with the thefts is evidence, I think, the jury can connect
3 that connection to the jury, because there was comments
4 about he told his dad that he was just going over there to
5 get the lawnmower back.

6 So it's -- it's another piece we would like to
7 introduce to link it to. But use of those calls is
8 dependent upon whether Mr. Clifford Cash admits those
9 conversations.

10 THE COURT: Well, am I understanding from you, Mr.
11 Bulsa, that in order to make the connection between
12 Mr. Cash and Mr. Mauldin about the drugs, which would be
13 the motive for these crimes and the fact that items were
14 stolen and traded or pawned in return for receiving drugs,
15 that Ms. Bridgette Nicole --

16 MR. BULSA: Bridgette Nicole Cash, yes, sir.

17 THE COURT: -- Cash is going to have to provide that
18 testimony to make that connection?

19 MR. BULSA: Well, we have Casey Scruggs. She can talk
20 about the heroin and Mr. Mauldin with the heroin and
21 Mr. Cash. But Nicole will be a more direct link.

22 THE COURT: Well, I understand the state's theory, but
23 I'm not inclined to admit these prior bad acts unless
24 there's a connection that makes them relevant, because, I
25 mean, obviously and clearly they're prejudicial.

1 The probative value might outweigh that prejudicial
2 effect if -- if such relevance can be established. But if
3 it can't, then it clearly is more prejudicial than
4 probative.

5 Plus, it appears there are a lot of other items that
6 Ms. Cooke claims were taken and apparently aren't connected
7 with these events for which he is now standing trial. I
8 mean, like taking the credit cards out of a pocketbook is
9 not something that would be pawned by Mr. Cash in return
10 for the drugs unless you've got some evidence to that
11 effect.

12 MR. BULSA: And the reason I bring that in, Your
13 Honor, is because on the first page of her statement she
14 says I asked Jason Cash if he had my cards and he brought
15 them to me, and then went into some explanation about
16 needing something.

17 The theory is that she confronted him about the cards,
18 he gave them back, she then confronted him about stealing
19 items. We believe he was going to go try to get some back,
20 or at least get some money to pay her back for what he had
21 taken. That's the -- that's the reason for the credit
22 card. It just shows the pattern that he has in stealing
23 and when confronted by grandma he tries to make good on it.
24 And then just two days after he went to the sheriff's
25 office, it's our theory that he was trying to make good on

1 it.

2 THE COURT: You have a written statement from Brittany
3 Nicole Cash?

4 MR. BULSA: She gave an oral statement. We have a
5 transcript of it if you'd like to see it.

6 THE COURT: And that statement was given to who?

7 MR. BULSA: Paul Norris. It was given the day of the
8 incident at her house while they were searching it.

9 THE COURT: And you have not had the opportunity to
10 talk to her since yesterday evening when she indicated that
11 she wanted to make some changes to that statement?

12 MR. BULSA: No, sir. We spoke with her, and I asked
13 her to come to my office at 9:00 so we could play the
14 statement back for her.

15 It's pretty clear in her own words when she says --
16 she was trying to allude to us that she was under some
17 influence or something, but in my opinion she clearly knows
18 what she's talking about.

19 THE COURT: Well, let's take about 15 minutes and see
20 if the sheriff's department has been able to locate her.

21 And let me see the lawyers back in chambers just a
22 minute.

23 MR. BULSA: Yes, sir.

24 (Whereupon, a recess was taken.)

25 THE COURT: Mr. Bulsa, so far as your request for

1 admissions of prior bad acts, I'm going to reserve ruling
2 on that until and unless there is testimony or other
3 evidence tending to make that connection. And if there is,
4 it'll be permitted. If it's not, it'll be disallowed.

5 All right. Any other matters we need to address
6 before the jury panel is brought around?

7 MR. BULSA: Not from the state, Your Honor.

8 MR. MOORE: None from the defense, Your Honor.

9 THE COURT: All right. Now, I don't know who all of
10 these folks are back here, but they're not going to be able
11 to sit back there when the jury panel comes in.

12 MR. BULSA: We're going to ask to sequester the
13 witnesses during the trial.

14 MR. MOORE: I agree, Your Honor.

15 THE COURT: All right. Do I have a witness list?

16 MR. BULSA: Yes, sir. You should.

17 THE COURT: Are you going to instruct the witnesses --
18 they're not all here. So are you going to instruct them
19 about the sequestration?

20 MR. BULSA: Yes, sir. I will.

21 THE COURT: Understanding that if they appear in court
22 they won't be able to testify?

23 MR. BULSA: They -- he wouldn't come in.

24 THE COURT: Sir?

25 MR. BULSA: I misunderstood that.

1 THE COURT: I said are you going to instruct them on
2 the sequestration so that they'll know if they do appear in
3 court before they're called they won't be able to testify.

4 MR. BULSA: I guess -- let me rephrase my request.
5 Sequestration of the lay witnesses. I don't think there's
6 a need to sequester law enforcement or medical personnel.

7 THE COURT: All right. Well, my same admonition
8 applies to them.

9 MR. BULSA: To?

10 THE COURT: The lay witnesses.

11 MR. BULSA: Oh, yes, sir. We can do that because
12 we'll have them outside.

13 THE COURT: I know you can do it. The question is --

14 MR. BULSA: Yes, sir. We will do it.

15 THE COURT: -- if you do do it.

16 MR. BULSA: Yes, sir, yes, sir. We will.

17 Now, that doesn't include the victim, of course.

18 THE COURT: No.

19 (Pause.)

20 THE COURT: All right. Any other matters to address
21 before the jury is brought in?

22 MR. BULSA: Is the jury coming?

23 THE COURT: Not yet.

24 (Pause.)

25 THE COURT: Mr. Moore, do you have a witness list

Jury qualification

1 and/or voir dire requests?

2 MR. MOORE: No, sir. No additional voir dire than
3 what the Court already does, and we do not have a potential
4 witness list.

5 THE COURT: All right. Are we ready for the jury?

6 MR. BULSA: Yes, sir.

7 MR. MOORE: Yes, sir, Your Honor.

8 THE COURT: All right. Bring them around.

9 The Highway 11 address is Carey Mauldin's address?

10 MR. BULSA: Yes, sir.

11 After we select the jury, Your Honor, I would ask for
12 a few minutes to set up the elmo.

13 (The following takes place in the presence of the jury
14 venire.)

15 THE COURT: Good morning, ladies and gentlemen of the
16 jury panel. Thank you for your patience.

17 We are ready to begin with jury selection in the first
18 case that's going to require some of your participation.
19 The title of the case is the State vs. Jason Andrew Cash.

20 Mr. Cash has been charged with five separate and
21 distinct criminal offenses, although they are alleged to
22 have arisen out of one particular event or a course of
23 events which the state alleges occurred back on May the
24 22nd of 2015.

25 The state charges Mr. Cash by way of these documents

Jury qualification

1 referred to as indictments -- indictments are charging
2 papers. They're just like an arrest warrant except that
3 before you can be tried on a charge where the jurisdiction
4 lies in the circuit court you have to be indicted by the
5 county grand jury. And so these are the documents that are
6 returned to this Court for disposition by way of trial or
7 otherwise.

8 But Mr. Cash has been accused by the prosecutor by way
9 of these five indictments with the crimes of burglary in
10 the first degree, kidnapping, murder, attempted murder and
11 armed robbery.

12 The state alleges by way of these indictments that
13 Mr. Cash did here in Spartanburg County on or about May the
14 22nd of 2015, that he did enter a dwelling located on
15 Highway 11 in the City of Chesnee, South Carolina, which is
16 located here in Spartanburg County, that he entered that
17 dwelling without the consent of the owner or person in
18 possession, and that he entered that dwelling without
19 consent and with the intent to commit a crime therein, and
20 that he did either when in effecting entry or while in the
21 dwelling or immediate flight therefrom, he or another
22 participant in the crime was armed with a deadly weapon,
23 caused physical injury to another person who was not a
24 participant in the crime, used or threatened the use of a
25 dangerous instrument or displayed what appeared to be a

Jury qualification

1 knife, pistol, revolver, rifle, shotgun, machinegun or
2 other firearm, or the burglary occurred in the nighttime.

3 Mr. Cash is also charged with the crime of kidnapping,
4 the state alleging, again, on May the 22nd of 2015 that he
5 did unlawfully seize, confine, kidnap, abduct Carey Scruggs
6 without authority of law.

7 Further, that he did on or about May the 22nd of 2015
8 wilfully and with malice aforethought kill one Carey
9 Mauldin by shooting him with a firearm and that Mr. Mauldin
10 died as a proximate result of that gunshot wound.

11 And, further, he is charged with the crime of
12 attempted murder, again, occurring on May the 22nd of 2015.
13 The state alleges he did wilfully and with malice
14 aforethought attempt to kill Casey Scruggs by shooting her
15 with a firearm with the intent to kill her.

16 And, lastly, the state alleges that he did on or about
17 May the 22nd of 2015 commit the crime of armed robbery in
18 that he did rob Carey Mauldin and Casey Scruggs by the use
19 of force or intimidation and while armed with a deadly
20 weapon.

21 He is alleged to have taken, stolen and carried away
22 from those persons a Chrysler PT Cruiser, some electronic
23 equipment and other goods with the intention of permanently
24 depriving the true owners of use and possession of their
25 property.

Jury qualification

1 Now, as to those allegations and as to each of those
2 charges the defendant has entered a plea of not guilty. A
3 plea of not guilty places upon the state the burden of
4 proving the allegations that they have made, the burden of
5 proving each of the essential elements of the crimes that
6 they allege the defendant did commit; and therefore the
7 burden is upon the state to establish the defendant's guilt
8 as it relates to a particular charge beyond a reasonable
9 doubt before any verdict of guilty could be returned as to
10 that particular charge.

11 And therefore we're going to be selecting 12 of you
12 primary jurors. We'll also select one or two alternate
13 jurors to participate in the trial, to listen to the
14 testimony, consider the evidence, determine the facts as
15 they relate to these allegations, apply the law that I will
16 have provided you and to determine whether or not the
17 defendant has been proven guilty of a crime beyond a
18 reasonable doubt.

19 Before we begin with that selection I've got some
20 folks that I'm going to introduce to you. The purpose of
21 these introductions is to find out if you have any
22 connection with anybody that might be involved in the trial
23 of this case.

24 That includes the lawyers; that includes any members
25 of their respective law firms; as well as the solicitor's

Jury qualification

1 office. That also includes any potential witness that
2 might be called during the trial of the case; and that also
3 would include any members of their respective families
4 should you happen to not know somebody introduced but you
5 know some member of their family. I also need to know what
6 that connection is.

7 In other words, do you any family connection; do you
8 have any personal connection -- connection by blood or
9 marriage; do you -- are you acquainted with them; do you
10 attend church with them; did you go to school with them; do
11 you work at the same place where they are employed; do you
12 know them, have you met them somewhere, do you know them in
13 any capacity.

14 If you do when those people are introduced, I'll ask
15 that you please stand so that we can determine what that
16 connection is and whether or not it would have any bearing
17 in your decision in the case. In other words, could you be
18 fair and impartial, notwithstanding you have such a
19 connection with someone involved in the trial of this case.

20 After I make those introductions and we make that
21 determination I'll also have some other questions to ask
22 you in order to determine your ability to be fair and
23 impartial if selected as a juror in the case.

24 Now, first of all, as I have told you, the defendant
25 in this case is Jason Andrew Cash.

Jury qualification

1 Mr. Cash, if you will, please stand and face the jury
2 panel so that they may see who you are.

3 (Whereupon, the defendant stood.)

4 THE COURT: Thank you. Be seated.

5 Mr. Cash is being represented by Travis Moore. Travis
6 Moore is his lawyer. He will be assisting him in the trial
7 of the case.

8 (Whereupon, Mr. Moore stood.)

9 THE COURT: As I have stated, the person who is
10 alleged to have been the victim of the charge of murder is
11 Carey Mauldin.

12 Are any of Mr. Mauldin's family members present?

13 MR. BULSA: Mother and father are here.

14 THE COURT: All right. These are Carey Mauldin's
15 parents -- mother and father. Are they on the witness
16 list?

17 MR. BULSA: No, sir.

18 THE COURT: They're not. But their names are what?

19 MR. BULSA: Mike and Lynn.

20 THE COURT: Mike and Lynn Mauldin are the parents of
21 Carey Mauldin.

22 (Whereupon, the victim's parents stood.)

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

24 The person who is alleged to have the victim of the
25 attempted murder is Casey Scruggs.

Jury qualification

1 Ms. Scruggs, if you will, please stand and face the
2 jury panel.

3 (Whereupon, the victim stood.)

4 THE COURT: The state is represented by Derrick Bulsa
5 who is the deputy solicitor for the seventh Judicial
6 Circuit. And with him is Nick Sharpe who is an assistant
7 circuit solicitor for the seventh Judicial Circuit.

8 (Whereupon, Mr. Bulsa and Mr. Sharpe stood.)

9 THE COURT: Other potential witnesses include Clifford
10 Cash who is the father of the defendant?

11 MR. BULSA: Yes, sir.

12 THE COURT: Bridgette Nicole Cash who is the sister of
13 the defendant?

14 MR. BULSA: Yes, sir.

15 THE COURT: Emma Cooke who is the grandmother of the
16 defendant. Alexis Jones. What's her connection?

17 MR. BULSA: She was a neighbor.

18 THE COURT: A neighbor of the Mauldins.

19 MR. BULSA: Yes, sir.

20 THE COURT: And Ms. Scruggs?

21 MR. BULSA: Yes, sir.

22 THE COURT: Tracy Lanning.

23 MR. BULSA: She's a family friend of the Cashes.

24 THE COURT: Angela Ross.

25 MR. BULSA: The mother of the defendant.

Jury qualification

1 THE COURT: The mother of the defendant.

2 Susan Ruetz.

3 MR. BULSA: It's Ruetz. She's an aunt of the
4 defendant.

5 THE COURT: Judson Paul Sizemore.

6 MR. BULSA: He's a neighbor.

7 THE COURT: Vicki Smart.

8 MR. BULSA: She's another aunt of the defendant.

9 THE COURT: Adam Stewart.

10 MR. BULSA: Neighbor.

11 THE COURT: Tonya Stewart.

12 MR. BULSA: Neighbor.

13 THE COURT: Joshua Thomas.

14 MR. BULSA: He's an acquaintance of the defendant.

15 THE COURT: Tony Turner.

16 MR. BULSA: He's a neighbor.

17 THE COURT: Austin Walters.

18 MR. BULSA: A neighbor.

19 THE COURT: Tim Green who is employed at Benson Dodge;
20 Mason Stevenson employed at Inman Gun and Pawn; Mike Dixon
21 of the Dixon Insurance Agency; Joshua Cote and Zach Hubbard
22 employed at Spartanburg E.M.S.; Mike Jones employed at the
23 Spartanburg Detention Facility.

24 Each of the following that I'll name now are employed
25 with the Spartanburg County Sheriff's Department. They

Jury qualification

1 include Henry Beck, Richie Foster, Lathier Graham, Steven
2 Horton, Nick Hullinger, Sara Kruger, Andy Lawson, Levi
3 Marlowe, Lindsey McGraw, Paul Norris, Kimberly Parnell,
4 Elizabeth Pennington, Todd Ruffner, Gregg Satterfield,
5 Robert Talanges and Nicholas Turner.

6 Also, potential witnesses include James Armstrong --
7 James Armstrong with Greenville Law Enforcement. Brian
8 Ezell, Guilford County Sheriff's Department; Chris Martin,
9 Guilford County Sheriff's Department. That's in North
10 Carolina.

11 Tracy Nelson, Guilford County Sheriff's Department;
12 Bill Howell, Guilford County Sheriff's Department; John
13 David Wren, Pathologist, Spartanburg Regional Medical
14 Center; Paul LePage, Physician, Pelham Medical Center;
15 Bradley Davis, Physician, Spartanburg Regional Medical
16 Center.

17 Any other potential witnesses on behalf of the state?

18 MR. BULSA: No, sir.

19 THE COURT: The defendant?

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

21 THE COURT: All right. If you know any witness or
22 have any connection whatsoever with those who I have
23 identified, as well as anybody else in the Seventh Judicial
24 Circuit Solicitor's Office or the law office of Travis
25 Moore, which includes Patrick Anderson and Mark Nowell and

Jury qualification

1 Vic Bailey.

2 MR. MOORE: Yes, sir.

3 THE COURT: And Vic Bailey.

4 MR. MOORE: And Jenny Moore.

5 THE COURT: Excuse me. And Jenny Moore.

6 If you know anybody else in that law firm, I would ask
7 that you please stand, as well as any of the witnesses or
8 members of their families. If you have a connection,
9 please stand, if you know them.

10 All right. I'm going to start to my right. I'll work
11 my way back, and then I'll jump the aisle and go to my
12 left, and I'll go pew by pew.

13 Give me your name, your juror number, and then tell me
14 how the question relates to you, who you have a connection
15 with.

16 JUROR NO. 21: Kimberly Johnson, Juror 21. And I know
17 Levi Marlowe. I also know Kim Garrett who is sitting here
18 and Rachel Bagwell that works for another attorney's
19 office.

20 THE COURT: All right. And do you know them as
21 acquaintances or friends or do you go to church with them,
22 school, employment or what?

23 JUROR NO. 21: Kim Garrett's husband was a former
24 pastor at our church, which I don't go to that church, and
25 she doesn't either, any more. Levi Marlowe was friends

Jury qualification

1 with my son for years. I haven't seen him in a couple of
2 years. Rachel Bagwell is one of my daughter's best
3 friends.

4 THE COURT: Okay. And would any of those connections
5 have any bearing in your decision in this case if you were
6 selected to serve?

7 JUROR NO. 21: No, sir.

8 THE COURT: Thank you. Be seated.

9 Yes, ma'am.

10 JUROR NO. 9: Crystal Blackwell, Juror 9. I went to
11 school with the Cashes and Alexis Jones.

12 THE COURT: All right. And would any of those
13 connections have any bearing in your decision if you were
14 selected to serve as a juror?

15 JUROR NO. 9: No.

16 THE COURT: Thank you. Be seated.

17 Yes, ma'am.

18 JUROR NO. 25: Brittany Cartee, 25. I went to church
19 with Jason Cash and his family when we were little.

20 THE COURT: And would that connection have any bearing
21 in your decision in this case if you were selected?

22 JUROR NO. 25: No, sir.

23 THE COURT: Thank you. Be seated.

24 Yes, ma'am.

25 JUROR NO. 4: Cathy Bagwell, No. 4. I know Vic

Jury qualification

1 Bailey. We go to church together.

2 THE COURT: And would that have any connection?

3 Excuse me. Would that have any bearing in your decision if
4 you were selected to serve?

5 JUROR NO. 4: No, sir.

6 THE COURT: Thank you. Be seated.

7 Yes, sir.

8 JUROR NO. 61: This is rather vague, but I've done
9 business with two of the institutions that you mentioned.
10 One is Benson, the Benson auto dealership. I don't know
11 the names of the people that you mentioned, but I certainly
12 might recognize their faces when they appear. And the
13 other would be Inman Gun and Pawn. I've done business with
14 them, sold them items that I've had made in the past.

15 THE COURT: All right.

16 JUROR NO. 61: And I don't know the names but I might
17 recognize the face.

18 THE COURT: All right. And your name and number?

19 JUROR NO. 61: I'm sorry. Douglas Gardner, No. 61.

20 THE COURT: And would either of those connections have
21 any bearing in your decision in this case if you were
22 selected?

23 JUROR NO. 61: I can't imagine that they would.

24 THE COURT: All right. Thank you. Be seated.

25 Yes, ma'am.

Jury qualification

1 JUROR NO. 76: Beth Henson, 76. Mr. Cash was actually
2 a client of mine at vocational rehabilitation prior to the
3 incident.

4 THE COURT: And would that connection have any bearing
5 in your decision in this case if you were selected?

6 JUROR NO. 76: It truly may.

7 THE COURT: It might. All right. We'll excuse you
8 from service, but don't leave yet.

9 Yes, sir.

10 JUROR NO. 86: Mark Jackson, No. 86. I know Mr.
11 Bulsa.

12 THE COURT: All right. And how do you know Mr. Bulsa?

13 JUROR NO. 86: I helped him prosecute a contractor for
14 obtaining goods under false pretense.

15 THE COURT: Okay. And is there anything about that
16 connection or that experience that would impair your
17 ability to be fair in this case if selected?

18 JUROR NO. 86: No, sir.

19 THE COURT: Thank you. Be seated.

20 Yes, ma'am.

21 JUROR NO. 126: Cynthia Pettit, Juror No. 126. I'm an
22 acquaintance with Dr. Wren and Dr. LePage.

23 THE COURT: And is that professional or personal?

24 JUROR NO. 126: It's professional.

25 THE COURT: Okay. Would either of those connections

Jury qualification

1 have any bearing in your decision in the case?

2 JUROR NO. 126: No, sir.

3 THE COURT: Thank you. Be seated.

4 Yes, sir.

5 JUROR NO. 170: Justin West, 170. I went to school
6 with Don Cash and I know Michael Stevenson that works at
7 Inman Gun and Pawn also.

8 THE COURT: And would either of those connections have
9 any bearing in your decision in this case if selected?

10 JUROR NO. 170: Possibly.

11 THE COURT: All right. We'll excuse Juror 170 from
12 service in the case.

13 But don't leave yet.

14 Yes, sir.

15 JUROR NO. 17: Raymond Burcham, No. 17. I'm an
16 acquaintance with Ms. Garrett.

17 THE COURT: And would that have any bearing in your
18 decision?

19 JUROR NO. 17: No. It would not.

20 THE COURT: Thank you. Be seated.

21 Yes, ma'am.

22 JUROR NO. 31: Vickie Crenshaw, 31. I believe you
23 mentioned a Lindsey McGraw. Is this a police officer?

24 THE COURT: Yes, ma'am, with the sheriff's office.

25 JUROR NO. 31: I would have to see his picture, but he

Jury qualification

1 may have been involved with a charge with a close family
2 member.

3 THE COURT: All right.

4 JUROR NO. 31: I don't know him personally. A close
5 family member of mine. I don't know if that's a criteria,
6 but I have no -- I do not know him personally, but it's a
7 close family member that he brought charges against in my
8 family. But I have no problems with him.

9 THE COURT: All right. Would that --

10 JUROR NO. 31: But I would have to see the picture to
11 know for sure if that was him.

12 THE COURT: Well, let's assume it's the same person.
13 Would that have any bearing --

14 JUROR NO. 31: No, sir.

15 THE COURT: Would that have a bearing in your decision
16 in this case?

17 JUROR NO. 31: No, sir, no, sir.

18 THE COURT: All right. Thank you. You may be seated.
19 Anyone else need to respond to that question,
20 connection with anybody or knowledge of anybody? If so,
21 please stand.

22 (No response.)

23 THE COURT: All right. These are events which the
24 state alleges occurred back on May the 22nd of 2015, and
25 they are alleged to have occurred at [REDACTED] Highway 11, a

Jury qualification

1 residence in Chesnee, South Carolina, in Spartanburg
2 County. Does any member of the jury panel believe that you
3 might have heard, seen or read something about this case or
4 the facts or circumstances that might be related to it?

5 Do you think that you have been exposed to any type of
6 information that relates to these cases from any person or
7 any other source, which would include other people talking
8 about it, would include television, radio or newspapers or
9 family members or yourselves discussing the case? Anyone
10 been exposed to any type of information that might relate
11 to this case? If so, please stand.

12 JUROR NO. 1: No. 1, Michelle Allen.

13 THE COURT: All right. Ms. Allen, from what source
14 have you been exposed to information?

15 JUROR NO. 1: I just remember reading about it in the
16 papers.

17 THE COURT: And how long ago was that?

18 JUROR NO. 1: Well, I can't say for sure, but I
19 frequently read, possible news source.

20 THE COURT: Well, would -- all right. Well, was it
21 something that was shortly after the event which is alleged
22 to have occurred on May the 22nd of 2015?

23 JUROR NO. 1: Probably because I remember the case. I
24 remember --

25 THE COURT: Okay. Don't tell me what you read. But

Jury qualification

1 the fact that you did read something in the paper --

2 JUROR NO. 1: Yes.

3 THE COURT: -- about the case.

4 JUROR NO. 1: Yes.

5 THE COURT: Have you read anything recently about it?

6 JUROR NO. 1: No.

7 THE COURT: Is there anything about what you did read
8 that would cause you to be unable to be fair and impartial
9 if you were called upon to serve as a juror?

10 JUROR NO. 1: Probably, yes.

11 THE COURT: All right. We'll excuse Juror No. 1 from
12 service in the case.

13 But don't leave yet.

14 Yes, sir.

15 JUROR NO. 28: Twenty-eight. I remember this case
16 being on television and the news.

17 THE COURT: And was that at or about the time that it
18 is alleged to have occurred?

19 JUROR NO. 28: Yes.

20 THE COURT: Have you seen anything recently about it?

21 JUROR NO. 28: No.

22 THE COURT: Is there anything about what you saw,
23 heard or read that would interfere with your ability to be
24 fair if selected as a juror?

25 JUROR NO. 28: I don't think so.

Jury qualification

1 THE COURT: Well, are you relatively sure that's the
2 case?

3 JUROR NO. 28: Yes.

4 THE COURT: All right. You may be seated. Thank you.
5 Anyone else need to respond to that question?

6 (No response.)

7 THE COURT: Has any member of the jury panel or any
8 member of your immediate family -- and I'm going to define
9 an immediate family member as a parent or a spouse or a
10 child or a sibling -- parent, spouse, child or sibling. I
11 need to know if you or any members of your immediate family
12 as I just defined that term have ever been the victim of
13 any type of violent crime, or have you or one of those
14 family members ever been accused of having committed any
15 type of crime which might be characterized or described as
16 a violent crime?

17 And I'm going to include in that category the crimes
18 of murder, manslaughter, burglary, armed robbery, criminal
19 sexual conduct, aggravated assault and battery, assault and
20 battery of a -- a criminal domestic violence of a high and
21 aggravated nature, or any other similar type of an
22 offense -- robbery, armed robbery? Have you or any members
23 of your immediate family ever been the victim of such an
24 offense or have you ever been -- you or a family member
25 ever been accused of having committed such an offense? If

Jury qualification

1 so, please stand.

2 All right. I've got Juror 31.

3 Now, let me say this. If you -- if you don't mind
4 answering the question where you are --

5 JUROR NO. 31: May I step forward?

6 THE COURT: Yes, ma'am.

7 Is everybody standing that needs to respond to that
8 question? I need everybody to stand who is going to
9 respond to the question. You don't necessarily need to
10 come down here unless you want to, but Juror 31 will be
11 coming down here.

12 (Bench conference held off the record with Juror No. 31
13 and counsel.)

14 THE COURT: All right. Next.

15 JUROR NO. 93: Juror 93, Hetty King.

16 THE COURT: All right. Do you want to come down here
17 or do you want to stay there? Okay.

18 (Bench conference held off the record with Juror No. 93
19 and counsel.)

20 THE COURT: Next.

21 JUROR NO. 49: Michael Emory, Juror 49.

22 THE COURT: All right. Do you want stay there and do
23 it?

24 If you want to come down here, just move to the aisle,
25 please. Otherwise, I'll assume you're going to answer from

Jury qualification

1 where you are.

2 (Bench conference held off the record with Juror No. 49
3 and counsel.)

4 THE BAILIFF: No. 33, Ms. Crowley.

5 (Bench conference held off the record with Juror No. 33
6 and counsel.)

7 THE COURT: Next.

8 THE BAILIFF: Seventy-five, Darvin Helvy.

9 (Bench conference held off the record with Juror No. 75
10 and counsel.)

11 THE COURT: Next.

12 THE BAILIFF: Seventy, Arthur Haney.

13 (Bench conference held off the record with Juror No. 70
14 and counsel.)

15 THE BAILIFF: Ninety-seven. Matthew --

16 THE COURT: Just a minute.

17 (Pause.)

18 THE COURT: Okay. What number?

19 THE BAILIFF: Ninety-seven, Matthew Larsson.

20 THE COURT: Thank you.

21 (Bench conference held off the record with Juror No. 97
22 and counsel.)

23 THE COURT: Next.

24 THE BAILIFF: 138, David Rice.

25 (Bench conference held off the record with Juror No.

Jury qualification

1 138 and counsel.)

2 THE COURT: Next.

3 THE BAILIFF: Ninety-one, Dawn Kallner.

4 (Bench conference held off the record with Juror No. 91
5 and counsel.)

6 THE COURT: All right. I have one other juror
7 standing.

8 Yes, ma'am.

9 JUROR NO. 150: 150, Melissa Smith. About ten years
10 ago our home was burglarized.

11 THE COURT: And is there anything about that
12 experience that would have any bearing upon your decision
13 in this case?

14 JUROR NO. 150: No, sir.

15 THE COURT: It wouldn't affect your judgment.

16 JUROR NO. 150: No, sir.

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

19 Has any member of the jury panel or any members of
20 your immediate family as I defined that term for you ever
21 been employed as any type of law enforcement officer --
22 sheriff's department, city or municipal law enforcement
23 agency, probation and parole, county detention, state
24 department of corrections, F.B.I., state law enforcement
25 division, military or civilian law enforcement? Anyone --

Jury qualification

1 you or a family member -- ever been employed as a law
2 enforcement officer of any type? If so, please stand.

3 All right. Again, I'll need your name and your
4 number. Then tell me whether it was you or a family member
5 and what department they were employed by.

6 JUROR NO. 93: Juror No. 93. Eddie King, my late
7 husband, was a state constable, and he worked at the
8 Greenville County Sheriff's Department.

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

11 Yes, sir.

12 JUROR NO. 77: No. 77, Jeremy Hickman. My brother
13 worked as a security forces officer for the Air Force.

14 THE COURT: All right. Thank you. Be seated.

15 Yes, sir.

16 JUROR NO. 62: Sixty-two, Quinton Geter. My dad was
17 in the Navy and worked at the county -- Spartanburg County.

18 THE COURT: When you say the county are you talking
19 about the sheriff's department?

20 JUROR NO. 62: Yes.

21 THE COURT: Okay. Thank you. Be seated.

22 Yes, sir.

23 JUROR NO. 19: Terry Byars, 19. My father was a
24 deputy sheriff. My uncle was a deputy sheriff and sheriff
25 in Hamilton County, Tennessee.

1 THE COURT: All right. Thank you. Be seated.

2 Yes, ma'am.

3 JUROR NO. 163: No. 163, Jennifer Tysinger. My late
4 father was a Spartanburg deputy sheriff's officer.

5 THE COURT: All right. Thank you. Be seated.

6 Yes, ma'am.

7 JUROR NO. 126: Cynthia Pettit, Juror No. 126. I have
8 a cousin that is a detective with Spartanburg County.

9 THE COURT: Sheriff's department?

10 JUROR NO. 126: Yes, sir.

11 THE COURT: All right. Thank you, ma'am.

12 Yes, sir.

13 JUROR NO. 17: No. 17, Raymond Burcham. My son worked
14 at the county detention center.

15 THE COURT: Thank you. Be seated.

16 Yes, ma'am.

17 JUROR NO. 134: Juror 134. Son is a special forces
18 officer, Air Force.

19 THE COURT: All right. Thank you. You may be seated.

20 Anyone else?

21 (No response.)

22 THE COURT: All right. I've told you what the
23 allegations are; I've introduced some folks to you that are
24 going be involved in the trial of the case, including all
25 of the witnesses, as well as the alleged victims, as well

Jury qualification

1 as the defendant; and I told you briefly what the case is
2 about.

3 Is there anything about what you heard up to this
4 point that would interfere with any juror's ability to be
5 fair and impartial if you were selected to serve as a juror
6 in the case? If so, please stand.

7 (No response.)

8 THE COURT: Is there anything about the nature of the
9 cases themselves or the nature of the allegations that
10 would prevent any juror from being able to be fair and
11 impartial? If so, please stand.

12 (No response.)

13 THE COURT: Does any juror have any reason whatsoever
14 why you feel like you could not be fair and impartial if
15 selected to serve in this particular case? If so, please
16 stand.

17 (No response.)

18 THE COURT: None responding.

19 Any other questions requested by the state?

20 MR. BULSA: No, Your Honor.

21 THE COURT: By the defendant?

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

23 THE COURT: All right. Draw us a jury, please, ma'am.

24 A jury is selected by the computer. It has all of
25 your names. It'll make a list, a random choice. Your

Jury qualification

1 names will appear on a list in some numerical order. And
2 the first one to appear on the list will be called first.

3 when you're called you'll be asked to come forward.
4 You'll come towards me. About three steps past where the
5 lawyers are seated at the desks turn and face your fellow
6 jurors.

7 Each side has an opportunity to have you seated for
8 service in the case or to ask that you be excused from
9 service in the case.

10 If either side asks that you be excused from serving
11 just go back and have a seat where you are now.

12 If both agree to have you accepted for service in the
13 case, then you'll be having a seat in that jury box to your
14 right and to my left.

15 So please come forward as your name is called and
16 you'll be instructed if you're to be seated for service or
17 excused from service in the case.

18 THE CLERK: No. 115, Jarrod Muldrow.
19 What say the state?

20 MR. BULSA: Please present the juror.

21 THE CLERK: What say the defense?

22 MR. MOORE: Please seat the juror.

23 THE CLERK: No. 104, Christina McClure.
24 What say the state?

25 MR. BULSA: Please present the juror.

Jury qualification

1 THE CLERK: What say the defense?

2 MR. MOORE: Please excuse this juror.

3 THE CLERK: No. 94, Christopher Kochanowicz.

4 What says the state?

5 MR. BULSA: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. MOORE: Please excuse this juror.

8 THE CLERK: No. 77, Jeremy Hickman.

9 What say the state?

10 MR. BULSA: Please present the juror.

11 THE CLERK: What says the defense?

12 MR. MOORE: Please seat the juror.

13 THE CLERK: No. 31, Vickie Crenshaw.

14 What says the state?

15 MR. BULSA: Please present the juror.

16 THE CLERK: What say the defense?

17 MR. MOORE: Please excuse this juror.

18 THE CLERK: No. 28, James Cochran.

19 What says the state?

20 MR. BULSA: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. MOORE: Please excuse this juror.

23 THE CLERK: No. 97, Matthew Larsson.

24 What says the state?

25 MR. BULSA: Please present the juror.

Jury qualification

1 THE CLERK: What says the defense?
2 MR. MOORE: Please seat this juror.
3 THE CLERK: No. 12, Halina Bomar.
4 What says the state?
5 MR. BULSA: Please present the juror.
6 THE CLERK: What says the defense?
7 MR. MOORE: Please excuse this juror.
8 THE CLERK: No. 91, Dawn Kallner.
9 What says the state?
10 MR. BULSA: Please present the juror.
11 THE CLERK: What says the defense?
12 MR. MOORE: Please excuse this juror.
13 THE CLERK: No. 25, Brittany Cartee.
14 What says the state?
15 MR. BULSA: Please present the juror.
16 THE CLERK: What says the defense?
17 MR. MOORE: Please seat the juror.
18 THE CLERK: No. 134, Patricia Ramsey.
19 What says the state?
20 MR. BULSA: Madam clerk, what's the number?
21 THE CLERK: 134.
22 MR. BULSA: 134.
23 THE CLERK: What says the state?
24 MR. BULSA: Please present the juror.
25 THE CLERK: What says the defense?

Jury qualification

1 MR. MOORE: Please seat the juror.
2 THE CLERK: No. 81, Pamela Hollifield.
3 What says the state?
4 MR. BULSA: Please present the juror.
5 THE CLERK: What says the defense?
6 MR. MOORE: Please excuse this juror.
7 THE CLERK: No. 6, Christina Barnett.
8 What says the state?
9 MR. BULSA: Please excuse the juror in this case.
10 THE CLERK: No. 79, Patricia Hipp.
11 What says the state?
12 MR. BULSA: Please present the juror.
13 THE CLERK: What says the defense?
14 MR. MOORE: Please seat the juror.
15 THE CLERK: No. 93, Hetty King.
16 What says the state?
17 MR. BULSA: Please present the juror.
18 THE CLERK: What says the defense?
19 MR. MOORE: Please seat the juror.
20 THE CLERK: No. 168, Richard Wahler.
21 What says the state?
22 MR. BULSA: Please present the juror.
23 THE CLERK: What says the defense?
24 MR. MOORE: Please excuse this juror.
25 THE CLERK: No. 56, Shirley Foster.

Jury qualification

1 what says the state?
2 MR. BULSA: Please present the juror.
3 THE CLERK: What says the defense?
4 MR. MOORE: Please seat the juror.
5 THE CLERK: No. 21, Kimberly Johnson.
6 what says the state?
7 MR. BULSA: Please excuse the juror in this case.
8 THE CLERK: No. 154, Timothy Suttles.
9 what says the state?
10 MR. BULSA: Please present the juror.
11 THE CLERK: What says the defense?
12 MR. MOORE: Please seat the juror.
13 THE CLERK: No. 123, Robert Patrick.
14 what says the state?
15 MR. BULSA: Please present the juror.
16 THE CLERK: What says the defense?
17 MR. MOORE: Please excuse this juror.
18 THE CLERK: No. 62, Quinton Geter.
19 what says the state?
20 MR. BULSA: Please present the juror.
21 THE CLERK: What says the defense?
22 MR. MOORE: Please seat the juror.
23 THE CLERK: No. 70, Arthur Haney.
24 what says the state?
25 MR. BULSA: Please present the juror.

Jury qualification

1 THE CLERK: What says the defense?
2 MR. MOORE: Please excuse this juror.
3 THE CLERK: No. 16, Willie Browning.
4 What says the state?
5 MR. BULSA: Please present the juror.
6 THE CLERK: What says the defense?
7 MR. MOORE: Please seat the juror.
8 THE CLERK: No. 61, Douglas Gardner.
9 What says the state?
10 MR. BULSA: Please present the juror.
11 THE CLERK: What says the defense?
12 MR. MOORE: Please seat the juror.
13 THE COURT: All right. This will be for the first
14 alternate.
15 THE CLERK: No. 87, Kyrel Jackson.
16 What says the state?
17 MR. BULSA: Please present the juror.
18 THE CLERK: What says the defense?
19 MR. MOORE: Please seat the juror.
20 THE COURT: This will be for the second alternate.
21 THE CLERK: No. 150, Melissa Smith.
22 What says the state?
23 MR. BULSA: Please present the juror.
24 THE CLERK: What says the defense?
25 MR. MOORE: Please seat the juror.

Jury qualification

1 (Whereupon, a jury was impaneled.)

2 THE COURT: Those who have been selected, I'll ask you
3 to please go with the bailiff to the jury room, and I'll
4 bring you back shortly to begin with the trial.

5 (The following takes place outside the presence of the
6 jury.)

7 THE COURT: Are there any matters that need to be
8 addressed regarding jury selection by the state?

9 MR. BULSA: No, Your Honor.

10 THE COURT: By the defendant?

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

12 (Whereupon, the remaining members of the jury venire
13 were excused.)

14 THE COURT: Are there any matters that need to be
15 addressed before the jury is sworn?

16 MR. BULSA: Your Honor, we have been told in chambers
17 that Ms. Cash has been arrested. So with her in pocket,
18 we're comfortable swearing the jury.

19 THE COURT: All right. Let's take ten minutes before
20 we start.

21 (Whereupon, a recess was taken.)

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

23 MR. BULSA: Yes, sir.

24 THE COURT: Bring with them in.

25 Ask Ms. Ramsey, Juror 134, Ms. Ramsey, to take the

1 foreperson's seat.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: Ma'am, if you don't mind, can I ask you to
5 take that front-row seat? And everybody else move down
6 one.

7 Ladies and gentlemen, we are ready to begin with the
8 trial of the case for which each of you have been selected.

9 And, Ms. Ramsey, I'm going to ask you to serve as the
10 foreperson of the jury. As the foreperson you're going to
11 have three specific duties that none of the other jurors
12 will have.

13 First of all, you'll be asked to serve as the
14 spokesperson for the jury. And that just means that if
15 something arises during the trial that needs to be brought
16 to my attention -- you or a fellow juror has some
17 difficulty, problem or question -- you're going to be the
18 person who is going to let me know of that fact. You'll do
19 that through the bailiff if you're outside the courtroom,
20 or if you're in the courtroom you'll do it directly with
21 me.

22 Secondly, you'll be called upon to preside over jury
23 deliberations when that time comes at the trial's
24 conclusion after all of the evidence has been received and
25 after I have instructed you on the law that's applicable in

1 these cases. And when you've been asked to go back to the
2 jury room to begin with your deliberations, you are the
3 person that will preside over that process in the jury room
4 simply to ensure that those deliberations are carried out
5 in some orderly fashion.

6 And, thirdly, you'll be actually writing the verdicts
7 or the decisions of the jury. You'll do that on a form
8 that I'll provide you at the trial's conclusion on which
9 you will indicate the jury's unanimous decision as it
10 relates to each of the separate charges brought against the
11 defendant.

12 The foreperson has those duties that I've just
13 indicated. That doesn't mean that she's any more important
14 than any of you other jurors, and that's because the
15 decision of a jury is the unanimous consensus opinion of
16 all 12 jurors. And so each of you and all of you will have
17 an equal say and an equal vote in what the ultimate
18 decisions in this case will be.

19 Someone simply has to be delegated those
20 responsibilities that I've just indicated, and I have
21 delegated those to Ms. Ramsey in appointing her as the
22 foreperson, but each of you jurors are equally important so
23 far as the ultimate decisions in this case are concerned,
24 because, as I have stated, the verdict has to be unanimous.
25 All 12 of you must be in agreement before any decision can

1 be rendered.

2 Now, Mr. Jackson and Ms. Smith, each of you have been
3 selected as alternate jurors, and the function of an
4 alternate juror is to take the place of one of the original
5 12 if during the trial one of these 12 cannot continue to
6 serve for some reason. And if one is unable to continue
7 because of an illness or an emergency or some other
8 circumstance that prevents their continuance, then one or
9 both of you would be called upon to take the place of that
10 juror or those jurors who are unable to continue.

11 If that occurs, then one or both of you will become
12 the twelfth juror, and in that event you would participate
13 throughout the trial including the jury deliberations at
14 the trial's conclusion.

15 If however when the time does come for jury
16 deliberations, if all of the original 12 are able to
17 participate, then your service as jurors would end because
18 the decision of a jury is that of 12, and no more than 12
19 jurors are permitted to engage in that deliberation
20 process.

21 But it is important that each of you as alternate
22 jurors pay just as careful attention as we ask of all of
23 the jurors in the case because it does occur from time to
24 time for one reason or another one or two of these jurors
25 may be unable to continue. In that event one or both you

Jury sworn

1 would be called upon to participate as the twelfth.

2 So we do appreciate your participation as alternate
3 jurors, just as we appreciate the participation of each of
4 you jurors who have been selected for the purpose of
5 deciding the verdicts in this particular case.

6 You may swear the panel.

7 (Whereupon, the jury was duly sworn.)

8 THE COURT: All right. Ladies and gentlemen, as you
9 know, you've been selected to decide the verdicts in the
10 case of the State vs. Jason Andrew Cash.

11 As you also know, Mr. Cash has been accused by the
12 prosecutor by way of these indictments with having
13 committed the crimes of burglary in the first degree,
14 kidnapping, murder, attempted murder and armed robbery.

15 Now, the indictments bring the charges into this
16 courtroom. The indictments also serve to put a defendant
17 on notice as to what crime the state claims they have
18 committed.

19 But other than serving as the verdict forms at the
20 trial's conclusion, these indictments serve no purpose so
21 far as you jurors are concerned. These indictments state
22 the charges, but they don't prove the charges. They don't
23 establish anything; they don't prove anything. They're
24 simply the means by which any person charged with a crime
25 here is brought to this courtroom to respond to the charge.

1 The indictments, as I say, will be in the jury room
2 when you go back to begin deliberations, but they're there
3 simply to serve as the verdict form, because there's a
4 place on the back of each of these indictments that --
5 where the foreperson will be requested to indicate the
6 jury's decision as it relates to this particular charge.
7 But other than serving as the verdict form, the indictments
8 serve no purpose so far as you jurors are concerned.

9 Now, as to each of the charges the defendant has
10 entered a plea of not guilty. And as I told you, that plea
11 of not guilty has now placed the burden of proving the
12 defendant's guilt on the part of the prosecutor.

13 He's brought the charges. He's got to establish the
14 allegations he's made. He's got to prove each of the
15 essential elements of the crimes alleged against the
16 defendant; and therefore the burden is upon the state to
17 establish the defendant's guilt to the satisfaction of you
18 12 jurors beyond a reasonable doubt before any verdict of
19 guilty could be returned as to any of the separate
20 indictments.

21 Every person who is accused of a crime -- and it
22 doesn't matter how serious the offense might be for which
23 the person stands charged -- that person shall always be
24 presumed innocent of that charge.

25 That presumption of innocence remains with every

1 defendant, as it does with this defendant, from the time
2 that he is placed under arrest and throughout the course of
3 the criminal process and even throughout the course of the
4 actual trial in the case.

5 That presumption of innocence will be with the
6 defendant even as you go back into your jury room to begin
7 with your deliberations at the trial's conclusion.

8 That presumption of innocence will be with him in that
9 jury room, and it'll be with him forever unless you 12
10 jurors determine that he's no longer entitled to that
11 presumption of innocence as it relates to a particular
12 charge.

13 In other words, after you've carefully considered all
14 of the evidence presented during the course of the trial,
15 and from that evidence you have determined the facts as
16 they relate to the allegations made against the defendant,
17 and after deciding the facts you apply the law that I will
18 have provided you, if you 12 jurors unanimously determine
19 that his guilt as to a particular crime has been proven
20 beyond a reasonable doubt, then he would no longer be
21 entitled to the presumption of innocence as it relates to
22 that particular charge. But it is only if, unless and
23 until you are satisfied of his guilt as to a charge beyond
24 a reasonable doubt that the presumption of innocence would
25 no longer be applicable.

1 Now, the way the trial will proceed is that in a
2 moment the lawyers are going to address you in what are
3 called opening statements.

4 There are two occasions in the trial of a case where
5 lawyers are permitted to address the jury, and that is at
6 the beginning of the trial before any evidence has been
7 introduced and then again at the conclusion of the trial
8 after all of the evidence has been received.

9 But keep in mind, as I've just indicated, the evidence
10 that you're going to be considering in deciding your
11 verdict comes in between the opening and the closing
12 statements accomplished by the lawyers, and therefore what
13 they tell you in those statements is not to be considered
14 or construed by you as evidence upon which you will base
15 your decision, and that's because the lawyers don't know
16 anything about this case of their own personal knowledge or
17 perception like witnesses will be testifying to when
18 they're called to the witness stand.

19 The lawyers aren't going to take the witness stand.
20 They're not going to be placed under oath, and they're not
21 going to be subjected to direct and cross-examination like
22 each of the witnesses will be.

23 So what they tell you is not to be considered as you
24 by -- to be evidence in the case. But you should listen to
25 what they have to say because those statements do serve a

1 purpose.

2 The opening statements will serve to provide you with
3 a basic understanding as to what this case is about from
4 both the perspective of the state and the defendant so that
5 you'll have some context in which to place the evidence
6 that we will be receiving shortly thereafter.

7 The closing statements, again, occur after all of the
8 evidence has been received. And, again, while those
9 statements are not evidence, it does allow the lawyers an
10 opportunity to discuss with you the evidence that you have
11 seen and heard during the course of the trial. And through
12 that discussion each will be trying to persuade you or to
13 convince you that the evidence in the case does or does not
14 support a particular decision.

15 In between those statements we receive the evidence
16 upon which you will base your decision.

17 As you know, the state has the burden of proof. The
18 state has to prove the defendant's guilt beyond a
19 reasonable doubt. So the state will go forward first in
20 its presentation of evidence.

21 After the state has concluded with its presentation of
22 evidence any person charged with a crime has an opportunity
23 to testify, to call a witness, to introduce evidence. But
24 understand that a defendant in a criminal trial is never
25 under any obligation to testify or to call any witness or

1 to produce any evidence, and that's because there is no
2 burden upon a defendant.

3 The burden is upon the state to prove the defendant
4 guilty beyond a reasonable doubt, but there is no
5 corresponding burden upon the defendant to prove anything
6 because in some cases it might not be possible for a person
7 to prove that they were not guilty or to prove that they
8 did not commit a particular crime.

9 Because the state has made the accusation they have
10 the burden of proof, and so where a defendant does not
11 testify or does not call any witnesses or does not
12 introduce any evidence, that's not a circumstantial fact
13 that you may consider in any way whatsoever in your
14 deliberations or in your determination as to whether or not
15 his guilt has been proven beyond a reasonable doubt. But
16 every person charged with a crime is afforded an
17 opportunity to present evidence should he or she wish to do
18 so.

19 So after the evidence has been received and after you
20 hear the final summations of the lawyers I will then
21 instruct you fully on the criminal law generally, and as to
22 these particular crimes specifically, after which you'll be
23 asked to begin with your deliberations. And through that
24 process and the exercise of good judgment and common sense
25 conscientiously applied to the testimony and evidence in

1 the case you are called upon to simply render a fair and
2 impartial decision based upon that evidence and the law
3 that's applicable as I will have provided it to you.

4 Now, it is your prerogative to determine what the
5 facts are and it's your prerogative to determine the
6 credibility and the believability of witness testimony.
7 And as such you have the discretion to decide what is the
8 most credible evidence and what is not credible evidence.

9 The credible evidence that you determine is what
10 you'll accept and the not-so-credible evidence is evidence
11 that you will reject.

12 In order to be in a proper position to fairly evaluate
13 a witness' testimony it's important that you give every
14 witness that testifies the same degree of attention while
15 they are testifying.

16 That of course doesn't mean you'll give every witness'
17 testimony the same degree of weight, because you've got to
18 judge the credibility of the witness' testimony. But in
19 order to be in a proper position to do that when you go
20 back to deliberate it's important that you give each
21 witness the same degree of attention while they are
22 testifying so that when you do go back you'll be in a
23 proper position to be able to fairly evaluate each witness'
24 testimony in light of not just that witness' testimony but
25 in light of all the testimony and the other evidence

Opening statements

1 received during the course of the trial.

2 And it's also important that you keep an open mind
3 throughout the course of the trial, and that just means
4 that you're not to begin making up your minds or
5 formulating your opinions as to what you think the ultimate
6 decisions in this case ought to be until all of the
7 evidence has been received, until I have instructed you on
8 the law and until you've been asked to begin with your
9 deliberations in the case. That is the process that has
10 been designed over the last 240 years to ensure that you
11 can arrive at a fair and just decision in this case, as
12 well as any case.

13 So I do want to thank you in advance for your
14 participation, as well as for your careful attention. I
15 would ask that you please give the lawyers your attention
16 now as they give their opening statements. And once they
17 conclude with that we will likely be recessing for lunch
18 and resuming with the trial this afternoon.

19 Mr. Bulsa.

20 MR. BULSA: Thank you, Your Honor.

21 Good afternoon, ladies and gentlemen. May 22nd of
22 2015 was a horrific nightmare for Casey Scruggs, this lady
23 in court. She's going to tell you the experience she had
24 that evening in her home. She shared that home with Carey
25 Mauldin.

Opening statements

1 Carey Mauldin was shot three times. He died as a
2 result of those shots. Two of those shots were to his
3 torso; one was to his head. Casey was also shot in the
4 head, but by some miracle the bullet didn't enter her
5 skull. It kinda went around the skull to the back of her
6 head. She's here to tell you what happened.

7 She ran out of the house hobbling because she had been
8 duct taped -- hands and legs and head and mouth -- by the
9 two perpetrators, one of which is Drew Cash.

10 I submit to you, ladies and gentlemen, that identity
11 is not issue in this case. Ms. Scruggs knew her
12 assailants, and I submit to you that's why she was shot in
13 the head, because she could identify her assailants.

14 Now, ladies and gentlemen, Mr. Cash was an
15 acquaintance of Ms. Scruggs, and he'd been over to that
16 residence before.

17 The second man you will hear from is a Steven Lewis.
18 His trial is for another day. You're here to decide the
19 fate -- the facts relating to Mr. Cash.

20 I submit to you that the evidence will clearly show
21 that he's guilty of each crime that we've charged. We
22 charged him with burglary in the first degree. That means
23 he went to their house with the intention of committing a
24 crime. We submit that that crime that he intended to
25 commit was robbery, theft. He went armed with a weapon.

Opening statements

1 Now, the judge is going to charge you at the close of
2 this case that the hand of one person involved in a crime
3 is the hand of another. The hand of one is the hand of
4 all. They went in together; they participated together.
5 They're guilty of each and every crime that they've
6 committed.

7 Okay. This is not about -- you don't have to decide
8 who pulled the trigger; you don't have to decide who held
9 the gun. You just have to decide if he was a participant
10 in this crime.

11 I submit to you it's clearly a crime. We have a dead
12 man and an almost dead lady and at least a stolen vehicle
13 and some stolen electronics.

14 You're going to see pictures of that residence.
15 You're going hear that the vehicle that was stolen was
16 taken to land that the defendant had hoped to inherit from
17 his grandfather. His grandfather had previously passed
18 away. He thought he was going to inherit that, and he
19 thought it would be a good place to stash the car.

20 Now, before the police were able to get to the car it
21 was moved, but we will have evidence that the car was
22 there.

23 We will have evidence that the defendant with Steven
24 Lewis fled to North Carolina after this crime. Mr. Lewis
25 is from North Carolina.

Opening statements

1 Mr. Cash drove them together in his vehicle and went
2 to where Mr. Lewis lived and parked his car way back off
3 the road behind a shed to hide it from the view of the
4 police. Through good police work the police were able to
5 track down both defendants the next day. And you'll hear
6 how of the defendant responded when approached by the
7 police.

8 This case involves several different locations, but I
9 submit to you each piece is going to be part of the case to
10 help you render a fair and just verdict.

11 They went there to rob. The kidnapping comes in in
12 that Carey was shot, Casey was duct taped. Perhaps they
13 were going to give her some mercy. But she tried to leave
14 the house after being duct taped, and she was dragged back
15 into the bedroom and shot in the head.

16 You're going to hear evidence of a plan to go over
17 there. And part of that plan was to possibly shoot the two
18 people in the head. Whether that was taken in seriousness
19 or it merely happened, two people wound up shot in the
20 head.

21 A lot of the people you're going to hear from, ladies
22 and gentlemen, are the defendant's own family. It's just
23 the way this case came around.

24 His sister overheard the plan. The defendant spoke to
25 family members after he was arrested, gave them bits and

Opening statements

1 pieces, tried to minimize his involvement.

2 I submit to you, ladies and gentlemen, he is just as
3 guilty as Mr. Lewis, just as Mr. Lewis is just as guilty as
4 Mr. Cash. The hand of one is the hand of all.

5 Please pay close attention to each witness. You're
6 going to hear from neighbors, how they saw a horrific site
7 as Ms. Casey was banging on doors with as much as she could
8 with her mouth taped up calling for help.

9 You're going to hear how E.M.S. arrived. They
10 actually beat the police there and was able to take her
11 away to get treatment before the police arrived to secure
12 the scene. You're going to hear how they dealt with her
13 and treated her. And you're going to hear how she named
14 the two people that did this, and the search was on.

15 The police went to the location where they thought
16 they were residing, and they had left and went to North
17 Carolina. And the police were able to find where they
18 were.

19 So it's a serious case, as no doubt you understand.
20 The Mauldins, Mike and Lynn Mauldin, and Casey Scruggs and
21 I representing the state thank you for your attendance
22 today. I know nobody wants to be here. None of these
23 people certainly don't want to be here.

24 Please do your duty and listen, and at the close of
25 the case I'll ask you for a verdict of guilty. Thank you.

Opening statements

1 THE COURT: Mr. Moore.

2 MR. MOORE: May it please the Court, Your Honor.

3 THE COURT: Yes.

4 MR. MOORE: Good afternoon, ladies and gentlemen.

5 My name is Travis Moore, and I represent Drew Cash.

6 One of the things that the solicitor and I agree on is this
7 is a very serious case.

8 You, obviously, heard the judge read the charges off
9 the indictments. You, obviously, heard Mr. Bulsa's version
10 of the evidence that's going to be presented. And
11 everybody can agree that this is very, very serious.

12 As the judge instructed you a minute ago, and as he
13 will later, one of the great things about our justice
14 system, our government, is that when the government -- in
15 this case the state -- decides they're going to accuse a
16 citizen of committing a criminal offense that burden is on
17 the state to prove it beyond a reasonable doubt, each and
18 every element to each and every one of you.

19 Now, to Mr. Bulsa this case is very clear, it's black
20 and white. There's no questions. What I would ask you to
21 do is watch every single witness closely. Listen to the
22 words they use; listen to the names they use; listen to the
23 things they say, because I wasn't there. Mr. Bulsa wasn't
24 there. None of y'all were there. They were.

25 And I submit to you that once you listen to them

Opening statements

1 through this afternoon and into the next day, all of them,
2 it may not be as clear as he wants you to think it is.
3 Exactly what happened, who did what and where it happened
4 might not be as clear as he says it is.

5 Throughout this trial Drew sits there at that table
6 presumed innocent. He is not guilty of anything unless you
7 determine that he is.

8 The only thing I'm going to ask you to do is the same
9 thing that I've asked any jury to ever do. That is to be
10 fair. Be fair to the state but be fair to Mr. Cash, be
11 fair to Drew.

12 Listen closely. Watch the witnesses as they testify.
13 Judge their credibility. Listen to the words they use and
14 how they say them, how they answer the questions. And at
15 the end apply your common sense. It serves you well in
16 your everyday lives and it will serve you well during your
17 service on this jury. Thank you.

18 THE COURT: Ladies and gentlemen, we are going to
19 recess for lunch, and then we'll start with the trial this
20 afternoon.

21 Let me caution you that at no time now that this case
22 has begun are you permitted to talk about the case with
23 anybody whatsoever in any fashion whatsoever. That
24 includes no discussions about the case even with your
25 fellow jurors. You can only engage in those discussions at

1 the end of the trial when you've been instructed by the
2 Court to begin your deliberations.

3 So keep in mind from now through the end of the trial
4 no discussions about the case at all with anybody in any
5 fashion.

6 Also, in any case that you're called upon to
7 participate in you have to base your decision upon what
8 goes on during the trial of the case. You can't supplement
9 your wealth of knowledge by doing your own research or
10 conducting your own investigation into any issue that might
11 arise during the trial.

12 You're not permitted to allow yourselves to be exposed
13 to any type of media coverage that might relate to the
14 case, whether that be television, radio or newspapers. You
15 can't go on the internet to try to conduct any research.

16 You have to base your decision upon what you see and
17 hear during the trial, and you're not allowed to consider
18 any extraneous or outside information in that
19 decision-making process.

20 So no discussions, no exposure to any type of media
21 coverage, no television, no radio, no newspapers, and do
22 not conduct any research or do your own investigation in
23 any fashion or in any other way that might relate to the
24 case.

25 With that, do have a good lunch. Please report to

1 your jury room this afternoon at 2:30, 2:30 this afternoon.
2 Have a good lunch.

3 (The following takes place outside the presence of the
4 jury.)

5 THE COURT: All right. Court is in recess until 2:30.
6 (Whereupon, a recess was taken.)

7 (Photographs marked State's Exhibits Nos. 1 through 26;
8 diagram marked State's Exhibit No. 27; list of items seized
9 marked State's Exhibit No. 28; photographs marked State's
10 Exhibits Nos. 29 through 42.)

11 THE COURT: Are we ready for the jury?

12 MR. BULSA: Yes, sir.

13 MR. MOORE: Yes, sir, Your Honor.

14 THE COURT: Bring them in.

15 (The following takes place in the presence of the
16 jury.)

17 THE COURT: Good afternoon, ladies and gentlemen.

18 As you know, the state goes forward first in its
19 presentation of evidence. So we will begin with that
20 presentation this afternoon.

21 Mr. Bulsa.

22 MR. BULSA: State calls Deputy Nick Hullinger.
23
24
25

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Nicholas Hullinger
Direct examination by Mr. Bulsa

1 A Originally it came in as a suspicion person that was
2 banging on the door. They thought maybe there was a
3 traffic wreck or something like that. And then with each
4 communication from dispatch it got more serious.

5 Q Okay. And how long did it take you to get there?

6 A I don't recall exactly, but it wasn't -- was not long.

7 Q Okay. And do you recall the address where you
8 arrived?

9 A Yeah. I have that. It was [REDACTED] Highway 11.

10 Q Is that in Spartanburg County?

11 A Yes, sir.

12 Q And what did you observe when you arrived there?

13 A When I pulled on the scene there was a group of people
14 in the driveway, and they were all pointing towards the
15 house -- [REDACTED]. And as I got out of my car I was approached
16 by one of those folks, and he said that there's a --
17 there's a gentleman in the house that -- that's been shot.

18 Q Okay. If you would, look over these photographs and
19 see if they, but for the light, accurately depict that
20 scene.

21 A Yes, sir.

22 Q Okay. When you arrived sometime after 5:00 a.m., what
23 was the lighting conditions?

24 A It was still dark. It was dark at my arrival.

25 Q Okay. And reference these photographs as we go

Nicholas Hullinger
Direct examination by Mr. Bulsa

1 through your testimony.

2 When the person or persons were pointing to the house
3 and mentioned someone inside, what did you do?

4 A At that time I asked them to stay out away from the
5 house, and at that time I did enter the house to make sure
6 that, you know, what was going on there.

7 They had said that the female -- the original
8 dispatch -- she had already left with E.M.S. And she was
9 not on scene at my arrival. So at that time I did enter
10 the house to make sure there wasn't something else going on
11 in the house that would, you know, present any danger.

12 Q Okay. Now, you were the first officer on the scene?

13 A Yes, sir.

14 Q Did you go in before any other officers got there?

15 A Yes.

16 Q To give the jury some perspective, I'm going to show
17 you what's been marked State's Exhibit No. 1. Here is a
18 pointer for you.

19 A Thank you.

20 Q If you would, describe for us this collection of
21 buildings.

22 A Yeah. So this is Highway 11 right here. This right
23 here is the -- is the incident location. That's the house
24 where -- where the incident took place.

25 As I pulled into this driveway right here there was

Nicholas Hullinger
Direct examination by Mr. Bulsa

1 people all standing out here.

2 Should I tell you about these other houses while I'm
3 here?

4 Q Go ahead. Yes, please.

5 A So this is the first house. This is where the first
6 9-1-1 phone call came from, is from this house. Casey had
7 come from here over to here and was banging on the door.
8 She was still duct taped at that -- at that time when she
9 was making -- banging on the door there.

10 They called 9-1-1 but did not really open the door and
11 address her. They didn't know what was going on at that
12 time.

13 And then she went back over here to this house, and
14 that's where that gentleman then called 9-1-1 and said
15 she'd been shot in the head. She was duct taped. And all
16 of that took place from there.

17 Meanwhile, these folks did come out, and one of
18 them -- and I don't know who -- but one of them had come
19 over to this trailer, and there was four people there.
20 There was two females and two males that were staying
21 there. And they -- one of the males -- his name is Justin.
22 Justin is an E.M.T., and so they had come to get him to
23 come attend to Casey and then also to check on Carey. So
24 he came across.

25 So all of those folks, the four people from here --

Nicholas Hullinger
Direct examination by Mr. Bulsa

1 there was three here. There was a couple and I believe
2 their daughter, and then there was one guy here. His
3 name's Tony that lived in that house, and he lived alone.
4 And then this is where Carey and Casey stayed.

5 Q Okay. So all of these people were pretty much
6 collected right there in front?

7 A Yeah, right here. As I pulled in they were all
8 standing right there.

9 Q Okay. Let's run through a few more pictures. State's
10 No. 2, is that the front of [REDACTED]?

11 A Yes. That's as you see it from the road -- that's,
12 yes, sir.

13 Q All right. And this view, State's 3, is this the view
14 you see from that parking area?

15 A Yeah. As I pulled into the driveway, which is coming
16 right here, then that's what you see, which that door there
17 is actually blocked off. You can't go in and out that
18 door. And so that was the door which was open at my
19 arrival.

20 Q Okay. And the door you just mentioned, State's 4, is
21 that that other side door?

22 A Yeah. That's the side door that doesn't open.

23 Q Okay. And then State's 5.

24 A That -- that's Tony's residence. That's the -- the
25 first building immediately in between. That's in between

Nicholas Hullinger
Direct examination by Mr. Bulsa

1 the brick house here and the sus -- or the incident
2 location here.

3 Q And now State's 6.

4 A Yeah. That's the -- you know, that second house over
5 right there, the brick house.

6 Q Okay. Now we're going to go back to a couple of
7 pictures, and let's use State's Exhibit No. 3. When you
8 went inside that house, how did you get in?

9 A I -- I came. I approached here and entered through
10 this door right here.

11 Q Do you recall if the door was open or not?

12 A It was.

13 Q Okay. And what did you do once you got to that door?

14 A And my goal -- the only objective I had at that time
15 was to make sure that there wasn't anybody else in the
16 house that was being injured or hurt, there wasn't anybody
17 else there.

18 Justin had told me that he had already been in the
19 house and that he had put a blanket on Carey. So at that
20 point I knew Carey was there. I said where is he, and he
21 said he's kinda laying half way on the couch and half way
22 on the ground. I said okay.

23 And then I made entry in that door right there and
24 went through the house systematically going into each room
25 to make sure that there wasn't anybody else. And I did

Nicholas Hullinger
Direct examination by Mr. Bulsa

1 observe Carey there half way on the couch and half way on
2 the ground with the blanket on him.

3 Q what else about the house's condition did you notice?

4 A It was in disarray. There was -- it looked like it
5 had been kind of like -- you know, there was just kinda
6 stuff everywhere. Everything was knocked over in that --
7 in the -- in that main room right there.

8 Q And did you yourself move or touch anything?

9 A No, no, just went in. And I observed him. In fact,
10 after looking at him I saw no signs of life, so I didn't
11 even approach the -- the body at that time.

12 Q Okay. And then what did you do?

13 A And then I came back out of the residence at that time
14 and began to separate all of the folks that were outside so
15 we could separate them to get their stories. And then I
16 began figuring out who they were. And as other people
17 started arriving, then I went and got the crime scene tape,
18 and I began roping off the area so we'd have a secure
19 location for the crime scene.

20 Q And did you also secure the witnesses?

21 A Yes. All of them I -- you know, we just placed them
22 apart from each other there, and then I got a name from
23 each of them. I didn't take statements or anything. I got
24 name, separated them and kept them so we would be able to
25 make sure we could go back and speak with them.

Nicholas Hullinger
Cross-examination by Mr. Moore

1 Q Now, you gave a short recitation of what Casey did.
2 where did you get that information?

3 A Of what?

4 Q where -- where she went.

5 A Oh, because the people there, all of those folks that
6 were there, just kind of started telling the story as --
7 and I cut some of them off and stopped some of them, let
8 some of them talk. It was just because they -- she first
9 went to the -- yeah, to that first house right there. And
10 that was the original 9-1-1 call, came from that house.

11 Q But you never actually observed her.

12 A No, no. I never saw Casey on the scene.

13 Q Did another E.M.S. or ambulance arrive to check on --

14 A Yes. Another E.M.S. vehicle arrived shortly after I
15 did, and other deputies arrived.

16 Q Okay. All right. I think that's all I have right
17 now. Answer any questions Mr. Moore may have.

18 A Yes.

19 CROSS-EXAMINATION

20 BY MR. MOORE

21 Q You said that when you got there they were all telling
22 you what was going on and what had transpired prior to your
23 arrival, correct?

24 A Yes.

25 Q Did they tell you anything about any potential

Nicholas Hullinger
Cross-examination by Mr. Moore

1 suspects or if anybody had seen anything or heard anything
2 or if Casey had said anything?

3 A That -- at that time that wasn't anything I was paying
4 attention to.

5 Q Okay.

6 A At that time I was more worried about what was going
7 on in the house and if the scene was safe at that point.

8 Q How long did it take after you arrived before the next
9 officer got on the scene?

10 A You know, I couldn't speak exactly, but it could not
11 have been more than just a few minutes.

12 Q And who was the next officer on the scene?

13 A I believe it was Lieutenant -- well, at the time
14 Sergeant Satterfield.

15 Q And to your knowledge did anybody else enter the
16 residence prior to your arrival other than Justin?

17 A To my knowledge, no.

18 Q And if somebody had would you have been in a position
19 to know that after you arrival? Once you got on the scene
20 until you left would you have known if somebody other than
21 law enforcement had entered the house?

22 A No, not prior to my arriving there.

23 Q After your arrival.

24 A After my arrival the only people that went in that
25 house were the folks that were on the -- would have been on

Greg Satterfield
Direct examination by Mr. Bulsa

1 the log there. But, yeah, I know that Lieutenant
2 Satterfield went in the house and I know that the E.M.S.,
3 that next E.M.S., folks did.

4 Q And the only non-law-enforcement person you're aware
5 of that went into the house was Justin.

6 A Yeah, to my knowledge, yeah.

7 Q Thank you.

8 A Yes.

9 MR. BULSA: We have noting further.

10 THE COURT: You can step down.

11 MR. BULSA: We ask the witness be excused.

12 THE COURT: He may be.

13 (Whereupon, the witness was excused.)

14 MR. BULSA: The state calls Greg Satterfield.

15 GREG SATTERFIELD, having
16 been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BULSA

18 Q Lieutenant Satterfield, please introduce yourself to
19 the jury.

20 A Yes, sir. I'm Gregg Satterfield.

21 Q Who are you employed with?

22 A Spartanburg County Sheriff's Office.

23 Q And when did you become a lieutenant?

24 A Made lieutenant February of 2016.

25 Q And how long have you been in law enforcement?

Greg Satterfield
Direct examination by Mr. Bulsa

1 A Eleven and a half years.

2 Q What was your rank back in May of 2015?

3 A I was a sergeant.

4 Q And what were your duties?

5 A I was the sergeant over the northeast part of the
6 county on the night shift, Charlie platoon.

7 Q And did you have occasion to go to this residence on
8 that May 22nd?

9 A Yes, sir.

10 Q Okay. Why did you go to that scene?

11 A I went, responded as the supervisor. There are
12 certain calls that supervisors go, any -- any type of
13 violent crimes. And on this particular case this was a
14 call that was deemed for a supervisor to -- to respond to.

15 Q And what do you recall seeing when you arrived?

16 A As I was -- arrived on the scene Deputy Hullinger was
17 in the process of taking the crime scene off.

18 Q And what did you do?

19 A As a supervisor I then made entry into the -- to the
20 residence to do a secondary search and then assess the --
21 the scene inside to be able to provide any information back
22 to the investigators that were en route.

23 Q Were you alerted to anything inside?

24 A Yes. As I made my approach to the wooden steps,
25 always cautious of my -- my placement of my foot, feet, I

Greg Satterfield
Direct examination by Mr. Bulsa

1 noticed bloody footprints inside, once I went inside to
2 the -- the door that was open. As I went inside bloody
3 footprints inside the kitchen -- kitchen area, I little bit
4 larger pool of blood to the right where the refrigerator
5 was.

6 As I went into the living room I observed a white male
7 laying in the -- partly on the floor and partly on the --
8 on the couch.

9 Q As part of your search did you search an attic area?

10 A Yes. It was brought to my attention that another
11 victim may be in there in the bathroom.

12 I went in and recleared the bathroom. As I was going
13 through, clear that bathroom, I observed a hatch or an
14 attic opening above that was open that kind of caught my
15 attention as a potential safety hazard.

16 At that time I moved a chester [sic] drawer to be able
17 to gain access to that hatch or the attic space. I then
18 used that chester [sic] drawer to climb up and actually
19 cleared the -- the attic space.

20 Q Okay. Other than the chest of drawers did you move
21 anything in the residence?

22 A No, sir.

23 Q What was your observations about the condition of the
24 residence?

25 A Disarray. I noticed a lot of objects. Cluttered.

Greg Satterfield
Direct examination by Mr. Bulsa

1 Q Now, how long were you inside the house?

2 A Just to do that initial clear of the bathroom, check
3 the attic, and then I exited.

4 Q As a supervisor what did you then do?

5 A Make sure that violent crimes are notified. Also,
6 direct -- at that time more deputies were on scene. I
7 wanted to start the statements of the -- of the people that
8 were on the scene to get those separated.

9 I did make re-entry in when, I believe it was Medic 10
10 arrived on the scene. I wanted to escort the -- them in
11 for them to put their leads on to assess the -- the body
12 there.

13 Q What was the result of that?

14 A They -- they advised that he showed no signs of life.
15 I wanted that to come from a -- a medical -- medical
16 personnel.

17 I did actually turn the light on from the ceiling fan
18 to help them. One of the medics -- I'm not sure which
19 one -- actually kind of moved the -- the blanket.

20 THE COURT: Excuse me just a minute.

21 Please -- please don't turn your back to the court
22 reporter, and be careful of that microphone.

23 THE WITNESS: Yeah. I apologize, sir.

24 A The -- one of the medics did move the -- the blanket
25 partially to place the leads on -- on the individual.

Greg Satterfield
Cross-examination by Mr. Moore

1 Q You mentioned turning the light on. So it was -- was
2 it dark inside?

3 A It was kind of -- kind of dark, yes, sir.

4 Q What kind of illumination did you use when you were
5 going through the house?

6 A I had my flashlight technique, yes, sir.

7 Q So it's dark enough for you to need a flashlight?

8 A Yes, sir.

9 Q All right. Now, once the medic checked Mr. Mauldin,
10 what were your duties there?

11 A I then exited the -- the residence and then began
12 advising my deputies to separate the witnesses and begin
13 the statement process.

14 Q Did other officers arrive to process the inside of the
15 residence?

16 A Yes, sir.

17 Q And those would be forensic type officers?

18 A Yes. The I.D. officers would respond. At that time
19 the on-call investigators would be -- would be on scene as
20 well.

21 Q All right. That's all I have at this point. Answer
22 any questions Mr. Moore may have.

23 CROSS-EXAMINATION

24 BY MR. MOORE

25 Q Did you take any of the statements of any of the

Greg Satterfield
Redirect examination by Mr. Bulsa

1 neighbors?

2 A No, sir, I did not.

3 Q Did you speak with any of the neighbors?

4 A Yes, I did.

5 Q Okay. What -- did any of the neighbors advise you as
6 to what they believe had happened?

7 A One -- one of the neighbors advised that Casey had
8 said that Scooter had shot her.

9 Q Okay. At the time I assume you had no idea who that
10 might be.

11 A No, sir. I did not.

12 Q And did anybody else give you any other names or
13 nicknames at that time?

14 A No. No other nicknames. Two other neighbors,
15 witnesses, advised that Casey had mentioned two names to
16 the medics that had taken her, transported her, to the
17 hospital. And at the time, that's when I called the
18 supervisor that was on scene at the hospital. I wasn't
19 given any names from that neighbor. That was the medics
20 that had already left and went to the Regional with Casey.

21 Q Thank you.

22 REDIRECT EXAMINATION

23 BY MR. BULSA

24 Q And you notified some people to go to -- go check with
25 the medics, is that right?

Greg Satterfield
Redirect examination by Mr. Bulsa

1 A Yes. Another sergeant was en route to Spartanburg
2 Regional.

3 Q And that was to get those names that Casey had given
4 to you?

5 A Yes, sir. As soon as I got that information I passed
6 that along to the supervisor responding to the hospital.

7 Q Okay. Thank you. That's all I have.

8 A Thank you.

9 THE COURT: You may step down.

10 THE WITNESS: Thank you, sir.

11 MR. BULSA: We ask that he be excused.

12 THE WITNESS: Thank you, sir.

13 THE COURT: He may be.

14 (Whereupon, the witness was excused.)

15 MR. BULSA: The state calls Tony Turner.

16 TONY TURNER, having been first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BULSA

19 Q Good afternoon, Mr. Turner. Could you introduce
20 yourself to the jury?

21 A My name is Tony Turner.

22 THE COURT: Can you move up close to that black
23 microphone, please, sir, and speak into it?

24 A My name is Tony Turner.

25 Q And, Mr. Turner, did you live on this property at the

Tony Turner
Direct examination by Mr. Bulsa

1 time of this incident?

2 A Yes, sir.

3 Q which house did you live in?

4 A 3826. It's a smaller apartment in between the two
5 homes.

6 Q That's be shown in State's Exhibit No. 5?

7 A Yes, sir.

8 Q Okay. Did you live there by yourself?

9 A Yes.

10 Q And are you employed?

11 A Yes, sir.

12 Q Where do you work?

13 A Currently I work at Winchester Electronics.

14 Q Were you employed back then?

15 A Yes, sir.

16 Q Where?

17 A Dish Network.

18 Q What do you do for them?

19 A What do I do for Winchester or Dish?

20 Q For either one.

21 A Winchester I -- I made military grade wires.

22 Q What did you do for Dish?

23 A I was a physical inspector.

24 Q Okay. How long did you live at this property?

25 A At this point in time less than a year.

Tony Turner
Direct examination by Mr. Bulsa

1 Q Are you still there?

2 A Yes, sir.

3 Q Okay. Are you familiar with your neighbors?

4 A I didn't really get out much at the time, and even
5 since then, you know. I think the family from the brick
6 house has moved, and new tenants had moved into the house
7 of the incident. So not much contact.

8 Q Do you recall the night that Casey came to your door?

9 A Yes, sir.

10 Q Did you know her?

11 A Just from passing. You know, I've seen -- I had seen
12 her at that house. We'd not talked too much.

13 Q I want you to describe for the jury if you would what
14 took place.

15 A It was around 5:00 in the morning. I heard a loud
16 banging at my door. I had went to sleep not too long
17 prior, maybe 2:00 or something. Working a lot of overtime
18 at work at the time.

19 And I responded. I woke up. I put a shirt on and
20 opened the door. And she was bound around the face and
21 hands with electrical tape.

22 I -- I was frightened. I screamed. And at first --
23 the first thing I told her was, you know, don't come in,
24 because I didn't know what had happened.

25 And through the tape the mumblings, you know, I

Tony Turner
Direct examination by Mr. Bulsa

1 could -- I could figure out that she had been shot from the
2 profuse bleeding.

3 That's when I got my phone. I called 9-1-1 and
4 grabbed a pocketknife and cut her free from her bindings.

5 Q What part of her did you cut free?

6 A Her hands. I left some of the bindings around her
7 head because I saw the blood was coming from there, and I
8 didn't want to release any pressure or anything like that
9 that might endanger her. I didn't know how bad the wound
10 was or what had happened.

11 Q Was she making sense?

12 A She was -- she was very erratic, but she was saying
13 things like Scooter did this. She was scared for her son
14 not having anybody because she thought she was going to
15 die. And I held her hand until, you know, responders came.

16 Q What picture came to your mind when you first saw her?

17 A It was -- it was monstrous. That's not something you
18 expect to open your door and see at 5:00 in the morning.

19 Q Now, the son that she was concerned about, he did not
20 live with her.

21 A He wasn't there at the time. I'm not sure if they had
22 visitation or what, but he wasn't there currently.

23 Q She, in essence, thought she was going to die.

24 A Yes.

25 Q How long did it take E.M.S. to arrive?

Tony Turner
Direct examination by Mr. Bulsa

1 A It was -- it was a fairly quick response. I think for
2 E.M.S. it might have been maybe ten minutes, fifteen maybe.
3 And the cops were there a few minutes before, so.

4 Q Where were you and she while you were waiting?

5 A Towards the end of that brick wall that separates the
6 brick house's lawn and my house. Yeah. That's a better
7 picture because you can see there. Those large dark spots
8 around the weeds growing up, that's her blood.

9 Q Would you point that out for the jury, please?

10 A Yeah. Let's see.

11 Q There's that red button on top of there.

12 A All right. You can see the large pools of blood
13 there.

14 Q Okay.

15 MR. BULSA: And that's, for the record that's, State's
16 Exhibit No. 6.

17 Q Okay. Were there other neighbors around?

18 A After -- after I had called and started cutting her
19 free the -- the neighbors from the brick house started
20 coming towards the whole thing. I don't know if they had
21 heard me scream or what but...

22 Q Did you have any interaction with your neighbors at
23 that point?

24 A I, basically, just explained it, you know, just, you
25 know, she's been shot, call the cops and stuff like that.

Tony Turner
Direct examination by Mr. Bulsa

1 Nothing.

2 Q Did you learn about Carey inside the house?

3 A Yeah. She -- she mentioned that while I was cutting
4 her free because it was -- it was intermittent. You know,
5 she's -- she'd be like, you know, I'm worried about my son,
6 you know, and Scooter shot me and Carey's dead. And it
7 would go between those three, you know.

8 Q Now, explain. Explain to the jury how she could talk
9 like that with her mouth taped up.

10 A After moving around, I guess, from her house to the
11 other house the tape around her mouth was loosened a bit.
12 I -- it wasn't too tight. And she -- you know, we could
13 kind of move it up a little bit, but I didn't want to
14 remove it from the head. So I could hear her fairly easily
15 after I calmed down.

16 Q So you were still with her when E.M.S. arrived.

17 A Yes, sir.

18 Q And tell us what took place when they arrived.

19 A I -- I stopped holding her hand and she walked to the
20 E.M.S.

21 Q Okay. Did you stay where you were?

22 A Yes, sir.

23 Q And how long was E.M.S. on the scene with her
24 approximately?

25 A Not too long. It was, I guess, pretty dire that she

Tony Turner
Cross-examination by Mr. Moore

1 got to the hospital. Maybe -- maybe five or six minutes --
2 maybe.

3 Q All right. And did you stay around and talk to the
4 police?

5 A Yes, sir.

6 Q All right. This scooter person that she named, were
7 you familiar with him?

8 A No, sir.

9 Q Okay. All right. Thank you. Answer any questions
10 Mr. Moore may have.

11 CROSS-EXAMINATION

12 BY MR. MOORE

13 Q So just to clarify. She told you that scooter shot
14 her.

15 A Yes, sir.

16 Q Did she say anything about who shot Carey?

17 A No.

18 Q You said you didn't get out a whole lot at that time,
19 is that correct?

20 A Yeah. I was working a lot, so.

21 Q No. I mean you didn't get out as far as associating
22 with your neighbors. I'm sorry.

23 A No.

24 Q How close would you say your apartment is to the
25 incident house?

Tony Turner
Cross-examination by Mr. Moore

1 A Fairly close. Maybe 200 feet, 250 feet away.

2 Q Close enough that you would notice when they're home
3 and not home, things like that?

4 A When I was getting out, like if I went outside to
5 smoke a cigarette or something, I could -- I could tell
6 when they had company or if they were there.

7 Q Did they have company a lot?

8 A A fair amount.

9 Q Same cars, different cars?

10 A Same cars for the most part.

11 Q What cars were typically parked there that you
12 believed to be theirs?

13 A There's a blue car on there. I think it's a Chevy
14 Lumina. And the PT Cruiser.

15 Q You just told Mr. Bulsa you had never met anybody
16 named Scooter.

17 A No.

18 Q So that night when she told you that Scooter shot her,
19 that was the first time you'd heard that name?

20 A Yes, sir.

21 Q One second, please.

22 (Pause.)

23 MR. MOORE: That's all, Your Honor.

24 MR. BULSA: Your Honor, just briefly.

25

Tony Turner
Redirect examination by Mr. Bulsa

1 REDIRECT EXAMINATION

2 BY MR. BULSA

3 Q Mr. Turner, the vehicles that you described, how many
4 were there that night?

5 A They had had company prior to the incident. There was
6 another vehicle that I can't make -- I can't remember the
7 make and model of.

8 Q So when you went in your house you observed how many
9 cars in front of their house?

10 A I believe -- I believe there was three. Like I said,
11 I had just gotten off of work and noticed that there was
12 about three cars that were there.

13 Q What time was that, approximately?

14 A I feel like it was around 8:00. That's when I got
15 home.

16 Q So 8:00 p.m. So that would have been May the 21st.

17 A Yeah.

18 Q And this happened several hours later.

19 A Several hours later, yes, sir.

20 Q Okay. Now, when you were there with Casey waiting on
21 E.M.S., how many cars were parked in front of the house?

22 A One.

23 Q Okay. And which car was that?

24 A That's the blue Chevy Lumina thing, I think it is.

25 Q Okay. The PT Cruiser wasn't there, was it?

Zachary Hubbard
Direct examination by Mr. Bulsa

- 1 A No, sir.
- 2 Q On State's Exhibit No. 3, that's the vehicle that was
3 there?
- 4 A Yes.
- 5 Q Okay. Thank you.
- 6 MR. BULSA: That's all I have.
- 7 MR. MOORE: No questions, Your Honor.
- 8 THE COURT: You can step down.
- 9 MR. BULSA: We ask Mr. Turner be excused.
- 10 THE COURT: Any objection?
- 11 MR. MOORE: Without objection, Your Honor.
- 12 THE COURT: You may be. Thank you.
- 13 THE WITNESS: Thank you, sir.
- 14 (Whereupon, the witness was excused.)
- 15 MR. BULSA: The state calls Zach Hubbard.
- 16 ZACHARY HUBBARD, having been
17 first duly sworn, testified as follows:
- 18 DIRECT EXAMINATION BY MR. BULSA
- 19 Q Mr. Hubbard, would you introduce yourself to the jury?
- 20 A Name is Zachary Hubbard.
- 21 Q What is your occupation, sir?
- 22 A I'm a paramedic.
- 23 Q And how long have you been a paramedic?
- 24 A I've been a paramedic for almost six years.
- 25 Q And what kind of training do you get to be a

Zachary Hubbard
Direct examination by Mr. Bulsa

1 paramedic?

2 A We go through two years of classroom and dyadic, take
3 in hospital training, as well as ride-time with an E.M.S.
4 agency.

5 Q So you basically get classroom training and then
6 on-the-job training?

7 A Yes.

8 Q Do you have to go through certain stages before you
9 can become a certain level?

10 A Yes. Prior to me getting my paramedic license I held
11 an E.M.T. and C.N.A. license in North Carolina for five
12 years.

13 Q So you've been doing this for a total of 11 years?

14 A Yes.

15 Q Okay. Now, the night in question, May 22nd of 2015,
16 were you just on a normal evening work routine?

17 A Yes. I was on Medic 21 that -- for that shift.

18 Q And how many people are assigned to a certain medic
19 team?

20 A Two.

21 Q Two. And could you tell us who your partner was?

22 A Josh Cote.

23 Q And what was his position on the team?

24 A Josh Cote at the time was a new-hire paramedic. He
25 was still in training as a second rider with me.

Zachary Hubbard
Direct examination by Mr. Bulsa

- 1 Q Were you the primary caregiver?
- 2 A Yes.
- 3 Q All right. And on May 22nd of 2015 were you sent to a
- 4 location on Highway 11 near Chesnee?
- 5 A Yes, I was.
- 6 Q Do you have your notes with you?
- 7 A I didn't know if we were allowed to bring any paper in
- 8 with us, so I did not bring them in, no.
- 9 Q I asked you about it, but when do you recall arriving?
- 10 A It was roughly right around 4:55 in the morning,
- 11 between 4:50 and 4:55.
- 12 Q And do you recall how long you were there before you
- 13 left?
- 14 A We were there maybe three or four minutes at the max.
- 15 Q When you pulled in -- can you see this picture?
- 16 A Yes.
- 17 Q Use that pointer and show the jury how you came in.
- 18 A We come down Highway 11 going this way, and we made a
- 19 left into this driveway here and circled up and stopped
- 20 right here.
- 21 Q Okay. So that was State's Exhibit No. 1, photograph.
- 22 This is State's Exhibit No. 6. Does this show the area
- 23 where you wound up?
- 24 A Yes, it does.
- 25 Q Okay. And what did you observe?

Zachary Hubbard
Direct examination by Mr. Bulsa

1 A When we arrived on scene, as we were pulling in the
2 driveway, I noticed a blonde female with a white shirt on
3 that appeared to be soaked and drenched in blood. And
4 there was roughly three, maybe four, other people standing
5 around her in the driveway at the time.

6 Q How did the call come in to you?

7 A The call came in to us. It come out as a laceration.
8 And we were already on our way back to the station from
9 another call. So we just kept -- we kept on responding to
10 the call. We didn't know if there was anything suspicious
11 that had happened.

12 Q Okay. And do you recall about how long it took you to
13 actually arrive after you got the call?

14 A I think our response time was right around, I want to
15 say, six to nine minutes, I think.

16 Q So you arrived. You see her in her condition. And
17 what do you learn when you get there?

18 A When I get there, as I approach her I realize that
19 she's got duct tape wrapped around -- wrapped around her
20 head. And she's got a lot of coagulated blood in her hair.
21 And I can't really remember who on scene told me, but
22 somebody on scene then had told me that she had been shot.
23 And this is the first that myself and my partner learned
24 that there was a shooting on this -- on the scene.

25 Q How did that cause you to react?

Zachary Hubbard
Direct examination by Mr. Bulsa

1 A Well, for one, you know, like I said, this is
2 laceration. So we continued on not thinking much of it
3 when we got there.

4 There were two things that made me -- the decision
5 that I did, that we needed to leave. One was we didn't --
6 nobody at the time could tell me where the shooters were.
7 And by our protocol any suspected penetrating injury to the
8 head is a code trauma. So we made a decision for our
9 safety and the patient safety to notify law enforcement and
10 get her on the -- on the stretcher and leave.

11 Q So you loaded her up. And who stayed in the back with
12 her?

13 A I did.

14 Q Okay. And for what purpose?

15 A I was the primary patient caregiver.

16 Q What were you doing to help her back there?

17 A I put her on a non-rebreather. Of course on the
18 way -- we started transport. Per our protocol, I put her
19 on the cardiac monitor. I started an I.V. on her. I
20 started fluids.

21 It appeared that she had lost, you know, some amount
22 of blood. It was hard to calculate how much.

23 I had removed the tape, the duct tape, around her
24 mouth, and I left it on the -- left it on the truck for law
25 enforcement when we got to the hospital. And then I put

Zachary Hubbard
Direct examination by Mr. Bulsa

1 her on a non-rebreather.

2 Q And when you took the tape off her mouth, how did she
3 respond?

4 A She started screaming. She said that two men -- that
5 her and her boyfriend -- she said they had tied her up and
6 shot her boyfriend and then shot her.

7 Q She named two people being involved?

8 A She did.

9 Q Did she give you the names of those two people?

10 A She said Drew Cash and Steven -- his last name just
11 left me. I'm sorry.

12 Q Did you write a statement for the police?

13 A I did.

14 Q I'm going to show you a copy of your statement. Just
15 use it to refresh your memory. Do you see the name?

16 A Yes. Drew Cash and Steven Lewis.

17 Q Okay. You said she was screaming. What else was
18 there about her emotional state?

19 A I'm sorry?

20 Q Do you remember anything else about her emotional
21 state?

22 A She seemed very anxious, very upset.

23 Q Was she cooperative with you?

24 A She was, yes.

25 Q Was she alert?

Zachary Hubbard
Direct examination by Mr. Bulsa

- 1 A She was. She answered. She was able to tell me the
2 day and month, the year and what had happened.
- 3 Q What did you do, if anything, to her wound?
- 4 A The wound that was located on the back of her head at
5 the time, it was coagulated or partially coagulated. I did
6 not attempt to move any hair or blood clot in the event
7 that that would worsen the bleeding. I did notice that
8 there was some light arterial bleeding that was happening.
9 So I did place a bandage around the -- around the wound.
- 10 Q Okay. I'm going to show you three pictures and see if
11 you recognize those.
- 12 A Yes. I do.
- 13 Q Okay. What's been marked State's Exhibit No. 29, what
14 is that a picture of?
- 15 A That is a picture of me and the patient on the
16 stretcher.
- 17 Q Okay. Is that when you get to the hospital?
- 18 A Yes.
- 19 Q You see her feet are all bloody.
- 20 A Yes.
- 21 Q All right. There's no way of knowing how much blood
22 she lost, is there?
- 23 A No. I mean, I -- I had gathered she had ran from her
24 house to a neighbor's house. So, you know, I really can't
25 tell you how much blood she lost between -- between there.

Zachary Hubbard
Direct examination by Mr. Bulsa

1 Q But she was all, pretty much all, bloody.

2 A Yeah. She had on a white shirt, but it was pretty
3 well soaked and saturated with blood.

4 Q Did you notice any other wounds to her?

5 A I did not. I did cut and remove the shirt. I did a
6 rapid head-to-toe examine. And the only injury I noted was
7 to the back of the head.

8 Q State's No. 30. What do we see in that picture?

9 A That is the duct tape that was wrapped around her --
10 around her mouth going sequentially around her head.

11 Q Here's another bit of duct tape, State's 31. That
12 looks like it might be actually -- is that in the hospital
13 floor?

14 A I -- I believe so. That might have been -- she had
15 some tape around her ankles and her wrists. I don't know
16 the exact location that came from, but that's probably some
17 tape from there.

18 Q Okay. So you observed tape around her wrists, her
19 ankles and her head.

20 A Yes.

21 Q And her mouth.

22 A Yes.

23 Q All right. Now, once you transported her to the
24 hospital, what was your job at that point?

25 A Once we got her to the hospital I finished giving the

Zachary Hubbard
Cross-examination by Mr. Moore

1 report to the E.R. physician in the trauma bay. You know,
2 we received, you know, signatures from the E.R. staff. And
3 then I filled out a statement for law enforcement.

4 Q Thank you, sir. Answer any questions Mr. Moore has.

5 CROSS-EXAMINATION

6 BY MR. MOORE

7 Q You just testified that she had duct tape around
8 her -- her mouth, her wrists and her feet, is that correct?

9 A Yes.

10 Q Who cut off the tape off her wrists?

11 A When I had got there the tape that was on her wrists
12 did appear that it had been cut on the -- on the top.

13 There was still -- it was still kind of -- still stuck to
14 her.

15 Q Like separating her hands but still around her wrists?

16 A Yeah, yeah.

17 Q Did she give any statement to you about who actually
18 did the shooting?

19 A She did not. The only thing that she had said to me
20 was that they did it, that they tied her up, shot her
21 boyfriend and then shot her.

22 She made that statement while we were transporting to
23 the hospital and on the way to the hospital. That's when
24 I'd realized or that I had learned that there was a second
25 patient on the scene. And I notified law enforcement that

Zachary Hubbard
Redirect examination by Mr. Bulsa

1 another ambulance needed to go out there.

2 (Pause.)

3 MR. MOORE: No further questions, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. BULSA

6 Q Just briefly, Mr. Hubbard. So she mentioned they and
7 named two people, but you didn't press her for further
8 explanation as to what each one did?

9 A I did not.

10 Q Okay. That's fine. But she clearly named two people
11 being involved?

12 A She did.

13 Q All right. Thank you, sir.

14 THE COURT: Step down.

15 MR. BULSA: We ask that he be excused.

16 THE COURT: He may be.

17 (Whereupon, the witness was excused.)

18 MR. BULSA: The state calls Adam Stewart.

19 THE COURT: Yes, ma'am.

20 JUROR NO. 150: I'm sorry. I don't feel well. Do you
21 mind if I go to the restroom?

22 THE COURT: No. All right. Let's do that.

23 Let me ask the jury to please go to your jury room.
24 Don't discuss the case. I will ask the bailiff to take
25 this juror to a separate facility.

Adam Stewart
Direct examination by Mr. Bulsa

1 JUROR NO. 150: I'm sorry.

2 THE COURT: That's all right.

3 You've got to take the rest of them too.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: We'll be at ease for 15 minutes.

7 (Whereupon, a recess was taken.)

8 THE COURT: All right, sir. Bring the jury in,
9 please.

10 (The following takes place in the presence of the
11 jury.)

12 THE COURT: All right. You may proceed.

13 MR. BULSA: The state calls Adam Stewart.

14 ADAM STEWART, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BULSA

17 Q Good afternoon, Mr. Stewart.

18 A Good afternoon.

19 Q Would you introduce yourself to the jury?

20 A My name is Adam Stewart.

21 Q And how old are you, sir?

22 A Forty-four.

23 Q And where do you reside?

24 A Right now I reside at [REDACTED] Peach Valley Drive,
25 Spartanburg.

Adam Stewart
Direct examination by Mr. Bulsa

- 1 Q Did you used to live on Highway 11?
- 2 A Yes, sir. I used to live at [REDACTED] Highway 11 West,
3 Chesnee.
- 4 Q Is that a neighbor of [REDACTED] Highway 11?
- 5 A Yes, sir. [REDACTED] was right in front of me.
- 6 Q And who did you live with at the Highway 11 address?
- 7 A I lived with my brother and a disabled mother.
- 8 Q When did you move from that area?
- 9 A I moved from that area in January 1st of this year.
- 10 Q All right. And how long had you actually lived at
11 that location?
- 12 A I lived there a little over two and a half years.
- 13 Q Did you get to know the people who stayed in [REDACTED]?
- 14 A Yes, sir.
- 15 Q And who do you know them to be?
- 16 A I knowed Carey and I knowed Casey.
- 17 Q Okay. Anything particular about Carey, stood out
18 about you?
- 19 A He was outgoing. He's -- you know, he was a funny,
20 funny guy. He talked to me a lot, you know. He loved cars
21 and stuff just like I do and everything like that.
- 22 Q Do you recall him owning a PT Cruiser?
- 23 A Yes, sir. I actually worked on the PT Cruiser when he
24 owned it.
- 25 Q Explain that to the jury, please.

Adam Stewart
Direct examination by Mr. Bulsa

- 1 A The head gasket had blowed on it one day when he was
2 going to work, and he made it back home with it and come up
3 and was talking to me about it, the way it was acting and
4 things like that. And I checked on it for him and told him
5 what was going on with it because I used to be a full-time
6 mechanic before I got disabled. And my son-in-law and
7 myself made an agreement to work on it for him and, you
8 know, fixed that blown head gasket for him.
- 9 Q So at the time of his death was that PT Cruiser
10 drivable?
- 11 A Yes, sir.
- 12 Q And do you remember the morning you learned he died?
- 13 A Yes, sir.
- 14 Q Do you recall seeing the PT Cruiser at his house the
15 day before?
- 16 A The day before, yes, sir.
- 17 Q Okay. Now, tell us, tell the jury, what you first
18 recall about that evening.
- 19 A About that morning or that evening?
- 20 Q The morning.
- 21 A The morning.
- 22 My oldest daughter was staying with me, and she come
23 into my bedroom frantically saying somebody was beating on
24 the front door and she didn't know what to do. So she
25 automatically dialed 9-1-1. And I was trying to look out

Adam Stewart
Direct examination by Mr. Bulsa

1 the windows to see what was going on, and that's when I
2 noticed Casey, and was standing down there at the -- the
3 little apartment building that was in front of me. And
4 Tony was standing there. And I came out my side door,
5 because this door connects to my bedroom that comes right
6 up to the driveway. And that's when I came out it and
7 walked down there to find out what was going on.

8 Q Did you recognize that person as Casey when you first
9 saw her?

10 A When I first saw her, no, because there was just --
11 there was just blood everywhere. Once I got upon her, you
12 know, got down there to her, then I could tell who it was.

13 Q What do you recall about her?

14 A At that point in time Tony was cutting the duct tape
15 off the back of her hands because they were, you know,
16 bound behind her. And she was trying to -- once he done
17 that she was trying to pull the tape down off of her face a
18 little bit to where she could talk. And, you know, we was
19 trying to calm her down to find out what was going on.

20 Q What did you learn, if anything?

21 A She said that Scooter and Drew had killed Carey and he
22 was in there on the couch and that they had throwed her
23 over the front room, over a bunch of stuff, and had shot
24 her.

25 Q What did you do after hearing that?

Adam Stewart
Direct examination by Mr. Bulsa

- 1 A I -- my oldest daughter immediately ran across the
2 street where my youngest daughter, fiancé and my nephew was
3 living at, because he was an E.M.T. And she ran over there
4 to get them. And by that time the ambulance had pulled up
5 and, basically, loaded her -- her up in the ambulance.
6 And, you know, they took off immediately. They didn't stay
7 on the scene but just a couple of minutes.
- 8 Q Are you familiar with the two people, Scooter and
9 Drew?
- 10 A No.
- 11 Q Okay.
- 12 A I mean, I've heard talk about Scooter several times
13 from Carey, you know, but that was just talking about --
14 just talking about his friend Scooter. That was it.
- 15 Q All right. And your -- you said it was your nephew
16 that was an E.M.T.
- 17 A Yes, sir.
- 18 Q Is that Justin?
- 19 A Judson.
- 20 Q Judson. Okay. And you were on scene when the police
21 arrived?
- 22 A Yes, sir.
- 23 Q Okay. And you spoke to them and told them what you
24 knew.
- 25 A Yes, sir.

Adam Stewart
Cross-examination by Mr. Moore

1 Q Did you tell them about the PT Cruiser being missing?

2 A Yes, sir. Sure did.

3 Q Okay. Thank you, sir. Answer any questions Mr. Moore
4 may have.

5 CROSS-EXAMINATION

6 BY MR. MOORE

7 Q Good afternoon, Mr. Stewart.

8 A Hello.

9 Q You just testified that you had made a deal with Carey
10 to fix the head gasket. What were the -- what were the
11 terms of that deal?

12 A Well, the head gasket was blowed on the PT Cruiser and
13 Carey didn't know how to fix it because it was turbocharged
14 and stuff. And I had a little old shop there in my back
15 yard, a little garage. And, you know, I work on my own
16 stuff, things like that. And we had made an agreement with
17 Carey. I believe it was for \$300 to replace the head
18 gasket and to get the car back to running like it was
19 supposed to have been running.

20 Q So he paid you like you were a mechanic.

21 A Yes, sir.

22 Q Now, you just testified that Casey told you that
23 Scooter and Drew had shot and robbed them?

24 A She didn't say robbed. She just said that Scooter and
25 Drew had shot Carey and shot -- they throwed her over in

Adam Stewart
Cross-examination by Mr. Moore

- 1 the front room or something and shot her.
- 2 Q Did you give a statement to law enforcement that
- 3 morning?
- 4 A Yes, sir.
- 5 MR. MOORE: Your Honor, may I approach the witness?
- 6 Q Is that your signature at the bottom?
- 7 A Yes, sir.
- 8 Q Is that your statement?
- 9 A Yes, sir.
- 10 Q And would you read that last line?
- 11 A "Casey kept saying that her friend Scooter had shot
- 12 her and robbed them."
- 13 Q Casey said that her friend Scooter had shot them and
- 14 robbed them.
- 15 A Yes, sir.
- 16 Q You would agree with me that nowhere in your statement
- 17 on the day of the incident did you say she said anything
- 18 about Drew Cash.
- 19 A Yes, sir.
- 20 Q And that's different than what you just testified to,
- 21 correct?
- 22 A Yes, sir, it is.
- 23 Q Okay. Thank you.
- 24 MR. MOORE: No further questions, Your Honor.
- 25

Adam Stewart
Redirect examination by Mr. Bulsa
Recross-examination by Mr. Moore

1 REDIRECT EXAMINATION

2 BY MR. BULSA

3 Q Mr. Stewart, did -- why did you say Drew this
4 afternoon?

5 A Well, the things that was going on when they was
6 loading her up in the ambulance, you know, the tape was
7 still over her mouth and everything partially. And, you
8 know, I -- I can recall her saying that Scooter -- and I'm
9 assuming that's what she said was Drew, because that's what
10 it sounded like, was the ones that, you know, had done it.

11 Q Okay. The next logical question is why didn't you
12 write that in your statement.

13 A I just -- so many things going on and everything else,
14 I just, I guess I just, didn't think about writing that one
15 in the statement.

16 Q That doesn't mean she didn't say it, right, just
17 because it's not in your statement?

18 A Yes, sir.

19 Q That's what you recall her saying, those two names?

20 A Yes, sir.

21 Q Thank you, sir. That's all I have.

22 RECROSS-EXAMINATION

23 BY MR. MOORE

24 Q Just to clarify. You just said you assumed that's
25 what she said.

Judson Paul Sizemore, Jr.
Direct examination by Mr. Bulsa

1 A That's what it sounded like.

2 Q That's what it sounded like almost two years ago.

3 A Yes, sir.

4 Q You didn't write in your statement.

5 A No, sir.

6 Q But today that's what you remember.

7 A Yes, sir.

8 Q Thank you.

9 THE COURT: You may step down.

10 MR. BULSA: We ask the witness be excused.

11 THE COURT: Any objection?

12 MR. MOORE: No objection, Your Honor.

13 THE COURT: You may be excused also. Thank you.

14 (Whereupon, the witness was excused.)

15 MR. BULSA: The state calls Judson Sizemore.

16 JUDSON PAUL SIZEMORE, JR.,

17 having been first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BULSA

19 Q Mr. Sizemore, introduce yourself to the jury, please.

20 A Judson Sizemore.

21 Q Do you also go by J.P.?

22 A Yes, sir.

23 Q And, Mr. Sizemore, where did you live at this time?

24 A I believe it was 2835, right across the street, kind
25 of diagonal from where the incident took place.

Judson Paul Sizemore, Jr.
Direct examination by Mr. Bulsa

1 Q And did you have occasion to go up there and see what
2 was going on?

3 A Yes, sir.

4 Q How did you get called up there?

5 A Adam's daughter, Alexis Jones, had -- I was asleep.
6 She came over and busted through the door and told me that
7 Casey had been shot. And at the time I believe E.M.S. was
8 coming into the driveway.

9 I jumped up and threw my pants on, and a pair of
10 flip-flops, and ran across the street. It was very dark
11 and I couldn't see anything.

12 The other medic that was on Medic 21, I believe it
13 was, asked them if there were any more victims in the
14 house, and he said at that time that he wasn't sure. And I
15 couldn't see anything.

16 Medic 21 pulled off. I went back across the street
17 and grabbed my Jeep and pulled right at the entranceway to
18 the breezeway inside the house with my headlights on so I
19 could kind of see what was going on.

20 Q Showing you State's Exhibit No. 3. While that's
21 warming up, what kind of medical training do you have?

22 A I had become a firefighter full time for Campobello
23 Fire Department. And I went back to school to get my first
24 responder and then went on to Isothermal in North Carolina
25 to get my E.M.T.

Judson Paul Sizemore, Jr.
Direct examination by Mr. Bulsa

1 Q Were you working with a unit at this time of this
2 incident?

3 A I was full time for Rescue 11 out of Landrum.

4 Q When -- when Alexis came over and said Casey has been
5 shot, did you know who she meant?

6 A I -- I had known of her. I had seen her around a
7 couple of times, but I didn't. I didn't know them
8 personally.

9 Q Okay. All right. So we've got the medic on the scene
10 tending to Casey.

11 A Correct.

12 Q And what was the purpose of bringing your Jeep around?

13 A I couldn't see anything. It was dark. There were no
14 lights on. I was trying not to touch as much stuff as
15 possible, so I figured that would be the best way for me to
16 kind of even see inside because it -- it was so dark I
17 couldn't see anything.

18 Q Before you brought your Jeep around had you actually
19 gone inside the house?

20 A I had stood at the doorway and looked inside and
21 realized that I couldn't see anything inside the house.
22 And I immediately turned around and grabbed my Jeep.

23 Q Okay. This picture that's coming up, State's
24 Exhibit No. 3, is that the approximate area where you put
25 your Jeep?

Judson Paul Sizemore, Jr.
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q Okay. And you were pointing your lights in the
3 direction of the door?

4 A Correct.

5 Q Okay. And then what did you do?

6 A I got outta my Jeep and entered the residence. And as
7 I walked in there was a big pool of blood to the right of
8 me. And directly in front of me inside the doorway there
9 were a bunch of feet print with blood. And it was just
10 smeared everywhere. And I -- I believe I stayed out of
11 that as much as I could.

12 And I then proceeded to walk inside the breezeway into
13 the living room, and I seen Carey laid down on the living
14 room floor half way onto the couch, half way off.

15 He had a blanket covering. I believe it was from his
16 hips down. And I had seen blood coming out from under him.

17 It seemed like there was no life coming from Carey. I
18 reached down and checked a pulse. There wasn't a pulse.

19 And I heard a noise coming from the back bedroom, and
20 I didn't know what that was at any point in time. Like I
21 said, I didn't know if there was still anybody in the
22 house, because as soon as I come across the street they
23 were taking her away by ambulance.

24 And at that time all I had known is that she had been
25 shot and possibly someone was inside whenever I found Carey

Judson Paul Sizemore, Jr.
Cross-examination by Mr. Moore

1 laying on the floor. So I turned around and immediately
2 walked outside. And by the time I walked outside I met the
3 officer at the door and told him that somebody had been in
4 there and that he wasn't alive.

5 Q Okay. Other than checking his pulse did you touch
6 anything?

7 A I did not.

8 Q So you didn't disturb anything inside?

9 A No, sir.

10 Q Okay. Thank you, sir. Answer any questions Mr. Moore
11 may have.

12 A Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. MOORE

15 Q You said you went to get your Jeep. Did you have --
16 did you have a flashlight or anything?

17 A No, sir. Like I said, I had no idea what was going
18 on. I had just got woken up directly out of my sleep to
19 Casey's been shot and they think Carey is inside, is all I
20 got at that point in time.

21 Q Right. I understand that.

22 You had just testified there was blood at the doorway.

23 A Yes, sir. It was feet prints of blood. It wasn't --
24 the pooled blood was directly in front of the refrigerator,
25 which was right to the right of me as I walked into the

Judson Paul Sizemore, Jr.
Cross-examination by Mr. Moore

1 door.

2 Q Barefoot prints or shoe-foot footprints?

3 A Barefoot and kinda -- I mean, I can't clearly -- you
4 know, I mean, it looked like there was barefoot prints and
5 maybe a few tracks of shoes.

6 Like I said, I didn't look at that too well. I mean,
7 the only part of blood that I actually paid a lot of
8 attention to was a pool of blood. It looked like somebody
9 had been laying there or something for a period of time, a
10 couple of minutes maybe.

11 Q Did you -- you said -- you did testify though that you
12 tried to avoid stepping in the blood.

13 A Yes, sir.

14 Q The front prints.

15 A Right. But it was everywhere. I don't think it was
16 possible not to step in any of it. There was blood
17 everywhere.

18 Q So you were in the house and were coming out of the
19 house and it would have, in your words, been impossible not
20 to step in blood?

21 A To my knowledge and my vision, yes.

22 Q I mean, in your opinion.

23 A Right.

24 Q You said.

25 A Right, yeah. In my opinion, yes, I believe it would

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 have been very difficult not to step in blood.

2 Q And do you remember what kind of shoes you were
3 wearing?

4 A I had on flip-flops.

5 Q What size?

6 A Ten.

7 Q Do you know what kind of flip-flops?

8 A I don't. I think they were an off brand, maybe a
9 Wal-Mart brand or something like that.

10 Q All right. One second, please.

11 (Pause.)

12 MR. MOORE: No further questions.

13 MR. BULSA: We have nothing further.

14 THE COURT: Step down.

15 MR. BULSA: Your Honor, we ask that he be excused.

16 THE COURT: Any objection?

17 MR. MOORE: No objection, Your Honor.

18 THE COURT: He may be.

19 (Whereupon, the witness was excused.)

20 MR. BULSA: The state calls Robert Talanges.

21 ROBERT CHARLES TALANGES,
22 having been first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BULSA

24 Q Please introduce yourself to the jury.

25 A Robert Charles Talanges. Work for Spartanburg County

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Sheriff's Office.

2 Q In what capacity?

3 A I am an I.D. or forensics officer, crime scene
4 investigator.

5 Q How long have you been a crime scene investigator?

6 A Approximately about 18 or 19 years now.

7 Q You used to work for the Spartanburg city police and
8 moved to the sheriff's office?

9 A Yes, sir.

10 Q Were you called to the scene on the evening in
11 question?

12 A Yes, I was.

13 Q Early morning hours.

14 A Early morning.

15 Q Were you the first I.D. officer on the scene?

16 A No. Officer Graham was the located -- first officer
17 on scene.

18 Q And what was he doing when you arrived?

19 A He had taken exterior photographs of the incident
20 location and had proceeded to take interior photographs
21 upon my arrival.

22 Q Okay. But had he moved anything?

23 A Not that I know of.

24 Q So he, basically, preserved it with photographs. You
25 arrived. Did Mr. Graham stay to assist you?

1 A He assisted me for a brief period until Deputy Horton
2 arrived. It was a night-shift officer being relieved by
3 the on-call homicide team that was called in, which myself,
4 and was Deputy Horton.

5 Q Were you the primary forensic officer?

6 A Yes. I am.

7 Q Okay. Now, I'm going to go through some of the
8 pictures that were taken in a minute. But did you preserve
9 the scene in a diagram form?

10 A Yes, I did.

11 Q And what was the purpose of that?

12 A The crime scene sketch is to show the locations of all
13 evidence that's been located inside the business and/or
14 residence or the scene.

15 Q While you're reviewing a crime scene how are you
16 determining what is -- what is notable and what needs to be
17 documented?

18 A With the type of scene that it is. This appeared to
19 be or it was a shooting scene. So we were looking for any
20 shell casings, projectiles. We were looking for bodily
21 fluids, whatever was stipulated basically in the search
22 warrant.

23 Q Okay. All right. Let me show you State's 27 and 28.
24 Do you recognize that?

25 A Yeah. This is the crime scene sketch that I made with

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 the crime scene key of evidence.

2 Q Okay. State's Exhibit No. 27. First off, is this to
3 scale?

4 A No, it's not.

5 Q Okay. Could you kind of use that pointer and kind of
6 walk the jury through what it is? Show us where the door,
7 the entry door, is.

8 A Okay. The residence -- of course you have a vehicle
9 here, which was a, I believe a, Buick at the time. Storage
10 outbuilding. And this is the rear entrance of the house,
11 is the way we went into it.

12 Front door here was broken but -- well, off the
13 hinges, but there was a padlock securing it from the
14 outside so you couldn't get out. Entry point we're looking
15 at is the rear door here.

16 Q Okay. And what room does it enter into?

17 A Okay. As you enter you've got a kitchen, a little
18 storage area or kitchen with a, I guess, a dinette area, a
19 little open area here, which there was a moped. And as you
20 viewed coming through the back door you could see the
21 victim, which was right here. There's a straight --
22 straight view or straight shot of what you can see him
23 lying on the floor arms extended to his side.

24 Q Okay. And walk the jury through the house if you
25 would.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 A Walking through the house, a pool -- pool of red
2 substance, which was blood, here, a cartridge casing. And
3 entering we've got a drag mark here of a red substance,
4 which was blood. Another projectile.

5 We found a broken vase, another cartridge casing and
6 left of the -- or excuse me -- entering right of the victim
7 you would be entering the bedroom. And all rooms are
8 ransacked at the time when we arrived.

9 Q Okay. And then the bathroom was off the bedroom?

10 A Yeah. Bathroom is this location here -- bedroom.
11 This is the laundry area here and this is like a sunporch
12 area.

13 Q So that's an enclosed porch?

14 A Enclosed, that's correct.

15 Q State's No. 2. Those windows, would that be the
16 front-porch area we're seeing?

17 A Yes. It is.

18 Q Okay. Now, I've got a series of photographs I'm going
19 to go through room by room so the jury can have a
20 perspective of how it looked. I'll start with this single
21 photo here. Do you recognize that?

22 A This photo here is going to show the kitchen.

23 Q Okay. That's No. 7. All right. We see the substance
24 on the floor. Is that what you described as blood?

25 A Right there, that's correct.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q Okay. And what is that leaning up against the wall?

2 A This here is a large flat screen television -- there's
3 your base there -- that was removed from the living room,
4 it appeared -- removed from the living room.

5 Q You commented on the rooms being ransacked. Did the
6 kitchen appear to be ransacked?

7 A Very little or none at all.

8 Q Okay. So that was the cleanest room of the house?

9 A Yes. It was.

10 Q Let me show you this group of photos. I believe that
11 would be the living room area. Just verify that.

12 A Yes. That is the living room.

13 Q So we enter the living room from the kitchen. Let's
14 see. Just going to go through these. State's Exhibit
15 No. 8. We'll go back to the placards in a minute. State's
16 Exhibit No. 9, State's Exhibit No. 10, State's Exhibit
17 No. 11. It's hard to see those. State's Exhibit No. 12.
18 Does that show the blood from drag marks?

19 A Yes, it does --

20 Q Okay.

21 A -- in this area in here. Right there.

22 Q And State's 13. That has the broken vase you
23 commented on.

24 A Yes. It is.

25 Q Okay. All right. Let's move to the next one, this

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 group of pictures, bedroom area.

2 A That's the bedroom area, that's correct.

3 Q State's No. 14.

4 A This photo --

5 Q Go ahead.

6 A -- we're -- we have actually removed some of the
7 debris that was in the floor for these evidence items here
8 to be marked after searching.

9 Q Okay. So it was even more cluttered?

10 A Yes, it was.

11 Q More. Okay. Can you orient the jury? The door we
12 see at the far end --

13 A This is going to be your bathroom, of course your bed.
14 And this where this carpet is would lead into the living
15 room area, the living room doorway.

16 Q Okay. Because the bedroom is right there on the
17 bathroom wall?

18 A Correct.

19 Q Where the bed is. Okay. That's State's No. 15.
20 State's No. 16, is that how it appeared?

21 A That's more true exactly how we located it but prior
22 to searching for evidence.

23 Q Okay. State's 17. What does that appear to be at the
24 end of the bed here?

25 A What -- where at? The couch -- pushing?

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 Q The foot of the bed, that furniture piece.
- 2 A That's part of -- part of the dresser, a vanity like.
- 3 Q Okay. That appeared to be in the natural spot?
- 4 A That room was pretty ransacked. I can't say exactly
- 5 where it belonged.
- 6 Q Okay. State's 18, State's 19, State's 20, State's 21.
- 7 Okay. Pretty much almost destroyed, for lack of a better
- 8 word.
- 9 A Yes.
- 10 Q All right. And what picture is that, the bathroom
- 11 area?
- 12 A Yes, it is.
- 13 Q State's 22. Okay. And this last group of pictures,
- 14 what area do they show?
- 15 A This is going to be the sunporch area of the
- 16 residence.
- 17 Q Okay. Let's go over these. State's 23. Is that the
- 18 door from the bedroom toward the -- into that sunroom area?
- 19 A Yes, it is.
- 20 Q Okay. There's a turned view, State's 24.
- 21 A Yes, it is.
- 22 Q And State's 25.
- 23 A That's that door we're talking about back off there.
- 24 Q Okay. That's the exterior. That's the door going
- 25 outside?

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 A That's correct.

2 Q The far end of this picture, State's 25. And then is
3 this a reverse view?

4 A Yes, it is.

5 Q Okay. So even the storage or the sunroom area was
6 ransacked.

7 A Yes.

8 Q Now, okay. So you preserved the scene with
9 photographs and then you started searching for various
10 items. We saw in a couple of those pictures some placards.

11 A Yellow placards which we'd stipulate a specific item
12 number or evidence, piece of evidence, located.

13 Q And would those correspond to the numbers on your
14 diagrams?

15 A That's correct.

16 Q And you put a legend --

17 A Letters.

18 Q -- on the diagram?

19 A Yes, I did.

20 Q Which would be for the jury's information State's 28.

21 A Yes, sir.

22 MR. BULSA: Now, Madam Court Reporter, I've got
23 another set of photographs.

24 (Photographs marked State's Exhibits Nos. 43 through
25 66.)

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q Okay. You had an opportunity to review those photos?

2 A Yes.

3 Q All right. This should be the majority of the
4 placards. We'll go through them individually.

5 State's 43, I don't believe, actually had a placard.

6 But what does that identify?

7 A First of all, you have a bloody shoe track, but you
8 have a spent cartridge casing just where that moped, just
9 to the left.

10 Q That would be part of the kitchen area?

11 A The kitchen area right there as you walk through the
12 entrance door.

13 Q Okay. Now, State's 44, what do those placards
14 identify?

15 A Can I see the latter, please?

16 THE COURT: Please be mindful of that microphone.

17 THE WITNESS: Thank you.

18 A You've got this broken yellow vase, parts of it here
19 on the floor and also on the couch, which would be 10.

20 No. 11 is also broken yellow vase. No. 12 is going to be a
21 cartridge casing. It's a 9mm Luger head stamp. 13. We
22 took a blood swap from this location because it was a drag
23 mark.

24 Q Okay. And State's 45. It's a closeup of placard 12,
25 which is?

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 A Cartridge casing.
- 2 Q Okay. And then State's 46 appears to be a reverse
3 view or just a further view into the living room.
- 4 A That's correct. And it's showing No. 14 as well,
5 which is going to be a projectile fired bullet.
- 6 Q And State's 47. Does that show that projectile?
- 7 A Yes, it does.
- 8 Q Okay. State's 48. This appears to be in the bedroom
9 area.
- 10 A That's the bedroom area, and evidence No. 15 which was
11 blood on this stuffed animal.
- 12 Q And State's 49. What is that showing?
- 13 A Showing the bed area. You've got a cell phone, and
14 also No. 16. It's a piece of a latex glove, blue in color.
- 15 Q Is that also shown in State's 50?
- 16 A That's correct.
- 17 Q State's 51.
- 18 A That's another view of the bedroom showing evidence
19 No. 17, which is a cartridge casing. Once debris was
20 removed that's what we located in the floor.
- 21 Q Okay. And this is a closer view, State's 52.
- 22 A That's correct.
- 23 Q All right. State's 53. What is that?
- 24 A It's a roll of duct tape we found inside the residence
25 in the bedroom area.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q And is this the same color of duct tape that was used
2 on the victim in this case?

3 A Same color, yeah, gray.

4 Q You can't tell if it's the same roll but --

5 A No. Could not.

6 Q State's 54.

7 A It's evidence No. 19, which is going to be a piece of
8 a latex glove from the bedroom floor.

9 Q And State's 55.

10 A That's showing the cell phone once the cover was
11 removed because there was a piece of latex glove
12 actually -- it was caught up in the cell phone.

13 Q State's 56.

14 A That's after we marked item of evidence item No. 22.
15 Once we removed it, it was separated.

16 Q And State's 57 is actually backwards. But what does
17 that show?

18 A That's the cell phone, and this is the latex glove
19 that was actually caught up inside the cell phone or
20 sticking to it.

21 Q And now we have State's 58.

22 A There's another piece of latex glove. This is going
23 to be your -- your floor, bedroom floor.

24 Q Okay. State's 59.

25 A This is once we -- if you oriented it the other way --

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 Q Hang on. Let's do it this way.
- 2 A Keep going, keep going. There. It's good right
- 3 there. There you go.
- 4 Q Okay.
- 5 A Here I am and we are -- we actually rolled the carpet
- 6 because we found actually a -- a strike or a bullet strike
- 7 inside the carpet. We started digging into the floor, and
- 8 we actually located a projectile inside the floor once the
- 9 debris was removed.
- 10 Q State's 61. Does that go with State's 59?
- 11 A Correct. This is a closeup photo of -- we like to
- 12 photograph the damage as well to show the progress that we
- 13 do.
- 14 Q And State's 61.
- 15 A And that's the projectile No. 24.
- 16 Q Okay.
- 17 A This location is where when all of the debris was on
- 18 top of it, that's where that stuffed animal was, in that
- 19 area. So it was underneath that.
- 20 Q Okay. And State's 62. What is that showing us?
- 21 A This is a handheld steamer here and the cord,
- 22 electrical cord, is actually cut off the item.
- 23 Q State's 63.
- 24 A It's a closeup picture of it right there.
- 25 Q You actually removed the couch.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 A Yeah. We took the chair out.

2 Q And State's 64.

3 A That's gray in color duct tape. It's in the sunroom
4 area.

5 Q Okay. State's 65.

6 A This is the kitchen. And on the wall as you enter to
7 the left of the doorway going into the living room there
8 was a bullet strike up into the ceiling.

9 Q So I have that upside down?

10 A Yes.

11 Q Okay. And State's 66.

12 A That's after the bullet has been removed, evidence
13 item No. 28. That came out of the ceiling.

14 Q Okay. So how many rounds or bullets did you find in
15 the -- that location?

16 A Bullets at that -- at the residence we recovered
17 three.

18 Q Okay. And how many shell casings did you recover?

19 A We recovered three as well.

20 Q So at that point did you think you had everything?

21 A Pardon me?

22 Q At that point did you think you had everything
23 regarding any firearms evidence?

24 A Yes. We thought we had it all at that time.

25 Q Did you find a firearm?

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 A No. We did not.

2 Q Did you collect those shell casings and spent rounds?

3 A We collected all casings, spent shell casing. Again,
4 projectiles were collected.

5 (Cartridge casings marked State's Exhibits Nos. 67
6 through 69; projectile marked State's Exhibit No. 70; fired
7 projectiles marked State's Exhibits Nos. 71 through 73;
8 firearms report marked State's Exhibit No. 74.)

9 Q Show you this group first in a minute. Okay. Those
10 items, State's 67 through 72, are evidence bags that
11 contain the writing by you?

12 A Yes. They do.

13 Q Okay. And are these the casings and projectiles you
14 recovered from [REDACTED] Highway 11?

15 A Yes, they are.

16 Q Let me back up a second.

17 When you were actually -- when you first got there was
18 Mr. Mauldin's body still on the scene?

19 A Yes, it was.

20 Q And we didn't see his body in any pictures. But do
21 you recall where he was lying if we had the diagram? While
22 we search for it, let me use this picture. State's No. 12
23 is a picture of the living room area. Does that show the
24 approximate area where the body would have been?

25 A You're looking at the living room as you peer through

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 the rear -- back door, the entrance door that they used,
2 kitchen area. It goes into the living room if that's what
3 you want to call it. He was laying on the ground on his
4 back, hands extended outward with his feet propped up on
5 the couch.

6 Q Here we go. State's Exhibit 27 is the diagram. All
7 right. So okay. Was a projectile found near his body?

8 A It was found after he -- basically, we rolled him to
9 check for any other bullet wound or strikes to the body.
10 That's when the projectile actually rolled off him.

11 Q Okay. How many wounds did you observe to his body?

12 A I saw three.

13 Q Where were they?

14 A You're looking at the abdomen area and also the -- the
15 head area. I think it was the left ear, side of the head
16 area.

17 Q Okay. Now, the projectiles you -- excuse me -- the
18 casings you found, you found one in the kitchen floor,
19 State's 67, one in the living room floor, State's 68, and
20 one in the bedroom floor, State's 69.

21 A That's correct.

22 Q Is that right? Okay. And then projectiles, you found
23 one in the kitchen ceiling, State's 70, one in the living
24 room floor, State's 71, and one in the bedroom floor that
25 you dug out, State's 72.

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 A That's correct.
- 2 Q All right. Okay. What's the purpose of collecting
3 these items?
- 4 A So hopefully we can match it back to a specific
5 firearm through ballistics. That's why it's collected.
- 6 Q Are you aware of the firearm being recovered in this
7 case?
- 8 A No. I don't.
- 9 Q Now, I have another item here, State's No. 73, to show
10 you. Do you recognize that?
- 11 A Yeah. This is going to be the projectile that was
12 recovered at the morgue from the victim's body, left arm
13 area.
- 14 Q So that's a fourth round.
- 15 A Fourth -- fourth projectile, that's correct.
- 16 Q So what does that tell you about the collection of
17 your evidence?
- 18 A We're one -- we're missing a shell casing.
- 19 Q Okay.
- 20 A And we got four. We got four rounds that were fired.
- 21 Q At least they appear to have been fired at the same
22 time?
- 23 A Correct.
- 24 Q Now, how do you explain that?
- 25 A Explain?

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q Not having a fourth shell casing.

2 A Well, as bad as the house was ransacked and as much as
3 we searched, that shell casing and/or bullet can go
4 anywhere, so.

5 Q Could have got caught up in any -- any piece of --

6 A Clothing, shoes. It could -- they sometimes just
7 disappear and you can't locate them. You locate what you
8 can, and you keep going.

9 Q This is an example that everything is not perfect,
10 right?

11 A That's correct.

12 Q Okay. All right. Now, and you attended the autopsy
13 of Mr. Mauldin.

14 A Yes. I did.

15 Q And you collected that bullet from the --

16 A That, as well as his clothing I collected.

17 Q Excuse me?

18 A As well as his clothing that was collected.

19 Q So the pathologist took that bullet out of his body
20 and gave it to you?

21 A Yes, sir.

22 Q Did you take it back to the sheriff's office for
23 comparison to any firearm, if any?

24 A That is correct.

25 Q Now, did you go to another location related to this

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 case?

2 A I went to -- on the -- on 7/8 of 2015 we went to Flynn
3 Road where we executed a search warrant.

4 Q And where is Flynn Road in the county?

5 A It's in Spartanburg County. I think it's towards the
6 Landrum area, Inman-Landrum area, Campobello.

7 Q would you review these photographs?

8 (Pause.)

9 A I took these photographs. That's correct.

10 Q Do you know why you were asked to go to this location?

11 A As I was told by the investigators, that this is a
12 possible location of where we are looking for a PT Cruiser
13 vehicle that had been missing. It was possibly at that
14 location there.

15 Q Okay. Let's walk the jury through what you found.
16 State's No. 32. Is that a view from the road?

17 A That's correct, a view from the road.

18 Q Okay. State's 33. Where is that showing us?

19 A That's showing the right side and back -- you've got a
20 storage building or an outbuilding in the far ground.

21 Q Could you point?

22 A Right there.

23 Q Okay. And another one a little closer, State's 34.

24 Okay. And then State's 35. What is this?

25 A This was a clump of cloth that was on the property.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 while we were doing the searching I decided to lift up this
2 cloth here, and when I did this is what I located, these
3 items right here, which was a key ring with multiple keys
4 on that location of the property. It's right there.

5 Q Okay. What made you look under that cloth?

6 A I was just picking up items and just moving them.
7 That's because we were -- we were searching for a vehicle.
8 what we did locate is a -- it's called an impact strip,
9 like a foam bumper. And it had a Chrysler mark with an
10 identification number on it.

11 Q Showing you State's 36.

12 A And a PT Cruiser is a Chrysler vehicle. So we
13 photographed and collected that. And I was searching more,
14 and I lifted up that big clump of cloth, and that's what I
15 located, was that.

16 Q So where is that cloth in relation to that car?

17 A It'd to be the left.

18 Q Okay. All right. And State's 37. What, if anything,
19 does that show us?

20 A This here is all of this vegetation, is actually
21 matted down or pushed down with something being stored over
22 here, a large object.

23 He had bed mattresses, and that's where we suspected
24 the vehicle possibly was being held or being kept at some
25 time.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q So that was just a little further back from where the
2 bumper was?

3 A Yes, it is.

4 Q Okay. Now, did you do anything with the keys that you
5 found?

6 A After we had closed out the search warrant and the
7 house is vacant or abandoned at this time, took the search
8 warrant. We left it inside the residence.

9 And we responded back to the main incident location on
10 Highway 11. That's where myself and Detective Norris
11 actually took the -- the keys that were collected and
12 actually put them inside the locks on the door. And they
13 actually opened or they unlocked the residence. So we knew
14 these keys belonged to that location.

15 Q Look at those photographs.

16 (Pause.)

17 A Yes, sir.

18 Q Okay. State's 41. Are those actual keys as they were
19 found on the ground?

20 A Yes. They are.

21 Q State's 42. Just a cleaner picture of them?

22 A Yes. They are.

23 Q Okay. And then State's 38. You go back to the
24 residence. That actual set of keys, State's 39, fit that
25 door?

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 A Yes. They did.

2 Q And State's 40. There was a separate key that fit
3 that door?

4 A Yes, yes, sir.

5 Q Okay. So that's sort of an example of sometimes you
6 get lucky, right?

7 A Yes, sir.

8 Q So you just happened to lift up that cloth and found
9 the keys?

10 A Just a good search of the area. We got lucky. That's
11 correct.

12 Q Okay. Those were the two locations you actually
13 searched, is that correct?

14 A Yes, sir. It was.

15 Q You were also asked to search a vehicle.

16 A I did a, I think a, Mazda vehicle.

17 Q And do you know whose vehicle that was?

18 A No. I did not.

19 Q Okay. Do you know where that vehicle came from?

20 A No. I don't.

21 Q You don't. Okay.

22 (Photograph marked State's Exhibit No. 75.)

23 Q Show you State's 75. Is that the vehicle?

24 A That's a Mazda. I think it's called an eight. Silver
25 in color.

1 Q Okay. What does the, I guess the, yellow taping, what
2 does that signify on that?

3 A Any time we bring a piece of evidence in and it's
4 stored at the -- at our impound area -- if you notice
5 here -- you have this red tape here, is taped on all the
6 doors.

7 THE COURT: Excuse me. Please be mindful of the
8 microphone.

9 A The evidence tape here is placed on all doors, trunk
10 and hood that -- and it's tampering tape, is what it's
11 called. And it's -- it's that way. If anybody tampers
12 with the vehicle we -- we had known something -- somebody
13 had been in there. And the yellow tape is just to keep
14 people away from it until we're done processing.

15 Q So this vehicle was brought to the impound lot.

16 A Yes. It was.

17 Q And you're not certain from where.

18 A No. I just know I executed a search warrant on the
19 27th on that vehicle.

20 Q Okay. All right. Did you find anything of note
21 inside?

22 A Per my report, just a yellow and black bag containing
23 some type of drug paraphernalia, is all that was located
24 inside the car. But nothing was taken.

25 Q Thank you. Answer any questions Mr. Moore has.

Robert Charles Talanges
Cross-examination by Mr. Moore

1 CROSS-EXAMINATION

2 BY MR. MOORE

3 Q Good afternoon.

4 As part of processing and collecting these shell
5 casings was there any attempt to see if there -- any
6 fingerprints could be removed from the shell casings?

7 A We did no processing for latent prints on the shell
8 casings because once -- once you fire a cartridge casing it
9 gets so hot it dissipates any oils or moisture that's on
10 top of the casing. It basically burns it off.

11 Q So this -- I guess this idea that people wipe down
12 bullets really doesn't have any purpose then, is that
13 correct?

14 A Unless it's an etching and it's etching into the
15 metal. But most of the time you do not find it.

16 Q Now, aside from the shell casings, did y'all recover
17 any latent prints from the actual incident location?

18 A Yes. We had.

19 Q Do you recall how many of those were recovered?

20 A I know it was almost all the way through the alphabet,
21 almost A through Z, I believe.

22 Q If I told you 26 does that sound correct?

23 A It could be.

24 Q Do you have your report in front of you?

25 A I have mine, but that would have been under the Steve

Robert Charles Talanges
Cross-examination by Mr. Moore

1 Horton's report, Deputy Horton's report.

2 MR. MOORE: May I approach the witness, Your Honor?

3 THE COURT: You may.

4 Q Maybe I'm mistaken. Could you look at this and tell
5 me? It says submitted by you, correct?

6 A Yeah. Him and I -- we're the homicide team at that
7 time. That's correct. He did the location where the
8 prints came from, and everything was put under my name.
9 That is correct.

10 Q So 26 latent prints were recovered from the incident
11 location.

12 A Yes, sir.

13 Q And that report there that you submitted indicates who
14 those prints are associated with, is that correct?

15 A Yeah. This is the AFIS report. Yes. It would.

16 Q And would you agree that out of all of those prints
17 that were -- I say all -- but those 26 prints that were
18 recovered, would you agree that none of those prints were
19 associated with Mr. Drew Cash?

20 A I haven't read the report. I could not tell you that.

21 Q You haven't read that report?

22 A That's right.

23 Q I thought you said you submitted that report.

24 A No, no. This is submitted by Burgess, C.

25 Q Okay. I saw -- what does that say at the top there,

Robert Charles Talanges
Cross-examination by Mr. Moore

1 submitted by?

2 A Supplemental. Submitted -- this is submitted by me,
3 but this is examined by Burgess, the AFIS operator.

4 Q Okay. So this report is submitted by you, but you
5 didn't actually complete the AFIS report.

6 A The cards, print cards, are submitted by me.

7 Q Right.

8 A The AFIS report and the examination is done by Burgess
9 and that's what -- that's an examination report.

10 Q And you don't have any -- you don't have any knowledge
11 as to what that report came back as.

12 A No. I do not.

13 Q What about the pieces of the latex glove you said were
14 pictured in some of the state's exhibits?

15 A Correct.

16 Q What color was that latex?

17 A They were blue.

18 Q Blue. And when you processed this Mazda here, you
19 processed it inside and out, I assume.

20 A Interior only.

21 Q Interior only.

22 A We did the interior. Oh, the Mazda. Yes, no. We
23 just did the interior, and that was all.

24 Q Just the interior.

25 A That's correct.

Robert Charles Talanges
Cross-examination by Mr. Moore

1 Q Was there any blood in the interior that you found?

2 A None was found.

3 Q No blood spots?

4 A No -- that was something we specifically searched for,
5 was blood.

6 Q What about the driver? I would assume you would have
7 searched specifically the driver's foot compartment where
8 the pedals are, correct?

9 A That, as well as the steering wheel. None.

10 Q No blood and no shoe prints.

11 A None were found.

12 Q One more question real quick.

13 What about the -- we saw a picture of shoe prints that
14 you had taken inside the incident location, which I presume
15 were bloody shoe prints. Was there any further analysis
16 done on the make, name brand, size of those shoe prints?

17 A No. There wasn't. All shoe -- any shoe track that
18 was located at that incident location was scaled and
19 photographed, and that was all.

20 Q That was it.

21 A Yes, sir.

22 MR. MOORE: No further questions, Your Honor.

23 MR. BULSA: Just briefly in reply.

24

25

Robert Charles Talanges
Redirect examination by Mr. Bulsa

1 REDIRECT EXAMINATION

2 BY MR. BULSA

3 Q The pieces of rubber -- pieces of rubber, what does
4 that tell you?

5 A That latex gloves are inside or being used at that
6 house at some point or that somebody had latex gloves.

7 Q Would that be a reason why there's no fingerprints?

8 A Yes, sir.

9 Q Okay. Thank you.

10 MR. BULSA: That's all I have.

11 MR. MOORE: No questions, Your Honor.

12 THE COURT: You may step down.

13 We're going to recess for the afternoon. Let me
14 remind you of the caution previously given you prior to
15 lunch.

16 No discussions about the case with anyone -- husband,
17 wife, children, neighbors, friends, fellow jurors. No
18 discussion at all. No media exposure -- television, radio
19 or newspaper. No investigation, no research into any
20 issue.

21 Do have a good evening, and please report to your jury
22 room at 9:30 in the morning, 9:30 in the morning. Have a
23 good afternoon.

24 (The following takes place outside the presence of the
25 jury.)

1 THE COURT: Court is in recess until 9:30 in the
2 morning.

3 END OF PROCEEDINGS FEBRUARY 28, 2017
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Casey Scruggs
Direct examination by Mr. Bulsa

1 (Proceedings March 1, 2017)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Are we ready for the jury?

5 MR. BULSA: Yes, sir.

6 MR. MOORE: Yes, sir, Your Honor.

7 THE COURT: Okay. Bring them in, please.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good morning, ladies and gentlemen.

11 As you know, when we recessed yesterday the state was
12 in the midst of their presentation of evidence. So we're
13 going to continue with that presentation this morning.

14 MR. BULSA: Thank you, Your Honor. The state calls
15 Casey Scruggs.

16 CASEY SCRUGGS, having been
17 first duly sworn, testified as follows:

18 THE COURT: All right. Now, the microphone that
19 you're going to be using for the benefit of the jury is
20 that black one, so be sure you get close enough to it that
21 we can hear you.

22 DIRECT EXAMINATION BY MR. BULSA

23 Q Casey, would you introduce yourself to the jury,
24 please?

25 A Hello. I'm Casey Scruggs -- I'm Casey Scruggs.

Casey Scruggs
Direct examination by Mr. Bulsa

1 Q How old are you, ma'am?

2 A Thirty years old.

3 Q Thirty?

4 A Thirty.

5 Q And where do you live now?

6 A At [REDACTED] Old Country Road, Mayo.

7 Q Mayo. Did you used to live on Highway 11 there at
8 Chesnee?

9 A Yes, sir.

10 Q Do you remember that address?

11 A [REDACTED] Highway 11.

12 Q Who did you live there with?

13 A Me and my fiancé, Carey Mauldin.

14 Q Don't go back and forth. Okay. Just try to speak up
15 a little bit.

16 You said he was your fiancé?

17 A Yes, sir.

18 Q How long had you known him?

19 A Five -- five years.

20 THE COURT: Ms. Scruggs, you don't have to lean in and
21 lean out. Just get close enough. Just speak up and it'll
22 pick it up.

23 These microphones are such that they kick in and out
24 depending upon if there's a voice. And so when you lean in
25 and out it cuts it on and off. So just -- you can stay in

Casey Scruggs
Direct examination by Mr. Bulsa

1 one place. Just speak out loud enough and it'll pick it
2 right up.

3 Q I mean, this is difficult for you, but please try to
4 concentrate.

5 Now, you said you had known him five years. Was he
6 employed when he died?

7 A Yes, sir.

8 Q Where did he work?

9 A He was a bartender, slash, supervisor trainer at the
10 Olive Garden, Gaffney.

11 Q Olive Garden in Gaffney?

12 A Yes, sir.

13 Q Are you chewing gum?

14 A Huh?

15 Q Are you chewing gum?

16 (Pause.)

17 Q Okay. All right. Casey, so were you working at the
18 time?

19 A No, sir.

20 Q Now, do you know the defendant?

21 A Yes, sir.

22 Q And how long had you known him?

23 A Right at two months, I think.

24 Q What did you know his name to be?

25 A Jason -- well, Drew Cash, Jason Cash.

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 Q Drew Cash. Is that short for Andrew?
- 2 A Yes, sir.
- 3 Q All right. And do you know the person who has been
- 4 called Scooter?
- 5 A I didn't know him well. I mean, I -- you know, my
- 6 friend just met him about a month ago.
- 7 Q Okay. Did he actually spend some time at your house?
- 8 A Actually, yeah. He lived there. He lived with us.
- 9 He was around my kid, and I thought, you know, he was a
- 10 genuine guy, you know, but, I mean.
- 11 Q When did he move away from your house before this
- 12 incident?
- 13 A May 17th.
- 14 Q Is that a Sunday?
- 15 A Yes, sir.
- 16 Q All right. So at the time of this incident who was
- 17 living at [REDACTED] Highway 11?
- 18 A Just me and Carey and Scooter.
- 19 Q Okay. But Scooter had moved away.
- 20 A It was just me and my son, I mean, me and Carey.
- 21 Q Okay. So he moved away March -- May 17th.
- 22 A He didn't move away. We was robbed that morning and
- 23 he...
- 24 Q Okay. So he left May 17th. And May 22nd, it was just
- 25 you and Carey.

Casey Scruggs
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q All right. Now, tell us what happened on May 22nd.

3 A I'm like around 11:00 or 11:30, I think maybe

4 12:00 o'clock in the morning, we were laying in the bed,

5 and he got a phone call from Drew. I supposed it was Drew,

6 you know, and he wanted to come by and get a fix. And

7 Carey said, well, just call me when you get outside. And I

8 don't remember the phone call. I just remember waking up

9 and seeing the kitchen and the living room light being on.

10 And, I mean, I heard like a ruckus, and the next thing I

11 knowed I just heard Carey say, "Baby, call 9-1-1."

12 Q Slow down.

13 THE COURT: Ms. Scruggs, this court reporter right
14 here has to take down everything you say.

15 THE WITNESS: I'm sorry about that.

16 THE COURT: I know it might be difficult, but she's
17 got to take down everything you say. So be sure you speak
18 slowly and articulate so we can hear exactly what you're
19 saying. Okay.

20 Q Well, let's back up. The phone call came, and then
21 what happened?

22 A We laid down, and I didn't hear the phone call. What
23 woke me up was hearing a ruckus, and, you know, and the
24 kitchen and bedroom light like -- I mean, the kitchen and
25 living room light was on. And I was on the edge of the

Casey Scruggs

Direct examination by Mr. Bulsa

1 bed. And he just said, he said, "Baby, call 9-1-1." And I
2 didn't see -- I couldn't see anybody. And I was just on
3 the phone trying -- as soon -- as soon as I grabbed the
4 phone when I looked over there was Steven Lewis. He ran
5 into the bedroom from -- he ran in and --

6 Q Let me stop you right there. Okay. All right. Make
7 sure the jury has a good picture. You're in the bedroom.

8 A I'm in the bedroom, yes, sitting -- sitting on the
9 bed.

10 Q We saw the bedroom yesterday and we saw the pictures
11 and all of the stuff strewn about.

12 A Yes, sir.

13 Q Is that the way that bedroom normally looks?

14 A No, sir.

15 Q Okay. All right. How did it become like that?

16 A Well, I -- you know, when I was tied up they were
17 going through the house.

18 Q Okay. That's good. Now let me go on to the next
19 question.

20 You said you were awoken by some noise in the kitchen
21 area. Could you see to the kitchen from where you were in
22 your bed?

23 A No, sir.

24 Q Okay. But you heard loud noises, and that woke you
25 up. And you said the living room light was on.

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 A The living room and kitchen light.
- 2 Q Okay. So the house was lit up.
- 3 A Uh-huh.
- 4 Q What about your bedroom?
- 5 A Uh-huh.
- 6 Q Was the bedroom light on?
- 7 A Yes, sir, yes, sir.
- 8 Q Okay. And what happened? What kind of noises did you
- 9 hear in the kitchen?
- 10 A It was just like I heard -- like it was real -- it all
- 11 happened so fast it was like a -- I heard Scooter, I mean,
- 12 I don't -- I don't really know what he said. I just heard
- 13 his voice and then -- then he said just, "Baby, call
- 14 9-1-1."
- 15 Q Who said call 9-1-1?
- 16 A Carey.
- 17 Q Carey did.
- 18 A And then as soon --
- 19 Q You heard another voice that you knew to be Scooter's.
- 20 A Yes.
- 21 Q And Scooter is who?
- 22 A Seven Lewis.
- 23 Q Okay. The guy who --
- 24 A Do that, yes, sir.
- 25 Q All right. And then what happens?

Casey Scruggs

Direct examination by Mr. Bulsa

1 A And then as soon as he said, you know, "Call 9-1-1,"
2 by the -- by the time I picked up the phone and was, you
3 know -- and I looked up. He -- he ran into the bedroom and
4 no -- sorry. The light was off in the bedroom. When he
5 ran into the bedroom he turned the light on and jumped on
6 the bed and flipped me over and --

7 Q Let me stop you right there. Before he ran into the
8 bedroom did you hear any gunshots?

9 A I heard two gunshots.

10 Q Okay.

11 A After he said, "Baby, call 9-1-1," two -- two gunshots
12 were fired.

13 Q Okay. And where did you -- could you tell where they
14 were in the house?

15 A No, no, sir.

16 Q Okay. So you didn't actually see the gunshots either.
17 You just heard them.

18 A Uh-huh, yes, sir.

19 Q And after the gunshots who came into the bedroom?

20 A I remember seeing Steven, you know, come into the
21 living room and then running into my bedroom.

22 Q And what did he do?

23 A He -- he -- he grabbed me, you know. He flipped me
24 over on the bed or -- and then he was just tying me up with
25 duct tape and...

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 Q Okay. Did he have anything on his hands?
- 2 A Purple latex gloves.
- 3 Q Purple or blue?
- 4 A Blue.
- 5 Q Huh?
- 6 A I can't -- blue, blue.
- 7 Q Okay. I'm going to show you a couple of pictures.
- 8 State's 49. What is that a picture of?
- 9 A That's -- that was our bedroom.
- 10 Q Okay. And State's 57. What is that a picture of?
- 11 A That was Carey Mauldin's phone.
- 12 Q Speak up.
- 13 A That was Carey Mauldin's phone.
- 14 Q Okay. And is that the phone you were grabbing to call
- 15 9-1-1?
- 16 A Yes, sir.
- 17 Q Okay. And that was on your bed.
- 18 A Yes, sir.
- 19 Q Okay. But you didn't have a chance to call 9-1-1, did
- 20 you?
- 21 A No, sir.
- 22 Q Okay. Scooter came in. And how did he duct tape you?
- 23 A I mean, it happened so fast, I mean, he like had my
- 24 hands back and was, you know, bound -- binding my hands
- 25 together behind my back tight. And then the same with, you

Casey Scruggs

Direct examination by Mr. Bulsa

1 know, all -- all around my face.

2 Q Did he bind your eyes?

3 A No. Just my mouth, you know, and my feet, ankles --
4 my ankles all way around.

5 Q All right. Now, while he was doing that --

6 THE COURT: Excuse me. Can you repeat that about --

7 A Okay. I said that he bound my ankles together like I
8 was hog -- hogtied basically. My chin's in the mattress.
9 My knees -- my knees in the mattress.

10 Q I'm sorry. You said your knees were to the mattress
11 and your chin was in the mattress?

12 A Yes.

13 Q Okay. Now, as Scooter was doing this did you have a
14 view of what Drew was doing?

15 A Carey had -- Carey had already been shot because I'd
16 already heard the gunshots. And when I was looking through
17 the living room, when I looked I could see. All I seen was
18 Carey moaning on his knees. And Drew had them pointed at
19 him, you know, pointed at him, saying, "Man, what did you
20 give me, man, what did you give me?" And Carey, he said, I
21 mean, he said, "I cannot breathe, I can't breathe." And
22 then Drew said, "Well, that's how I felt when you gave me
23 what you gave me." And then everything --

24 Q So you're seeing that take place while you're getting
25 hogtied.

Casey Scruggs

Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q And then what happens after you get hogtied?

3 A He gets up and then, you know, starts rummaging
4 through the house, you know, just going through everything
5 and anything.

6 Q Okay. And were you able to get free?

7 A Yes, sir.

8 Q Tell us what happened.

9 A I'm not sure how long I was tied up, for, I don't
10 know, I'm thinking maybe two hours, an hour and a half.
11 I'm not sure, because I know I -- we laid down around
12 12:30. From me being tied up, you know, with my hands
13 behind my back I was -- you know, and then from the sweat
14 and I kind of -- I just telling -- I was telling myself I
15 can't die, you know, I gotta son. And I kinda like popped
16 loose.

17 Q Slow down. The court reporter is having trouble.

18 Back up. You said you can't die, what?

19 A I -- I was just thinking to myself I can't die. And
20 I -- I thought they were gone. And I just, you know, like
21 tried to pop my hands loose and then -- and I got to the
22 bed. I got off the bed, and I hobbled all the way to the
23 front of the house.

24 Q Is that the porch area that was enclosed?

25 A Yes, sir.

Casey Scruggs

Direct examination by Mr. Bulsa

1 Q All right. What happens?

2 A Well, when I got to that -- to the end -- to the end
3 door I couldn't get out because it was dead-bolted. So I
4 started like trying to, you know, kick it open with my --
5 with me feet.

6 And that's when I seen Drew outside, you know. He
7 wouldn't -- I seen him outside the yard. And then I
8 remember Steven saying I couldn't trust this bitch or
9 something like that. And then he runs in -- Drew -- I
10 mean, Scooter runs in and grabs me, and he's dragging me
11 through, you know -- through the front of the house. And
12 then he threw me down.

13 I mean, it happened so -- so fast and so quick. And
14 Drew -- Drew was in the house but he didn't -- he was not
15 the one that drug me through. It was Steven.

16 Q Steven drug you back but Drew was -- had come back
17 into the house?

18 A Yes, sir.

19 Q Did you see what Drew was doing outside?

20 A He was -- no, sir. He was just standing there.

21 Q Okay. Was Drew rummaging through the house along with
22 Scooter?

23 A Not so much as -- as Drew helping Scooter.

24 Q Okay. But -- but you did see Drew with the gun
25 pointed at your --

Casey Scruggs

Direct examination by Mr. Bulsa

- 1 A Yes, sir.
- 2 Q Okay. Now, Drew or Scooter drug you back to where?
- 3 A From the -- into the middle of the bedroom coming in
- 4 from the -- come -- coming in from the laundry room right
- 5 there at the little, you know, from the door. That's --
- 6 Q Beside the rug?
- 7 A Yes, sir, yes, sir.
- 8 Q And then what happened?
- 9 A It's like he like pushed me, like pushed me down or --
- 10 or slung me down. And I was -- and I was facing, you know,
- 11 going, you know, like the road. I was facing the road and
- 12 that he was behind me. And then all of this kinda -- it
- 13 was just like bam, bam, you know, and -- and then -- then
- 14 that's it.
- 15 Q You were facing away from the person that shot you?
- 16 A Yes, sir, yes, sir, yes, sir.
- 17 Q Okay. So you don't know who actually pulled the
- 18 trigger.
- 19 A No, sir.
- 20 Q So you didn't see who shot the first shots in the
- 21 kitchen.
- 22 A No, sir.
- 23 Q And the next shot would have been at you?
- 24 A The first two shots was when they first -- when they
- 25 first got there.

Casey Scruggs

Direct examination by Mr. Bulsa

1 Q Right.

2 A It was and then --

3 Q And the next shot was in -- at you.

4 A Uh-huh, yes, sir.

5 Q And then what did you -- what did you hear after that?

6 A What did -- I didn't -- I didn't hear anything. He
7 was -- ran in -- ran through and shot him and gone.

8 Q After they shot you, they left your --

9 A No. They shot me and then he -- I mean, Steven shot
10 me, or whoever it was that shot me. I couldn't see but I
11 was --

12 Q You didn't see who shot you. And as they were leaving
13 you heard another shot. Is that what you're telling us?

14 A No. I said it was -- it was bam, and then -- then bam
15 again, and then -- and then they were gone.

16 Q Okay. Now, where did you actually get hit?

17 A In the back of my right -- you know, on my right head,
18 back up here in my skull. It grazed it.

19 Q Did you think you were going to die?

20 A Yeah, yes, sir.

21 Q How long did you lay there before you were able to get
22 up?

23 A I mean, as soon as I seen headlights I -- I got up and
24 I ran past Carey. And he was laying there with his arms in
25 between the -- in between the recliner and the sofa on the

Casey Scruggs

Direct examination by Mr. Bulsa

1 right side of our living room flat on his back, you know.

2 And I went to -- to the middle bedroom at Tony's. And by

3 the time he called 9-1-1 my body was getting cold, and I

4 thought I was going to die.

5 Q Do you remember saying anything to the neighbors?

6 A Like that. I was saying I can't die, you know, and I

7 don't want to die. I said my boyfriend's next door, please

8 go check on him.

9 Q And then you went in the ambulance to the hospital?

10 A Yes, sir.

11 Q Do you remember talking with the police officer at the

12 hospital?

13 A Vaguely, yes, sir.

14 Q So there's no -- is there any question in your mind

15 which two men went into that house?

16 A No, sir.

17 Q Okay. And then do you remember telling the E.M.S.

18 officer their two names?

19 A Yes, sir. I mean, I'm -- I -- I'm not sure.

20 Q You can't remember that, but okay. All right. Now,

21 what was stolen from your house? Did you later learn what

22 was stolen?

23 A A 30-inch flat screen T.V. that was in our bedroom,

24 all kinds of stuff -- jewelry, pocketbook, watch, tablets,

25 just, you know, just odds and ends.

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 Q Phone?
- 2 A Phones.
- 3 Q We saw a picture of a big T.V. in the kitchen area.
- 4 A That was --
- 5 Q Where was that T.V. supposed to be in the house?
- 6 A It was located in the living room to the left on -- on
- 7 top of the entertainment center by the window.
- 8 Q Okay. Now, were you able to see what vehicle these
- 9 two men came up in?
- 10 A No, sir.
- 11 Q So when you saw Drew outside you didn't see their
- 12 vehicle?
- 13 A No, sir.
- 14 Q Okay. Now, did Carey own a PT Cruiser?
- 15 A Yes, sir.
- 16 Q Did that get stolen?
- 17 A Yes, sir.
- 18 Q Do you remember where the keys would have been kept in
- 19 the house?
- 20 A He -- he usually kept them hanging up on the -- this
- 21 little plaque we had beside the bedroom or -- or on the
- 22 nightstand.
- 23 Q Let me show you a picture, State's 41. Do you
- 24 recognize those?
- 25 A Yes, sir.

Casey Scruggs
Direct examination by Mr. Bulsa

1 Q What are they?

2 A Those are the keys to his -- our -- our house and
3 that's the keys to his rental car.

4 Q Okay.

5 A And I think the -- no. The PT Cruiser key wasn't on
6 that one, I don't think.

7 Q Okay. Now, those were clearly the keys that went to
8 your house.

9 A Yes, sir.

10 Q All right. Did you see if Drew was wearing gloves as
11 well?

12 A They both was wearing gloves.

13 Q Could you tell what kind of gun was being used?

14 A Yes -- ah, yes, sir.

15 Q Describe it for us.

16 A A Kel-Tec 9.

17 Q Had you seen a gun like that before?

18 A Have I seen that gun before?

19 Q Yes.

20 A Yes, sir.

21 Q Do you know whose gun it was?

22 A Nicole Cash. That's what Drew said. It was Drew's
23 gun. He said it was in his sister's name.

24 Q Okay. Casey, Mr. Moore has some questions for you.
25 Okay.

Casey Scruggs
Cross-examination by Mr. Moore

1 CROSS-EXAMINATION

2 BY MR. MOORE

3 Q Good morning, Ms. Scruggs.

4 I'm going to start by saying that I know this is
5 difficult, and I'm really sorry that you had to go through
6 this, and I know it's difficult for you to testify here
7 today. But I hope you understand and appreciate how
8 important the words you say and the answers to these
9 questions are. Do you understand that?

10 A Yes, sir.

11 Q One of the reasons I wanted to make sure you
12 understand that is one of the very first questions that Mr.
13 Bulsa asked you was whether or not you were chewing gum.
14 And you shook your head no. Did you -- did you swallow it?

15 A Yes, sir.

16 Q And that's okay. I want you to understand that you're
17 under oath. Every answer you give, however simple or
18 serious it may be, must be truthful and honest. Do you
19 understand that?

20 A Yes, sir, yes, sir.

21 Q How did you know Mr. Cash?

22 A I met him when he come over to my -- mine and Carey's
23 house I think maybe two months before this happened. My
24 boyfriend met him at Wal-Mart, I think, and he was coming
25 over and hanging out. That's how -- that's how I knew him.

Casey Scruggs
Cross-examination by Mr. Moore

1 Q Hanging out. What was Mr. Cash's relationship to
2 Mr. Mauldin, your boyfriend?

3 A They were friends.

4 Q Did Mr. Mauldin sell him heroin?

5 A Yes, sir.

6 Q Did he sell him other drugs?

7 A No, sir.

8 Q Did he sell other drugs?

9 A Yes, sir.

10 Q What other drugs did he sell?

11 MR. BULSA: I'm going to object, Your Honor. That's
12 going beyond the scope necessary.

13 THE COURT: Let me see y'all just a minute.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 Q Did Mr. Mauldin provide drugs to you?

17 A Yes, sir.

18 Q What drugs did you do at the time this all was going
19 on?

20 A Suboxone and like Subutex.

21 Q Okay.

22 A Suboxone and Subutex and meth.

23 Q And who provided that to you?

24 A My -- my boyfriend.

25 Q What kind of effects did those drugs have on your

Casey Scruggs
Cross-examination by Mr. Moore

1 body?

2 A I mean, like meth, it just give me energy, you know,
3 and stay up.

4 Q How many days were you staying up at a time before?

5 A When?

6 Q Around that time. Were you doing meth at the time of
7 this incident?

8 A Actually, I had slept. I hadn't been up.

9 Q So you hadn't been awake any number of days prior to
10 this incident.

11 A Maybe one day -- one day or two days.

12 Q And you mean continuously, 24 to 48 hours awake.

13 A Yes, sir.

14 Q Had any of these drugs ever caused you to hallucinate?

15 A No, sir.

16 Q There's never been an incident where -- did y'all have
17 a security camera on the outside of that house?

18 A No, sir.

19 Q There was not a closed circuit security camera?

20 A Yes. There was a closed security camera. I was
21 thinking one of those A T & T like alarm systems.

22 Q So there was a camera on the outside of the house.

23 A Yes, sir.

24 Q And you had a monitor inside of the house to watch.

25 A Yes, sir.

Casey Scruggs
Cross-examination by Mr. Moore

1 Q There was never an incident where you thought you saw
2 somebody on that that wasn't really there?

3 A No, sir.

4 Q Never an incident where Drew may have been at your
5 house and he had to go outside and check the yard for you?

6 A Yes, sir. There was -- no. I thought I heard
7 somebody.

8 Q Okay.

9 A And I did. I did.

10 Q But there wasn't anybody there.

11 A No, sir.

12 Q Your relationship to Mr. Cash, how would you describe
13 it?

14 A He -- I mean, from -- I mean, from what -- when I
15 first met him and everything, he was a good, genuine guy.
16 I mean, he -- he was and -- and Steven was too.

17 Q Did you have any feelings for Mr. Cash?

18 A No, I didn't. At the -- at the end I thought he was a
19 sweet guy and I wished Carey, you know, would have been
20 more sweet like him, but, I mean, no. I loved -- I loved
21 my boyfriend. Me and Carey was arguing, and, I mean, I
22 just said, you know, I wish Carey would have -- could be
23 more like you, you know. I mean, that was it. I never...

24 Q So you wanted Carey to be more sweet like Drew.

25 A Yes. I mean, Carey was this -- you know, he wasn't

Casey Scruggs
Cross-examination by Mr. Moore

1 very, you know, like Valen -- you know, get you things for
2 Valentines and...

3 Q Now, just a minute. Mr. Bulsa asked you just a minute
4 ago when you were testifying whether or not people who
5 entered your house were wearing latex gloves. Did he not
6 ask you that?

7 A Yes, sir.

8 Q And you stated they were wearing purple gloves,
9 correct?

10 A Yes, sir.

11 Q And then he -- he asked you if they were wearing blue
12 gloves.

13 A I got it confused.

14 Q I'm just asking if you remember.

15 A I remember 'em with the gloves on, yeah, yes, sir, I
16 do.

17 Q And they were purple?

18 A The ones from the hospital, like, yes, sir.

19 Q Okay. You just testified that Drew was just standing
20 outside at some point. Can you explain that a little more
21 to me?

22 A You know, I mean, I just remember. It's -- my mind --
23 it all -- everything happened so fast, I mean, I -- I
24 remember on the -- at that door trying to get -- trying to
25 escape. And then -- then I was trying to bust the door

Casey Scruggs
Cross-examination by Mr. Moore

1 down with my ankles. And, you know, I had popped it open.
2 And I just -- I seen him, you know. You know, just like
3 standing there. You know, and -- and then I heard Steven
4 say I couldn't trust -- I knew we couldn't this bitch. And
5 then it -- it was -- it was so fast.

6 Q I understand that, and I understand it's got to be
7 hard to recall that.

8 You just testified that Scooter, Steven Lewis, was the
9 one that tied you up, correct?

10 A Yes, sir.

11 Q You testified you do not remember -- well, wait a
12 second. You testified that Scooter was the one who drug
13 you back to the house.

14 A Yes, sir.

15 Q You testified that Scooter was the one rummaging
16 through the property in the house.

17 A Yes, sir.

18 Q Now, you just testified to Mr. -- when Mr. Bulsa asked
19 you, you said that you did not remember who shot you. Is
20 that correct?

21 A Yes, sir.

22 Q But when you talked to the neighbors you told them
23 that Scooter had shot you, is that correct?

24 A Yes, sir, because when I -- I was drugged when I like
25 -- I seen Scooter. He's the one that come in, and he drug

Casey Scruggs
Cross-examination by Mr. Moore

1 me. He had the gun in his hand because he was hitting me
2 over the head with it and trying -- you know, and trying to
3 get me back into the bedroom. And that's why I said he
4 shot me, because he was the one with the gun in his hand,
5 because he was the one that had -- he was the one that had
6 the gun because it was robbed, because when we were robbed
7 on May the 17th that gun was also stolen.

8 Q When y'all were robbed on May 17th?

9 A May 17th.

10 Q By who?

11 A Steven Rich -- Steven Lewis.

12 Q He stole that gun? Is that what you're saying? Now,
13 you're going to have to give a verbal answer, please.

14 A Steven Richard Lewis had pulled up, and we were
15 robbed. The gun that Drew had, you know, loaned my
16 boyfriend for some stuff, that gun was taken also.

17 Q Is that the same gun that was used in the incident?

18 A Yes, sir.

19 Q So you're positive. No. I just want to make sure
20 that the jury understands and I understand. That you all
21 had this gun, this Kel-Tec 9mm. Yes or no?

22 A Yes, sir.

23 Q It was in your house.

24 A Yes, sir.

25 Q And Steven Lewis stole it.

Casey Scruggs
Redirect examination by Mr. Bulsa

1 A Yes, sir.

2 Q And that was the same gun that was used in this
3 incident.

4 A I -- I don't know if it was the same one. I -- I
5 mean, I'm thinking it -- I mean, it had to been.

6 Q And I know it all happened really fast and it's hard
7 to remember, but you know for a fact it was a Kel-Tec, name
8 brand. You know it was a Kel-Tec 9mm?

9 A Yes, sir.

10 Q Wait just one second.

11 (Pause.)

12 MR. MOORE: No further questions, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. BULSA

15 Q All right. I think the defense attorney was just
16 trying to trip you up about that gun. You said that when
17 it was in y'all's possession it was prior to this incident,
18 is that right?

19 A Yes, sir.

20 Q And it left your house on May 17th.

21 A Yes, sir.

22 Q And then you believe it was the same gun brought to
23 your house on May 22nd.

24 A Yes, sir.

25 Q Okay. And it got to your house because Drew had

Casey Scruggs

Redirect examination by Mr. Bulsa

1 brought it to your house to trade for some drugs?

2 A Yes, sir.

3 Q Okay. And then Scooter left for some reason under bad
4 terms and took it with him on May 17.

5 A Yes, sir.

6 Q Okay. And then on May 22nd they both came back to
7 your house with that same gun?

8 A Yes, sir.

9 Q And it was that same gun you saw in Drew's hand
10 pointing at your boyfriend in the living room?

11 A Yes, sir.

12 Q Okay. And I'm going to refresh your memory. He
13 talked to you about the gloves and the colors, and you said
14 purple and I said blue. Do you remember listening to your
15 interview with the police officers in the hospital?

16 A Yes, sir.

17 Q And they had actually transcribed that, right? Okay.
18 Here on page seven, part of that transcription, what color
19 gloves did you tell the police that they had on?

20 A Blue.

21 Q Blue. And you said blue gloves like the nurses wear.

22 A Yes, sir.

23 Q Okay. Just like what you're testifying today.

24 (No response.)

25 THE COURT: You need to yes or no.

Casey Scruggs
Redirect examination by Mr. Bulsa

1 THE WITNESS: Yes.

2 A Yes, sir.

3 Q So the bottom line is is -- was this man involved in
4 stealing your stuff from your house?

5 A He was taking things out, yes, sir.

6 Q Okay. And he had a gun in his hand when he did it.

7 A I mean, I -- I don't know if they had a gun in their
8 hand while they were taking things out.

9 Q But you saw a gun in his hands while he was demanding
10 your boyfriend give him his stuff, right?

11 A Yes, sir.

12 Q Okay. Did you see him again after this incident?

13 A No, sir.

14 Q Never saw him again.

15 A No, sir.

16 Q Okay.

17 A I didn't -- I --

18 Q Never saw him again?

19 A No, sir.

20 Q Okay. Thank you.

21 MR. MOORE: No questions, Your Honor.

22 THE COURT: You can step down.

23 MR. BULSA: The state calls Todd Ruffner.

24

25

Todd Ruffner
Direct examination by Mr. Bulsa

1 TODD RUFFNER, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BULSA

4 Q Please introduce yourself to the jury.

5 A My name is Todd Ruffner. I am a special agent for the
6 South Carolina Law Enforcement Division. I was previously
7 employed as an investigator for the Spartanburg County
8 Sheriff's Office.

9 Q How long were you an investigator with the sheriff's
10 office?

11 A Approximately nine and a half years, ten years.

12 Q And when did you leave the sheriff's office?

13 A I left the sheriff's office October 2nd of 2015.

14 Q Shortly after this, six months later?

15 A Yes, sir.

16 Q Were you involved in the investigation in this case?

17 A Yes, sir.

18 Q What was the first involvement you had?

19 A The first involvement I had was receiving a call from
20 communications indicating that they had a shooting off of
21 Highway 11 and they were transporting one of the
22 individuals that had been shot to Spartanburg Regional.
23 And I was asked to go to Spartanburg Regional to check on
24 the status of that person.

25 Q And who was that person?

Todd Ruffner
Direct examination by Mr. Bulsa

1 A That was Ms. Scruggs.

2 Q And how was she when you saw her?

3 A She was in the trauma area of the E.R. when I went in.
4 They were tending to her. She was bleeding from the head.
5 But considering the wound she had, she appeared to be alert
6 and was able to talk to myself and another investigator.

7 Q Did you and the investigator take a statement from
8 her, basically, and interview her and record it?

9 A Yes, sir. We did after she was moved from the trauma
10 area to a room in the hospital.

11 Q Okay. And that was the statement that I was referring
12 to when I was questioning her about the gloves?

13 A Yes, sir.

14 Q Now, once you got the information from her -- or did
15 she give you the names of the people that were involved in
16 this?

17 A She gave us the names in the E.R. before she had been
18 moved to a room.

19 Q What did you do with that information?

20 A I contacted Paul Norris who was the lead investigator,
21 as well as Sergeant Bryant and Lieutenant Hutchins.

22 Q Do you recall how long you would have stayed at the
23 hospital with Ms. Scruggs?

24 A I don't recall the exact time, but I can refer to my
25 notes and get maybe an approximate time.

Todd Ruffner
Direct examination by Mr. Bulsa

1 Q Okay. What all did you do after you took the
2 interview from her?

3 A After she gave an audio statement I contacted the SLED
4 fusion center and asked them to generate a lineup with
5 Andrew Cash in it.

6 She had identified him for us through a facebook page
7 that she located. So I was able to get a date of birth so
8 that we could generate a lineup. And I didn't have
9 sufficient information to request they do a lineup on
10 Steven Lewis at that time.

11 Q Were you able to identify where Mr. Cash was likely
12 living?

13 A Yes. An address in Inman.

14 Q What did you do with that information?

15 A I forwarded that information on to the lead
16 investigator and Sergeant Bryant and Lieutenant Hutchins.

17 Q Did you later in the investigation yourself go to that
18 address?

19 A Yes, sir.

20 Q Approximately when?

21 A That was -- and I'll refer to my notes to give you the
22 approximate time. It was later in that day at about
23 6:00 p.m.

24 Q Okay. And who all was there?

25 A There was some uniform patrol deputies. I don't

Todd Ruffner
Direct examination by Mr. Bulsa

1 recall their names, all of them. Investigator Norris was
2 there; Lieutenant Hutchins, Lieutenant Mike Woodcock and
3 Detective Nick Turner.

4 Q Okay. So a lot of officers were there. Was Mr. Cash
5 there?

6 A No, he was not.

7 Q Were any family members there of his?

8 A I believe his sister was there and maybe his
9 grandmother or mother was there. I don't know which.

10 Q Okay. Did you have any personal contact with the
11 sister or the grandmother?

12 A No, I did not.

13 Q What was your role at that location?

14 A I was asked to take photographs over all of the house,
15 any vehicles in the driveway, as well as all of the
16 outbuildings. And as I did that the investigators who were
17 searching the residence also would ask me to take
18 photographs of items they were collecting.

19 Q So you all searched the residence.

20 A Yes, sir.

21 Q What was that address again?

22 A The address was on -- I'll tell you exactly. It's in
23 my notes. [REDACTED] Woodland Avenue, Inman, South Carolina.

24 Q Okay. Let me show you a series of pictures previously
25 marked State's Exhibits 76 through 84. Look through those

1 and tell me if you recognize them.

2 A Yes, sir. I do.

3 Q Are those photographs you took?

4 A Yes, sir, they are.

5 Q So other officers were actually searching. When they
6 found something they would call you and have you take a
7 picture of it?

8 A Yes, sir.

9 Q Okay. Do you have previous -- did you have previous
10 experience in forensics?

11 A Yes, sir. Prior to becoming an investigator with the
12 sheriff's office I spent about two and a half years as a
13 crime scene technician with the sheriff's office.

14 Q But at the time of this incident you were not assigned
15 to that unit.

16 A No. I was not.

17 Q Was anybody from that unit at this house?

18 A No, not that I recall.

19 Q Can you tell us why?

20 A They were extremely busy on other scenes, as well as
21 working the main location on Highway 11.

22 Q So there were other crimes they were investigating as
23 well as this one?

24 A Yes.

25 Q Because you had previous experience they pretty much

Todd Ruffner
Direct examination by Mr. Bulsa

1 left this one to you?

2 A Yes.

3 Q Okay. I show you State's Exhibit No. 76. Is that the
4 outside of the house?

5 A Yes. That is the front of the residence.

6 Q Okay. And there's another view from the side,
7 State's 77.

8 A Yes. Front right.

9 Q And State's 78. What is that?

10 A Yeah. That's a vehicle that was parked off to the
11 right of the residence in the driveway.

12 Q Do you know whose vehicle it was?

13 A I do not, no, sir.

14 Q Okay. And do you know what make it was?

15 A I believe -- I can't see from that. It's too far
16 away. I can't see from that. It'd be -- there would be a
17 closer photo of it. I took closer ones of it.

18 Q It's not a Mazda sports car, is it?

19 A Well, from the back it appears to either be a Mazda or
20 a Toyota.

21 Q Okay. I'm going to show you State's Exhibit 75. It
22 wasn't that car, was it?

23 A No, it was not that car.

24 Q That's the Mazda sports car.

25 A Yes, sir.

1 Q All right. Here's State's 79. What is this showing
2 us?

3 A That is from the left rear of the residence.

4 Q What does it show us?

5 A It just shows their -- the deck and outbuilding. And
6 there's a walkout from underneath the house.

7 THE COURT: Please be mindful of that microphone.

8 A A full basement, like a walkout area.

9 Q Okay. Was a deck extending out?

10 A Yes, sir.

11 Q Okay. Now, State's Exhibit No. 80. This appears to
12 be a picture of one of the rooms.

13 A That is a photo of one of the upstairs bedrooms.

14 Q Okay. And the item off to the left, that blue box,
15 could you point it out? Red button on top.

16 THE COURT: Be careful of the microphone, please.

17 A Is that the box on the left? That is a box of blue
18 surgical gloves.

19 Q Okay. Is that the same box as shown by State's 81?

20 A Yes, sir, it is.

21 Q Okay. Now, State's 82. Looks like the lighting is
22 off. Could you tell us why that is and what that shows?

23 A The lighting could be off due to the flash on the
24 camera. That is a downstairs bedroom. In the house when
25 you enter the front door it goes -- it's a split level. So

Todd Ruffner
Direct examination by Mr. Bulsa

1 it goes up and down. You go down the stairs, and that's a
2 bedroom downstairs.

3 Q Does that bedroom exit to the outside underneath that
4 deck we saw in the previous picture?

5 A I don't recall specifically if that one does, but I
6 know that there's one down there that does. There'd be
7 another photo maybe of the door if it's that one.

8 Q And there's State's 83. What does that show us?

9 A That's that same room. So, yes, there is an exit
10 downstairs, same bedroom.

11 Q Okay. And did you see the corner area that you took a
12 picture of? What is that black type object beyond that
13 table?

14 A There is a filing cabinet over there.

15 Q And State's 84. Is that filing cabinet the one
16 depicted in this picture?

17 A Yes, sir, it is.

18 Q And what are those items that we see inside?

19 A Those are also blue surgical gloves like the ones in
20 the box from upstairs.

21 Q Okay. Do you know who lived -- who resided in each of
22 those bedrooms?

23 A Downstairs was Mr. Cash's area and upstairs was his
24 sister and either his grandmother or mother, whoever else
25 lived there.

1 Q So the bedroom where this filing cabinet is, and these
2 gloves, is the downstairs bedroom where Mr. Drew Cash
3 resided.

4 A Yes, sir.

5 Q Based on the knowledge you obtained.

6 A Yes, sir.

7 Q Okay. Thank you. Answer any questions Mr. Moore may
8 have.

9 CROSS-EXAMINATION

10 BY MR. MOORE

11 Q Did you say it's Investigator Ruffner -- Special Agent
12 Ruffner now?

13 A Special agent.

14 Q Special agent.

15 A But any -- any will do.

16 Q So you took Ms. Scruggs' statement at the hospital.
17 That's what you just testified to.

18 A Yes. I took the audio statement. Myself and
19 Detective Turner.

20 Q In that statement did she tell you that she was with
21 Mr. Cash's sister when you -- when she purchased the 9mm
22 Kel-Tec?

23 A Yes. She indicated that she witnessed it being
24 purchased by his sister.

25 Q And that she was present for that.

Todd Ruffner
Cross-examination by Mr. Moore

1 A That would be what witnessing is, yes.

2 Q What about the blue gloves? Were any of those blue
3 gloves taken from the residence as part of the search
4 warrant?

5 A I would have to see the search warrant to see, but if
6 there were individual photos, then that would be one that
7 another officer asked me to take a photo of so that they
8 can be collecting.

9 Q Okay. So you -- you take photos of things. You take
10 photos of things that are not collected as well or only
11 items that are collected?

12 A I take overall photographs and then any other item
13 that one of the investigators searching would have
14 specifically asked me to take a photograph of.

15 Q And I'm probably not asking this question very well,
16 so let me try again.

17 Do you know if the blue gloves that were located on
18 the search warrant were collected as evidence physically
19 and taken from the residence?

20 A I would have to see the search warrant to say that.

21 Q All right.

22 MR. MOORE: No other questions, Your Honor.

23 MR. BULSA: Nothing further.

24 THE COURT: You may step down.

25 MR. BULSA: We would ask that he be excused.

Emma Cooke
Direct examination by Mr. Bulsa

1 THE COURT: He may be.

2 (Whereupon, the witness was excused.)

3 MR. BULSA: The state calls Emma Cooke.

4 EMMA COOKE, having been first
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BULSA

7 Q Please introduce yourself to the jury, ma'am.

8 A My name's Emma Cooke, and I'm grandmother to Jason
9 Cash.

10 THE COURT: Ms. Cooke, let me ask you to scoot that
11 chair up, please, and get closer to that black microphone.

12 (Whereupon, the witness complied.)

13 THE COURT: Thank you.

14 Q Ms. Cooke, where do you reside?

15 A [REDACTED] Woodland Avenue, Inman.

16 Q And how long have you lived there?

17 A For about 34 years.

18 Q Did you live there with your husband?

19 A Yes.

20 Q It was your second husband?

21 A Yes.

22 Q And what was his name?

23 A Calvin Cooke.

24 Q And when did he pass away, ma'am?

25 A Two weeks before this happened.

Emma Cooke

Direct examination by Mr. Bulsa

- 1 Q who was residing at [REDACTED] Woodland Avenue in Inman when
2 this happened?
- 3 A Jason and Nicole.
- 4 Q Are they brother and sister?
- 5 A Yes.
- 6 Q What did you call Jason? What name does he go by?
- 7 A well, he used to go by Drew. Then he wanted to go by
8 Jason. So I called him both.
- 9 Q What do you call him mostly now?
- 10 A Drew.
- 11 Q Drew. Okay. All right. Now, did you actually raise
12 Drew and Nicole?
- 13 A Yes.
- 14 Q Okay. Who are his parents?
- 15 A Clifford and Angela Cash.
- 16 Q Were they married?
- 17 A They were married, but they're divorced now.
- 18 Q Okay. Angela's last name is what?
- 19 A I think Ross.
- 20 Q Did they live with you as well?
- 21 A No.
- 22 Q They did not. At what age did you get Mr. Cash, did
23 you get Drew, to begin raising him?
- 24 A I think he was four or five. I'm not sure.
- 25 Q Was he older than Nicole?

- 1 A Yes.
- 2 Q How much older is he than her?
- 3 A Just she was born March the 15th and he was born
- 4 something in the 20s, but they's about two years apart.
- 5 Q About two years apart.
- 6 A Uh-huh.
- 7 Q Were they close growing up?
- 8 A Yes.
- 9 Q Now, does Drew have any children?
- 10 A No.
- 11 Q Is he married?
- 12 A No.
- 13 Q How about Nicole? Is she married?
- 14 A No.
- 15 Q Does she have any children?
- 16 A She has a little girl.
- 17 Q How old is that girl?
- 18 A Two years old.
- 19 Q Okay. And what was her -- what's her name?
- 20 A Ava.
- 21 Q And where does Ava reside?
- 22 A With the father's mother.
- 23 Q Okay. Did Ava ever live with you?
- 24 A No.
- 25 Q Did either Drew or Nicole ever move out from your

Emma Cooke
Direct examination by Mr. Bulsa

1 house?

2 A Yes.

3 Q They did. How long had they -- how long were they
4 away from your house?

5 A Well, one time I think it was about six months, and
6 then, you know, if they wanted -- they went and stayed with
7 other people.

8 Q But they'd always kind of wind up back at your house,
9 is that right?

10 A Yes.

11 Q Okay. What kind of house is that that we saw in the
12 pictures? Could you kind of give us a layout of it?

13 A Which house?

14 Q The [REDACTED] Woodland, the house you live in.

15 A Okay. It's a -- a split level. And upstairs is
16 living room, kitchen, bedrooms. Downstairs, it was a den.
17 And Drew wanted to make it into his room where he would
18 have privacy. And then in the other room it was a game
19 room with a pool table and stuff. And on both sides it has
20 sliding glass doors.

21 Q Okay. And were the bedrooms upstairs?

22 A There's three bedrooms upstairs.

23 Q So I presume you were in one of the bedrooms and
24 Nicole was in one of the other ones?

25 A Yes.

Emma Cooke
Direct examination by Mr. Bulsa

- 1 Q Okay. And pictures -- you were in here and you saw
2 the pictures I displayed.
- 3 A Yes.
- 4 Q The ones with the poor lighting.
- 5 A Yes.
- 6 Q That was the downstairs?
- 7 A Yes.
- 8 Q That was Drew's room.
- 9 A Yes.
- 10 Q But we saw sliding glass doors. How did Drew usually
11 come in and out of the house?
- 12 A Front door.
- 13 Q Front door. Did he sometimes come around back?
- 14 A Oh, yeah. If he had somebody with him, he would.
- 15 Q All right. Now, let me show you State's Exhibit
16 No. 75. Do you recognize that car?
- 17 A Yes. That was Drew's car.
- 18 Q Okay. What kind of car is it? What kind?
- 19 A I think it's a Mazda.
- 20 Q Did you buy him that car?
- 21 A No. I signed with him to get it for the first six
22 months.
- 23 Q Okay. So how long had he had that car before this
24 happened?
- 25 A I do not remember.

Emma Cooke

Direct examination by Mr. Bulsa

1 Q You don't remember. Okay. Now, did you know Casey
2 Scruggs at all?

3 A No.

4 Q Did you know Carey Mauldin at all?

5 A No.

6 Q You'd never been to their house?

7 A No.

8 Q When was the first thing you learned about this
9 incident?

10 A When I think I -- I think I was in court down here
11 with my oldest -- with my youngest son for a P.C.R. hearing
12 or some kind of hearing. And I went home and police cars
13 were everywhere, and that's when I found out about it.

14 Q Okay. So approximately what time of day?

15 A I think it was about 4:30. I'm not sure.

16 Q Sometime in the afternoon hours when you came.

17 A Yes.

18 Q Was anybody with you when you came home?

19 A Yes.

20 Q Who was that?

21 A Tracy Lanning.

22 Q Tracy. All right. Was she in court with you as well?

23 A Yes.

24 Q Did y'all ride together?

25 A Yes.

Emma Cooke

Direct examination by Mr. Bulsa

1 Q Did she come to your house and then y'all ride
2 together that morning?

3 A Yes, yes.

4 Q Do you remember what time you would have left the
5 house that morning?

6 A I think we had to be in court -- no. I'm not sure.

7 Q You're not sure.

8 A No. I can't answer that. I'm not sure.

9 Q Would it have been sometime in the morning hours?

10 A Yes.

11 Q Now, did you know the person who's been named as
12 Scooter?

13 A I saw him one time.

14 Q Okay. Where did you see him?

15 A Him and Drew come through the front door, and I looked
16 at Drew. And I said, "Drew, he's not staying here." And
17 he said, "I know." Said "We'll -- we're going to leave."
18 So they went downstairs to Drew's room. And then about 15
19 minutes later they come back upstairs and left as far as I
20 know.

21 Q Did you actually see them leave?

22 A Yes.

23 Q You did. And what did they leave in?

24 A I don't know. I guess Drew's car.

25 Q Okay.

Emma Cooke
Direct examination by Mr. Bulsa

- 1 A I don't know.
- 2 Q Was Drew's car in the driveway when you left to go to
- 3 the courthouse?
- 4 A Yes.
- 5 Q So who left first, you or Drew?
- 6 A I did.
- 7 Q Okay. So you don't know how long they were there
- 8 before they left.
- 9 A No.
- 10 Q Okay. I thought you just said 15 minutes later they
- 11 left.
- 12 A No, no. That was that night, that evening, when Drew
- 13 and Steven come in the house. And I told Drew, I said,
- 14 "Drew, he's not staying here." I meant he's not staying
- 15 here tonight. And I was sitting up in the living room. So
- 16 it was about 15 minutes later they come up and they left.
- 17 They went out the door.
- 18 Q You talking about the night before you went to court.
- 19 A Yes.
- 20 Q Okay. Now, when Drew would have people over would
- 21 they go down to his bedroom and hang out?
- 22 A Yes.
- 23 Q So the next morning did you see Mr. Lewis, Scooter, in
- 24 your house?
- 25 A I don't think I went downstairs that morning. I saw

Emma Cooke
Direct examination by Mr. Bulsa

1 Drew standing at the bottom of the stairs, and I told him I
2 was leaving, and he said, "Be careful. I love you." And I
3 said, "I love you too," and left.

4 Q And that was the last time you saw him?

5 A Yeah, that was the last time I saw Drew until we went
6 where they had him locked up. I forget the name of it.

7 Q You visited him in North Carolina?

8 A Yes.

9 Q Okay. So if Mr. Lewis was there that morning, you
10 didn't see him.

11 A No, sir. I didn't.

12 Q All right. So when you got home and the police were
13 at your house were they searching it?

14 A Yes, they were searching it. They had Nicole in the
15 bedroom. They made us sit in the living room and -- and
16 that was it until they got ready to leave.

17 Q Okay. Now, did you learn why they were searching your
18 house?

19 A Not until they started to leave and he handed me a
20 paper and then it was -- I lost it. I mean, I just -- I --
21 I couldn't believe it.

22 Q That's when you learned they were looking for Drew for
23 murder?

24 A Yes, sir.

25 Q Okay. Now, your husband owned some property, didn't

Emma Cooke
Direct examination by Mr. Bulsa

1 he?

2 A Yes. He did.

3 Q And do you recall about how many pieces?

4 A About 15.

5 Q All right. And was Drew expecting a piece of property
6 to be willed to him?

7 A Yes.

8 Q And do you know the address of that property?

9 A [REDACTED] Flynn.

10 Q Okay. Show you State's Exhibit No. 32.

11 A Yes. That's --

12 Q That's Flynn?

13 A Yes.

14 Q Okay. Was Mr. Cash -- was your son or grandson doing
15 anything to try to fix that up?

16 A I -- I really don't know, because when he was young me
17 and my husband, him and Nicole were all up there having
18 some work done on it. And Drew just said, "Pa, can I have
19 this house when I grow up?" And my husband said, "Yes,
20 Drew, you can." But that was -- I don't know whether it
21 was just to pacify Drew, but he never changed his -- his
22 will to will it to Drew.

23 Q But he put it in Drew's head so Drew thought it was
24 going to be his.

25 A Yeah.

Emma Cooke
Direct examination by Mr. Bulsa

1 Q Now, at the time he was arrested was Drew going to
2 that property?

3 A At 117?

4 Q Yes, ma'am.

5 A Yes.

6 Q Okay. Are you familiar with that shed in the back?

7 A Yes. I know about the shed in the back.

8 Q And the area on the side of it?

9 A Uh-huh.

10 Q Okay. Now, in the first few weeks after Drew was in
11 jail did you have an occasion to go by that house?

12 A Sir, I -- I don't remember. My husband had just
13 passed away two weeks before that and...

14 Q I imagine your world was pretty rocked.

15 A Yeah. It was -- it's hard to remember a lot.

16 Q Okay. We heard about this gun. Did you know that
17 Nicole had bought a gun?

18 A Well, it was -- no. I didn't know it until after the
19 fact. And they showed me the gun, and so I knew they had a
20 gun, but, you know, I didn't know. I knew it after they
21 had bought it. I didn't know it beforehand.

22 Q Okay. So you didn't know she was going to buy it.

23 A No, sir.

24 Q But you saw it. Did you see it in your house?

25 A Yes.

Emma Cooke
Direct examination by Mr. Bulsa

1 Q Okay. All right. Were you aware that Drew had done
2 something with that gun?

3 A No.

4 Q Okay. Did Drew have any other guns?

5 A Not to my knowledge, no. My husband, he was a
6 collector. He -- but he collected rifles, winchesters, red
7 letter, all kinds of shotguns.

8 Q You've talked to your grandson on the phone since he's
9 been in jail, right?

10 A Yes, sir.

11 Q And you've actually gone to visit him on a few
12 occasions.

13 A Yes, sir.

14 Q Okay. And did he ever tell you that he put that
15 stolen PT Cruiser on this property on Flynn Road?

16 A No, sir.

17 Q He did not tell you that?

18 A I -- I don't remember if he did.

19 Q Okay. Did he ever ask you to go get a gun for him?

20 A Yes, sir.

21 Q Explain that to us.

22 A Well, after this happened he said, "Grandma," said, "I
23 need you to do something for me." And I said what. And he
24 said, "Go get the boom-boom for me." And I -- I didn't
25 even know what he was talking about. And finally I picked

Emma Cooke
Direct examination by Mr. Bulsa

1 up on it, and I told him no. And I couldn't find it
2 anyway. I went where he said it was at and I couldn't find
3 it. But I did find some stuff that was burnt.

4 Q Okay. Now, what was his explanation about that? I
5 think he used the word pow-pow but --

6 A Yeah.

7 Q Okay. What was he telling you about it?

8 A He just wanted me to go get it.

9 Q Did he tell you about hiding another gun as well?

10 A No.

11 Q He didn't? Are you sure?

12 A I'm sure. I'm positive.

13 Q You know the calls are recorded.

14 A If it was, I mean, I -- I really don't remember.

15 Q Okay.

16 MR. BULSA: Your Honor, I'd like to play a portion of
17 a jail call between her and her grandson.

18 (Whereupon, the C.D. was played for the jury.)

19 Q Can you hear that from here?

20 A No.

21 THE COURT: No.

22 (Whereupon, the C.D. was played for the jury.)

23 Q Okay. I am going to jump to the place where it's
24 discussed.

25 (Whereupon, the C.D. was played for the jury.)

Emma Cooke
Direct examination by Mr. Bulsa

1 Q Do you remember that conversation?

2 A Part of it, yes.

3 Q Okay.

4 A It's been two years and I've been through surgeries
5 and I've just -- I don't remember a lot of stuff.

6 Q Okay. So do you know if he owned a gun?

7 A No, I -- I didn't know about that, that he had a
8 second gun.

9 Q Okay. And the place Ronnie's, what is that?

10 A That's my youngest son's home, but we had a trailer.
11 It was a supply house that we cut supplies in for the
12 rental places, and that was what he was talking about.

13 Q And you said you actually went and looked but it
14 wasn't there.

15 A Yes.

16 Q So you had that conversation about the gun, but you
17 didn't know about the car. Do you remember some
18 conversation with Clifford, your son, about the car, about
19 the PT Cruiser?

20 A No, sir.

21 Q You didn't. We'll ask Clifford about that.

22 All right. So as far as you know you don't know of
23 anything on that Flynn Road property.

24 A No. I know we had to get somebody to go in and clean
25 it up. His daughters did that and --

Emma Cooke
Cross-examination by Mr. Moore

1 Q Whose daughters?

2 A My husband's daughters.

3 Q Your stepdaughters?

4 A Yes.

5 Q Okay. And it has since been sold now, hasn't it?

6 A Yes.

7 Q Just so we understand, but at the time this incident
8 happened Drew was expecting to get that piece of property.

9 A Well, he -- he expected it because his pa told him
10 that, I mean. And his pa didn't lie. He wouldn't lie to
11 him. I guess, you know, he just thought he was pacifying
12 him, and-but that's all I know.

13 Q Thank you, ma'am.

14 A Uh-huh.

15 Q Mr. Moore may have some questions.

16 CROSS-EXAMINATION

17 BY MR. MOORE

18 Q Just real quick. So you did go where he told you to
19 go?

20 A Yes.

21 Q But there wasn't a gun.

22 A No.

23 MR. MOORE: No further questions, Your Honor.

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

25 We're going to take a break. We'll take a short

Tracy Lanning
Direct examination by Mr. Bulsa

1 break.

2 I'll ask the jury to please go to your jury room. Do
3 not discuss the case. We'll bring you back after that
4 break to continue with the trial.

5 (The following takes place outside the presence of the
6 jury.)

7 THE COURT: We'll be in recess for 15 minutes.

8 (whereupon, a recess was taken.)

9 THE COURT: Ready for the jury?

10 MR. BULSA: Yes, sir.

11 THE COURT: Bring them in.

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

14 THE COURT: The jury is present. You may proceed.

15 MR. BULSA: The state calls Tracy Lanning.

16 TRACY LANNING, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BULSA

19 Q Ms. Lanning, please introduce yourself to the jury.

20 A My name is Tracy Lanning.

21 Q Where do you live, ma'am?

22 A [REDACTED] South Randolph Avenue, Apartment A8, Landrum.

23 Q Were you a friend of Emma Cash's?

24 A Emma Cooke, yes.

25 Q How long have you known her?

Tracy Lanning
Direct examination by Mr. Bulsa

1 A Twenty years.

2 Q Are you familiar with her grandson, Drew Cash?

3 A Yes.

4 Q Had you ever visited their house before?

5 A Numerous times.

6 Q So you were a regular visitor of their house?

7 A Yes. I worked for Emma in the -- in the trailers that
8 they rented out. And I also helped take care of Calvin
9 until he died.

10 Q What is your occupation?

11 A House -- house. I clean houses and care, help care,
12 for elderly people.

13 Q So was Calvin actually one of your customers?

14 A Yes.

15 Q One of your patients?

16 A Yes. But more, I took care of him more as a friend
17 than as it being, you know, a -- a job.

18 Q Now, when did you learn about Drew being wanted by the
19 police?

20 A That morning me -- I had went to Emma's to come down
21 to Spartanburg to testify in Ronnie's trial. And coming
22 back Drew called my phone and said that the police were at
23 grandma's and wanted us to find out, wanted me to find out
24 why.

25 Q Do you know where Drew was when he called?

Tracy Lanning
Direct examination by Mr. Bulsa

- 1 A No.
- 2 Q Did you ask him?
- 3 A Yes.
- 4 Q Did he answer?
- 5 A No.
- 6 Q Did you ask him why he wanted you to find out?
- 7 A No.
- 8 Q How many times did he call?
- 9 A Probably four or five times, and texted also.
- 10 Q How did you and Emma Cooke get to the courthouse?
- 11 A Emma drove.
- 12 Q And did you ride over to her house or get a ride to
- 13 her house that morning?
- 14 A Yes. My ex-mother-in-law dropped me off that morning
- 15 approximately 7:00 or 7:15.
- 16 Q Do you recall who was at her house that morning?
- 17 A Emma, Drew, Steven and Nicole.
- 18 Q Do you know what kind of car Drew drives?
- 19 A A little gray sports car, but not sure of the make or
- 20 model.
- 21 Q Was it at the house that morning?
- 22 A Yes.
- 23 Q And the individual you call Steven, who was he?
- 24 A Scooter, friend of Drew's.
- 25 Q How well did you know him?

Tracy Lanning
Direct examination by Mr. Bulsa

1 A I didn't.

2 Q How did you know his name?

3 A Found it out after all of this.

4 Q So after the fact you learned that the man -- so
5 you -- you saw another man at the house.

6 A Yes.

7 Q You later put two and two together --

8 A Yes.

9 Q -- and realized that was Scooter?

10 A Yes.

11 Q Okay. Now, you said you arrived at approximately what
12 time?

13 A 7:00, 7:15.

14 Q Was anything going on when you arrived?

15 A When she pulled up to let me out Drew's car was backed
16 up to one of the buildings that sets beside the house, and
17 the door of the building was open and Drew's passenger-side
18 door was open.

19 And Steven was standing in -- in the door of the car.

20 And when he seen us slow down and stop, he stood up and

21 looked at me. And as I got out of the truck I looked at

22 him, and we made eye contact and maintained eye contact

23 until, as walking, I asked him where Drew was. And he said

24 inside. And we kept eye contact until I lost, you know --

25 lost it from walking towards the house.

Tracy Lanning
Direct examination by Mr. Bulsa

1 Q What door did you enter in the house?

2 A The front door.

3 Q Did you notice anything as you were entering?

4 A Yes. There was a little black bag laying on the walk,
5 in the walkway, right at the steps.

6 Q Did you do anything with that bag?

7 A I picked it up.

8 Q What did you do with it then?

9 A I took it with me inside because I assumed it was
10 Emma's and took it with me inside and up the stairs and
11 opened it up and looked in it and showed it to Emma and
12 asked her if it was her stuff, and she said no.

13 Q And then what did you do with it?

14 A Took it downstairs and gave it to Drew.

15 Q And what took place when you did that?

16 A He was -- the house was tri-level, and I come down the
17 stairs and went down the basement stairs. And Drew was
18 standing there, and I said here and tossed him the bag.
19 And he asked me where I got it from, and I told him I found
20 it out front.

21 And I started back up the stairs, and I could hear
22 Drew and Steven talking, you know, asking, Steven asking,
23 where I got it from and did I look through it, you know.
24 And Drew said no. And I just kept going up the stairs and
25 didn't bother to say that I did.

Tracy Lanning
Direct examination by Mr. Bulsa

1 Q Did either one of them seem angry with you?

2 A No. They seemed, you know, to not -- to be very
3 worried that I'd looked in it. But, like I said, I -- I
4 didn't bother to correct them. I just kept going back up
5 the stairs.

6 Q What did you say was in it?

7 A There was some jewelry, a cross necklace and some like
8 little perfume bottles and a piece of paper.

9 Q Did they appear to be women's things?

10 A Yes.

11 Q How long did you stay at the house that morning?

12 A That morning?

13 Q Yes, ma'am.

14 A We were there maybe 30 minutes before we left to come
15 down to here.

16 Q When you left was Steven still there with Drew?

17 A Yes.

18 Q So you and Emma left first.

19 A Yes.

20 Q Okay. And you arrived back sometime later that
21 afternoon?

22 A Yes.

23 Q Were the police there?

24 A Approximately 4:00 o'clock.

25 Q Were the police there?

Tracy Lanning
Direct examination by Mr. Bulsa

1 A Yes. When I --

2 Q What happened when you arrived?

3 A I come in the door first, and there was a female
4 police officer standing at the top of the stairs. She said
5 are you Tracy, and I said yes. And she said where's Emma.
6 I said she's coming. And they took me and put me in a
7 chair in the corner of the living room.

8 Q Did you speak to the police about what you've
9 testified to?

10 A Yeah, a little. You know, I'm not sure how long into
11 it.

12 Drew texted my phone again, and they had me go outside
13 and speak to the detective or whatever. I'm not sure of
14 his name. I can't remember. But I went outside and talked
15 to them then, and they asked me about, you know, being
16 there that morning and if I'd seen anything or spoke to
17 Drew.

18 Q Did you answer the message that Drew sent you?

19 A I think I answered one telling him that, you know, I
20 didn't know why they were there but when I did I would let
21 him know. And I think that's the only one that I answered.

22 Q So you never followed up with him?

23 A No.

24 Q Did you ever go visit him in North Carolina?

25 A No.

Clifford Cash

Direct examination by Mr. Bulsa

1 Q So that was the last morning you saw him?

2 A No. I visited him in the Spartanburg County Jail.

3 Q You have. Okay. Thank you, ma'am. Answer any
4 questions Mr. Moore has.

5 MR. MOORE: No questions, Your Honor.

6 THE COURT: You may step down.

7 MR. BULSA: The state calls Clifford Cash.

8 We would ask that Ms. Lanning be excused, Your Honor.

9 MR. MOORE: No objection, Your Honor.

10 THE COURT: She may be excused.

11 (Whereupon, the witness was excused.)

12 CLIFFORD CASH, having been
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. BULSA

15 Q Mr. Cash, introduce yourself to the jury, please.

16 A I am Clifford Cash. I am Drew's dad.

17 Q Where do you reside, sir?

18 A [REDACTED] Highway 357, Campobello.

19 Q Okay. Is Ronnie's property near your property?

20 A Yes, sir.

21 Q In what relation?

22 A Across the road.

23 Q Across the road?

24 A Yes, sir.

25 Q And this supply building, where is it in relation to

Clifford Cash
Direct examination by Mr. Bulsa

- 1 Ronnie's property?
- 2 A To the left.
- 3 Q If you're standing on his porch, it would be to the
- 4 left?
- 5 A Yes, sir.
- 6 Q So if you're standing on the road facing his property
- 7 it's to the right.
- 8 A Yes, sir.
- 9 Q Are you familiar with that property?
- 10 A Yes, sir.
- 11 Q Who owned that?
- 12 A My stepdad.
- 13 Q Okay. Now, where were you living back in May of 2015?
- 14 A At [REDACTED] Ridgeview Drive, Spartanburg.
- 15 Q Is that in Spartanburg city?
- 16 A No, sir.
- 17 Q What part of the county is that?
- 18 A It's in Spartanburg County but it's -- it's between
- 19 Inman and Spartanburg.
- 20 Q Why weren't you living on Highway 357?
- 21 A Because me and my fiancée was going to purchase that
- 22 property where we was living at on the 434.
- 23 Q Okay. And who was your fiancée?
- 24 A Shana Leigh Grimes.
- 25 Q Okay. And where is she today?

Clifford Cash
Direct examination by Mr. Bulsa

- 1 A I have no idea.
- 2 Q I guess y'all never got married.
- 3 A No.
- 4 Q Okay. When did y'all break up?
- 5 A I'm wanting to say April, May. She -- I -- she packed
- 6 all of her stuff up and left, and mine too.
- 7 Q Did she move out of state?
- 8 A Yes, sir.
- 9 Q Now, who is -- let me ask you this. What name do you
- 10 call your son?
- 11 A Drew.
- 12 Q Who is his mother?
- 13 A Angela Ross.
- 14 Q Were you and Ms. Ross ever married?
- 15 A Yes.
- 16 Q When did y'all get divorced?
- 17 A Sixteen years ago.
- 18 Q Did you raise your son?
- 19 A No, sir.
- 20 Q Who raised him?
- 21 A My mother.
- 22 Q Where were you during that time?
- 23 A I made a mistake, and I had to go to the penitentiary
- 24 and do my time.
- 25 Q Okay. So you weren't around to raise him, so your

Clifford Cash
Direct examination by Mr. Bulsa

1 mother stepped in?

2 A Right.

3 Q Did she also raise Nicole?

4 A Yes, sir.

5 Q Now, when did you learn that Drew was wanted by the
6 police?

7 A I don't exactly remember how it happened. I -- either
8 somebody called me or I heard about it, but he called me
9 the night that it happened. It was like 2:00 or
10 3:00 o'clock in the morning on the night the incident
11 happened.

12 Q Okay. What was it about that phone call?

13 A He just called me. And I said, "Son, where are you
14 at? I'll come and get you." And he wouldn't tell me, and
15 the phone went blank. I tried calling it back and couldn't
16 get no answer.

17 Q So how did you actually learn when he was arrested?

18 A I'm wanting to -- I'm wanting to say my mother told
19 me. I'm -- I really can't remember. I mean, I'm wanting
20 to say she told me about it, but I seen it on T.V. and
21 everything. So I really can't remember, you know, exactly
22 how I heard about it.

23 Q Now, did you visit him in North Carolina?

24 A Yes, sir.

25 Q Did Shana go up there with you?

Clifford Cash
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q Did your mother go up there with you?

3 A Yes, sir.

4 Q And you've since visited him in the county jail?

5 A Yes, sir.

6 Q Called him on numerous occasions or at least spoke to
7 him on the phone on numerous occasions.

8 A Yes, sir.

9 Q Now, the property on Flynn Road, are you familiar with
10 it?

11 A Yes, sir.

12 Q Is that property that Drew was expecting to inherit?

13 A Yes, sir.

14 Q Was he fixing it up?

15 A Yes, sir.

16 Q What was he doing to it?

17 A He -- he had done tore everything out and was going to
18 put everything brand new back in it.

19 Q Were you familiar with the building out back?

20 A Yes, sir.

21 Q During the first few weeks that Drew was in jail did
22 you have occasion to go to that property?

23 A Yes, sir. I kept all of the grass, all of the
24 maintenance, on the properties up.

25 Q Did you observe anything that seemed unusual on that

Clifford Cash
Direct examination by Mr. Bulsa

1 property?

2 A Not at first, and then I seen the PT Cruiser.

3 Q Where was the PT Cruiser?

4 A Behind the building.

5 Q How was it positioned?

6 A It was just parked behind the building, had a tarp
7 over it and some pallets stacked on it, I mean.

8 Q Did it appear somebody was trying to hide it?

9 A Yes.

10 Q Did you know whose vehicle that was?

11 A No.

12 Q Did you ever speak to the police about that vehicle?

13 A I talked to some detective. I can't remember what his
14 name was, I mean.

15 Q Do you remember what you told him?

16 A I did -- I was on the way to Kentucky, and I told him
17 when I got back I would show him where it was at and
18 everything.

19 Q And when you got back did you do that?

20 A It was gone.

21 Q Had the police already been there before you got back?

22 A I don't know. But I later learned that they arrested
23 Tony Thompson and Holly Ledford for -- for -- for the
24 stealing the vehicle from up there.

25 Q Okay. All right. You don't know whose vehicle that

Clifford Cash
Direct examination by Mr. Bulsa

1 was, do you?

2 A No, sir.

3 Q Was it Drew's vehicle?

4 A No, sir.

5 Q Did you know him to own a vehicle like that?

6 A No, sir.

7 Q All right. So, but was it on the property that he was
8 expecting to inherit?

9 A I don't know where the property line went on the
10 property. It was behind the building. I don't know. I
11 don't know how far the property -- you know, I don't know.

12 Q Okay. Would a reasonable person assume it was on that
13 property?

14 MR. MOORE: Objection. Calls for speculation.

15 THE COURT: Sustained.

16 Q Your knowledge of that property, do you believe that
17 PT Cruiser was on that property?

18 A I -- I don't know. They was a lot of cars up there in
19 the field, as you can see one right now. I mean, I don't
20 know.

21 Q Do you see the building off to the right of that
22 picture?

23 A Yes, sir.

24 Q Is that the building located here?

25 A Yes, sir.

Clifford Cash
Direct examination by Mr. Bulsa

- 1 Q And where was the PT Cruiser in relation to that
2 building?
- 3 A Behind it where you see the growth at up there.
- 4 Q And here's a pointer, red button. If you would,
5 identify that.
- 6 A Right in the area right there.
- 7 Q Okay. And you said it was covered with a tarp?
- 8 A Yes, sir.
- 9 Q And various other items?
- 10 A Yes, sir.
- 11 Q All right. Do you see what's located in front of
12 it -- that phone?
- 13 A Yes, sir.
- 14 Q Do you remember -- do you have any idea what that is?
- 15 A No, sir.
- 16 Q All right. Show you State's Exhibit No. 34. Does
17 this show that same building?
- 18 A Yes, sir. I think that's the same building.
- 19 Q Okay. Let's -- let's look back here. There's
20 State's 32. Do you see the tree there?
- 21 A Yes, sir.
- 22 Q All right. And is this a closer version?
- 23 A Yes, sir.
- 24 Q All right. Do you see that mound of things right
25 here?

Clifford Cash
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q It would be what's noted in State's 35, is that
3 correct?

4 A Yes, sir.

5 Q All right. Now, that location is certainly on the
6 property of Flynn, adjacent to that house, is that true?

7 A I don't know where the property line is on that. I
8 mean, I -- I mean, I'm being honest. I don't know where
9 the --

10 Q I understand.

11 A I don't know where the property line is at.

12 Q You said you kept up the area. You cut the grass.

13 A Yes, sir.

14 Q Was that part of the grass that you cut?

15 A No, sir. I didn't go no further than where you see
16 that tree right there at. I made two swipes right on the
17 other side of that tree, and I cut all of this other in
18 behind it.

19 Q How do you -- how would somebody get a car back into
20 that building?

21 A I don't know.

22 Q Is there a direct route where we see that dirt path
23 around that tree back into that building?

24 A No, sir. Right there is the -- right there is the
25 driveway.

Clifford Cash
Direct examination by Mr. Bulsa

1 Q Okay. Did you ever have any conversations with your
2 son about that car?

3 A Yes, sir.

4 Q Okay. And you knew he put that car on his property.

5 A I didn't know who put it on his property.

6 Q Okay.

7 MR. BULSA: Your Honor, I'd like to...

8 Q Okay. Did he tell you it was hidden somewhere?

9 A No.

10 Q He did not?

11 A No.

12 MR. BULSA: Your Honor, I would like to play another
13 portion of the jail call.

14 (Whereupon, a portion of the C.D. was played for the
15 jury.)

16 MR. MOORE: Your Honor, may we approach briefly?

17 THE COURT: You may.

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 Q Before I play that let me ask you another question,
21 Mr. Cash. Did you and your son have a discussion about the
22 hiding of the gun?

23 A No, sir.

24 Q Okay. Now, I'm going to play a portion of the call.
25 I believe this is actually a visitation on June 24th of

Clifford Cash
Direct examination by Mr. Bulsa

1 2015 relating to those two subject matters.

2 (Whereupon, the C.D. was played for the jury.)

3 Q Okay. Whose voice is that?

4 A Sounds like Drew's.

5 Q Okay.

6 (Whereupon, the C.D. was played for the jury.)

7 Q Whose voice is that?

8 A Mine.

9 Q Is that not your voice, sir, saying it's safe?

10 A No. I don't -- I -- it don't sound like me.

11 (Whereupon, the C.D. was played for the jury.)

12 Q Okay. Now you recognized your voice?

13 A Yeah. That was after I found it.

14 Q Yeah. After you found it and talking to him about how
15 well it was hidden, right?

16 A Yeah.

17 Q And the other object that you're talking in that phone
18 call, that's the gun, isn't it?

19 A Yeah. That's as he said that everything was in the PT
20 Cruiser -- the gun, the clothes, everything that would
21 clear him. He said Steven's fingerprints would be on all
22 of it.

23 Q Okay.

24 A That's what I was going to talk to the detective when
25 I got back into town about, and then it was gone. I seen

Brian Ezell
Direct examination by Mr. Bulsa

1 it was gone.

2 Q Well, you didn't talk to the detective about the
3 pistol, did you?

4 A No. I told him I was going to show him where it was
5 at when I got back in town. I said that was Drew's ass in
6 the hole because the gun, the clothes, everything was in
7 it. That's what he told me.

8 Q Isn't it clear from that conversation that the car was
9 in one location and the pistol was in another location?

10 A No. Everything --

11 Q And that call even referenced it being ten miles away.

12 A I -- I -- I don't know what you're talking about but
13 that -- that's what he told me.

14 Q Thank you.

15 MR. BULSA: That's all I have.

16 MR. MOORE: No questions, Your Honor.

17 THE COURT: You may step down.

18 MR. BULSA: State calls Officer Brian Ezell.

19 BRIAN EZELL, having been first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BULSA

22 Q Sir, would you please introduce yourself to the jury?

23 A I'm Corporal Brian Ezell with the Guilford County
24 Sheriff's Office in Greensboro, North Carolina.

25 Q And how far is that from Spartanburg?

Brian Ezell
Direct examination by Mr. Bulsa

1 A About three and a half hours.

2 Q You just drove it this morning, right?

3 A Yeah.

4 Q Ever been to Spartanburg before?

5 A No, sir.

6 Q Okay. You know why you're here though, right?

7 A Yes, sir.

8 Q Okay. Are you familiar with the defendant, Jason
9 Andrew Cash?

10 A Yes.

11 Q How are you familiar with him?

12 A Back on the 23rd of May of 2015 we received
13 information that there were two suspects at a residence on
14 -- on Old Randleman Road in Guilford County.

15 There were several agencies involved with it -- the
16 Greensboro Police Department, the S.B.I. and our agency.
17 It was in -- out in the county, so it fell under our
18 jurisdiction.

19 Q And what was -- what was your position at that point?

20 A I'm a -- I'm a canine handler with the sheriff's
21 office, and our position was to go to the back of the house
22 as we approached the residence.

23 Q Okay. Approximately what time did you go to the
24 location?

25 A We got to the house at about 2:30 in the morning --

Brian Ezell
Direct examination by Mr. Bulsa

1 2:30, 2:40, somewhere in there.

2 Q Were y'all going there with sirens and lights?

3 A No. We went to -- we went to the back. Me and
4 another handler went to the back -- the two houses.

5 There -- we had it narrowed down to two houses that they
6 could be in. We went to the back of the two houses, and
7 everybody else filed in the driveway to the front of the
8 house to try to get a perimeter on the house.

9 Q Let me show you what's been marked State's Exhibit
10 No. 85. Are you familiar with that aerial picture?

11 A Yes, sir.

12 Q Does it show the locations you're describing?

13 A Yes, sir.

14 Q Here is a pointer. Please be mindful of this.

15 A Okay.

16 Q If you would, identify the residence that you were --
17 responded to.

18 A This residence here.

19 Q Okay. Were you one of the first vehicles to arrive?

20 A Yes, sir. I was the second car in the -- in the line.

21 We weren't -- I wasn't -- I hadn't -- I hadn't been by
22 the residence, so I didn't know exactly which one it was.
23 And they wanted us to go to the back of the house. So I
24 followed another unit in. They pulled off in the front
25 yard right here and I went to the back back here.

Brian Ezell

Direct examination by Mr. Bulsa

1 Q Okay. And were there any cars using their sirens or
2 lights?

3 A No.

4 Q What was the purpose of that?

5 A We were trying to use a soft approach and just get a
6 perimeter on the house and knock on the door and try to get
7 a response.

8 Q And why were you sent to the back?

9 A In case anyone ran out of the back of the house.

10 Q Okay. When you pulled around back, what happened?

11 A Someone ran out of the back of the house.

12 Q Okay. And who -- did you apprehend that person?

13 A Yes, sir, I did.

14 Q And who was that person?

15 A The defendant, Mr. Cash.

16 Q And where? Where did you catch him?

17 A This -- this -- this is a wood line here. He came out
18 of the back of the house right here and run diagonal
19 through these trees.

20 And there's a neighborhood that's not included in this
21 picture. And he continued. I guess it's more to the
22 south, kinda west. It's west. And he went west and I
23 think I had a -- it was about a half mile that he ran
24 through the woods in the neighborhood. And I used my dog,
25 and we tracked him and located him laying in another wood

Brian Ezell
Direct examination by Mr. Bulsa

1 line.

2 Q Okay. About how long did it take to track him?

3 A I put -- I put my dog on the ground at 2:40 and we
4 were -- we had located him at 2:53.

5 Q Thirteen minutes.

6 A Yes, sir.

7 Q All right. And was he hiding?

8 A Yeah. He was laying in a -- in some thick underbrush.

9 Q And did he come -- how did -- how did you actually
10 find him? Did the dog find him?

11 A The dog located him. We challenged him, verbal
12 commands, and he -- he -- he complied, put his hands up,
13 surrendered and was taken into custody.

14 Q Okay. And do you recall any comments being made?

15 A No, sir.

16 Q Okay. And where did you take him?

17 A I -- he was taken and placed in another vehicle, and I
18 don't know where he went to from there. I walked back to
19 the -- to the -- to this residence.

20 Q Okay. So as far as you know he was transported to --

21 A Yes. He was transported away.

22 Q How much longer were you on the scene?

23 A I was there until, I would say, 5:00, 6:00 in the
24 morning.

25 Q Why were you there so long?

Brian Ezell

Direct examination by Mr. Bulsa

1 A Because the other suspect was still in the house
2 and -- and wouldn't respond or come out.

3 Q What was employed to get him out?

4 A Our -- our SWAT team was activated and they -- they
5 surrounded the house with us on the perimeter. They used
6 that explosive breach on the front door, and after they
7 breached the front door he came out and surrendered.

8 Q Did you do any search of the area, the outside area?

9 A Well, what do you mean?

10 Q Did you look for any vehicles?

11 A I wasn't looking particularly for any vehicles, but
12 the path that I ran from the back of the house into the --
13 into this neighborhood back here, I ran by a building that
14 was back there that had a vehicle parked by it.

15 Q Okay. Did it appear to be out of place?

16 A Yes, sir.

17 Q And is that -- is the general location identified on
18 State's 85?

19 A It's hard to tell from the -- from the perspective of
20 this -- of this picture, but I believe that that right
21 there is probably the building that it was.

22 Q Okay. This wasn't taken the day of the incident.

23 A No.

24 Q Could you estimate how far that is off the road?

25 A I would say it's about a hundred to 125 yards maybe.

Brian Ezell
Cross-examination by Mr. Moore

1 Q Did there appear to be any direct path to that -- that
2 location where the car was?

3 A No.

4 Q Okay. From your presence there on the scene was it
5 visible from the road?

6 A No. It's not.

7 Q Okay. All right. Was another officer called in to
8 photograph the area?

9 A Yes. She was.

10 Q Is that Officer Nelson?

11 A Yes, it is.

12 Q So she would have documented with pictures and --

13 A Yes. She documented the area around the house and all
14 of that as per our policy and procedure for a SERT or SWAT
15 deployment.

16 Q Okay. Thank you, sir. That's all I have. Answer any
17 questions Mr. Moore has.

18 CROSS-EXAMINATION

19 BY MR. MOORE

20 Q Just to clarify. Mr. Cash didn't make any comments or
21 statements when he was arrested?

22 A Not that I remember, no.

23 MR. MOORE: No other questions, Your Honor.

24 MR. BULSA: Nothing further.

25 THE COURT: You may step down.

Tracy Nelson
Direct examination by Mr. Bulsa

1 MR. BULSA: Your Honor, we'd ask that he be excused.

2 MR. MOORE: Without objection, Your Honor.

3 THE COURT: You may be excused. Thank you.

4 (Whereupon, the witness was excused.)

5 MR. BULSA: The state calls Tracy Nelson.

6 TRACY NELSON, having been
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BULSA

9 Q Good morning.

10 A Good morning.

11 Q Please introduce yourself to the jury.

12 A I'm Tracy Nelson. I'm with the Guilford County
13 Sheriff's Office in our crime scene investigative unit.

14 Q How long have you been with that unit?

15 A Seventeen years, sir.

16 Q So were you called to this location on Randleman Road?

17 A Yes, sir.

18 Q Approximately what time did you arrive?

19 A It was around 0600, about the time I checked on for
20 duty.

21 Q Had both men already been arrested?

22 A That's my knowledge, yes, sir.

23 Q And why were you called to that scene?

24 A Any time our SERT does forced entry to apprehend any
25 suspects we're called out and we photograph it and document

Tracy Nelson
Direct examination by Mr. Bulsa

1 it and do overalls for -- to document what we've done and
2 for SERT to use for training just to make sure that they're
3 doing everything tactically correct and -- and stuff for
4 their safety, so.

5 Q Just so the jury understands, what does SERT mean?

6 A Our sheriff's emergency response team.

7 Q Was some of them still on the scene when you arrived?

8 A There were at the staging area at a church at the
9 corner of, I think it was, Burnett's Chapel and old
10 Randleman Road.

11 (Photographs marked State's Exhibits Nos. 76 through
12 101.)

13 Q Okay. I have a series of photographs, State's
14 Exhibits 86 through 101. Would you review those? And I am
15 going to go through them briefly.

16 A Okay.

17 (Pause.)

18 Q Are those the photographs you took?

19 A Yes, sir.

20 Q I'm going to show to the jury State's -- got the
21 aerial photograph. That's State's 86. Describe the view
22 if you could.

23 A Just was just from Old Randleman Road. It was just
24 the street view facing the residence that SERT did the
25 apprehension.

Tracy Nelson
Direct examination by Mr. Bulsa

- 1 Q Okay. And State's 87. A closer view?
- 2 A Yes, sir.
- 3 Q And now State's 88. What view is that?
- 4 A That is if you're standing facing the residence,
- 5 that's to the right.
- 6 Q Did that appear to be the parking area?
- 7 A Yes, sir.
- 8 Q State's 89. What view are we seeing there?
- 9 A That's also the -- the residence but going towards the
- 10 left side.
- 11 Q Okay. Is that the front or the back of the house?
- 12 A That is going to be the back of the house.
- 13 Q Okay. We see some tire marks. Do you have any idea
- 14 what those belong to?
- 15 A No, sir.
- 16 Q State's 40. What view is that?
- 17 A That is in the back yard. The house on the left, I
- 18 believe that one was the -- the suspect house or the house
- 19 that SERT was at. And the house on the right is just
- 20 taking a view from that angle.
- 21 Q So, basically, it'd be a different angle. This shows
- 22 one way and this shows the other.
- 23 A Yes, sir.
- 24 Q Okay. Now, State's 91. What is that perspective?
- 25 A It's stating instead of going at an angle it's

Tracy Nelson
Direct examination by Mr. Bulsa

1 directly to the right from the same position I was just in.

2 Q sort of kinda coming around.

3 A Yes, sir.

4 Q That's State's 92.

5 A That's continuing to go in a clockwise direction, just
6 taking overall pictures.

7 Q Okay. And we see -- clearly see a building to the
8 right of this picture.

9 A Yes, sir.

10 Q What do we see towards the woods?

11 A There was another shed or an enclosed building a
12 little further back in the woods.

13 Q And State's 93. would that be that same building?

14 A Yes, yes, it would.

15 Q Okay. All right. State's 94 is a different
16 perspective. Where would that have been taken?

17 A It's just a little further in the -- in the wood line
18 to show where I was standing, kind of a half way point to
19 where the -- the residence was and where the shed was
20 behind me.

21 Q Okay. State's 95.

22 A This is going to be another -- another view, just a
23 little.

24 Q So the building we see in that one is not the same, in
25 93 -- is that the same one we see in 95?

Tracy Nelson
Direct examination by Mr. Bulsa

- 1 A No, sir. There were multiple --
- 2 Q Okay.
- 3 A Multiple buildings on the property.
- 4 Q Now, State's 96. Is that the building that we would
- 5 have seen in State's 93?
- 6 A Yes, sir.
- 7 Q Okay. What do we see behind that building?
- 8 A I was informed that there was a -- a vehicle that
- 9 belonged to one of the suspects that they had apprehended
- 10 from that location that was parked behind there that had
- 11 South Carolina tags that needed to be documented.
- 12 Q State's 97. It's a closer view. And State's 98. Did
- 13 you do anything with that vehicle?
- 14 A I photographed the exterior of the vehicle, and then I
- 15 secured the vehicle with crime scene evidence tape and
- 16 initialed, dated and photographed that I secured the
- 17 vehicle prior to it being towed to Bobby's Towing.
- 18 Q Go to another picture, State's 75. Would that be the
- 19 same vehicle?
- 20 A It appears to be. I didn't take that photo, sir, so.
- 21 Q Does it show evidence tape on it?
- 22 A Yes, sir.
- 23 Q Okay. Is that how you would have sealed it up?
- 24 A Yes, sir.
- 25 Q Okay. State's 99. Just a different perspective of

Tracy Nelson
Direct examination by Mr. Bulsa

1 the residence, is that correct?

2 A Yes, sir.

3 Q What do we see out in the front yard?

4 A I believe that's the -- it's either the frame to one
5 of the windows or a piece of the door where they raked and
6 broke out the windows. And then they used the explosive
7 to -- to breach the front door.

8 Q Okay. State's 100. Is that the porch area of that
9 trailer?

10 A Yes, sir.

11 Q Okay. And you see damage to the door?

12 A Uh-huh.

13 Q State's 101. What does -- what does that show us?

14 A That's standing on the front porch, and that's just a
15 photo straight into the -- the living room. You can the
16 front door that's maybe about 10 feet inside the door.

17 Q Okay. All right. Did you have any contact with
18 either suspect?

19 A No, sir.

20 Q Okay. So your job was to document and collect.

21 A Yes, sir.

22 Q Okay. All right. Thank you. That's all I have.

23 Answer any questions Mr. Moore may have.

24

25

Tracy Nelson
Cross-examination by Mr. Moore

1 CROSS-EXAMINATION

2 BY MR. MOORE

3 Q Did you just testify that you did not personally find
4 the car behind the shed?

5 A No, sir.

6 Q You did find the car?

7 A I did not discover the car behind the shed. I was
8 informed when I got on scene that units that were out
9 there -- and I can't tell you. It could be one of the SERT
10 guys -- the detective -- that there was a vehicle that they
11 needed photographed.

12 Q To your knowledge had anybody been in the vehicle --
13 law enforcement personnel -- prior to your arrival?

14 A Prior to Guilford County Sheriff's Department, nobody
15 to my knowledge had entered the scene from the time we
16 arrived for the SERT call-out until the detectives from
17 Spartanburg entered the vehicle.

18 Q And you personally put the, I guess, tamper resistant
19 or evidence tape on the vehicle?

20 A Yes, sir.

21 MR. MOORE: No further questions, Your Honor.

22 MR. BULSA: We have nothing further.

23 THE COURT: You may step down. Thank you.

24 MR. BULSA: We ask she be excused.

25 MR. MOORE: Without objection, Your Honor.

Angela Ross
Direct examination by Mr. Bulsa

1 THE COURT: She may be.

2 (Whereupon, the witness was excused.)

3 MR. BULSA: Your Honor, may we approach?

4 THE COURT: Yes.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 MR. BULSA: The state calls Angela Ross.

8 ANGELA ROSS, having been first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. BULSA

11 Q Ma'am, please introduce yourself to the jury.

12 A My name is Angela Ross. I am Drew -- Jason Cash's
13 mom.

14 Q You call him Drew, right?

15 A Yes, I call him Drew.

16 Q Did you raise him, ma'am?

17 A No.

18 Q Where are you living now?

19 A Now I'm living on [REDACTED] Highway 11, Campobello.

20 Q Did you ever stay with Drew's mother, Emma?

21 A I've spent the night. I haven't lived there, no.

22 Q Drew and Nicole were staying with her back when this
23 happened?

24 A Yes.

25 Q You learned about this incident sometime later,

Angela Ross
Direct examination by Mr. Bulsa

1 correct?

2 A I found out about it. I don't know if they had caught
3 him or not, but it was right -- you know, as soon as my
4 family found out I was told.

5 Q Okay. And are you familiar with the Flynn Road
6 property?

7 A I -- I know it was a rental place, but I've never, you
8 know, been there. I've been over on that road, but, you
9 know, I know it exists.

10 Q You married into the family, right?

11 A Yes, I did.

12 Q And you and Clifford got divorced?

13 A Yes.

14 Q Now, you struggled with your son while he's been in
15 jail?

16 A Every day unless, you know -- usually every day.
17 Some -- some days I don't get to, but I might be out of
18 GlobalTel or maybe, you know, for some reason he just
19 didn't get to call me that day. But we try to every day.

20 Q Did he tell you why he went to North Carolina?

21 A Are you talking about when him and Steven got -- were
22 caught? Is that when you're talking?

23 Q Yes, ma'am.

24 A He might have -- he might have did but -- but I -- I
25 don't remember, but he might have.

Angela Ross
Direct examination by Mr. Bulsa

- 1 Q Let me ask you. Did you recall him telling you that
2 he went up there for some sort of job?
- 3 A Yeah. You -- are you saying that they had, when they
4 got caught up there that he was supposed to have had a job
5 in Charlotte?
- 6 Q I'm asking you, ma'am.
- 7 A That's all I can remember about a job part, is a job
8 in Charlotte.
- 9 Q Okay. And did he tell you about running from the
10 police?
- 11 A You mean ran on foot?
- 12 Q Yes, ma'am.
- 13 A I think so, but I couldn't -- I think so, but I
14 wouldn't be able to tell you the words that were said
15 because I kind of remember it, but I'm not sure, you know.
16 I wouldn't have remembered it if you wouldn't have said it.
- 17 Q Okay. Well --
- 18 A I've heard so much.
- 19 Q He talked to you about having a job in Charlotte, but
20 he was in Greensboro, is that right? Do you know how far
21 that is apart?
- 22 A Not really.
- 23 Q And yet when the police went there he ran from them.
24 Is that what he told you?
- 25 A Well, the thing is I can't remember what, you know,

Angela Ross
Direct examination by Mr. Bulsa

1 Drew has told me and what -- look, I've been told things
2 from -- because, you know, I was away at the time. So I've
3 been told things from Drew, and I've been told things from,
4 you know, this person and that person and that person, I
5 mean, you know, different bits and pieces. So I can --
6 might tell you something, but I might not be able to tell
7 you who -- who told me. So when you ask me who told me,
8 you know --

9 Q Okay. Well, the only person that would be able to
10 tell you about why he was in North Carolina was him, right?

11 A I remember about the job in Charlotte and I know that
12 he ran from the police. I did know that, but I don't
13 remember if he told me he ran from the police.

14 Q Would you like for me to play a phone call to refresh
15 your memory?

16 A I mean, you can, because I really don't remember it.

17 Q While that's warming up, do you remember the defendant
18 asking you about a certain individual named Jay?

19 A Yeah. I know Jay.

20 Q And did the defendant ask you to consider approaching
21 Jay about coming up with an alibi for him?

22 A He asked me to talk to Jay, but, I mean, I never asked
23 Drew what he told me -- you know, when he told me. I -- I
24 never asked him if that was true or not. I just know that
25 he asked me, you know, to talk to Jay.

Angela Ross
Direct examination by Mr. Bulsa

1 Q Did he ask you to find Jay and get Jay to come to
2 court and say that Drew was with Jay the night of this
3 incident?

4 A Yes. I remember that.

5 Q Okay. And you know that to be false, right?

6 A Like I said, I -- I did not ask Drew if that was true
7 or not. I just know that he told me he wanted me to talk
8 to Jay about an alibi for that night.

9 Q So he wanted you to fabricate an -- help him fabricate
10 an alibi on his whereabouts the night these -- this crime
11 occurred.

12 A He wanted me to go to Jay and say -- and talk to Jay
13 about saying that he was with him. I didn't say, "Son, is
14 that a lie?" I just -- you know, that's my child, so I was
15 going to do what he asked me. I did not ask if it was a
16 lie or not. Maybe I didn't --

17 Q Okay. Well, would you like me to refresh your memory
18 with that phone call?

19 A I mean, I do remember that. He told me to ask Jay
20 about, you know, saying he was with him.

21 Q Do you have any difficulty remembering the
22 circumstances?

23 A No. I remember the conversation. I remember it.

24 Q Okay. Then please answer it then.

25 A Okay.

Angela Ross
Direct examination by Mr. Bulsa

1 Q Isn't it true he wanted you to get Jay, or at least
2 talk about it with you to get Jay, to come to court and say
3 that he couldn't have been at the crime scene because he
4 was with me?

5 A Yeah. He said to ask Jay to come and say that they
6 were together because, yeah. Like I said, I didn't say was
7 it really true. I just know he said will you go ask Jay to
8 say that we were together. Yes. He did.

9 Q The point is he's trying to get his mama to help him
10 tell a lie to the jury. That was the essence of that
11 discussion, wasn't it?

12 A If it wasn't true, then that was -- so that may be why
13 I didn't ask him if it was true or not. It was my son. I
14 didn't want to know. I just did -- was going to do what he
15 asked.

16 MR. MOORE: Your Honor, I'm going to object to the
17 playing of this. We would like to be heard outside of the
18 jury about it.

19 THE COURT: All right. Let me ask the jury to please
20 go to your jury room. I'll address this issue and bring
21 you back in a few minutes.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: Mr. Bulsa, can you identify the call and
25 the day and the time so we can discuss it?

Angela Ross
Direct examination by Mr. Bulsa

1 MR. BULSA: Yes, sir. This call is from September the
2 15th of 2015, the defendant talking to his mother, Angela.

3 THE COURT: And the purpose?

4 MR. BULSA: This is -- this is referencing the flight,
5 the flight from the police in North Carolina that she had
6 trouble recalling.

7 THE COURT: All right. Mr. Moore do you have an
8 objection?

9 MR. MOORE: Yes, sir, Your Honor.

10 I understand that Mr. Bulsa wants to get as many of
11 these phone calls in front of the jury as possible and I
12 understand he's allowed to refresh the witness'
13 recollection.

14 We've heard some testimony. But I believe she's
15 already answered the question. She recalls talking
16 about -- with him about fleeing. She recalls talking to
17 him about this alibi. She's acknowledged that in her
18 testimony.

19 I don't believe it's necessary for him to continue to
20 play these calls when she's already acknowledged it on
21 direct examination.

22 THE COURT: All right.

23 MR. BULSA: I actually asked her if she wanted me to
24 refresh her memory with it, and she acknowledged yes. And,
25 number two, I'm not sure that that's the sole way I can get

Angela Ross
Direct examination by Mr. Bulsa

1 this into evidence, because it's a statement by his client
2 against his interest. But I just want to play it through
3 the mother so she can explain it.

4 THE COURT: What's the -- what's the length of this
5 call?

6 MR. BULSA: This call is two minutes, about two
7 minutes.

8 THE COURT: Two?

9 MR. BULSA: Yes, sir.

10 THE COURT: Anything else?

11 MR. MOORE: Just briefly.

12 I'd say, you know, generally I think it's more
13 prejudicial than it is probative. It doesn't go to any of
14 the elements of the offense they're trying to prove of
15 whether he ran from police in North Carolina. And I
16 don't -- I don't think that outweighs the prejudicial
17 effect by allowing it.

18 THE COURT: Mr. Bulsa, am I understanding your -- your
19 position is that this is a statement against interest
20 provided by the defendant to his mother?

21 MR. BULSA: Yes, sir.

22 THE COURT: Okay. Overrule the objection.
23 Bring them back.

24 (The following takes place in the presence of the
25 jury.)

Angela Ross
Direct examination by Mr. Bulsa

1 THE COURT: Jury is present. You may proceed.

2 Let me ask the jury. When these calls are being
3 played if for some reason you don't hear it or cannot hear
4 it or understand it, let me know. We'll try to make
5 arrangements to be certain that you can hear it.

6 BY MR. BULSA

7 Q Ma'am, this is September the 15th of 2015. I believe
8 it's one of the first conversations you had with your son
9 while he was at the jail.

10 THE COURT: Mr. Bulsa, you might use that microphone
11 too for that.

12 (Whereupon, the C.D. was played for the jury.)

13 Q Is that your son?

14 A That's his voice.

15 Q Do you recall him telling you that?

16 A Honestly, that's been, what, a year and a half ago?
17 And that is our voices.

18 I do not remember that conversation because, you know,
19 that it still hadn't been long since all of this happened.
20 And, you know, I'm his mother, and I was so upset that I
21 could just maintain, barely maintain, myself not to break
22 down on the phone, you know, talking to him.

23 So that is our voices, and I remember a little bit of
24 it, but I -- I still don't remember having that
25 conversation with him. I don't.

Angela Ross
Direct examination by Mr. Bulsa

1 Q Are you aware that your daughter, Nicole, gave a
2 statement to the police?

3 A That she -- now, what?

4 Q She gave a statement to the police.

5 A Yes. I'm aware of that.

6 Q About this incident.

7 A I'm aware of that.

8 Q And you're aware that the state is seeking to serve
9 her with a subpoena.

10 A Yes.

11 Q And are you aware that she was hiding out from the
12 state?

13 A She wasn't hiding. She just -- was it -- just was
14 staying here and there. I mean, she was doing that anyway,
15 but she wasn't purposely hiding.

16 Q Do you recall having conversations with your son about
17 her not coming to court?

18 A I do.

19 Q Okay. And he was encouraging you to encourage her not
20 to come to court, isn't that true?

21 A Yes. But there's a reason for that.

22 Q Okay.

23 A I'm not saying I -- I went along with it. I mean, I'm
24 saying I didn't -- I'm not saying I agree with that. I'm
25 just saying, yes, sir, I remember the conversations,

Angela Ross
Cross-examination by Mr. Moore

1 and-but the reason for that is because when Nicole give her
2 statement the day that it happened --

3 Q Now, you can't explain Nicole's statement because you
4 weren't there, were you?

5 A Right. But I can explain what Nicole has told me.

6 Q No. She'll be testifying after a while.

7 A Okay. Well, then --

8 Q What my question is is it was -- it's the defendant's
9 actions trying to get his mother to keep his sister from
10 coming to court. Isn't what he was doing?

11 A Yes.

12 Q Okay. Thank you, ma'am.

13 MR. BULSA: That's all I have.

14 CROSS-EXAMINATION

15 BY MR. MOORE

16 Q Based off these conversations do you know why Mr. Cash
17 didn't want his sister subpoenaed?

18 A Yes.

19 MR. BULSA: Your Honor, I don't know that she can go
20 into the defendant's state of mind. Your Honor, I think
21 that would be hearsay.

22 THE COURT: Well, it's part of the context that you
23 went into. She can testify to what he said, not what
24 anybody else said.

25 Q Answer the question.

Angela Ross
Cross-examination by Mr. Moore

1 A Okay. By what he said, why he wanted?

2 Q Uh-huh.

3 A Because Nicole had been up for days during that time
4 and --

5 MR. BULSA: Objection, Your Honor. He doesn't have
6 foundation for that. She's now getting into what Nicole
7 was saying.

8 THE COURT: I do sustain that objection.

9 He can't base -- the statement can't be based upon
10 hearsay. That'd be double hearsay. So if he's telling her
11 what somebody else told him, then that's still hearsay.

12 MR. MOORE: Yes, sir.

13 THE COURT: But she's going to testify as I understand
14 it.

15 (Pause.)

16 MR. MOORE: No further questions, Your Honor.

17 THE COURT: You may step down.

18 MR. BULSA: May we break for lunch at this time?

19 THE COURT: All right. We'll break for lunch.

20 Keep in mind the cautions previously given. No
21 discussions, no media exposure, no research, no
22 investigation.

23 Do have a good lunch. Please report to your jury room
24 at 2:00 o'clock, 2:00 o'clock this afternoon. Have a good
25 lunch.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: Court is in recess until 2:00 o'clock.

4 (Whereupon, a recess was taken.)

5 THE COURT: Ready for the jury?

6 MR. BULSA: Yes, sir.

7 MR. MOORE: Yes, sir.

8 THE COURT: Bring them in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good afternoon, ladies and gentlemen.

12 We're going to continue with the state's presentation.

13 MR. BULSA: Your Honor, the state calls Nicole Cash.

14 BRIDGETTE NICOLE CASH, having
15 been first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BULSA

17 Q Ms. Cash, would you introduce yourself to the jury?

18 A Bridgette Nicole Cash.

19 Q What name do you go by?

20 A Nicole.

21 Q How old are you, ma'am?

22 A Twenty-three.

23 Q Are you the sister of Drew Cash?

24 A Yes, sir.

25 THE COURT: Let me ask you to speak up a little

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 louder, please. You can use that black microphone if you
2 need to, but you need to speak up.

3 THE WITNESS: Okay.

4 Q Is he your older brother?

5 A Huh?

6 Q Is he your older brother?

7 A Yes.

8 Q Did you grow up with him?

9 A Yes.

10 Q Who raised you?

11 A My grandparents.

12 Q Sorry. I didn't hear that.

13 A My grandparents.

14 Q What are their names?

15 A Emma and Calvin Cooke.

16 Q Where did you live?

17 A At [REDACTED] Woodland Avenue.

18 Q Do you still live there?

19 A Yes.

20 Q Did Drew live there with you?

21 A Yes.

22 Q Did you know Carey Mauldin?

23 A Yes.

24 Q And did you know Casey Scruggs?

25 A Yes.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 Q How well did you know them?
- 2 A Not too well but well enough as a friend.
- 3 Q Okay. And did your brother know them?
- 4 A Yes.
- 5 Q Did you know Steven Lewis?
- 6 A Yes. Not well.
- 7 Q Did you know his -- what did you know him by?
- 8 A Scooter.
- 9 Q Do you even know his real name?
- 10 A I didn't even know his real name.
- 11 Q What was his relationship with your brother?
- 12 A I don't know if it was associate. I'm not -- I'm not
- 13 too sure.
- 14 Q Was he a friend?
- 15 A I don't think so.
- 16 Q You don't think so. Did he ever come to your house?
- 17 A Yes. One time.
- 18 Q Just one time.
- 19 A As I can remember.
- 20 Q Okay. And do you know where he was from?
- 21 A Greensboro, North Carolina.
- 22 Q All right. Do you know if Drew ever visited him up
- 23 there?
- 24 A No.
- 25 Q Did you?

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 A No.
- 2 Q Did you ever do anything with him?
- 3 A No, sir.
- 4 Q Never did?
- 5 A No, sir.
- 6 Q Didn't drive him anywhere?
- 7 A Went to -- I drove him to work at Charlotte, North
- 8 Carolina, and I was supposed to have dropped him off and
- 9 left him up there.
- 10 Q Is that what you did?
- 11 A No. I couldn't get the car to start. It was a
- 12 straight drive, and I couldn't get it to. I kept choking
- 13 down. So I couldn't get it to leave from up there.
- 14 Q Whose car were you supposed to drive?
- 15 A My brother's.
- 16 Q What kind of car was that?
- 17 A It's a Mazda. I don't know what other type it is.
- 18 Q A little sports car?
- 19 A Yes.
- 20 Q It's a straight drive?
- 21 A Yes, sir.
- 22 Q How did he get that sports car?
- 23 A That I'm not sure. I was -- I wasn't even at home
- 24 around about when he got it. I was pregnant.
- 25 Q You were pregnant?

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 A Yes. I had had my -- I had had my daughter when he
2 had gotten that car, so I was in the hospital. I didn't
3 know.

4 Q So how old is your daughter?

5 A She's two.

6 Q And where does she live?

7 A With the father of my child's mom.

8 Q Okay. And why don't you have custody?

9 A I had chosen to ask her to take care of my child until
10 I get myself taken care of.

11 Q You have issues with drugs?

12 A I had had in the past.

13 Q Okay. Are you telling us you're clean?

14 A Yes, sir.

15 Q Okay. How long?

16 A I have no clue. I just know I go from day to day.

17 Q When was the last time you held a job?

18 A It's been a pretty good while. I been trying -- it's
19 been a while. I'm not sure how long.

20 Q Can you estimate for us?

21 A Maybe a year. I'm not sure.

22 Q Did you have -- have you had a job since your child
23 has been born?

24 A Yes, I have.

25 Q Where was that job?

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 A I had worked -- let's see. I worked at the lab, but
2 I'm not sure. It's -- it's been so long, and I can't
3 remember.
- 4 Q You mentioned a lab. What are you talking about, a
5 lab?
- 6 A I worked at the Greenville Medical Memorial Lab.
- 7 Q When did you work there?
- 8 A I couldn't tell you. I'd have to -- I'd have to look
9 at my books and see.
- 10 Q Is that before you had your child?
- 11 A That was the year I got pregnant.
- 12 Q What's your child's name, by the way?
- 13 A Ava.
- 14 Q Do you have -- do you get visitation with her?
- 15 A Yes.
- 16 Q How much?
- 17 A An hour every two weeks.
- 18 Q An hour every two weeks. Is that through the courts?
- 19 A An hour every week is through the court.
- 20 Q But the grandmother won't let you see her more often?
- 21 A Uh-uh.
- 22 Q Now, are you pretty close to Drew?
- 23 A Yes.
- 24 Q Do you have a high school diploma?
- 25 A Yes.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 Q which school did you graduate from?
- 2 A Chapman.
- 3 Q Did Drew graduate?
- 4 A He's got a G.E.D., graduated in honors.
- 5 Q I'm sorry?
- 6 A Graduated in honors.
- 7 Q who did?
- 8 A My brother.
- 9 Q You said he had a G.E.D.
- 10 A Yes.
- 11 Q That's different than a diploma, isn't it?
- 12 A He scored the highest education level.
- 13 Q Along with G.E.D.
- 14 A Uh-huh.
- 15 Q Okay. All right. Now, you purchased a gun at some
- 16 point, is that not -- is that true?
- 17 A Yes, sir.
- 18 Q Okay. How many guns have you owned in your life, your
- 19 short life?
- 20 A Five maybe.
- 21 Q Five?
- 22 A Maybe. I don't know.
- 23 Q I didn't expect that many. what kind of guns were
- 24 they?
- 25 A A 40, 9mms, .32s, stuff like that.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 Q Okay. At the time the police came to visit you
2 looking for your brother, how many guns did you own at that
3 time?
- 4 A I don't know if it was one or two. I think one when
5 they came, I'd owned one.
- 6 Q And what kind of gun was that?
- 7 A The Kel-Tec 9.
- 8 Q And did the police ask you about that Kel-Tec 9?
- 9 A Yes.
- 10 Q And did you let them look for it?
- 11 A Yes.
- 12 Q Did they find it?
- 13 A No.
- 14 Q Do you know what happened to it?
- 15 A I just know that Steven had it.
- 16 Q Steven had it when?
- 17 A That night.
- 18 Q Okay. Give a little more explanation. That night.
19 what night?
- 20 A The night -- the morning before that they came. It
21 was that night.
- 22 Q Okay. Is this before midnight or after midnight?
- 23 A Before midnight and after midnight. He wouldn't give
24 it back to me.
- 25 Q How is it that he came to be in possession of it?

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 A My gun had gotten pawned off. Carey had it. He told
2 me he was going to give it back to me prior to that
3 wednesday. That wednesday never came.

4 Steven had came to the house with a whole bunch of
5 his -- his goods and basically robbed Casey -- Carey and
6 had my pistol. My pistol was in place, and I asked him to
7 give it back. He said no, he was going to hold onto it
8 because I want to sell it to him, which I didn't want to
9 sell it. I just wanted to, you know, give it back to the
10 pawn shop where I bought it from. And that was it.

11 Q Did your brother, Drew, own a pistol?

12 A No.

13 Q Did you ever know him to own a pistol?

14 A No.

15 Q He's never owned one?

16 A Not that I know of, no.

17 Q Yet you've owned five.

18 A Yeah.

19 Q Okay. So the only time Steven or Scooter came to your
20 house was the same night he had your gun?

21 A Do what, now?

22 Q You said -- you told us Scooter only came to your
23 house one night -- one time, right?

24 A It might have been twice. I mean, I'm not sure. Once
25 or twice because he had came that night.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 Q Okay. At least on this last occasion -- or is that
2 the last occasion that you saw him, was on that evening?

3 A That night when he had came with all of the stuff, he
4 had to go to work and the next day or that day prior -- I'm
5 not sure. And I was supposed to take him and drop him off,
6 leave him up there and come back.

7 Q But you weren't able to do that.

8 A No, because I kept choking down.

9 Q Okay. Was that the -- was it the next day after that
10 that the police came looking for Drew?

11 A Yes, it was the next day after -- after that.

12 Q Okay. While Mr. -- while Scooter was at your house
13 with your brother did y'all have a conversation or did they
14 have a conversation about something?

15 A About? Be more specific.

16 Q Robbing somebody.

17 A Steven did. He had mentioned that he was going to --
18 wanting to rob Carey again, and Drew said, "No, Man, that's
19 not why we're here." You know, he didn't want that to
20 happen and went on into detail explaining about how he had
21 gotten robbed, Drew himself had gotten robbed, basically,
22 to say, you know, don't rob this person because I just got
23 robbed, this is what happened with me, and went on detail
24 about that, so.

25 Q Okay.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 A So other than that, I don't, you know.

2 Q Now, do you remember when the police came over first
3 and were asking about your gun they started asking you also
4 about your brother?

5 A what do you mean?

6 Q When the police came over asking you where your gun
7 was and it was gone weren't they looking for Drew?

8 A No. They were looking for my pistol.

9 Q Okay. They couldn't find your pistol. Did they ask
10 you where Drew was?

11 A I can't remember.

12 Q You can't remember. Did you have a -- did you have a
13 conversation with Officer Norris?

14 A Yes, I did.

15 Q Okay. That was the same day that they were looking
16 for your pistol, right?

17 A Uh-huh.

18 Q Okay. And the police, basically, just asked you some
19 questions, and you told them about Drew and Scooter talking
20 about robbing Carey and Casey, is that right?

21 A Well, Steven had mentioned that he was going to rob
22 Casey and Carey again, and Drew, you know, said, no,
23 because that was his only heroin dealer. He didn't want to
24 lose that connection, because then he'd be sick.

25 Q I understand. You've said that. I'm asking you what

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 you told the police.

2 A What I told the police was different.

3 Q You told this police officer that your brother was
4 going to rob Carey.

5 A Yes. I told -- I told the police different due to me
6 being under the influence, and I was interrogated for seven
7 hours straight. I mean, my head wasn't in the right place
8 at that time.

9 Q Okay. Did you tell Investigator Norris on May
10 22nd that your brother was going to go rob Carey?

11 A Yes, I'd said that to the officer that day, yes.

12 Q Okay. And did you tell Officer Norris that your
13 brother said he would -- should put them on their knees and
14 shoot them in the head?

15 A Yes, I told him that day, yes, I did. I said that.
16 That was a mixup from where the whole thing came, like.

17 Q How in the world is that a mixup from your brother
18 saying don't rob somebody?

19 A Because when somebody's being interrogated for seven
20 hours straight and under the influence of drugs, their head
21 ain't thinking clearly. I mean, they are basically hopping
22 in and out of what to be, a conversation, and telling that
23 an officer that it sounds twisted and messed up. Yes. It
24 does.

25 Q Okay. Now, this conversation was recorded.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 A Yes, sir. It was.

2 Q True? I mean, we gave you the decency of playing that
3 recording to you, did we not?

4 A Yes, y'all did.

5 Q Okay. And did you sound messed up in that recording?

6 A My voice -- yeah. I can hear it in my voice.

7 Q Okay.

8 MR. BULSA: Your Honor, I would like to publish that
9 statement if I may. It's on audio.

10 MR. MOORE: Your Honor, I object to it. I mean, she's
11 already acknowledged that she said the things that are on
12 the statement. I'm not sure what the purpose of it will
13 be.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 THE COURT: Overrule the objection.

17 (C.D. marked State's Exhibit 102.)

18 (Whereupon, the C.D. was played for the jury.)

19 Q Nicole, you didn't want to come to court, did you?

20 A I mean, to be honest with you, I mean, no, because of
21 misunderstanding like this, there ain't no way to
22 understand it. Do you get what I'm saying?

23 Q And, in fact, you were trying to avoid being
24 subpoenaed, weren't you?

25 A Well, I mean, I wasn't trying to avoid nothing because

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 I didn't know I was getting subpoenaed.

2 Q And your brother was trying to get you to leave your
3 grandmother's house so you couldn't be found, isn't that
4 true?

5 A No. He just -- it was more of the fact of I didn't
6 know I was getting subpoenaed.

7 Q When you actually got subpoenaed your brother was very
8 upset with you.

9 A No. I wouldn't call it upset. It was more along the
10 lines of, you know, oh, you got subpoenaed, you know. I
11 don't really, I mean, being -- I mean, you can clearly see
12 or hear my -- hear that I was -- I was confused in that --
13 I was confused. I didn't know -- I mean, I was just -- my
14 head was messed up. You can clearly hear that, I mean.

15 Q Do you remember me playing a jail call for you just a
16 few minutes ago --

17 A Yes, I remember.

18 Q -- where your brother was upset with you --

19 A Yeah, I mean, yeah.

20 Q -- because you were still in the house and got
21 subpoenaed?

22 A I mean, yeah. He was upset, yes. He was upset, yes.

23 Q Because you got subpoenaed.

24 A I mean, if that's what you want to call it, yes.

25 Q Isn't that what he said? Because you were supposed to

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

1 leave the house and not be there to be subpoenaed?

2 A Right. Okay.

3 Q You wouldn't be here if you weren't subpoenaed, would
4 you?

5 A Okay. I mean, honestly, like I said, misunderstanding
6 like this can't be fixed, so I can't. It's hard to fix
7 something when it sounds so messed up when it's not really
8 what it is. It's a big misunderstanding.

9 Q In fact, you didn't even come when you were
10 subpoenaed, did you?

11 A I told y'all I'd hurt my foot.

12 Q And you were instructed to come to court the next day
13 by 10:00 o'clock and you did not.

14 A I overslept. I'd overslept, yes.

15 Q In fact, the police had to go pick you up and bring
16 you here.

17 A Yes, sir. They did.

18 Q Okay. Now, after you were subpoenaed you were given
19 an opportunity to come and see me and speak with me about
20 this confusion you're now testifying to, is that right?

21 A Right, yes, sir.

22 Q And you didn't do that, did you?

23 A No, sir. I'd overslept.

24 Q In fact, but I gave you the decency of meeting with me
25 just before court, didn't I?

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 A You did, but our conversation we had out there was a
2 little bit -- you know, I guess a little threat was made
3 towards me about --
- 4 Q Who made a threat towards you?
- 5 A I mean, you did, sir.
- 6 Q You say I made a threat towards you?
- 7 A It was --
- 8 Q What was that threat?
- 9 A It was more along the lines of I had mentioned that I
10 would also take a lie detector test. You told me that --
- 11 Q Ma'am, I'm talking about the conversation we had in
12 the jail where I played this interview for you.
- 13 A Oh, okay. I thought you was talking about the day
14 before. Sorry.
- 15 Q There was no threat made to you.
- 16 A I felt like there was a threat made to me because I
17 wasn't given the chance to do something.
- 18 Q We were providing you with an opportunity, a time to
19 come in and speak with us. Weren't we?
- 20 A Okay. But you -- you was making it towards like I'm
21 going to let you tell your side but, you know, I'm not
22 going to believe you no ways but I'm just going to let you
23 tell it, you know, just to tell it. So it kinda made me
24 feel, you know, in other words, that you're trying to say,
25 you know, kind of made me feel like, okay, well, what would

Bridgette Nicole Cash
Cross-examination by Mr. Moore

1 be the point if you didn't, you know, believe anyway,
2 wouldn't even give me a chance.

3 Q So you're now saying you didn't come in because of
4 that --

5 A No. I was --

6 Q -- or because you overslept?

7 A No. I was just saying that I'd overslept, but that
8 was also another --

9 Q Okay.

10 A -- reason.

11 Q All right. Thank you, ma'am.

12 MR. BULSA: That's all I have.

13 CROSS-EXAMINATION

14 BY MR. MOORE

15 Q So your testimony today is that the statement that was
16 just played, at that time you were under the influence of
17 drugs?

18 A Yes, sir.

19 Q What drugs were those?

20 A Roxies and Xanax bars.

21 Q How often were you doing drugs at that time?

22 A Every day, any chance I could.

23 Q Where did you get your drugs from?

24 A Bought them off the street.

25 Q What was your relationship with Carey Mauldin? Did

Bridgette Nicole Cash
Cross-examination by Mr. Moore

1 you have any relationship with him?

2 A Just a friend.

3 Q Have you been to his house?

4 A Yes, sir.

5 Q How often?

6 A Not that often. Just here and there every once in a
7 while.

8 Q Did you have a relationship with Casey Scruggs?

9 A Just friend-wise.

10 Q You call her a friend?

11 A Yes, sir.

12 Q How often do you see her like in an average week?

13 A There was, I don't know, a couple of times out of the
14 week.

15 Q Was she with you when you purchased that Kel-Tec?

16 A No, sir, no, sir. You're not allowed to -- actually,
17 you're not allowed to be with somebody when you purchase a
18 handgun. That's by -- that was the rule.

19 Q So you were by yourself when you purchased it?

20 A Yes, sir.

21 Q So your testimony is today that you're no longer under
22 the influence of any drugs.

23 A Right. I'm not under the influence at all.

24 Q You're not using any drugs.

25 A No, sir.

Bridgette Nicole Cash
Cross-examination by Mr. Moore

1 Q So when you gave that statement you were under the
2 influence of drugs, but today you're saying you're not
3 under the influence of drugs. Do you recall the
4 conversation that happened in the basement?

5 A Yes, sir, I can remember it. Yes.

6 Q You remember it. What was it?

7 A Here and there, I mean, you know.

8 Q Tell --

9 A I mean, I was under the influence then too.

10 Q I understand. So you're saying the fact that you're
11 under the influence then you can't remember it?

12 A Kind of, yeah.

13 Q Okay. Can you tell us what you do remember?

14 A I just know that Steven was determined to rob Casey
15 and Carey again, and Drew didn't -- you know, that was --
16 that being his heroin dealer, he didn't want that to
17 happen, because then he would -- couldn't get -- couldn't
18 get it from nobody else, you know.

19 And I know he -- that night he also explained how he
20 got robbed and it -- it's just not good to rob -- you know,
21 to rob people.

22 And Steven was wiping off the bullets, and I just
23 asked him why. And he had said -- Steven said something
24 about, well, see your fingerprints aren't on here. And
25 that's pretty much all I can remember.

Bridgette Nicole Cash
Cross-examination by Mr. Moore

1 Q At any point during any of this investigation were you
2 ever threatened by anybody? I'm not talking necessarily
3 law enforcement. I mean, law enforcement, did they
4 threaten you at any time?

5 A Yes, they -- they did. They threatened me the morning
6 of that investigation.

7 Q What did they say?

8 A They were threatening me saying that I would never see
9 my daughter again, telling me that -- that I was involved
10 and I'd F'd up. And they said that -- saying all kinds of
11 stuff like that. And I didn't know that they -- what they
12 were talking about. They were being rough with me. And --
13 and I kept saying I didn't know, because I didn't know what
14 was going on.

15 And they kept on from 11:00 o'clock that morning --
16 from 7:00 -- from 7:00 o'clock that night right before I
17 had spoken to Mr. Norris and gave that statement. And
18 it -- it messed with my head. It did, because I didn't
19 know what was going on.

20 And then I'm really under the influence, and for that
21 to be happening, I didn't know what -- what I would -- what
22 I had said to Mr. Norris. It was tuning in and out of
23 conversations, and it didn't set -- that's why it don't.
24 It was wrong, and I didn't want to go with a statement of
25 that being a lie. You know, that's why I wanted to fix

Bridgette Nicole Cash
Redirect examination by Mr. Bulsa

1 that, because that -- that was a lie.

2 Q Did you just say what you thought they wanted to hear?

3 A Huh?

4 Q Did you just say what you thought they wanted to hear?

5 A Yeah, because they had told me prior to that that
6 he -- they was telling me that you F'd up, you was involved
7 in such a, you know, crime that was horrible. And -- and
8 I'm like what are you talking about. I didn't know what
9 they were talking about. And then they were basically
10 filling my head with stuff that I didn't even know. I
11 didn't even -- I had no clue.

12 Q So your testimony today here under oath --

13 A It's the -- it's the truth, and I spoke the truth.

14 Q And the statement you just heard played in your own
15 words, that is not the truth.

16 A Right.

17 Q So you lied to the police that day.

18 A Yes, sir. I did.

19 MR. MOORE: No further questions.

20 REDIRECT EXAMINATION

21 BY MR. BULSA

22 Q Nicole, did you see your brother that morning before
23 he left for North Carolina?

24 A No, sir.

25 Q Huh?

Bridgette Nicole Cash
Redirect examination by Mr. Bulsa

- 1 A No, sir.
- 2 Q Okay. Were you on the phone with him when the police
3 first arrived?
- 4 A Yes, sir, yes.
- 5 Q Okay. And what did you do with the phone when the
6 police arrived?
- 7 A I put it in my bra.
- 8 Q Did you turn it off?
- 9 A No.
- 10 Q And you did that to allow Mr. -- your brother to hear
11 what was going on?
- 12 A Yeah. I knew that there was something wrong.
13 And Drew kept telling me to go to the door. Steven did not
14 want me to go to the door. And Drew was hinting around
15 that there's something wrong, please go to the door. And
16 eventually I had went to the door.
- 17 Q Okay. So you're testifying today that Drew wanted you
18 to cooperate with the police.
- 19 A Yes. He wanted me to go to the door.
- 20 Q He wanted you to cooperate with the police. All
21 right. Now, you didn't know what happened, did you?
- 22 A Uh-uh, no, sir.
- 23 Q And the police didn't tell you what happened, did
24 they?
- 25 A Not necessarily, no.

Bridgette Nicole Cash
Redirect examination by Mr. Bulsa

1 Q They just told you this was a serious matter and
2 somebody got hurt, is that right?

3 A Yes, sir.

4 Q Okay. You're trying to tell this jury that it then
5 took you seven hours before telling the police --

6 A They were there for --

7 Q -- what you knew?

8 A -- receiving stolen goods that they had said prior to
9 that. They never mentioned nothing about somebody was
10 injured until I was talking with Mr. Norris at 7:00 when my
11 statement was made.

12 Q Okay. But Drew wanted you to cooperate. The police
13 told you it was a serious matter. And you're telling us it
14 took you seven to eight hours before you finally told this
15 story that we just heard, right?

16 A Right. It took seven hours because I -- because, see,
17 they kept telling me that I was involved in a serious
18 crime. And I didn't -- I didn't know.

19 I was up prior to that. I was up for a few days. I
20 was -- I was smoking meth and I was up for a while. I had
21 taken Xanax, I'd taken some Roxies and I've only two
22 hours of sleep. So when it hits someone like that you
23 really don't know what's going on. You really can't really
24 remember nothing.

25 Q You were anxious because you heard your brother was

Bridgette Nicole Cash
Redirect examination by Mr. Bulsa

1 talking about shooting people in the head?

2 A No, no, that didn't have nothing, no.

3 Q But you've said the police -- told the police you were
4 having an anxiety attack.

5 A I was having an anxiety attack due to the officers.

6 Q And the person that you told the police on the day of
7 this incident --

8 A And I --

9 Q That you told the police that it was Scooter saying
10 no, no, no.

11 A Yeah. Like I -- I don't remember he was saying that
12 stuff, because when I told the officer that I was tuning in
13 and out of what was being said that night, telling it to
14 the officer as of tuning in and out of conver --
15 conversations.

16 Q Okay. So when you gave this statement to the police
17 you had no idea that people had been shot in the head.

18 A No, I didn't know that, no.

19 Q Thank you.

20 MR. MOORE: No questions, Your Honor.

21 THE COURT: You may step down.

22 MR. BULSA: The state calls Paul Norris.
23
24
25

25 | Q We heard from Investigator Ruffner.

Paul Anthony Norris
Direct examination by Mr. Bulsa

- 1 A Yes, sir.
- 2 Q He went to the hospital and met Casey. Did you meet
3 with Casey?
- 4 A Not until later that afternoon on the 22nd.
- 5 Q Now, where did you first respond to?
- 6 A I went to the residence of [REDACTED] Highway 11 West. I
7 got there approximately 6:13 in the morning. And I spoke
8 with lieutenant or at the time Sergeant Satterfield. He
9 advised that he had actually gone into the house, cleared
10 the house, made sure no one else was in there, no one else
11 was injured and also told me there was a female victim that
12 had been transported by E.M.S. to, I believe it was,
13 Spartanburg Regional and that it appeared that she had been
14 tied up and duct taped.
- 15 Q And were suspects developed?
- 16 A Yes, sir. Throughout the investigation as time went
17 on there were two individuals developed as suspects.
- 18 Q One being Mr. Cash?
- 19 A Yes, sir. That's correct.
- 20 Q Did you learn where he most likely resided?
- 21 A [REDACTED] Woodland Avenue in Inman.
- 22 Q What did you do when you got that information?
- 23 A It was later in that afternoon. We ended up doing a
24 search warrant, obtained a search warrant for that
25 residence, around 6:00 or 6:30. Then I went to that

Paul Anthony Norris
Direct examination by Mr. Bulsa

1 residence around, I believe it was around, 6:30 in the
2 afternoon.

3 Q Were you the first officer there?

4 A No, sir. There were other several other officers that
5 were already on the scene. I believe it was Lieutenant
6 Hutchins, Lieutenant Mike Woodcock. And I want to say
7 Investigator Ruffner and Investigator Turner were also
8 already on the scene before I arrived.

9 Q Was it Lieutenant Hutchins who had first contact with
10 Ms. Nicole Cash?

11 A Yes, sir. That's my understanding.

12 Q All right. Now, who actually undertook the interview
13 of Ms. Cash?

14 A I did.

15 Q Do you recall where she was when you first arrived?

16 A I don't recall exactly where she was, if she was in
17 the house or outside in the yard when I arrived.

18 Q And how did you begin your interview with her?

19 A I, basically, told her that I'd like to talk to her
20 about in reference to what's going on and got in front of
21 my vehicle.

22 At first I went over -- basically, I asked her what
23 was going on. She sort of went through her statement
24 briefly, and then I told her we was going to record it, and
25 I started the recording.

Paul Anthony Norris
Direct examination by Mr. Bulsa

1 Q What kind of information did you give her about what
2 had just occurred?

3 A I don't recall giving her anything in reference to,
4 that I needed to talk to her in reference to something, a
5 possible shooting that occurred.

6 Q Did you give her any specific facts about that
7 shooting?

8 A No, sir.

9 Q Did you tell her who -- who were involved?

10 A No, sir.

11 Q You didn't tell her the victims?

12 A I don't -- no, sir.

13 Q So how long did it take before she gave you that
14 statement we just heard?

15 A Per my notes it took approximately 12 minutes from the
16 beginning to end of the statement.

17 Q That's the length of the statement. But your
18 interview of her preceding that statement.

19 A I got there around, based on my notes around, 6:30,
20 and I started the statement around 7:30.

21 Q You stayed with her about an hour?

22 A Yes, sir. I think I went in the house for a little
23 bit and then come back out and then spoke with her.

24 Q What was her emotional state?

25 A She was fine, coherent. She didn't have any slurred

Paul Anthony Norris
Direct examination by Mr. Bulsa

1 speech. She understood what I was -- when I addressed her
2 and was talking about, she didn't have any issues.

3 Q Did she understand the subject of the investigation
4 was her brother?

5 A Yes, sir.

6 Q Do you recall her at any time trying to minimize his
7 role?

8 A No, sir, not at all.

9 Q Now, when were the defendants found?

10 A I believe it was the morning of May 23rd.

11 Q Was it the early morning hours just after midnight?

12 A Yes, sir.

13 Q You heard the officer say they went over around
14 2:30 in the morning.

15 A Yes, sir.

16 Q When was Spartanburg County alerted?

17 A It was early morning of May 23rd. I was advised by
18 Sergeant Bryant that Guilford County had detained or
19 arrested Mr. Cash and Mr. Lewis and they were in the
20 Guilford County Jail.

21 Q So law enforcement agencies were coordinating and they
22 were located and then the arrests were made.

23 A Yes, sir.

24 Q Okay. What did you do upon receiving that
25 information?

Paul Anthony Norris
Direct examination by Mr. Bulsa

1 A Myself and Investigator Lawson who is -- well, was my
2 partner at the time for second shift -- went up there to
3 speak with -- try to interview both Mr. Cash and Mr. Lewis.

4 Q Did you bring his car back?

5 A Yes, sir. While on the scene we were advised where
6 the car was located. The towing service that Guilford
7 County uses went to that location and verified the car was
8 sealed, and it was. I believe they had the investigative
9 tape that I think you've seen, and then our county rollback
10 come and picked the vehicle up.

11 Q Did you ever get information as to where the PT
12 Cruiser might have been?

13 A Later on around July, yes, sir, I did.

14 Q How did you come or where did you learn that it might
15 be?

16 A [REDACTED] Flynn Road in the Campobello area of Spartanburg
17 County.

18 Q Is that the residence whose pictures we've seen?

19 A Yes, sir. That's correct.

20 Q What did you do when you got that information?

21 A We ended up obtaining a search warrant for the
22 residence and then searched the residence and curtilage.

23 Q And what did you find?

24 A We located a styrofoam piece. It's like a bumper
25 absorber that goes to a Chrysler product based on the

Paul Anthony Norris
Direct examination by Mr. Bulsa

1 Chrysler stamp that's on the bumper or on the styrofoam.
2 And also a set of keys. Investigator Talanges located a
3 set of keys that was up under a -- in front of a burn pile.
4 And it looked like a blanket or something. He located that
5 while searching.

6 Q PT Cruiser is a Chrysler product.

7 A Yes, sir, it is.

8 Q Did you accompany Investigator Talanges to check those
9 keys?

10 A We did. Once he located I could tell one of the keys
11 had a Chrysler emblem on it and also had the remote lock on
12 the key chain itself.

13 We then went back shortly after we closed that search
14 warrant. We went back to the original incident location,
15 [REDACTED] Highway 11.

16 While there we tried to or Investigator Talanges used
17 one of the keys to -- that was on the key chain to unlock
18 the side door, which I think everyone's seen. It's the one
19 that was padlocked from the inside. That was able to
20 unlock that door. Went around to the back on the back
21 porch where the back door and the storage unit is. We
22 unlocked the storage unit and opened it up, and then the
23 back door itself. Actually the doorknob or the door
24 mechanism had been changed completely because it was a
25 brand new mechanism.

Paul Anthony Norris
Direct examination by Mr. Bulsa

1 Q Now, did you do anything with the evidence that was
2 collected at the scene?

3 A In reference to which one?

4 Q The crime scene. Namely, the bullets and the shell
5 casings.

6 A Yes, sir. I ended up sending it for analysis to the
7 Greenville County Sheriff's Office.

8 Q Okay. Did they send a report back?

9 A They did.

10 Q I show you what's been marked State's Exhibit 74. Is
11 that the report?

12 A Yes, sir, this is it.

13 Q What did you send to them?

14 A I'll go over items submitted. Item No. 9 was a -- is
15 a caliber 9mm Luger fired cartridge case; item 12 is a
16 caliber 9mm Luger fired cartridge case; item No. 14 is a
17 caliber 38/9mm fired bullet specimen; item No. 17 is a
18 caliber 9mm Luger fired cartridge case; item No. 24,
19 caliber 38/9mm fired bullet specimen; item No. 28 is a
20 caliber 38/9mm fired bullet specimen; item No. 37 is a
21 caliber 38/9mm fired bullet specimen.

22 Q What were the results?

23 A Results, items numbered 9, 12, 17, fired cartridge
24 cases, were fired in the same -- in the same firearm.
25 Items 14, 24, 28 and 37, fired bullets specimens very

Paul Anthony Norris
Cross-examination by Mr. Moore

1 similar but insufficient microscopic marks to permit
2 identification to each other. There is additional
3 information.

4 Q Let me ask it this way.

5 Could a Kel-Tec 9 have fired those rounds?

6 A It's possible, yes, sir.

7 Q Is that listed in that additional information?

8 A Yes, sir. Let me make sure. Yes, sir. It is.

9 Q Okay. Now, did you ever find a firearm to compare
10 those with?

11 A No, sir. We do not.

12 Q Did you ever receive information as to where that
13 firearm might be?

14 A No, we never did.

15 Q You received information about the car but not about
16 the firearm.

17 A That's correct.

18 Q Thank you. Answer any questions Mr. Moore may have.

19 CROSS-EXAMINATION

20 BY MR. MOORE

21 Q Good afternoon, Investigator Norris. How are you
22 doing?

23 A Good, Mr. Moore.

24 Q Let's start with some questions regarding evidence,
25 some pictures we've seen and things from the actual

Paul Anthony Norris
Cross-examination by Mr. Moore

1 incident location, the first being the shoe prints, the
2 bloody shoe prints that were found.

3 what further investigation or analysis was done
4 regarding those shoe prints?

5 A To my knowledge all we did -- what Investigator
6 Talanges stated was they were photographed and scaled.
7 Nothing else was done with them.

8 Q So there was never an attempt to try to see what size
9 shoe it was or the name brand or if you can match a pattern
10 or anything like that.

11 A No, sir.

12 Q And he also testified -- Talanges -- that there were
13 26 latent fingerprints recovered from the incident
14 location, is that correct?

15 A That's my understanding, yes, sir.

16 Q And are you aware that none of those were Drew Cash's
17 fingerprints?

18 A That's my understanding.

19 Q One of those fingerprints was Scooter, Steven Lewis,
20 is that correct?

21 A I -- without actually reviewing that writeup by
22 whoever did the analysis through AFIS, I couldn't tell you
23 a hundred percent, no.

24 Q Latex gloves. There's been some talk about blue and
25 purple and things like that. On the search warrant at Emma

Paul Anthony Norris
Cross-examination by Mr. Moore

1 Cooke's house y'all found blue latex gloves, is that
2 correct?

3 A Yes, sir.

4 Q And you found a partial latex glove which appeared to
5 be blue from the incident location, is that correct?

6 A Yes, sir.

7 Q Was there any further analysis or any further -- any
8 further steps taken to try to determine if they were the
9 same name brand or same type or anything like that?

10 A No, sir.

11 Q Okay. The firearms report we were just talking about,
12 I just want to make sure I understand this. What that says
13 is that the three cartridges, the casings, were fired from
14 the same firearm. That's the finding.

15 A Yes, sir.

16 Q Not enough microscopic detail to tell if the
17 projectiles were all fired from the same one.

18 A That's correct, pretty distinct, yes, sir.

19 Q And the casings -- I mean, the extent of that finding
20 is that the casings were fired from one -- the one in the
21 same firearm, and it was a 9mm.

22 The additional information -- I mean, a 9mm Luger
23 round could be fired from a 9mm Kel-Tec, Glock, Beretta,
24 whatever.

25 A Yes.

Paul Anthony Norris
Cross-examination by Mr. Moore

1 Q It's 9mm, right?

2 A Yes, yes, sir.

3 Q And that's saying that this is a 9mm, it's all fired
4 from the same gun but we don't know what correct gun it
5 was.

6 A That's correct.

7 Q What about gunshot residue kits, G.S.R.? Were those
8 performed on any of the suspects or victims?

9 A No, sir, not on the suspects. Just like 24 hours
10 after the incident occurred, thereabouts. And so that was
11 never done because if you wash your hands pretty much a
12 G.S.R. kit is worthless, so.

13 Q They were performed on the victims?

14 A I'm not -- I don't believe those were submitted
15 though.

16 Q But they were taken.

17 A My understanding. I would have to go back and look at
18 that report Talanges did. I would have to verify it, but I
19 believe he did take one.

20 Q What's the policy behind -- I mean, obviously the
21 sheriff's office has got policies for a reason. What's the
22 policy behind taking G.S.R. samples from victims of crimes?

23 A It has been used to see if the victim may have fired a
24 firearm.

25 Q And to your knowledge they were taken but never

Paul Anthony Norris
Cross-examination by Mr. Moore

1 submitted for analysis in this case.

2 A That's correct, yes, sir.

3 Q So we heard -- you've been in the courtroom for the
4 entire trial since you're the lead agent, correct?

5 A Yes, sir.

6 Q You heard, I believe it's J.P., who testified about
7 the amount of blood that was in the doorway. He was the
8 neighbor who was the E.M.T.

9 A E.M.T., yes, sir.

10 Q And his testimony was it would have been impossible to
11 walk through there without stepping in blood. And,
12 obviously, there's pictures of bloody footprints that were
13 taken.

14 A Yes, sir.

15 Q Do you find it strange that when y'all are able to get
16 Mr. Cash's car there was no trace of blood anywhere in it?

17 A Yeah. I couldn't be able -- couldn't tell you why we
18 would not be able to in reference to that.

19 Q Well, you would assume that if somebody had stepped in
20 blood and then gotten immediately in a vehicle to drive it
21 there would be blood in the car.

22 A One would assume if you stepped in blood, yes, and you
23 transferred into the vehicle, you may be able to locate it.
24 It all depends if it was cleaned out or not. But you would
25 think if one stepped in it you would locate it.

Paul Anthony Norris
Redirect examination by Mr. Bulsa

1 MR. MOORE: No further questions, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. BULSA

4 Q The information you had about this crime was that both
5 men had gloves on, right?

6 A Yes, sir.

7 Q Okay. And was there any indication that either victim
8 had fired a firearm?

9 A No, sir.

10 Q And tell us again why you didn't do a G.S.R. kit on
11 the suspects.

12 A Basically, due to the timeframe. And, like I said, if
13 you wash your hands G.S.R. is -- is worthless.

14 Q Okay. So because it took 24 hours to capture them it
15 was too late.

16 A Yes, sir.

17 Q All right. Do you know who drove which car where?

18 A Which? Which cars are we referring to?

19 Q The two cars involved. There had to be at least two
20 cars involved, right?

21 A Yes, sir.

22 Q Okay. In fact, I don't think there's even clear
23 evidence that the Mazda was even at the scene, was there?

24 A No, sir. There's no evidence.

25 Q No -- no neighbors saw the Mazda.

Paul Anthony Norris
Redirect examination by Mr. Bulsa

1 A No, sir.

2 Q The victim, Ms. Scruggs, testified she didn't see the
3 Mazda.

4 A That's correct. She did not.

5 Q She just saw Drew outside at some point.

6 A Yes, sir.

7 Q But we do know the Mazda was found parked behind a
8 building in North Carolina.

9 A Yes, sir. That's correct.

10 Q And we determined the PT Cruiser was parked behind a
11 building on Mr. Cash's property.

12 A Yes, sir.

13 Q Thank you.

14 MR. BULSA: That's all I have.

15 THE COURT: You may step down.

16 MR. BULSA: May we approach?

17 (Bench conference held off the record in the presence
18 of the jury but out of the hearing of the jury.)

19 THE COURT: All right. Ladies and gentlemen, we have
20 another witness with a professional schedule that we are
21 accommodating, and he's not here at the moment but should
22 be here shortly. So I'll ask you to please go to your jury
23 room. Don't yet discuss the case. I'll bring you back as
24 soon as that witness arrives.

25 (Diagram marked State's Exhibit No. 103.)

Paul Anthony Norris
Redirect examination by Mr. Bulsa

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: We'll be at ease while we wait for the
4 witness to arrive.

5 (Whereupon, a recess was taken.)

6 THE COURT: All right. Are we ready for the jury?

7 MR. BULSA: Yes, sir.

8 THE COURT: Bring them in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: All right. The jury is present.

12 You may proceed.

13 MR. BULSA: The state calls Dr. David Wren.

14 DR. JOHN DAVID WREN, having
15 been first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BULSA

17 Q Doctor, please introduce yourself to the jury.

18 A My name is John David Wren.

19 Q And what is your profession, sir?

20 A Pardon?

21 Q What is your profession?

22 A I'm a medical doctor that specializes in pathologies.

23 Q Have you been -- have you testified in court as an
24 expert in forensic pathology?

25 A Numerous times in this county and multiple others in

Paul Anthony Norris
Redirect examination by Mr. Bulsa

1 South Carolina.

2 Q Do you have a medical degree?

3 A Yes.

4 Q As well as --

5 A I have a bachelor's degree, a master's degree and a
6 doctor of philosophy degree in chemical engineering from
7 Clemson University.

8 I have an M.D. degree from the Medical University of
9 South Carolina. I did a residency in anatomic and clinical
10 pathology while I was there.

11 I was assistant medical examiner in Charleston County
12 from July of 1980 until the end of January 1983.

13 Beginning at about 1980 also I did one weekend a month
14 and on special call forensic autopsies for the medical
15 university that was sent to -- from all over the state at
16 that time. There were very few forensic pathologists in
17 the state, so most of the counties sent their autopsies to
18 Charleston. And with -- under the guidance of a board
19 certified forensic pathologist I did independent autopsies
20 on anywhere from probably two to ten autopsies a weekend
21 one weekend a month under their guidance to qualify for the
22 boards in forensic pathology.

23 Q So you've been performing autopsies dating back to the
24 early 80s?

25 A The first one I did was in June of 1978 as a medical

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1 student. It was a hospital case.

2 MR. BULSA: Your Honor, I would offer Dr. Wren as an
3 expert in the field of forensic pathology.

4 THE COURT: Any objection?

5 MR. MOORE: No objection, Your Honor.

6 THE COURT: He is so qualified.

7 Q Is your office in Spartanburg Regional Medical Center?

8 A Yes. I work for Carolinas Pathology Group who holds
9 the -- the pathology contract with the hospitals in this
10 county, as well as Union, Wallace Thompson Hospital, now
11 that is under the Spartanburg Regional System, and over at
12 Pelham.

13 I'm the laboratory medical director at Spartanburg
14 Regional and lab -- and medical director of several other
15 areas that do clinical testing in the hospital.

16 Also, I'm the laboratory medical director at
17 Spartanburg Hospital for Restorative Care and for the North
18 Grove laboratory that's under the Spartanburg Regional.

19 Q Thank you, Doctor.

20 Were you asked to perform an autopsy on Carey Michael
21 Mauldin?

22 A Yes. I did an autopsy on an individual down at --
23 identified as Carey Michael Mauldin in the S.M.C. Autopsy
24 Room on May the 22nd of 2015. I began that autopsy at
25 4:05 p.m.

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1 Q And could you explain to the jury what wounds you
2 found on his body?

3 A This individual was completely clothed. He had two
4 gapping defects in his shirt and in the -- on the right
5 lower front and the side.

6 There were also defects on the left side.

7 He had five gunshot wounds to the body. There were
8 two to the head, four to the abdomen and lower chest and
9 one to his left forearm.

10 The one to the head was a through-and-through taking
11 two of the gunshot wounds, and then there were two
12 through-and-through to his back. But one of the gunshot --
13 I mean, to his right side. But one of the gunshot wounds
14 actually exited and reentered into his arm. It could have
15 been either one, but I thought it was more likely the lower
16 one to his body.

17 Q Did you note any other lacerations or injuries to his
18 body?

19 A He did have some abrasions to his -- he had a fracture
20 of his ulnar of his left forearm, which is the bone that is
21 on the -- if you hold your palm out it's the bone on the
22 inside rather than the outside of the arm.

23 And he had some abrasions to his posterior right
24 lower -- upper arm and about the elbow. We photographed
25 those.

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1 He had one of the upper left knee and some healing
2 superficial scratch type abrasions of his right pretibial
3 area which I thought were remote. And he had a fresh
4 scratch mark above the left knee also.

5 Q On page two of your report near the top did you note
6 any lacerations to his head?

7 A He had four incised type lacerations to the left head
8 above and posterior to the ear. One of them was horizontal
9 and with the more posterior vertical wound present and two
10 of them was vertically oriented wounds. Those measured
11 from thirty-seven one-hundredths of an inch, about a third
12 of an inch, to the maximum of 1.33 inches in length.

13 Q Do you have an expert opinion as to how those wounds
14 may have been inflicted?

15 A They were probably done with some type of -- they were
16 incised type wounds, so I thought they were with a knife or
17 some sharp-edged object.

18 Q Were those -- okay. I know you can't tell when those
19 were inflicted, but did they appear to be fresh wounds?

20 A They -- they were all inflicted about the same time.
21 There wasn't that much hemorrhage around them. They could
22 have been done after he lost a lot of blood pressure.

23 Q Did you recover any bullets from any of his wounds?

24 A Yes. As I stated previously, one of the bullets as it
25 exited the left side of the body went into his right arm

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1 with the arm being down sort of to his side where it exited
2 and went into his arm. He had enough inertia to where it
3 fractured the bone. And I recovered a bullet from there.
4 That bullet was --

5 Q And you turned that over to law enforcement?

6 A Pardon?

7 Q You turned that over to law enforcement?

8 A Yes. I was going to describe it.

9 It was a -- it was a lead bullet with a gold colored
10 tip. It measured .337 inches in diameter at the base, and
11 it was .565, a little over half inch, long.

12 I turned that bullet over to Officer Robert Talanges
13 of the Spartanburg County Police Department at seven --
14 5:30 p.m. after the autopsy was finished on that date.

15 Q Dr. Wren, I'd like to show you State's Exhibit
16 No. 103. Could you examine that and tell us what it is?

17 A This is a diagram of the gunshot wounds on a body, a
18 male body.

19 Q Does it contain a description on the second page of
20 where they are?

21 A Yes. The second page is a bullet-wound chart where I
22 describe the location of the wound, the -- and there's a
23 second portion that says the skin wound is, and that was
24 for stab wounds. And then the distance from -- of the
25 wound from the top of the head and the right left of

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1 midline. And then the size of the wound, the direction of
2 the wound, which direction it's going and then some remarks
3 about it that are used, if necessary.

4 Q So Mr. Mauldin had two -- actually, he had two
5 through-and-through gunshot wounds to his torso.

6 A He had -- he had three -- yeah. Two to his torso with
7 one reentry of one of the two. So that's five wounds. In
8 and out is counted as two because there are two separate
9 wounds each. So that's two. Two times two is four. He
10 had reentry in his left forearm and then he had a
11 through-and-through to the head. So that's seven wounds
12 that I described earlier or referred to earlier.

13 Q In addition to the lacerations to the head that you've
14 already described.

15 A Yes. That's correct. And some abrasions that were --
16 could have been from a struggle.

17 Q Dr. Wren, in your expert opinion what was the cause of
18 death?

19 A Well, I simply ascribed his cause of death as internal
20 and external -- sorry -- exsanguination, which means
21 bleeding to death, secondary to internal and external
22 hemorrhage, which he had a lot of blood accumulated in his
23 left chest and some -- and some in his abdomen secondary to
24 gunshot wounds to the abdomen.

25 I thought the head wound was -- he had actually lost

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1 pressure. He could still have been alive, but there was
2 very little hemorrhage associated with that within the
3 brain, although the bullet went through there and did
4 destroy brain tissue. There was no evidence that he bled
5 into his head at the time. So I thought he had either lost
6 pressure from the two to his abdomen or there was no blood
7 being pumped toward his head.

8 Q Thank you, Dr. Wren. Answer any questions Mr. Moore
9 has.

10 MR. MOORE: We have no questions, Your Honor.

11 THE COURT: You may step down. You may also be
12 excused. Thank you.

13 (Whereupon, the witness was excused.)

14 MR. BULSA: May we approach?

15 (Bench conference held off the record in the presence
16 of the jury but out of the hearing of the jury.)

17 MR. BULSA: Your Honor, Dr. Wren was the state's last
18 witness. We rest at this time.

19 THE COURT: Ladies and gentlemen, that is all of the
20 testimony and evidence to be offered by the state, at least
21 in their case in chief.

22 Before we go any further I've got some legal matters
23 I'll need to address with the lawyers. It shouldn't take
24 very long, but, nevertheless, they have to be addressed.
25 So I'll do that.

1 So I will ask you to please go to your jury room.
2 Don't yet discuss the case. I'll bring you back shortly to
3 continue.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: For the benefit of the record, state's
7 exhibits numbered 1 through 103 have all been admitted
8 without objection.

9 Is that correct, solicitor?

10 MR. BULSA: Yes, sir.

11 THE COURT: Mr. Moore.

12 MR. MOORE: Yes, sir, Your Honor.

13 THE COURT: All right. During the testimony of a
14 couple or three witnesses there were some excerpts of phone
15 calls that were played for the benefit of the jury.

16 I understand the solicitor is going to redact the disc
17 so that only the excerpt that was played is going to be
18 contained on the disc for going back to the jury with the
19 other evidence.

20 MR. BULSA: Yes, sir. I have been provided with a
21 disc. I've just got to verify the correct -- the correct
22 calls and how many pieces are on there.

23 THE COURT: All right. And then you'll provide that
24 to Mr. Moore so he can review it?

25 MR. BULSA: Yes, sir.

1 THE COURT: Okay. Mr. Moore, have you got any motions
2 or other matters to address?

3 MR. MOORE: Yes, sir.

4 At this time, Your Honor, the defendant would move for
5 a directed verdict on his indictments, specifically in
6 regards to the burglary. I don't believe the state
7 provided any information or any evidence as to there being
8 a breaking-in in this dwelling.

9 In regards to the kidnapping, I don't believe the
10 state produced any evidence that Mr. Cash did anything to
11 restrain or keep the victim, Casey Scruggs, from leaving
12 the residence.

13 And also I don't believe there's any evidence that was
14 presented that Mr. Cash committed the acts of murder or
15 attempted murder.

16 And based off that he would ask for a directed verdict
17 on those indictments.

18 THE COURT: All right. Mr. Bulsa.

19 MR. BULSA: Your Honor, there's clearly an inference
20 that the defendants went over there with an intent to
21 commit a crime, and the hand of one is the hand of all, is
22 the law of the State of South Carolina. The defendant is
23 just as guilty as the triggerman if, in fact, he's not the
24 triggerman. I don't think the evidence is clear. He could
25 very well have been the person that pulled the trigger.

1 As far as the kidnapping, he's clearly involved in
2 that as well.

3 THE COURT: What about consent, or lack thereof, in
4 the burglary?

5 MR. BULSA: Your Honor, the argument would be that
6 they went over under the premise, based on what we've
7 heard, to potentially buy some heroin. But we would argue
8 that was done by trickery to gain entry. And we would ask
9 for a charge that involves the language to inveigle get
10 their way into the residence.

11 THE COURT: All right. Well, there is substantial
12 circumstantial evidence that would tend to establish that
13 the defendant and the codefendant went to the residence for
14 the purpose of perhaps engaging in a drug transaction and
15 that's the reason they were allowed into the residence,
16 and-but the actual intent was to commit the robbery. And I
17 think a jury could find that the element of consent, or
18 lack thereof, is present through substantial circumstantial
19 evidence.

20 The other elements are satisfied by the testimony and
21 evidence presented.

22 There is sufficient evidence to -- if found to be
23 credible by the jury to find that the defendant is guilty
24 of the crime of murder based upon being a principal or an
25 accomplice, attempted murder as a principal or an

1 accomplice, armed robbery as a principal and/or an
2 accomplice, and the crime of kidnapping as a principal or
3 an accomplice. And she was seized and confined and
4 restricted in her movements in a significant way based on
5 the fact that she was, as she said, hogtied.

6 So there being sufficient evidence to establish each
7 of the elements of each of the offenses as it relates to
8 the defendant, Mr. Crash, the defendant's motions for a
9 directed verdict as to each of the indictments is denied.

10 What else?

11 (Pause.)

12 MR. MOORE: Your Honor, the defendant has decided not
13 to put up a case, and he does not intend to testify.

14 THE COURT: All right. Jason Andrew Cash, Mr. Moore
15 has just stated that you have indicated to him that you do
16 not wish to take the witness stand and testify during the
17 trial of this case. Is that a fair statement?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you discussed your right to testify,
20 as well as not testify, with Mr. Moore?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand that when you're charged
23 with a crime, as you are, you always have an absolute right
24 to remain silent? Nobody can require that you take the
25 witness stand; nobody can require that you make any

1 statement; nobody can require that you answer any
2 questions, certainly not any that might incriminate you or
3 tend to prove your own guilt.

4 However, this is the only opportunity that you're
5 going to have to testify if you wish to provide any
6 additional information to this jury, because the state has
7 rested. Now is your opportunity to present evidence if you
8 wish to.

9 Do you understand you have an absolute right to remain
10 silent?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And, as I told the jury before the trial
13 began, and I'll tell them again, that they can't hold that
14 fact against you if you elect not to testify. They can't
15 consider it in any way in their deliberations or in their
16 determination as to whether or not your guilt has been
17 proven.

18 And of course you also have a right to testify and
19 take the witness stand if you wish to. If you decide to
20 take the witness stand and testify you've got to answer not
21 only your lawyer's questions but you've got to answer the
22 questions posed of you by the prosecutor to the extent that
23 they're relevant even if the responses to those questions
24 might tend to prove you guilty of some crime they claim you
25 committed.

1 Have you had time to discuss your right to testify, as
2 well as not to testify, with Mr. Moore?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And has he discussed with you the
5 advantages and disadvantages of testifying, as well as not
6 testifying?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you appreciate what those
9 advantages and disadvantages are?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And have you had time to reflect upon your
12 decision about whether or not you will testify?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And have you reached a decision?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: What is that decision?

17 THE DEFENDANT: I'm not going to testify, sir.

18 THE COURT: And is that a decision that you reached of
19 your own free will and accord?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Has anybody forced you into it?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has anybody coerced you in any way?

24 THE DEFENDANT: No, sir.

25 THE COURT: Anybody pressured you into it?

1 THE DEFENDANT: No, sir.

2 THE COURT: Did anyone even suggest that that's the
3 decision you ought to make?

4 THE DEFENDANT: No, sir.

5 THE COURT: Did you make that decision on your own?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: After giving it sufficient time to reflect
8 upon it?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you satisfied with your decision?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you have any other witnesses that you
13 want Mr. Moore to call on your behalf?

14 THE DEFENDANT: Not at this time.

15 THE COURT: Well, this is the only time you're going
16 to have.

17 THE DEFENDANT: No, sir.

18 THE COURT: You don't have any other witness you'd
19 like for him to call?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay. All right. Anything else?

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

23 THE COURT: All right. We'll bring the jury back, and
24 we'll conclude with final summations, instructions and
25 deliberations in the morning. And after I excuse them I'll

1 need to talk with y'all about potential instruction
2 requests.

3 Bring the jury back, please.

4 And, Mr. Moore, you'll need to rest in the presence of
5 the jury.

6 MR. MOORE: Yes, sir.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: Ladies and gentlemen, as you know, the
10 state has rested in their presentation of evidence. So
11 we'll now proceed with any, if any, to be offered by the
12 defense.

13 Mr. Moore, does the defendant wish to offer any
14 additional evidence in the case?

15 MR. MOORE: No, sir, Your Honor. The defendant rests.

16 THE COURT: All right. That is all of the testimony
17 or other evidence to be offered in the trial of this case.

18 What remains to be done are the lawyers' final
19 summations, after which I'll instruct you on the law, and
20 then you'll begin your deliberations. That's going to take
21 longer than what time we have left for today. So I'm going
22 to excuse you for the evening. We'll return in the morning
23 at 9:30 at which time we'll conclude with the lawyers'
24 final summations, the legal instruction and your
25 deliberations.

1 Keep in mind during the overnight recess you're still
2 to follow the instructions I previously provided you. That
3 is you're to have no discussions about the case whatsoever
4 with any person whatsoever. You're not to allow yourselves
5 to be exposed to any type of media coverage that relates to
6 the case, whether it be television, radio or newspaper.
7 And you're not to conduct any research or do your own
8 investigation into any issue that has arisen during the
9 trial.

10 Your decision has to be based under your oath and
11 obligations solely upon the evidence that has been
12 presented during the course of the trial.

13 So with that caution in mind, do have a good afternoon
14 and evening. Please report to your jury room at 9:30 in
15 the morning, at 9:30 in the morning.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: Court is in recess until 9:30 in the
19 morning.

20 I need to see the lawyers in chambers for a charge
21 conference.

22 END OF PROCEEDINGS MARCH 1, 2017
23
24
25

1 (Proceedings March 2, 2017)

2 (The following takes place outside the presence of the
3 jury.)

4 (C.D. marked State's Exhibit No. 104; C.D. marked
5 Court's Exhibit No. 1.)

6 THE COURT: Any matters to address before the jury is
7 brought in?

8 MR. BULSA: Yes, sir, Your Honor.

9 In the overnight recess the state has redacted from
10 the original jail phone calls I played the three jurors --
11 the three witnesses. I've shared that with Mr. Moore. I
12 believe he's in agreement that they are the correct
13 portions. That's marked as State's Exhibit No. 104.

14 MR. MOORE: I agree, Your Honor, they are the correct
15 portions.

16 THE COURT: Okay.

17 MR. BULSA: We've also supplied to the Court the
18 complete calls in their entirety on a separate disc that's
19 marked as a court's exhibit.

20 THE COURT: Okay.

21 MR. BULSA: That's all we have. I'm ready to go, Your
22 Honor.

23 THE COURT: All right. Bring the jury in, please,
24 sir.

25 (The following takes place in the presence of the

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1 jury.)

2 THE COURT: Good morning, ladies and gentlemen.

3 As you know, when we recessed yesterday all of the
4 evidence had been received and what remained to be done
5 were the lawyers' final summations, after which I'll
6 provide you with the instruction on the law. And then
7 you'll be asked to begin with your deliberations.

8 So please give the lawyers your attention now as they
9 give you their final summations.

10 MR. BULSA: May it please the Court.

11 THE COURT: Mr. Bulsa.

12 MR. BULSA: Ladies and gentlemen, thank you for your
13 attention in this case. As I told you at the beginning,
14 it's a very serious matter.

15 I submit to you the story you heard yesterday was a
16 tale of two young ladies. Unfortunately, both young ladies
17 are dealing with substance abuse problems. One young lady
18 wasn't -- but by the grace of God -- carried from her house
19 in a body bag. The other young lady was escorted to court
20 by the police.

21 Casey Scruggs lived a nightmare that night.
22 Unfortunately, her boyfriend, Carey Mauldin, didn't wake
23 up. He died in his residence, died at the hands of this
24 man. I say the hands of this man because the hand of one
25 is the hand of all.

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1 Casey was fortunate by the grace of God that that
2 bullet skirted her skull instead of penetrating and going
3 through it like the one that Carey's head -- head did,
4 through-and-through to the head. You can't get past that,
5 ladies and gentlemen.

6 Murder is the unlawful killing of another with malice
7 aforethought. When you shoot somebody twice in the torso
8 and once in the head, how much more malicious can you get?

9 Attempted murder is the attempt to kill somebody with
10 malice aforethought. You aim a gun at their head and you
11 pull the trigger, how much more malicious can you get?

12 Burglary in the first degree. They were at their
13 home. The defendant and his friend under the deception,
14 trickery to come over there to buy some drugs gained
15 entrance. That is without consent. The judge will read
16 you that definition. Burglary was committed.

17 They clearly went over there with the intent to rob.
18 They went armed with a weapon, and Ms. Scruggs was hogtied
19 with duct tape. She was seized and confined.

20 The crimes occurred. This is not a what-happened
21 case. I submit to you it's not even a who-done-it case.

22 You might not be able to decide who pulled the
23 trigger. The law does not require you to decide that
24 because in certain crimes it may not be clear.

25 Mr. Moore stated in his opening statement that I told

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1 you it was going to be clear, and he said things were not
2 going to be clear. It's clear that the crimes occurred and
3 it's clear that he was a participant. Those are the two
4 clear facts that you have to find. You don't have to find
5 who pulled the trigger, because the hand of one is the hand
6 of all.

7 Now, we started out this case by taking you to the
8 crime scene. He put multiple pictures up there. We showed
9 you the carnage in the house. We showed you the suffering
10 Ms. Scruggs endured.

11 It's clear that this crime was committed by more than
12 one person. She readily named the two people by name to
13 the medic when the duct tape was cut from her mouth. The
14 search was on for those two men.

15 The police then went to the second location, Woodland
16 Avenue in Inman, the residence of the defendant, because
17 that's who Ms. Scruggs named. He was the local resident.
18 Mr. Lewis was from North Carolina.

19 So the police start looking for Mr. Cash. He's not
20 there. But remember he was actually on the phone with
21 Nicole when they got there, but she didn't know where he
22 was. She knew he wasn't there.

23 Then they began the search of the house. Part of the
24 story that Carey tells us -- excuse me -- that Casey tells
25 us is they were both wearing gloves. You will see from the

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1 pictures in the residence the multiple pieces of gloves
2 that apparently were torn off during the crime. In fact,
3 the fingerprints weren't found. It's not important because
4 they were wearing gloves. Casey identifies her attackers.
5 There is no issue there.

6 The police later gain information that the defendants
7 are in North Carolina. And with a joint effort by several
8 agencies in North Carolina the police go to a residence in
9 Greensboro, Old Randleman Road, and it actually was almost
10 humorous.

11 Officer Ezell testified how he pulled in behind the
12 house to make sure that nobody ran out the back or be ready
13 if somebody ran out the back. And I asked him the question
14 what happened. Somebody ran out the back. And who was
15 that person but the defendant? Then you heard Officer
16 Ezell describe the chase and how he was hidden and had to
17 be caught by the canine dog.

18 And then you even heard the defendant's version of
19 that as he was bragging and laughing about it with his
20 mother on a jail call.

21 Then the police after the arrest, they learned that
22 the stolen PT Cruiser might be located at some property
23 that the defendant had hoped to inherit on Flynn Road. It
24 was kind of interesting that the defendant hid his car in
25 North Carolina way off the road behind a shed to keep from

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1 being found, similar to how he hid his -- hid the stolen PT
2 Cruiser behind the shed, covered it with a tarp and other
3 items to keep it from being found. Unfortunately, somebody
4 knew Mr. Cash and got to it before the police did because
5 it wasn't there.

6 But they didn't take all of the pieces. They left the
7 bumper, which caused the police to look, and the police
8 somehow got lucky because they looked under some trash in
9 the yard. And they found what? Stolen keys. The
10 defendant is clearly in possession of the stolen keys on
11 the property. He is, I submit to you, guilty of each and
12 every one of these crimes.

13 Casey tells a story of how a phone call was made and
14 then she went to sleep. She just knew somebody was coming
15 over. Then she was awoken to screams, actually to a call,
16 call 9-1-1, and she hears shots. She pretty much screams.
17 What do they do? They rush in there to tape her up, to
18 tape her mouth up, so she has to stop screaming.

19 Okay. But she has a clear view while that's happening
20 in the living room. What did she say she saw? This man
21 with a gun pointing it at her boyfriend demanding items
22 from him. The man had been shot twice in the torso, in the
23 chest.

24 Remember the additional injuries that Dr. Wren told
25 you about to his head, lacerations to his head? I submit

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1 to you it suggests a possible smack with the firearm,
2 pistol whip, because he wasn't giving it up.

3 Now, she was in a position where she's in horror in
4 the going in and out, taking stuff, turning everything
5 upside down and taking multiple trips in and out.

6 And she thinks they're gone and she thinks she can get
7 away. No. Unfortunately not. She's drug back inside,
8 shot in the head. And she hears a second shot as they're
9 going out the door, and that's the gunshot to the head.

10 Now, it's clear that she didn't see the initial
11 shooting because it's clear from the picture there's
12 multiple -- there's a pile of blood in the kitchen. That
13 occurred away from her view. She's cowering down while she
14 gets shot. She doesn't see who actually has the gun.
15 She's shot. She's essentially playing dead. And then she
16 gets shot as they leave, so she doesn't see who does that
17 shot. It does not matter.

18 I submit to you, ladies and gentlemen, that this
19 defendant is the mastermind of this because of his own
20 sister's words. If you need to, play it, play the
21 recording back.

22 She came to court wanting to change it. You heard her
23 trying to change it. It's no way near what she told the
24 police the day of the incident, just hours later.

25 She's a troubled young lady. She did the right thing

Closing arguments

1 then. Then she realized my brother's in trouble. And then
2 what did her brother do? He tried to keep her from court.
3 He tried to influence his mother to keep her from -- to
4 keep Nicole from coming to court.

5 Nicole hid from the police, refused the subpoena,
6 finally got served, then wouldn't even come to court. She
7 had to be brought to court. And then when she came she of
8 course wanted to change her story. Fortunately, the police
9 recorded it. They don't always do that. It depends on the
10 circumstances. But they had the foresight to record it,
11 because you can judge her demeanor, how believable she is
12 when she's telling about her brother.

13 It's her brother. She grew up with him. They had a
14 hard life. Their parents were away. They had to be raised
15 by grandma. If she's going to lie on somebody, she's going
16 to lie on Steven Lewis. She's going to put it all on
17 Steven Lewis. But no. What did she tell the police?
18 Steven Lewis was the one that said no, no, no when Drew was
19 saying let's put him on the knees and shoot them in the
20 head.

21 And one of the most honest statements she gave to you,
22 I submit, ladies and gentlemen, is one of the last
23 questions I asked, is when the police were talking to you
24 did you know that they had been shot in the head. No, I
25 didn't. So her information about them going to shoot them

Closing arguments

1 in the head confirms their intentions.

2 Now, you might think to yourself, well, when they got
3 there they just didn't put them on their knees and shoot
4 them in the head. Perhaps Mr. Lewis might have knocked
5 some sense into Mr. Cash and said, no, we don't need to
6 shoot them, let's just scare them and get the stuff and get
7 out of there.

8 Well, Mr. Mauldin wasn't going to give up easy. It's
9 his house, so he struggled and then the shots happened.
10 Then it was Mr. Lewis that went and tied up Casey instead
11 of running in there and shooting her in the head right
12 away. But when she tried to get away things went awry. I
13 submit to you that the original plan to shoot them in the
14 head was then enacted. His original plan to shoot them in
15 the head was then enacted.

16 You can listen to his demeanor as he talks with his
17 family. He's laughing about hiding the car. Nobody's
18 going to find it. Laughing about hiding the gun. Nobody's
19 going to find it.

20 He's trying to get grandma to go pawn a gun. I submit
21 to you you can actually infer that he's talking about the
22 same gun, but he doesn't want grandma to realize I'm going
23 to get the murder weapon, so I've got to tell her I had a
24 second gun, and, oh, because we hid the first one I've got
25 to go hide my second gun, which makes absolutely no sense.

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1 In fact, Nicole said he didn't have a gun. What's
2 most probable is that was Nicole's gun that was used. We
3 don't know because we never found it, but we did -- we do
4 have the rounds and the casings, some of the casings. And
5 the firearms report certainly suggests that it could have
6 been fired by the Kel-Tec 9mm which is what Nicole had
7 purchased.

8 So, now, I'm going to address a couple of things I
9 think the defense will mention. They're probably going to
10 infer that because they didn't do anything with the
11 footprints you can't say he was in the house.

12 Footprints might have been necessary if they didn't
13 have the identity of the people already known. They were
14 immediately identified, his actions after the fact, the
15 location of property. Everything says he's involved.

16 Lack of G.S.R. That's gunshot residue. The
17 defendants had fled. That's only valid in certain
18 circumstances. They were away, away for 24 hours. It's
19 not going to come to amount to anything anyway.

20 Lack of fingerprints. We discussed that with the
21 gloves.

22 No G.S.R. testing done on the victims. Well, they
23 were shot. So it wouldn't have told us anything anyway.

24 Ladies and gentlemen, all of the evidence points to
25 this man being at the scene and being involved in the

closing arguments

1 crime. The fact that they didn't find blood in his car, we
2 don't even know if his car was actually the one driven
3 there. But remember they were making multiple trips in and
4 out, so he's walking on the dirt and all. You don't know
5 if he actually had stuff left when he got in the car. You
6 don't know what he did with the car afterwards. He
7 certainly hid the PT Cruiser. He hid the gun and he hid
8 his car. He could have easily have cleaned the carpet or
9 taken the carpet rugs out.

10 The last thing the defense attorney told you in his
11 opening is to use your common sense. Well, I implore you
12 to use your common sense because common sense dictates he's
13 guilty.

14 The evidence should leave you firmly convinced beyond
15 a reasonable doubt that he's guilty of burglary in the
16 first degree. He went over there, knocked on the door to
17 get the door open so they could come in and rob them.

18 He's guilty of armed robbery of course because a
19 weapon was used and items were stolen.

20 He's guilty of kidnapping because Casey was seized and
21 confined.

22 Guilty of trying to kill her. Guilty of course of
23 killing Carey Mauldin.

24 Thank you for your attention. Ladies and gentlemen, I
25 just ask that you do your duty, and that's to find the

Closing arguments

1 truth and return a verdict that speaks the truth.

2 MR. MOORE: May it please the Court, Your Honor.

3 THE COURT: Mr. Moore.

4 MR. MOORE: Good morning.

5 First of all, I'd like to do the same thing the
6 solicitor did and thank you for your service. This is
7 obviously a very serious matter, a very serious trial, very
8 serious charges. And you all have paid attention
9 throughout the trial. I've watched as the witness
10 testified, as the evidence was presented, and all of you
11 paid attention and I thank you for that. Mr. Cash thanks
12 you for that.

13 At the beginning of this trial I told you one of the
14 great things about our system of justice is that when the
15 government -- in this case the state -- with all of its
16 resources alleges a crime against an individual citizen
17 that citizen is presumed innocent.

18 The burden is on the state. The state has to prove
19 beyond a reasonable doubt all of the elements of all of the
20 crimes they've alleged.

21 In this case there's five distinct crimes that Mr.
22 Bulsa just reviewed with you and that the judge will
23 instruct you on in a few minutes. Each one of those crimes
24 has its own individual elements. And the burden of the
25 state is to prove each of those elements of each of those

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1 crimes beyond a reasonable doubt. That's their burden.

2 The question is have they met it.

3 In Mr. Bulsa's opening statement he told you this is
4 not Steven Lewis' trial, this is not Scooter's trial.
5 That -- that's for a later date.

6 Well, I tell you for this not to be Scooter's trial
7 there sure was a lot of testimony about Scooter. Besides
8 Dr. Wren at the end of the day yesterday and those officers
9 from North Carolina, I'm not sure if any of the state's
10 witnesses did not talk about Scooter.

11 We saw Mr. Tony Turner, I believe was the first one,
12 the guy who cut the tape off Casey's hands. He said that
13 she said Scooter shot me and my boyfriend.

14 We saw Mr. Stewart come up here and testify next, the
15 man, you might remember, who had the cane. Now, his
16 testimony was that he heard Ms. Scruggs say that Scooter
17 and Drew shot her and her boyfriend. But then when his
18 memory was refreshed, when his statement in his own hand
19 signed by him, when he was shown that, he said he
20 recognized he'd only said Scooter. And he said that he had
21 assumed. He had assumed that she had said Drew.

22 This is not a process where we assume things. This is
23 a process where facts are established and evidence is
24 presented beyond a reasonable doubt. We don't make
25 assumptions.

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1 Then the Scooter testimony continued as Ms. Scruggs
2 testified that Scooter had her down and taped her up. I
3 want you to look at that.

4 When you get in the jury room you have a chance to
5 look at these diagrams, these pictures of the house. She
6 testified she was face down being hogtied in the bedroom.
7 How did she supposedly see Drew in the living room? Look
8 at those diagrams. See if that makes sense to you.

9 Yesterday afternoon we got to hear from Investigator
10 Norris with the sheriff's office, the lead investigator for
11 this case. And I got to ask him some questions about
12 physical evidence, evidence that's used to convict people.

13 Now, Mr. Bulsa wants just to glance over that. That's
14 his job. His job is to try to cover up and make excuses --

15 MR. BULSA: Objection, Your Honor.

16 MR. MOORE: -- for what law enforcement did or didn't
17 do.

18 MR. BULSA: That's improper argument.

19 THE COURT: Let me see y'all just a minute.

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 MR. MOORE: So what did law enforcement do? They
23 collected 26 fingerprints, none of which were Mr. Cash's.
24 They collected gunshot residue kits from the victims, which
25 they decided never to submit for analysis. Then they

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1 decided not to conduct gunshot residue kits on the two
2 suspects, the two people they thought did this. They
3 didn't conduct G.S.R. tests.

4 They tell you it's because it had been more than 24
5 hours. I imagine there's people out there that don't wash
6 their hands in 24 hours. I imagine the results of those
7 tests might have been good evidence one way or the other.

8 They talked to you about these latex gloves, blue
9 latex gloves at the incident location. They find blue or
10 purple or whatever gloves in another location.
11 Investigator Norris testified they didn't do anything to
12 try to determine if those are the same type of gloves, same
13 name brand gloves. It was just we found some gloves at
14 both places. Those are the steps they took.

15 This is important because this is physical evidence.
16 Mr. Bulsa says it's not important because they knew the
17 identity of the suspects and that the footprints are not
18 important.

19 Just think about that for a second. Look at these
20 exhibits. These are actual footprints presumably of the
21 person who did this. And what does law enforcement do with
22 these? They took a picture. That's what they did. They
23 took a picture. Didn't figure out what size they were,
24 didn't try to see what kind of tread pattern they were,
25 didn't try to see what size the defendants might have, what

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1 kind of, you know, shoes they wear. They just took a
2 picture. That's what they did.

3 You heard that young man, J.P., who was the E.M.T.,
4 the nice guy who came over and drove his Jeep up there so
5 he could see with the lights. He's testified that it would
6 have been impossible to leave that house without blood on
7 your shoes, yet there was absolutely no blood found in
8 Mr. Cash's vehicle. How is that possible? The testimony
9 was it was dark. It was chaotic. How was there no blood
10 in his vehicle?

11 These are the kind of questions you need to be asking
12 yourself. These are the kind of things you have to
13 discuss.

14 In a few minutes the judge is going to instruct you on
15 the law and he's going to tell you all to start your
16 deliberations. And what I'm asking you to do is in those
17 deliberations be deliberate. Take it seriously and be
18 attentive like you were during the trial. Discuss the
19 issues with each other. Take time to look at the evidence.

20 Mr. Bulsa and I agree this is a very serious case and
21 it deserves very serious consideration. There is no
22 question that a lot of evidence was presented by the state
23 that this event happened. There's no question this
24 incident took place, these things did happen. But the
25 purpose of this trial was not to prove that this incident

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1 happened. The purpose of this trial is to prove that Drew
2 Cash did this, that he's criminally responsible for it.
3 That's the purpose of this trial.

4 No fingerprints, no gun, no G.S.R., no blood in the
5 vehicle, no analysis of gloves, no analysis of the
6 bootprints and the testimony of someone who is willing to
7 lie under oath about something as simple as chewing gum.
8 Is that enough evidence to convict a man of murder? Is
9 that enough evidence to convict Drew of his other charges
10 he's facing?

11 Mr. Bulsa would say yes, but it's not Mr. Bulsa's
12 decision; it's not my decision; it's not the Court's
13 decision. It's your decision. It's your decision to
14 determine whether they have proven that beyond a reasonable
15 doubt. And I ask you if you have any hesitation, if you
16 believe there's any reasonable doubt as to any of these
17 offenses, to return verdicts of not guilty on these
18 indictments. Thank you.

19 THE COURT: Madam forelady and ladies and gentlemen of
20 the jury, you of course have heard and seen all of the
21 evidence in the case. You've now heard the final
22 summations of the lawyers, and therefore it now becomes my
23 duty and obligation to instruct you on the law that's
24 applicable in the case. You'll then be asked to go back
25 and to begin with your deliberations. And through that

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1 process you'll examine all of the evidence, you'll
2 determine the facts as they relate to any allegation,
3 you'll apply the law to the facts as you determine them to
4 be, and you will arrive at a decision, whatever that
5 decision may be, simply one that's fair and impartial based
6 upon the evidence presented, or the lack thereof for that
7 matter, and the law that's applicable as I will have
8 provided it to you.

9 It is your exclusive prerogative to determine what the
10 facts are. You do that through your own common-sense
11 examination and evaluation of all of the testimony and
12 other evidence received during the course of this trial.

13 You 12 jurors alone will decide what weight, value and
14 effect to give to any particular witness' testimony or
15 other evidence in the case. Again, your sole obligation
16 and duty is to render a fair and impartial decision based
17 upon the evidence presented and the law that's applicable.

18 Now, the same law that provides that you are the
19 judges of the facts also provides that I am the judge of
20 the law, and that simply means that nobody's going to tell
21 you how to arrive at your determination of fact in this
22 case.

23 You do that, as I've stated, through the exercise of
24 good judgment and common sense conscientiously applied to
25 the testimony and evidence received during the course of

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1 the trial.

2 However, under your oath as a juror you have an
3 obligation to accept the law as I provide it to you as
4 being the law that you are to apply in the case.

5 You are never to concern yourself with what you
6 thought the law was before you came to serve as a juror
7 this week or what you think the law ought to be. Under
8 your oath as a juror you must simply accept the law as I
9 provide it to you as being the law that you are to apply in
10 the case, and then you take that law and you apply it to
11 the facts as you 12 jurors determine those facts to be
12 based upon your examination of the testimony and evidence
13 received during the course of the trial.

14 Now, in this case, as you know, the state through the
15 prosecutor has accused the defendant, Mr. Cash, with having
16 committed five separate and distinct offenses, although
17 each of those offenses is alleged to have arisen out of one
18 particular event or a course of events which the state
19 alleges occurred back on May the 22nd of 2015.

20 But the state alleges that Mr. Cash did commit the
21 crimes of burglary in the first degree, of kidnapping, of
22 murder, of attempted murder and of armed robbery.

23 The allegations setting forth those charges are
24 contained in the indictments as I previously referred to.
25 Those indictments, as I told you, will be in the jury room,

Jury charge

1 but they are not evidence in the case. They don't
2 establish anything; they don't prove anything. They are
3 simply in the jury room to serve as the verdict forms.

4 Madam Forelady, it's going to be on the back of each
5 of these indictments. You'll see in the lower left-hand
6 corner there's the word verdict. And it's beneath that
7 word that you're going to be indicating the jury's
8 unanimous decision as it relates to each separate
9 individual charge.

10 And, of course, depending upon your determination of
11 fact and your application of the law, the verdicts may all
12 be the same or they may be different. That obviously will
13 depend upon your determination of fact and then your
14 application of the law to the facts as you find those facts
15 to be.

16 The crime of burglary alleges that -- the indictment
17 alleging the crime of burglary in the first degree alleges
18 that the defendant did on May the 22nd of 2015 enter a
19 dwelling on Highway 11 in Chesnee, South Carolina, without
20 consent and with the intent to commit a crime therein and
21 that when, in effecting entry or while in the dwelling or
22 in immediate flight therefrom, he or another participant in
23 the crime was armed with a deadly weapon or caused physical
24 injury to a person who is not a participant in the crime,
25 or used or threatened the use of a dangerous instrument, or

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1 displayed what appeared to be a pistol, revolver or other
2 firearm, or the entering or the remaining occurred in the
3 nighttime.

4 The indictment alleging kidnapping alleges that on May
5 the 22nd of 2015 the defendant, Jason Cash, did unlawfully
6 seize, confine, inveigle, decoy, kidnap, abduct or carry
7 away Casey Scruggs without any authority of law.

8 A separate indictment alleging the crime of murder
9 alleges that the defendant, Jason Andrew Cash, did here in
10 Spartanburg County on or about May the 22nd of 2015
11 wilfully and with malice aforethought kill one Carey
12 Mauldin by shooting Carey Mauldin and that he died as a
13 proximate result of that gunshot wound.

14 A separate indictment charges Jason Andrew Cash with
15 the crime of attempted murder. That indictment alleges
16 that here in Spartanburg County on or about May the 22nd of
17 2015 the defendant did with malice aforethought attempt to
18 kill Casey Scruggs by shooting her with the intent to kill
19 Casey Scruggs.

20 The remaining indictment charges the defendant with
21 armed robbery alleging that on May the 22nd of 2015 the
22 defendant did rob Carey Mauldin and Casey Scruggs by the
23 use of force or intimidation and while armed with a pistol
24 or other deadly weapon, and that he did take, steal and
25 carry away from the person or presence of Carey Morgan

Jury charge

1 [sic] and Casey Scruggs a Chrysler PT Cruiser, electronics
2 and other goods with the intent to deprive the owners of
3 use and possession of their property.

4 Now, as to those allegations and as to each of those
5 charges, as you know, the defendant has entered a plea of
6 not guilty.

7 That plea of not guilty has placed upon the state the
8 burden of proving the allegations that they have made in
9 each of those indictments, the burden of proving each of
10 the essential elements of the crimes that are alleged
11 against the defendant; and therefore the burden is upon the
12 state to establish the defendant's guilt to the
13 satisfaction of you 12 jurors beyond a reasonable doubt
14 before the defendant could be found guilty of any of the
15 separate crimes with which he is charged.

16 The burden is never upon a defendant to prove that he
17 is not guilty or to prove that he is innocent because in
18 some cases that might not be possible. The burden is
19 always upon the state because they made the accusation and
20 they brought the charge to establish the defendant's guilt
21 as to that charge beyond a reasonable doubt before such a
22 finding could be made.

23 You are instructed that it is a vital, important and
24 cardinal rule of law that every defendant in a criminal
25 trial -- it doesn't matter how serious the offense might be

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1 for which the person stands charged -- that person shall
2 always be presumed innocent of that charge. And that
3 presumption of innocence remains with any defendant, as it
4 does with this defendant, from the time that he is placed
5 under arrest and throughout the course of the criminal
6 process and even throughout the course of the actual trial
7 in the case.

8 That presumption of innocence will be with Mr. Cash
9 even as you go back to your jury room to begin with your
10 deliberations at this trial's conclusion, and that
11 presumption of innocence will be with him in that jury
12 room, and it'll with him forever unless you 12 jurors
13 determine that he's no longer entitled to that presumption
14 of innocence as it relates to a particular charge.

15 In other words, after you've carefully considered all
16 of the evidence in the case, and after considering that
17 evidence you have determined what you believe to be the
18 facts as they relate to these allegations, and after
19 determining those facts you apply the law that I will have
20 provided you, if you 12 jurors unanimously determine that
21 his guilt as to a particular charge has been proven beyond
22 a reasonable doubt, then he would no longer be entitled to
23 the presumption of innocence as it relates to that charge.
24 But it is only if, unless and until you are satisfied of
25 his guilt beyond a reasonable doubt that the presumption of

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1 innocence would no longer be applicable as it relates to
2 that particular charge.

3 Now, as I told you, you are the sole judges of the
4 facts in this case, and you are therefore necessarily the
5 sole judges of the credibility or the believability of each
6 witness that has testified during the course of this trial.
7 And so you 12 jurors alone will decide what weight, value
8 and effect to give to any particular witness' testimony or
9 even portions of that testimony.

10 But there are several factors which you should
11 consider in arriving at your assessment and determination
12 as to a particular witness' credibility, and I'm going to
13 list those factors for you.

14 You should consider the demeanor of the witness, that
15 is how the witness appeared to you when the witness
16 testified from that witness stand. Was the witness
17 straightforward in responding to questions, or was the
18 witness hesitant or evasive in responding to questions that
19 were asked of that witness.

20 Simply put, did the witness appear to you to be
21 telling the truth and to have knowledge of the facts to
22 which that witness has testified.

23 You should also consider whether or not the testimony
24 of a witness is consistent, or is it inconsistent with that
25 witness' own testimony provided here in court, or whether

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1 it's consistent or inconsistent with some other statement
2 made by that witness, whether it be in court or outside of
3 court. And you should consider whether or not the
4 testimony of a witness is consistent, or is it inconsistent
5 with other witnesses' testimony or other evidence received
6 during the course of the trial.

7 You should also consider how the witness came to know
8 the facts to which a witness has testified. In other
9 words, what was that witness' opportunity and ability to be
10 perceive the existence of those facts to which that witness
11 has testified by having previously used his or her senses,
12 and then what is the ability of that witness to be able to
13 come into court and to accurately recollect to you as to
14 what they have previously perceived.

15 You should also consider any bias or prejudice or
16 interest that a witness might have with regard to a case.
17 In other words, do you find some reason that a particular
18 witness would come into court and would testify one way or
19 another to help or hurt one side or the other. And you may
20 consider any interest that a witness might have in the
21 outcome of the case if you determine that a witness does
22 have such an interest and you find that that interest would
23 bear upon that particular witness' credibility.

24 You should also consider whether or not the testimony
25 of a witness is strengthened, or is it weakened by other

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1 testimony or other evidence received during the course of
2 the trial.

3 Now, because you are the finders of the fact and
4 because you are the judges of the credibility of each
5 witness that has testified during this trial you are
6 permitted to believe as much or as little of what each
7 witness has testified to as you deem is appropriate. And
8 therefore in your discretion you may believe everything
9 that a witness testified to. You may choose to believe
10 none of it. You may believe some portion of a witness'
11 testimony and reject some other portion of that same
12 witness' testimony.

13 In a given case you could believe one witness as
14 opposed or several, or several as opposed to one. But
15 whatever your good judgment and common sense tells you is
16 the most believable and credible evidence and testimony is
17 that which you should accept, and you should reject any
18 testimony or other evidence that you find not to be
19 credible or believable.

20 Your sole objective, again, is to simply render a fair
21 and impartial decision based upon the evidence presented
22 and the law that's applicable.

23 Now, the state does, as I've told you, have the burden
24 of proving a defendant's guilt to your satisfaction beyond
25 a reasonable doubt. That doesn't mean that the state has

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1 to prove the defendant's guilt beyond all doubt or beyond
2 any possible doubt, but it does require the state to prove
3 the defendant's guilt to your satisfaction beyond a
4 reasonable doubt.

5 The term reasonable doubt should be given its plain
6 and ordinary meaning. A reasonable doubt is the kind of
7 doubt that would cause a reasonable person to hesitate to
8 act upon the information provided.

9 The defendant in a criminal trial is entitled to any
10 reasonable doubt that arises from the evidence or lack of
11 evidence in a case, and if upon any factual issue essential
12 to a finding of a verdict of guilty you have some
13 reasonable doubt as to how that issue should be resolved it
14 would be your duty to resolve that reasonable doubt in
15 favor of the defendant.

16 Now, while there are various forms of evidence such as
17 testimony, photographs, documents, charts and other types
18 of physical exhibits, there are really only two types of
19 evidence. Those two types of evidence are direct evidence
20 and circumstantial evidence. And each of those, or in
21 combination, may be used to prove any fact in issue or any
22 element of a criminal offense, and of course the commission
23 a crime.

24 Direct evidence is the testimony of a person who
25 testifies from actual knowledge of that fact. It is the

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1 testimony by a person who has perceived the existence of a
2 fact by means of his or her senses and then they come into
3 court and they testify as to what they have previously
4 seen, heard or felt, in other words, what they have
5 previously perceived.

6 Direct evidence proves the existence of a fact
7 directly and does not require any deduction or inference.

8 Circumstantial evidence, on the other hand, is the
9 proof of some other fact or set of facts which taken either
10 singly or collectively may prove the existence of a fact in
11 issue as a necessary consequence, that is by a deduction or
12 through an inference.

13 An inference is simply a deduction of fact that may
14 logically and reasonably be drawn from the proof of some
15 other fact or set of facts. It is a fact which is not
16 proven by the direct testimony of a witness based upon
17 their person perception, but it is a conclusion which might
18 reasonably be drawn from the proof of other facts.

19 In other words, you may infer that a particular event
20 occurred or that a particular fact exists based upon the
21 proof of sufficient factual circumstances which would
22 reasonably warrant your arriving at a particular
23 conclusion.

24 The commission of a crime and any particular element
25 necessary to prove a crime may be proven by direct evidence

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1 or by circumstantial evidence or by a combination of both
2 direct and circumstantial evidence.

3 The law makes no distinction between the weight or the
4 value to be given to direct evidence or circumstantial
5 evidence. However, to the extent that the state relies
6 upon circumstantial evidence in order to establish the
7 commission of a crime, all of the circumstances proven must
8 be consistent with each other and when taken together point
9 conclusively to the guilt of the accused beyond a
10 reasonable doubt.

11 If these circumstances merely portray the defendant's
12 behavior as suspicious, then the proof is insufficient and
13 it fails. This burden rests with the state, regardless of
14 whether the state relies upon direct evidence or
15 circumstantial evidence or some combination of the two
16 types of evidence in order to prove the defendant guilty
17 beyond a reasonable doubt.

18 Proof beyond a reasonable doubt is proof that leaves
19 you firmly convinced of the defendant's guilt. There are
20 very few things in this world that we know with absolute
21 certainty, and in criminal cases the law does not require
22 proof that overcomes every possible doubt.

23 If, based upon your consideration of the evidence in
24 this case, you are firmly convinced that the defendant is
25 guilty of a crime with which he is charged, then you must

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1 find the defendant guilty of that crime. And if, on the
2 other hand, you think there is a real possibility that the
3 defendant is not guilty of a crime with which he stands
4 charged, then you must give him the benefit of that doubt
5 and find him not guilty of that particular offense.

6 Now, as you know, there are five separate and distinct
7 criminal offenses. Each of those offenses is set forth
8 separately in the indictments which have previously been
9 read to you.

10 Each of these crimes that are alleged against the
11 defendant are what are referred to as statutory offenses,
12 and that just means that each of those offenses are set
13 forth in these Code of Laws. You'll see these blue volumes
14 behind me.

15 Each year the legislature meets from January to June.
16 During the course of that session they pass a number of
17 laws and rules and regulations that govern our conduct in a
18 variety of ways. Some of the laws that they pass are
19 criminal-penalty statutes, and they simply classify conduct
20 as a criminal offense.

21 Where a person is found to have engaged in that
22 conduct in violation of a particular statute, then it
23 subjects that person to some form of punishment or penalty
24 for having committed that crime or violated that statute.

25 Please keep in mind, however, that you are never to be

Jury charge

1 concerned with any punishment that might be imposed as a
2 result of some decision that you make. You're not to be
3 concerned with any punishment or consequence of your
4 finding a verdict in a particular case. You must determine
5 your decision based solely upon the law and the evidence,
6 and you're not to give any consideration to any consequence
7 of that decision.

8 There are five separate crimes. I've got to address
9 them in some order, so I'm simply going to address them in
10 a -- in the order that I determine is appropriate for me.
11 But you can address those when you go back to deliberate --
12 you can consider them in any fashion that you wish to.

13 But the first crime that I'm going to instruct you as
14 to the law as it relates to is the crime of burglary in the
15 first degree.

16 Burglary in the first degree is defined in Section
17 16-11-311 of the South Carolina Code of Laws, and that
18 particular code section provides that a person is guilty of
19 burglary in the first degree if the person enters a
20 dwelling without consent and with the intent to commit a
21 crime therein, and either when in effecting entry or while
22 in the dwelling or in immediate flight therefrom, the
23 defendant or another participant in the crime is armed with
24 a deadly weapon or causes physical injury to a person who
25 is not a participant in the crime, or uses or threatens to

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1 use a dangerous instrument, or displays what is or appears
2 to be a firearm, or the entering or remaining occurs in the
3 nighttime.

4 So based upon that foregoing statute before you could
5 return a verdict of guilty as to the crime of burglary in
6 the first degree it would be necessary that the evidence in
7 this case has proven to your satisfaction beyond a
8 reasonable doubt the following four essential elements.

9 First of all, it must be established that the
10 defendant entered a dwelling. Entry is an indispensable
11 element in the crime of burglary. An entry is simply the
12 act of going into the dwelling.

13 Secondly, it must be -- and I further state that it is
14 not necessary that actual physical force be used to
15 accomplish any entry, nor does any door, window or other
16 barrier have to be opened or removed in order to effect an
17 entry. Entering of the dwelling is sufficient so far as
18 the entry element is concerned.

19 It also must be that entry of a dwelling. A dwelling
20 is defined as a building, a structure which is used or
21 normally used for sleeping, living or lodging by any
22 person.

23 Secondly, there must be an entry of a dwelling without
24 consent. Entering without consent means to enter a
25 dwelling without the consent of the owner or person

Jury charge

1 otherwise in lawful possession of the premises, or it means
2 to enter a dwelling by using deception, artifice, trick or
3 misrepresentation in order to gain consent to enter from
4 the person who is in lawful possession.

5 Thirdly, there must be an entry of a dwelling without
6 consent and with the intent to commit a crime therein.

7 There must be an intent to commit a crime, whether or not
8 the crime is actually committed, accomplished or completed.

9 The mere entering of a dwelling without an intent to commit
10 a crime does not constitute burglary. It is only when
11 there is an entering of a dwelling without consent with an
12 intent to commit a crime that the crime of burglary is
13 complete.

14 The entering of a dwelling without consent and with
15 the intent to commit a crime therein completes the crime of
16 burglary.

17 In order for the crime to be burglary in the first
18 degree there's an essential fourth element that has to be
19 established, and that is either that when, in effecting
20 entry or while in the dwelling or in immediate flight
21 therefore, the defendant or another participant in the
22 crime was armed with a deadly weapon or caused physical
23 injury to a person who was not a participant in the crime,
24 or used or threatened the use of a dangerous instrument, or
25 displayed what appeared to be a firearm, or the entering or

Jury charge

1 remaining occurred in the nighttime. And nighttime is
2 defined as that period between sunset and sunrise, that
3 period of darkness when a person's facial features are not
4 discernable by the light from the sun.

5 The second indictment that I'll address is the one
6 alleging the crime of kidnapping. Kidnapping is defined in
7 South Carolina Code Section 16-3-910, and it provides in
8 its relevant parts as follows: whoever shall unlawfully
9 seize, confine, inveigle, decoy, kidnap, abduct or carry
10 away any other person by any means whatsoever without the
11 authority of law is guilty of the crime of kidnapping.

12 In order for the defendant to be found guilty of a
13 violation of this particular section it would be necessary
14 that the state has proven to your satisfaction beyond a
15 reasonable doubt each of the following essential elements
16 of the crime of kidnapping. And those essential elements
17 as set forth in the statute are that the defendant did
18 seize or confine or kidnap or abduct or carry away another
19 person by some means or method; and, secondly, that one or
20 more of the above acts was done without the authority of
21 law.

22 I'm going to define those terms for you. The term
23 seize means to take hold of suddenly and forcibly. The
24 term confine means to imprison or to restrain or to
25 restrict a person's freedom in some significant way. The

Jury charge

1 term abduct means to take a person away against her will
2 and without her consent. And to carry away means to remove
3 from one place to another without legal authority and
4 without consent of the person being moved.

5 The term kidnap means to carry a person away through
6 the use of force and against his or her will and without
7 the authority of law. And the term without authority of
8 law simply means that the conduct engaged in was not
9 permitted, sanctioned, condoned, allowed or justified under
10 the law.

11 In order for the defendant to be found guilty of the
12 crime of kidnapping the state need not prove each of the
13 terms -- seize, confine, kidnap, abduct or carry away.
14 Proof of any one or more of those prohibited acts is
15 sufficient so long as it is done without authority of law
16 and without the consent of the person who is alleged to
17 have been kidnapped.

18 The next offense that I will address is that of the
19 crime of murder.

20 Murder is defined in Section 16-3-10 of the Code of
21 Laws of South Carolina as the killing of any person with
22 malice aforethought, either expressed or implied.

23 In order for you to find the defendant guilty of the
24 crime of murder it would be necessary that the evidence in
25 this case has established to your satisfaction beyond a

Jury charge

1 reasonable doubt that the defendant or an accomplice, where
2 the defendant is shown to be acting in concert with
3 another -- and I'll explain to you the law of accomplice
4 liability later on in this instruction -- but in order to
5 be found guilty of the crime of murder it must be shown
6 that the defendant or an accomplice, where the defendant is
7 shown to be acting in concert with another, did commit some
8 act or acts which proximately caused the death of the
9 decedent -- in this case Carey Mauldin -- and that that
10 killing was done with malice aforethought. Malice
11 aforethought is an essential element of the crime of
12 murder.

13 So what is it? Malice is an essential element of the
14 crime of murder, and it means a state of mind connoting an
15 ill will and having the intent to do harm.

16 Intent means the state of a person's mind which
17 directs his actions towards a specific object or goal.
18 Intent would include those consequences which represent the
19 very purpose for which an act is done, as well as those
20 consequences which are known to be substantially certain to
21 result, whether actually intended or not.

22 Malice is a technical term importing wickedness and
23 excluding just cause or legal excuse. It is something
24 which springs from depravity from a heart devoid of social
25 duty and fatally bent on mischief. It is a state of mind

Jury charge

1 indicating an extreme disregard for or an extreme
2 indifference to a human life.

3 Malice may be likewise defined as a state of mind
4 which indicates a formed purpose and design to do a
5 wrongful act under circumstances that exclude any legal
6 right to do it.

7 And the words expressed or implied malice do not mean
8 different kinds of malice but merely the manner in which
9 malice may be shown to have existed, that is to say either
10 by direct evidence or by circumstantial evidence or a
11 combination of the two, but evidence where you may find
12 directly or imply or infer the existence of malice.

13 Malice may be expressed as where there is an expressed
14 threat to kill or a lying in wait or where the
15 circumstances show directly that the intent to kill was
16 entertained by the killer.

17 Malice may be inferred, though no expressed intent to
18 kill is proven by direct evidence, where the facts and
19 circumstances which have been proven by the evidence in
20 this case satisfy you beyond a reasonable doubt that malice
21 was present in the mind of the killer at the time any
22 killing took place.

23 And the existence of malice may be inferred from any
24 acts, declarations and/or conduct of the killer, as well as
25 from any other circumstances shown to have existed at the

Jury charge

1 time of the event from which you might reasonably infer the
2 existence of malice as often the state of a person's mind
3 can only be proven by circumstantial evidence.

4 Malice as an essential element of the crime of murder
5 does not necessarily require proof of an ill will or a
6 hatred toward the particular individual who was killed, nor
7 does it necessarily require proof of an actual or a
8 specific intent to take human life, but rather it means a
9 state of mind accompanying conduct signifying a general
10 malignant recklessness and an extreme disregard for or an
11 extreme indifference to human life.

12 Even where the facts proven are sufficient to give
13 rise to an inference of malice, such an inference is simply
14 an evidentiary fact to be taken into consideration by you
15 12 jurors along with all of the other evidence in the case,
16 and you shall give it such weight, if any, that you
17 determine it should receive, if any.

18 The state is required to prove malice just as it must
19 prove any other essential element of the crime of murder,
20 and it is for you 12 jurors to determine whether or not the
21 evidence in this case establishes the existence of malice
22 beyond a reasonable doubt.

23 It is also essential that it be malice aforethought.
24 The law does not require that malice must exist for any
25 appreciable length of time before the commission of an act

Jury charge

1 proximately causing the fatal result. Indeed, it may be
2 conceived at the very moment that the fatal act is
3 committed.

4 It is sufficient in the law so long as the state does
5 prove beyond a reasonable doubt both the existence of
6 malice and the commission of an act or acts by the
7 defendant or by an accomplice which proximately caused the
8 fatal result.

9 You must determine whether or not malice aforethought
10 existed based upon your consideration of all of the
11 evidence introduced during the trial, as well as any
12 reasonable inferences that might be drawn from that
13 evidence.

14 Now, while state does have to prove beyond a
15 reasonable doubt that a killing occurred accompanied by the
16 element of malice aforethought in order to establish the
17 crime of murder, it is not necessary that the state prove
18 any motive for the killing. Motive is not an essential
19 element of the crime of murder which must be proven,
20 although there may be evidence relating to that fact
21 introduced during the course of the trial.

22 The next crime contained in an indictment which I'll
23 instruct you as to the law is the crime of attempted
24 murder. Attempted murder, again, is also a statutory
25 offense. That offense is set forth in Section 16-3-29 of

Jury charge

1 the Code of Laws of South Carolina. And that statute
2 provides that a person who with the intent to kill attempts
3 to kill another person with malice aforethought, either
4 expressed or implied, commits the crime of attempted
5 murder.

6 In order for you to find the defendant guilty of the
7 crime of attempted murder it would be necessary that the
8 evidence in this case has established to your satisfaction
9 beyond a reasonable doubt that the defendant, Jason Andrew
10 Cash, or an accomplice where the defendant is shown to be
11 acting in concert with another did with malice aforethought
12 and a specific intent to kill commit some overt act or acts
13 in an attempt to kill Casey Scruggs.

14 The term attempt refers to the commission of an overt
15 act or acts done in furtherance of the intent to do a
16 specific thing which tends towards the accomplishment or
17 intended goal but which falls short of completion.

18 An attempt to commit a crime means an effort towards
19 or the doing of an act or acts which directly move towards
20 the completion of the commission of that crime that was
21 intended, and in this case that crime is alleged to be the
22 crime of murder.

23 I have already defined for you the term malice
24 aforethought when I instructed you on the law as it relates
25 to the commission of the crime of murder. That same

Jury charge

1 definition of malice aforethought also applies to the crime
2 of attempted murder.

3 One difference or one of the differences in the crime
4 of murder and the crime of attempted murder is that while
5 the crime of murder does not require, as I told you, a
6 specific intent to kill, the crime of attempted murder does
7 require a specific intent to kill.

8 It is an essential element of the crime of attempted
9 murder, and that means that the defendant or an accomplice
10 consciously intended the commission of the acts that
11 constitute the intent to commit murder.

12 As I said, intent means the state of a person's mind
13 which directs his objects towards a specific object or goal
14 and intended result.

15 The element of the intent to kill may be inferred from
16 acts, declarations and conduct of the defendant or an
17 accomplice, as well as from any other circumstances
18 established by the evidence in the case from which you
19 might reasonably infer such an intent, as often a person's
20 intent may only be established by circumstances.

21 Therefore, in order to establish the crime of
22 attempted murder it is necessary that the evidence in this
23 case establishes to your satisfaction beyond a reasonable
24 doubt that the defendant or an accomplice, where it is
25 shown that the defendant was acting in concert with

Jury charge

1 another, did with malice aforethought and with a specific
2 intent to kill commit some overt acts -- act or acts in an
3 attempt to kill Casey Scruggs without justification or
4 legal excuse.

5 The remaining charge for which I will provide you the
6 instruction is the crime of armed robbery. Armed robbery,
7 again, is a statutory offense set forth in 16-11-330 of the
8 Code of Laws of South Carolina.

9 That statute provides a person who commits the crime
10 of robbery while armed with a pistol, dirk, slingshot,
11 metal knuckles, razor or other deadly weapon is guilty of
12 the crime of armed robbery.

13 The crime of robbery is a larceny by force or the
14 threat of the use of force. Robbery is defined in the law
15 as the taking and stealing and the carrying away of the
16 personal property of another with the intent to steal it
17 and taking it away from the person or presence of that
18 person by the use of force or violence or by the threat of
19 the use of force or violence, that is through intimidation,
20 in order to accomplish the theft.

21 A thing is deemed to be in the presence of a person
22 with respect to the crime of robbery when the property is
23 so within his or her reach, observation or control that he
24 or she could, if not overcome by violence or prevented by
25 fear, retain possession of it.

Jury charge

1 A robbery is the forcing of a person to surrender
2 property with the intent to steal it by the use of force or
3 violence or by threatening a person with the use of force
4 or violence in order to accomplish the theft.

5 Taking property of another with an intent to steal it
6 by forcing a person to surrender possession of the property
7 or by causing a person to surrender possession of the
8 property by putting them in fear through intimidation is a
9 robbery under the law.

10 A robbery becomes an armed robbery when the robbery is
11 accomplished through the use of a pistol, revolver or
12 firearm or other deadly weapon.

13 And therefore before you could find the defendant to
14 be guilty of the crime of armed robbery it would be
15 necessary that the state has proven beyond a reasonable
16 doubt that the defendant, or an accomplice where the
17 defendant is shown to be acting in concert with another,
18 committed the crime of robbery and at the time the crime of
19 robbery was committed he was armed with a pistol or other
20 firearm with which he accomplished the crime of robbery.

21 Now, as I told you when I began this instruction -- I
22 believe with the murder instruction -- I told you I would
23 explain to you the law as it relates to accomplice
24 liability.

25 You are instructed that when a person is charged with

Jury charge

1 the commission of a crime that person may be convicted as
2 the principal offender or as an accomplice. An accomplice
3 is one who knowingly and voluntarily and with common intent
4 with the principal offender unites with that principal
5 offender in the commission of the crime. An accomplice is
6 often referred to as an aider or an abettor in the
7 commission of a crime.

8 In this case the state alleges that the defendant,
9 Jason Andrew Cash, is guilty of the crimes of murder,
10 burglary, kidnapping, attempted murder and armed robbery
11 either as a principal or as an accomplice with another.

12 The legal theory of accomplice liability is only
13 applicable depending upon your determination of the facts
14 as it relates to any role, if any, you find the defendant
15 played in the commission of any crime the state has proven
16 to have been committed by someone.

17 You are instructed that where two or more people act
18 together with a common intent and purpose and they combine,
19 conspire, plan or otherwise agree to the commission of a
20 crime, each person who is present to aid, abet, assist or
21 otherwise participate in the commission of the crime is
22 equally guilty.

23 The act of one is deemed to be the act of all. Any
24 person who joins with another or others to accomplish an
25 illegal purpose is held to be criminally responsible for

Jury charge

1 everything done by any other person which occurs as a
2 natural and probable consequence of the acts done pursuant
3 to and in furtherance of the common plan and purpose; and
4 therefore where two or more persons are acting together and
5 are aiding, abetting, assisting and participating with each
6 other in the commission of a crime, the acts of one become
7 the acts of all, or the hand of one is the hand of all, and
8 all are equally guilty of any crime accomplished thereby.

9 In order for the defendant to be found guilty of a
10 crime under the legal theory of aiding and abetting it must
11 be proven beyond a reasonable doubt that the defendant was
12 not just merely present at the scene where a crime was
13 committed but that he was present with the intention of
14 aiding, abetting, assisting and participating in the common
15 plan or scheme which culminates in the commission of that
16 crime.

17 You are instructed further, and I emphasize to you,
18 that the fact that a defendant does not take the witness
19 stand and testify during the trial of a criminal case is
20 not a fact or circumstance that may be considered by the
21 jury in any way whatsoever in your deliberations nor in
22 your determination as to whether or not his guilt has been
23 proven beyond a reasonable doubt.

24 You must not allow such a fact to weigh in the
25 slightest degree against the defendant. As I have said,

Jury charge

1 the burden is always upon the state because they made the
2 accusation, they brought the charge, to prove the defendant
3 guilty beyond a reasonable doubt.

4 The burden is never upon a defendant to prove that he
5 is not guilty or to prove that he is innocent because in
6 some instances that might not be possible; and therefore
7 you are not to draw any inference nor reach any conclusion
8 from the fact that a defendant does not testify from --
9 does not testify during the trial of the case, nor may that
10 fact even be discussed while you are in the jury room. And
11 it cannot affect your judgment in this case.

12 Now, Madam Forelady and ladies and gentlemen of the
13 jury, I am not concerned with what your decisions are, but
14 you are instructed that the decisions of the jury must be
15 unanimous. That is all 12 of you must be in agreement.

16 As I told you, you've got five separate charges to
17 consider. There are five separate indictments that will be
18 in the jury room. They will require five separate
19 verdicts. And you will indicate those five separate
20 decisions on the back of each indictment, on the back in
21 the space where it's provided, Madam Forelady. You will
22 also sign your name as the foreperson. You're the only
23 juror that needs to sign the verdict form. But, as I say,
24 each has to be unanimous.

25 But as to each of the separate charges you have two

Jury charge

1 potential verdict forms. Those two potential verdict forms
2 are guilty and not guilty.

3 And as I've stated, as to all of the charges the
4 verdicts may be the same. They may be different. That, as
5 I say, of course will depend upon your determination of
6 fact as it relates to the allegations contained in the
7 indictment relating to that charge and then your
8 application of the law as I will have provided it to you
9 during the course of this instruction.

10 So whatever your decision is as to each separate
11 indictment, whether it be guilty or not guilty, indicate
12 that in the space provided. Sign your name as the
13 foreperson, place the appropriate date on it, knock on the
14 jury room door, tell the bailiff you and your fellow jurors
15 have reached your unanimous decisions, and then we'll bring
16 you back into the courtroom to receive your verdicts.

17 Madam Forelady, once you and your fellow jurors have
18 arrived at your decisions and you notify the bailiff that
19 you have arrived at your decisions, you will maintain
20 possession of the verdict forms. I will receive those from
21 you after you return to the courtroom for us to receive
22 your verdicts.

23 You may however give all of the evidence which has
24 been introduced and that you will have in the jury room,
25 you can give that evidence to the bailiff. But you will

Jury charge

1 maintain possession of the verdict form.

2 Now, during the course of your deliberations there may
3 come a time where you have some question about the facts of
4 the case. You may have some question about the evidence in
5 the case. You may want to inquire about some other
6 evidence that may be out there somewhere that you think
7 will be beneficial to you in arriving at a decision.

8 Please understand that I am never allowed to comment
9 upon the facts and I'm never allowed to answer any question
10 that you might have about the facts of the matter or about
11 the evidence in the case.

12 Now that the case is going to be submitted to you for
13 your deliberations no additional evidence may be received
14 nor may be introduced to you in the jury room. So if you
15 don't have the evidence in the jury room because it was not
16 introduced during the trial of the case, then you can't
17 have it now even if you think it would be helpful. So
18 don't ask me about anything that was not introduced.

19 All of the exhibits which were introduced are going to
20 be verified by the Court and by the lawyers, and so all of
21 the exhibits which were introduced during the trial should
22 be there in the jury room with you. However, if you think
23 something is missing, then you can let me know of that fact
24 through the bailiff, and we'll attempt to locate that
25 exhibit. But all should be present. But no additional

Jury charge

1 exhibits can be introduced.

2 If you have a question about a witness' testimony that
3 was received during the trial, I don't have transcripts of
4 witnesses' testimony. But if you would like to -- if you
5 would like to have a witness' testimony reheard, replayed
6 in all or in part, we can bring you back into the courtroom
7 to have a witness' testimony reheard. So that is permitted
8 during the course of deliberations.

9 If at any time you have a question about the law that
10 you are to apply, the instruction I provided you, I am
11 permitted to answer those questions.

12 So if you need for me to give you a reinstruction on
13 any or all of it, if you need for me to give you an
14 explanation or a clarification of any of it, I am permitted
15 to do that.

16 So should you have a question about the facts, I can't
17 comment; if you need testimony reheard, we can bring you
18 back for that; if you need an additional instruction or
19 clarification or explanation, I will provide you with that.

20 So, Madam Forelady, if at any time you need to address
21 any matter to me, if you'll simply write it on a piece of
22 paper, give it to the bailiff, he'll provide it to me, and
23 I'll respond accordingly.

24 Now, I don't know if we have any smokers on the jury,
25 but if we do, you can smoke during deliberations, but you

Jury charge

1 can't smoke in the jury room. So you have to go outside to
2 accomplish that purpose. If you want to smoke, let the
3 bailiff know. He'll take those outside who wish to do
4 that.

5 You are however instructed that if at any time a juror
6 is absent for some authorized purpose the deliberations
7 have to stop. They may only resume when all 12 jurors are
8 present so that all may participate in those deliberations.

9 I assume that while many of you may not smoke, I
10 assume that all of you do eat and like to have lunch. And
11 so if during the course of your deliberations -- I don't
12 know how long they're going to take, and neither do you.
13 You won't know that until you begin. But if you get to a
14 point in your deliberations where you think it's
15 appropriate to order lunch or you'd like to have lunch, if
16 you'll let the bailiff know, then we'll have the clerk come
17 and take your lunch order and provide you with that lunch.
18 It'll be ordered and brought to the jury room for your
19 benefit.

20 Usually it takes about a little over an hour to take
21 your lunch orders, have it ordered, prepared and brought to
22 the courthouse. So keep that mind as you go back to
23 deliberate. It's going to take an hour and ten minutes or
24 so to have your lunch brought to the courthouse. So as you
25 go back to begin deliberations keep that in mind as you

Jury charge

1 decide when and if you need to have lunch.

2 I think that covers everything, but in the event it
3 does not I'm certain one of these lawyers will remind me
4 that I neglected to provide you with some information that
5 perhaps I should have. And if I agree, then I'll bring you
6 back and I'll provide you with that additional information.

7 If I do bring you -- do not need to bring you back for
8 any reason, then I'll send word by way of the bailiff that
9 you may begin with your deliberations, and he or she will
10 bring to the jury room all of the exhibits which have been
11 introduced during the trial.

12 And to you, Madam Forelady, he'll also bring the
13 indictments which will serve as the verdict forms.

14 Now, there have been introduced during the trial some
15 discs that contained some recordings, and so you'll have a
16 computer back there with you to listen to those if you'd
17 like to. I don't think there's anything complicated about
18 using the computer for that. You just put it in the slot
19 and play it, not that I don't think using a computer is
20 complicated, because sometimes it is for me, but I usually
21 get one of my children or grandchildren to tell me what to
22 do with it. That usually resolves my problem. But you're
23 not going to have that benefit.

24 So if you have any issue about playing those discs,
25 let the bailiff know, and we'll help you resolve that issue

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1 should they arise. But I'm guessing between the 12 of you
2 y'all can figure it out.

3 Okay. I'm going to ask the 12 primary jurors to
4 please go to your jury room with the bailiff, but do not
5 begin your deliberations until I send you word to do so and
6 you receive the exhibits and the verdict forms.

7 I'm going to ask the two alternate jurors to remain in
8 the courtroom with me for the present time.

9 (Whereupon, the jury retired to deliberate at
10 11:07 a.m.)

11 THE COURT: I have got two alternates. As you know,
12 you can't participate in jury deliberations because the
13 original 12 appear to be able to do that. But you never
14 know what's going to happen during the course of
15 deliberations, and somebody might -- or something might
16 occur that would cause a juror to have to stop and be
17 unable to continue participating in those deliberations.

18 So because of that possibility I'm going to ask each
19 of you to remain with us. The bailiff will take you to a
20 separate room with just you two. Y'all can talk about
21 anything you want to, but you still cannot talk about the
22 case. You're not permitted to discuss the case unless
23 you're involved in jury deliberations or until the case is
24 over.

25 But, in any event, the bailiff is going to take you to

Jury charge

1 a separate room where you'll remain with us until the jury
2 reaches their decisions. When they reach their decisions
3 we'll bring you back, along with them, in order to receive
4 their verdicts.

5 If they decide to order lunch, then you will also be
6 allowed to order lunch too. Okay. So if you'll please --
7 thank you for participation. If you will go with a bailiff
8 to a separate room we'll be back in touch with you any time
9 that the other jury comes back.

10 (Whereupon, the alternate jurors were excused from the
11 courtroom.)

12 THE COURT: Are there any exceptions taken to the
13 instruction or requests for additions to the instruction by
14 the state?

15 MR. BULSA: No, Your Honor.

16 THE COURT: By the defendant?

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

18 THE COURT: Let me ask y'all to verify the exhibits
19 before they go pack, please.

20 (Pause.)

21 THE COURT: All of the exhibits are accounted for?

22 MR. BULSA: Yes, sir.

23 MR. MOORE: Yes, sir, Your Honor.

24 THE COURT: All right. Send the exhibits back. Tell
25 the jury to begin their deliberations and notify us when

Jury charge

1 they have concluded and to let us know about lunch whenever
2 they feel necessary.

3 We'll be at ease while the jury is deliberating.

4 (Whereupon, the exhibits were submitted to the jury at
5 11:12 a.m.)

6 (Whereupon, a recess was taken.)

7 THE COURT: Okay. Bring the jury in, please.

8 You'll need to bring the alternates too.

9 (Whereupon, the jury returned to the courtroom at
10 12:15 p.m.)

11 THE COURT: Madam Forelady, I understand from your
12 note that the jury wishes for me to clarify what the term
13 without consent means.

14 THE FOREPERSON: Yes, sir, and maybe to explain if
15 there's any other circumstances that constitutes the
16 burglary in the first degree other than just the consent.

17 THE COURT: All right. Well, let me do this.

18 I'm going to provide you an additional instruction.
19 And if for some reason that doesn't clarify it or you need
20 additional assistance, you'll go back to the jury room and
21 write an additional question on here. Okay.

22 THE FOREPERSON: Yes, sir.

23 THE COURT: All right. Well, burglary of course is
24 entering a dwelling without consent and with intent to
25 commit a crime therein, and in order for it to be burglary

Jury charge

1 in the first degree one of the additional aggravating
2 factors that I previously stated.

3 The term entering-without-consent means to enter a
4 dwelling without the actual consent of the owner or person
5 otherwise in lawful possession of the premises. And the
6 term entering-without-consent also means to enter a
7 dwelling by using deception, artifice, trick or
8 misrepresentation in order to gain or obtain consent to
9 enter the dwelling from the owner or other person in lawful
10 possession of the premises.

11 All right. I'll ask you to please return to your jury
12 room. And if you need further clarification, please let me
13 know.

14 (Whereupon, the jury retired to deliberate at
15 12:18 p.m.)

16 THE COURT: Any exceptions taken to that additional
17 clarification or the instruction?

18 MR. BULSA: None by the state, Your Honor.

19 MR. MOORE: None from the defense, Your Honor.

20 THE COURT: Okay. We'll continue to be at ease while
21 the jury is deliberating.

22 (Question from the jury marked Court's Exhibit No. 2.)

23 (Whereupon, a recess was taken.)

24 THE COURT: I am informed the jury has reached a
25 decision. Are we ready to receive it?

1 MR. BULSA: Yes, sir.

2 MR. MOORE: Yes, sir, Your Honor.

3 THE COURT: All right. Bring them in, please.

4 (Whereupon, the jury returned to the courtroom at
5 1:20 p.m. to report its verdict.)

6 THE COURT: Madam Forelady, have you and your fellow
7 jurors reached a unanimous decision on each of the
8 separate offenses --

9 THE FOREPERSON: Yes, sir.

10 THE COURT: -- and charges in the indictment?

11 THE FOREPERSON: Yes, sir.

12 THE COURT: And did you indicate those decisions on
13 the back of the indictment as requested?

14 THE FOREPERSON: Yes, sir.

15 THE COURT: Did you sign your name as the foreperson
16 and date it?

17 THE FOREPERSON: I did, sir.

18 THE COURT: All right. If you will, please hand those
19 verdict forms up by way of the bailiff.

20 You may publish the verdicts.

21 THE CLERK: In the General Sessions Court, Case
22 No. 2015-GS-42-3778, the State vs. Jason Andrew Cash,
23 indictment for murder, the verdict is guilty.

24 Case No. 2015-GS-42-3777, indictment for attempted
25 murder, the verdict is guilty.

Verdict

1 Indictment No. 2015-GS-42-3776, indictment for
2 kidnapping, the verdict is guilty.

3 Case No. 2017-GS-42-0495, indictment for armed
4 robbery, the verdict is guilty.

5 2017-GS-42-0496, indictment for burglary first degree,
6 the verdict is guilty.

7 Ladies and gentlemen of the jury, if these are your
8 verdicts and still your verdicts, please raise your right
9 hand.

10 (Whereupon, all responded in the affirmative.)

11 THE CLERK: So say you all.

12 THE COURT: Does the defendant wish to have the jury
13 polled?

14 MR. MOORE: He says he does, Your Honor.

15 THE COURT: All right. Poll the jury, please, ma'am.

16 THE CLERK: Yes, sir.

17 Ladies and gentlemen of the jury, I will pose a
18 question to you, after which I will call your number and
19 ask you to stand individually and answer my question. The
20 question being is this your verdict and still your verdict.

21 No. 115, Muldrow.

22 THE JUROR: Yes.

23 THE CLERK: Thank you.

24 77, Hickman.

25 THE JUROR: Yes.

Verdict

1 THE CLERK: 97, Larsson.
2 THE JUROR: Yes.
3 THE CLERK: 25, Cartee.
4 THE JUROR: Yes.
5 THE CLERK: 134, Ramsey.
6 THE JUROR: Yes.
7 THE CLERK: 79, Hipp.
8 THE JUROR: Yes.
9 THE CLERK: 93, King.
10 THE JUROR: Yes.
11 THE CLERK: 56, Foster.
12 THE JUROR: Yes.
13 THE CLERK: 154, Suttles.
14 THE JUROR: Yes.
15 THE CLERK: 62, Geter.
16 THE JUROR: Yes.
17 THE CLERK: 16, Browning.
18 THE JUROR: Yes.
19 THE CLERK: 61, Gardner.
20 THE JUROR: Yes.
21 THE CLERK: Your Honor, the jury has been polled.
22 THE COURT: Thank you.
23 Any other matters that need to be addressed with the
24 jury present?
25 MR. BULSA: No, sir.

Sentence

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

2 (Whereupon, the trial jury was excused.)

3 THE COURT: Is there anything further to be addressed
4 prior to the imposition of sentence?

5 MR. MOORE: Your Honor, I would like to make two
6 motions on the record.

7 THE COURT: Okay.

8 MR. MOORE: We renew our motion for directed verdict
9 incorporating all of the previous objections heard during
10 the trial, and also we would make a motion to set aside the
11 verdict and have the Court order a new trial.

12 THE COURT: All right. Those motions are denied.
13 Anything further on behalf of the state?

14 MR. BULSA: Would you like to hear his record, Your
15 Honor?

16 THE COURT: Yes.

17 MR. BULSA: Your Honor, in 2011 he pled guilty to two
18 counts of burglary second degree, two counts of breaking
19 into motor vehicle and one count of petit larceny.

20 He was ordered to participate in a drug court program
21 which he was terminated from in 2012 and was then sent to
22 prison on an 8-year sentence for all of those charges.

23 Anybody wish to address the Court? State your name
24 and address the Court.

25 CHRIS MAULDIN: My name is Chris Mauldin. I'm Carey's

Sentence

1 brother.

2 I just ask you to impose the maximum penalty for this
3 crime. My family has gone through 21 months of -- and I
4 don't want anybody to ever have to go through this with
5 this guy. That's all I ask.

6 THE COURT: Okay. Thank you Mr. Mauldin.

7 CHRIS MAULDIN: Thank you.

8 MR. BULSA: Nothing further, Your Honor.

9 THE COURT: All right. Mr. Moore.

10 MR. MOORE: Just briefly, Your Honor.

11 I did want to tell you in case you didn't already hear
12 in the testimony that Drew is 25 of years of age. He
13 achieved his G.E.D. And obviously the Court heard. I
14 mean, the Court was here and present for all of the facts
15 and understands his involvement in this matter.

16 He served, I believe, 611 days so far, and we would
17 just ask the Court to have whatever mercy it can on
18 Mr. Cash.

19 And I believe he wants to address the Court as well.

20 THE COURT: All right. Mr. Cash.

21 THE DEFENDANT: I just want to say I'm sorry for any
22 involvement I might have had during this crime. I'm sorry
23 for the victims' families, and I apologize to the Court.

24 Everybody makes mistakes, some bigger than others. I
25 just ask, you know, to please spare me the dignity to at

Sentence

1 least die as an old man on the street out of prison and to
2 show me the mercy that wasn't shown to the victims that
3 night. That's all I've got to say.

4 THE COURT: Okay. Let me see the lawyers just a
5 minute.

6 (Bench conference held off the record.)

7 THE COURT: On Indictment 2015-3778, that's the
8 indictment for murder, wherein you have been found guilty
9 by the jury for that offense, the Sentence of the Court is
10 you, Jason Andrew Cash, be confined to the South Carolina
11 Department of Corrections for the balance of your natural
12 life.

13 Indictment 2015-3777, that's an indictment for
14 attempted murder, wherein you have been found guilty by the
15 a jury for that offense, the Sentence of the Court is you,
16 Jason Andrew Cash, be confined to the South Carolina
17 Department of Corrections for a period of 30 years.

18 That sentence is consecutive to that sentence imposed
19 on Indictment 15-3778 for murder.

20 Indictment 2017-496, an indictment for burglary in the
21 first degree, wherein you have been found guilty by a jury,
22 sentence is you be confined to the South Carolina
23 Department of Corrections for the balance of your natural
24 life.

25 Indictment 2017-495, an indictment for armed robbery,

Sentence

1 wherein you have been found guilty by the jury, the
2 Sentence of the Court is you be confined to the South
3 Carolina Department of Corrections for a period of 30
4 years.

5 Indictment 2015-3776, an indictment for kidnapping,
6 wherein you have been found guilty by a jury for that
7 offense, the Sentence of the Court is you be confined to
8 the South Carolina Department of Corrections for a period
9 of 30 years.

10 Mr. Cash, you have a right to appeal the verdicts of
11 the jury and the Sentence of the Court. You must file any
12 notice of your intention to appeal those decisions within
13 ten days of today's date. Do you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right.

16 END OF REQUESTED TRANSCRIPT OF RECORD

17

18

19

20

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22

23

24

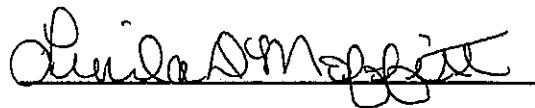
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 27th and 28th days of February, the 1st and 2nd days of March 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

May 16, 2017

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASON ANDREW CASH,

APPELLANT

APPELLATE CASE NO 2017-000637

ANDERS BRIEF OF APPELLANT

ROBERT M. PACHAK
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

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MAR 22 2017

SC Court of Appeals

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TABLE OF AUTHORITIES

Cases

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court should have granted a directed verdict on the charges appellant was tried for when he was merely present at the crime scene?

STATEMENT OF THE CASE

Appellant was convicted of murder, attempted murder, burglary in the first degree, armed robbery, and kidnapping after a jury trial held before the Honorable J. Derham Cole on February 27- March 2, 2017, in Spartanburg County. Appellant was sentenced to life imprisonment for murder, to thirty (30) consecutive years for attempted murder, to life imprisonment for burglary in the first degree, and to thirty (30) years for armed robbery. Travis Moore, Esq. was defense counsel. Derrik Balsa, Esq. and Nicholas Sharpe, Esq. were the solicitors.

This appeal follows.

ARGUMENT

The trial court erred in denying a directed verdict on the charges appellant was tried for because he was just merely present at the scene of the crimes.

Casey Scruggs was the female victim of an attempted murder and was the key witness for the state. She testified at the time of the incident she lived on Highway 11 in Chesnee with her fiancé Carey Mualdin who was murdered the same day. (R. p. 162, line 25- p. 163, line 13). She had known appellant for two months. A co-defendant who was not being tried at the time was called Scooter. They met him about a month ago. (R. p. 164, line 20- p. 165, line 6).

On May 22, appellant called and wanted to come by and get a “fix.” When he got to the house she heard a ruckus and then she heard Carey say, “Baby, call 9-1-1.” (R. p. 166, lines 2-11). She could not see anybody. As soon as she grabbed the phone she saw Scooter. She was in the bedroom and Scooter ran in. (R. p. 167, lines 1-5). Before he ran in she heard two gunshots. She could not tell where they came from in the house. It was after the gunshot that Scooter ran into her room. He flipped her over in bed and began tying her up with duct tape. He was wearing blue latex gloves. (R. p. 169, line 7- p. 170, line 4).

Casey Scruggs got off the bed later and hobbled to the front of the house. She tried to open the door but it was dead-bolted. She saw appellant outside. Scooter ran and dragged her through the front of the house and threw her down. Appellant then came back inside. (R. p. 172, line 22- p. 173, line 18). She said she was shot but she did not see who shot her. A bullet grazed her head. After the shots were fired the two men left. (R. p. 174, line 9- p. 175, line 18).

At the conclusion of the State’s case defense counsel moved for a directed verdict on all of the charges. (R. 306, lines 4-17). The trial court denied the motion. (R. p. 307, lines 11- p. 308, line 9). That ruling was in error.

Due process as guaranteed by the Fourteenth Amendment requires “that no person shall be made to suffer the onus of a criminal conviction except upon sufficient proof—defined as evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense.” Jackson v. Virginia, 443 U.S. 307, 316, 99 S.Ct. 2781, 2787 (1979).

Our Court has held:

[T]he trial judge is concerned with the existence or non-existence of evidence, not with its weight; and, although he should not refuse to grant the motion where the evidence merely raises a suspicion that the accused is guilty, it is his duty to submit the case to the jury if there be any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced. [Emphasis added].

State v. Littlejohn, 228 S.C. 324, 89 S.E.2d 924, 926 (1955); State v. Edwards, 298 S.C. 272, 379 S.E.2d 888 (1989), cert. denied, 493 U.S. 895, 110 S.Ct. 246 (1989).

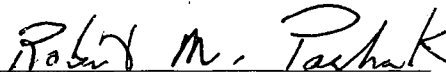
In applying this standard, our Court has held that evidence which is “sufficient to raise a strong suspicion of the guilt of the accused” is not sufficient to constitute “any evidence from which the guilt of the accused may be fairly and logically deduced.” State v. Totherow, 263 S.C. 275, 210 S.E.2d 228, 230 (1974). See, also, State v. Turner, 117 S.C. 470, 109 S.E. 119, 120 (1921). The motion for a directed verdict should be granted, therefore, “where evidence merely raises a suspicion of guilt, or is such to permit the jury to merely conjecture or to speculate as to the accused’s guilt.” State v. Brown, 267 S.C. 311, 227 S.E.2d 674, 677 (1976), citing State v. Matarazzo, 262 S.C. 662, 207 S.E.2d 93, cert. denied, 420 U.S. 945 (1974). “If the evidence is consistent with both innocence and guilt it cannot support a conviction.” United States v. Varoz, 740 F.2d 772, 775 (10th Cir. 1984); United States v. Ortiz, 445 F.2d 1100, 1103 (10th Cir 1971).

Guilt is only to be found when there is a “rationally supportable state of near certitude.” Evans-Smith v. Taylor, 19 F.3d 899, 906 (4th Cir 1994).

The State showed that Scooter committed the crimes but only that appellant was merely present at the scene. Mere presence does not constitute a crime. State v. Lenard, 292 S.C. 133, 355 S.E. 2d 270 (1987); State v. Johnson, 291 S.C. 127, 352 S.E. 2d 480 (1987). Prior knowledge that a crime may be committed is insufficient to convict a person. State v. Collins, 266 S.C. 566, 225 S.E. 2d 189 (1976).

CONCLUSION

A directed verdict should be granted to all of appellant's charges.


Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of August, 2017.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JASON ANDREW CASH,

APPELLANT

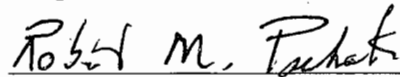
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jason Andrew Cash states:

1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. He has reviewed the record of appellant's trial before Judge J. Derham Cole, which was held on February 27, 2017 - March 2, 2017, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, He asks the Court to relieve him as counsel for Jason Andrew Cash.

Respectfully Submitted,



Robert M. Pachak

Appellate Defender

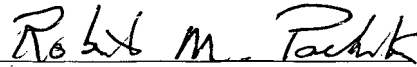
ATTORNEY FOR APPELLANT

This 22nd day of August, 2017.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 22, 2017.



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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

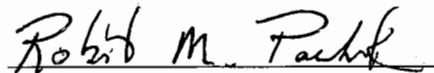
V.

JASON ANDREW CASH,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter have been served on Jason Andrew Cash, #347420, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 22nd day of August, 2017.

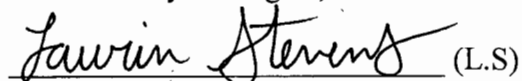


Robert M. Pachak

Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 22nd day of August, 2017.

 (L.S)

Notary Public for South Carolina

My Commission Expires: July 5, 2027

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Jason Andrew Cash, Appellant.

Appellate Case No. 2017-000637

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge

Unpublished Opinion No. 2018-UP-203
Submitted April 1, 2018 – Filed May 9, 2018

APPEAL DISMISSED

Appellate Defender Robert M. Pachak, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Deputy
Attorney General Donald J. Zelenka, both of Columbia,
for Respondent.

PER CURIAM: Dismissed after review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.¹

APPEAL DISMISSED.

HUFF, GEATHERS, and MCDONALD, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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May 25, 2018

The Honorable M. Hope Blackley
PO Box 3483
Spartanburg SC 29304-3483

REMITTITUR

Re: The State v. Jason A. Cash
Lower Court Case No. 2015GS4203776, 2015GS4203777,
2015GS4203778, 2017GS4200495, 2017GS4200496
Appellate Case No. 2017-000637

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Jason Andrew Cash, 347420
Alan McCrory Wilson, Esquire
Robert M. Pachak, Esquire
Donald J. Zelenka, Esquire
The Honorable J. Derham Cole

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF)

IN THE COURT OF COMMON PLEAS

Full name and prison number (if any) of Applicant.)

JASON ANDREW CASH #347420)

v.)

State of South Carolina)

2019 CP 4201576

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - 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 Spartanburg County Detention Facility
2. Name and location of Court which imposed sentence Spartanburg General Sessions Court, Spartanburg SC 2930
3. Name(s) of co-defendant(s) (if any) STEVEN RICHARD LEWIS
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2015GS4203776 - Kidnapping
 - (b) 2015GS4203777 - attempted murder
 - (c) 2015GS4203778 - MURDER
 - (D) 2017GS4200495 - ARMED ROBBERY
 - (E) 2017GS4200496 - BURGLARY 1st Degree
5. The date upon which sentence was imposed and the terms of the sentence:
 - (A) 2015GS4203776 (Kidnapping) - (30) years
 - (b) 2015GS4203777 (attempted murder) - (30) years
 - (C) 2015GS4203778 (MURDER) - LIFE SENTENCE
 - (D) 2017GS4200495 (ARMED ROBBERY) - (30) years
 - (E) 2017GS4200496 (BURGLARY 1st) - LIFE SENTENCE

ALL sentences were imposed
ON: 03/02/17
MARCH 2nd, 2017

2019 MAY - 11 AM 11:50
CLERK OF COURT
SPARTANBURG COUNTY

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty N/A~~(b)~~ after a plea of not guilty ✓(c) after a plea of nolo contendere N/A

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. SC Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Appeal Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. MAY 9th 2018

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. unpublished opinion ^{N/A} - 2018-UP-203

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) ~~_____~~(b) ~~_____~~(c) ~~_____~~N/A10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: * See attached *

2019 MAY - 1 AM 11:50
 CLERK OF COURT
 SPARTANBURG COUNTY

(a) _____

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10): * see attached *

(a) _____

(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)? No(d) any other petitions, motions or applications in this or any other Court? NO

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. A Direct appeal was filed

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. SC Court of Appeals Columbia, SC

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Appeal Dismissed

ii. _____

iii. _____

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CLERK OF COURT
SPARTANBURG COUNTY

iv. _____

(d) the date of each such disposition:

i. MAY 9th 2018

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. unpublished opinion N^o#-2018-UP-203

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. ~~_____~~ N/A
 iii. ~~_____~~

(b) the proceedings in which each ground was raised:

i. ~~_____~~
 ii. ~~_____~~ N/A
 iii. ~~_____~~

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) ground #1 - attempted to relieve counsel at trial but wasn't allowed by Judge
 (b) ground #2 - unknown at time of mental state (Pre-trial "Involuntary")
 (c) ground #3 - assistance of counsel did not argue to have these witness testimony thrown out
 (Admin. of Psych. Meds)

17. Were you represented by an attorney at any time during the course of:

2019 MAY - 1 AM 11:50
 SPANISH COUNTRY
 COURT

- (a) your arraignment and plea? Yes
- (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. TRAVIS MOORE, Spartanburg, SC
- ii. ROBERT M PACHAK, Columbia, SC
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. TRAVIS MOORE - Not guilty plea, trial & sentencing
- ii. ROBERT M PACHAK - DURING DIRECT APPEAL
- iii. _____

19. State clearly the relief you seek in filing this application:

* See attached *

20. Are you now under sentence from any other court that you have not challenged?

NO

2019 MAY -1 AM 11:50

CLINTON COUNTY

GROUND

397

- (#1) - Ineffective Assistance of Counsel
- (#2) - At the time of my trial proceedings I was under an influence of psychotropic medication that put me in a state of mind to be unaware of the severity of my situation and to lack the ability to assist in my own defense due to the dose was being administered in an amount 3 times the intended/prescribed amount.
- (#3) - Multiple States witness' gave false testimony, under oath, on the stand at my trial.

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CLERK OF COURT
CLARK COUNTY

"SUPPORTING FACTS FOR EACH GROUND"

#1 SUPPORTING FACTS

- Approx. (2) years of time lapsed awaiting trial and during that period of time my attorney, TRAVIS MOORE, only spent time on my case in a direction of me entering a plea of "Guilt" and negotiating a plea offer.

He, T. Moore, continuously advised me to do this even after informing him multiple times that I was not guilty of the charges that was being charged.

Also the fact that he and the solicitor were discussing rounds of golf the coming SATURDAY after my trial being in shared plans scheduled to occur in leisure. This could have caused a conflict of interest due to the relationship being more than business oriented.

#2 SUPPORTING FACTS

- ~~DURING~~ my "pre-trial" detention at Spartanburg County Detention Facility I was treated by medical for mental illness/disorders that have been previously diagnosed and are known and **Already** documented in my mental health/medical history.

Upon receiving treatment and being prescribed medications I was seen for (2) follow-up appointments to alter dose/medications and (1) one of the medications

Continued from pg 1 of "PCR application #11 attached".

.. prescribed was a medication named [Seroquel], which is an "Anti-psychotic" medication.. The amount of prescribed dose intended to be ordered and administered was (150mg's), as of the last change made by the psych doctor @ the last follow-up appointment. In some error on behalf of Spartanburg County Detention Facility and/or the medical staff, the ordered tablet (mg) size was (300mg) tablets and the system showed that 1 and 1/2 (300mg) tablets would be administered every night; which total would be (450mg) every night, instead of just (150mg) would be 3 times the prescribed amount. Also the fact that I have ~~not~~ been diagnosed by ANY mental health professional as an INDIVIDUAL that is "psychotic" OR to even have "psychotic episodes". This being facts of the matter and unknowingly at the time was being administered this medication and amount of the medication 3 times prescribed dose would have been grounds to bring forth as to why my mental CAPACITY lacked ^{an} efficient amount to proceed to stand trial but it wasn't known at the time to be an issue of importance. The state of mind I was in, under this over-dose of Anti-psychotic medication, was

PCR attached
pg 3 #11 400

"SUPPORTING FACTS FOR #10 GROUNDS"

CONTINUED FROM pg 2 of "PCR #11 attached"

... NOT one of awareness and understanding of my situation OR to the procedures and laws of trial proceedings to be able to assist in my own defense properly and sufficiently -

GROUND
#3
SUPPORTING
FACTS

- During my trial proceedings, the state called (2) different witnesses to the stand to testify in which stated they lied; (after a noted contradiction in stories), just moments prior and had NO logical or rational reasons in reasons to why they testified to false allegations..

The fact that a states witness claimed to have heard the victim state my name in addition to (co-defendant) MR Lewis' name the night of the incident and after "re-reading" HIS statement, given the same night, concluded and admitted to testifying moment prior to a lie and my name was in fact NOT spoken by Casey Scruggs (victim) to be involved; could have made an impact on the jury to have altered the verdict decision in the states favor and the he also supported solicitor's opening arguments and the story led to

2019 MAY 1

ALL: 5

pg 4

PCR attached
pg 4 of #11

"SUPPORTING FACTS FOR #10 GROUNDS LISTED"

Continued from pg 3 of "PCR #11 attached"

... be believed as the truth.. This being facts of my case and testimony given in my trial, this should be sufficient in reasons to grant an appeal in my favor for a RE-TRIAL.

PCR #402 attached
pg 1 of - #/9

"RELIEF SOUGHT"

The relief that I am seeking is that I be granted an appeal and be RE-TRIED for these alleged crimes to allow for assistance in preparing my defense and have understanding of procedures and laws of my case particulars and trial proceedings.

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STARRING COUNTY
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STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

I, ^{JASON #347420}
~~Cash~~, 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.

Jason Cash - JASON CASH

S WORN to and subscribed before me this 25th
 day of April, 2019.

Lechean Bryant (L.S.)
 Notary Public

My Commission Expires: May 26, 2020

CLERK OF COURT
 SPARTANBURG COUNTY
 2019 MAY -1 AM 11:50

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Jason Cash #347420, 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.

Jason Cash - JASON CASH
Applicant

SWORN or affirmed to and subscribed before me this
25th day of April, 2019.

Lucian Brizant
Notary Public

My Commission Expires: May 26, 2020

2019 MAY -1 AM 11:50

CLERK OF COURT
SOUTHERN DISTRICT OF CALIFORNIA

RECEIVED

JAN 24 2019

MAIL ROOM
LIEBER C.I.FINANCIAL CERTIFICATE
FOR THE
DISTRICT OF SOUTH CAROLINA

(for use in § 1983, Bivens, and non-habeas civil actions filed by prisoners)

RECEIVED

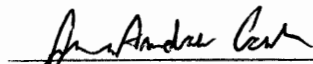
FEB 04 2019

MAIL ROOM
LIEBER C.I.

I request that an authorized officer of the institution in which I am confined, or other person designated to review financial information in relation to inmate trust funds, complete this Certificate. If I am granted *in forma pauperis* status, I authorize and consent to collection of the \$ 350 filing fee in accordance with 28 U.S.C. § 1915(b) until the filing fee is paid in full as well as any amount of costs, sanctions, and/or fees that might be imposed by the court during this litigation. I understand that if I do not qualify for *in forma pauperis* status, I will have to pay \$400 to proceed with my case, which includes the full \$350 filing fee as well as an additional \$50 administrative fee established by the Judicial Conference of the United States. The \$50 administrative fee is not applicable to *in forma pauperis* cases.

JASON ANDREW CASH

INMATE NAME (PRINTED)



INMATE SIGNATURE

347420

INMATE (PRISONER) NUMBER

SCDC - LIEBER CORR. INSTITUTION

PLACE OF CONFINEMENT

- ♦ (1) Average monthly deposits to the inmate's account.....
- ♦ (2) Average monthly balance in the inmate's account calculated for the prior six months period.....
- ♦ (3) Current Balance
- ♦ (4) Initial Installment Payment - due upon granting of *in forma pauperis* status (Take 20 percent of the greater of lines 1 or 2).....

JAL ~~28.79~~ 28.79

JAL ~~29.90~~ 29.90

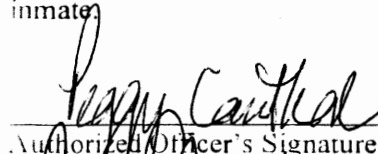
JAL ~~34.05~~ *34.05

*2.62 - Prior Hold on Acct

JAL ~~2~~ 2

SCDC-FINANCIAL NOTE
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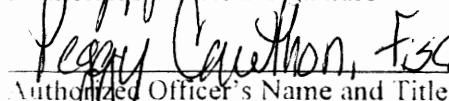
I hereby certify that as of this date, the above financial information is accurate for the above named inmate.



Authorized Officer's Signature

Date

1/29/19



Authorized Officer's Name and Title

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Jason Andrew Cash,	)	Case No.: 2019-CP-42-01576
S.C.D.C. No. 347420,	)	
	)	
Applicant,	)	
	)	RETURN AND
v.	)	PARTIAL MOTION TO DISMISS
	)	(Counsel Appointed)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the application for post-conviction relief filed by Jason Andrew Cash (Applicant) on May 1, 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 August 2015 term of the Spartanburg County Grand Jury for attempted murder (2015-GS-42-03777), murder (2015-GS-42-03778). Applicant was additionally indicted at the February 2017 term for burglary, first degree (2017-GS-42-00496). Travis A. More, Esq. represented Applicant. Derrick Balsa and Nicholas Sharpe, Esqs., of the Seventh Circuit Solicitor's Office, prosecuted the case. On February 27, 2017, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty as indicted on March 2, 2017. Judge Cole sentenced Applicant to imprisonment for consecutive terms of 30 years for attempted murder, and life for murder. Judge Cole additionally sentenced Applicant to a concurrent term of life for the burglary.

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Applicant filed a timely notice of appeal and a direct appeal was perfected by Robert M. Pachak, Esq. filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967), which offered the following issue:

Whether the trial court should have granted a directed verdict on the charges appellant was tried for when he was merely present at the crime scene?

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. State v. Cash, Op. No. 2018-UP-203 (S.C. Ct. App. filed May 9, 2018). The Remittitur was issued on May 25, 2018.

II. STATEMENT OF THE FACTS

The Victim's Testimony

Casey Scruggs testified she lived with her fiancé, Carey Mauldin, on May 22, 2015. (R. 162-63). Scruggs had known Applicant for around two months. (R. 164-65). Mauldin had met Applicant at Wal-Mart and the two became friends. (R. 179-80). Mauldin also sold Applicant heroin. (R. 180, ll. 4-7). Mauldin gave drugs to Scruggs as well: Suboxone, Subutex,¹ and methamphetamine. (R. 180-81). Scruggs denied ever suffering hallucinations from her drug use. (R. 181-82). Scruggs initially considered Applicant to be "a sweet guy" and hoped Mauldin would be more like him. (R. 182-83). Scruggs did not know "Scooter" well, but identified him as Steven Lewis, and explained he lived with the couple in their home until May 17, 2015, when he robbed them. (R. 165-66; R. 168, ll. 21-22; R. 185-86).

Late evening on May 21, 2015, or around midnight leading into May 22, 2015, Mauldin received a phone call from who Scruggs supposed was Applicant, who "wanted to come by and get a fix." (R. 166, ll. 2-6). Scruggs' understanding was that Applicant was going to bring a

¹ Upon information and believe, both medications are narcotics primarily used to treat addiction to other narcotics, but may also be used to treat pain.

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stolen by Lewis and exchange it for drugs. (R. 186-87). Mauldin told him to call when he arrived outside. (R. 166, ll. 6-7). Scruggs could not remember a second call, but rather awoke in bed to the sight of the lights in the kitchen and the living room, and the sound of a ruckus, shortly followed by Mauldin telling her "Baby, call 9-1-1." (R. 166-68). Scruggs could hear Lewis, but could not recall what he said. (R. 168, ll. 8-22). After Mauldin told her to call 9-1-1, she heard two gunshots. (R. 169, ll. 11-18). Lewis ran into the bedroom, turned the light on, flipped her over, and began to tie her up with duct tape, binding her mouth, feet, and ankles. (R. 169-71). Lewis was wearing blue latex gloves. (R. 170, ll. 1-6).

With a limited view into the living room, Scruggs saw Mauldin moaning on his knees. (R. 171, ll. 13-18). Applicant pointed at Mauldin and questioned him: "Man, what did you give me, man, what did you give me?" (R. 171, l. 18-20). Mauldin replied that he could not breathe. (R. 171, ll. 20-21). Applicant replied: "Well, that's how I felt when you gave me what you gave me." (R. 171, ll. 21-23). With Mauldin dispensed and Scruggs hogtied, Applicant and Lewis began rummaging through everything in the house, with Lewis taking lead while Applicant helped. (R. 172, ll. 2-5; R. 173, ll. 21-23).

Scruggs could not clearly remember how long she was tied up—perhaps an hour and a half to two hours. (R. 172, ll. 10-12). She told herself she could not die, and thought of her son, until the sweat around the bindings allowed her to pop her hands loose. (R. 172, ll. 12-21). Partially freed, Scruggs got off the bed and hobbled to the front of the house, but was unable to get outside because the door was locked with a deadbolt. (R. 172-73). Scruggs tried to b

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SPARTANBURG COUNTY

open the door by kicking on it, and managed to pop it open. (R. 172-73; R. 183-84). Scruggs could see Applicant outside, and heard Lewis say something to the effect of "I couldn't trust this b****" before Lewis ran back in, beat her over the head with the gun, dragged her through the

front of the house, and threw her down next to a rug. (R. 173, ll. 6-12; R. 174, ll. 2-5; R. 184-85).

Scruggs saw Applicant with the gun pointed at her, which she identified a “Kel-Tec 9” owned by Applicant’s sister. (R. 173-74; R. 178, ll. 13-23). Scruggs also later testified she saw Lewis with the gun he stole from them on May 17, 2015—also a Kel-Tec 9mm. (R. 184-86). Scruggs could see the road outside, and sensed a presence behind her. (R. 174, ll. 9-12). Two shots rang out, “and then they were gone.” (R. 174-75). Scruggs could not see who actually pulled the trigger, and so did not know for sure who did. (R. 174, ll. 15-19; R. 184, ll. 18-21). One bullet grazed the back, right side of Scruggs’ skull. (R. 175, ll. 16-18). Scruggs thought she was going to die. (R. 175, ll. 19-20).

Scruggs did not say how long she lay there, but recalled that she saw headlights, then managed to get up and run past Mauldin, until she ultimately ended up in a bedroom in Turner’s house. (R. 175-76). She recalled telling neighbors that she could not die, that she did not want to die, and that she asked them to check on Mauldin. (R. 176, ll. 5-8). Scruggs then went to the hospital with paramedics. (R. 176, ll. 9-10). She could only vaguely recall what she said to police and the paramedics, but asserted she had no doubt who was in her house that night. (R. 176, ll. 11-19; R. 184-85).

Scruggs later learned various things were stolen from her home: a flat-screen television, jewelry, pocketbook, watch, tablets, phones, and Mauldin’s Chrysler PT Cruiser. (R. 176-77). Scruggs identified the keys pictured in State’s Trial Exhibit # 41 as Mauldin’s keys to the house and to his rental car. (R. 177-78).

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The Neighbors

Tony Turner, a neighbor, woke around 5:00 a.m. to a loud banging at his door. (R. 100-02). Turner put on a shirt and opened the door to find a woman “bound around the face and hands with electrical tape.” (R. 102, ll. 19-21). Terrified, he screamed, and told her not to come in. (R. 102, ll. 22-24). Through his fear, the tape, and the blood, Turner figured out she had been shot in the head, called 9-1-1, and freed the woman’s hands from her bindings; he left the head bindings in place for fear of relieving pressure from the head wound. (R. 102-03). Turner recalled she was erratic, declared “Scooter did this[,]” and was fearful that she was going to die. (R. 103, ll. 12-24). She also stated that Mauldin was dead. (R. 105, ll. 2-7). Neighbors responded to the disturbance, and Turner told them to call the cops. (R. 104-05). Once E.M.S. arrived after a few minutes, Scruggs walked to paramedics under her own strength and was promptly whisked away to the hospital. (R. 105-06). On cross-examination, Turner clarified that Scruggs said nothing about who shot Mauldin. (R. 106, ll. 13-17).

Adam Stewart, a neighbor, was woken the morning of May 22, 2015, by his frantic daughter, who told him somebody was beating on the front door and that she dialed 9-1-1. (R. 119-21). Stewart looked out the windows to see what was causing the stir, and saw Scruggs standing with Turner, though he did not recognize her for all the blood. (R. 121-22). Stewart went downstairs and outside to where Turner was cutting tape off of Scruggs, and Scruggs “said that Scooter and Drew had killed Carey and he was in there on the couch and that they had thrown her over the front room, over a bunch of stuff, and had shot her.”² (R. 122, ll. 11-24). Stewart testified he was unfamiliar with who Scooter and Drew were. (R. 123, ll. 8-14). Stewart’s eldest daughter ran to Sizemore’s house because he was an E.M.T., but paramedics

² Counsel confronted Stewart on cross-examination with his prior statement to law enforcement, in which he never mentioned Casey saying anything about Drew Cash. (R. 124-27).

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arrived before she could return and departed with Scruggs after a couple of minutes. (R. 123, ll. 1-7; ll. 15-20).

Judson Paul Sizemore, Jr., a firefighter who lived across the street, testified Stewart's daughter "busted through the door and told me Casey [Scruggs] had been shot." (R. 127-28). Sizemore threw on pants and flip-flops, and made it outside in time to briefly speak with the paramedics before they left with Scruggs. (R. 128, ll. 9-16). Sizemore retrieved his Jeep to shine the headlights into the house, then entered the residence, where he found "a big pool of blood to the right" and "a bunch of feet print with blood." (R. 128-30). Sizemore observed Mauldin half on the couch, half on the floor, covered with a blanket from his hips down, blood pooling beneath him; he checked for a pulse and found none. (R. 130, ll. 6-18). Sizemore heard a noise and immediately walked outside, where he met an officer at the door, to whom he reported his findings. (R. 130-31).

First Responders & Law Enforcement's Investigation

On May 22, 2015, Deputy Nicholas Hullinger, of the Spartanburg County Sheriff's Office ("SCSO"), was directed by dispatch at around 5:00 a.m. to a residence in Chesnee, South Carolina, along Highway 11. (R. 85, ll. 1-24). Initially reported as an unwelcome banging at the door, subsequent reports from dispatch grew increasingly serious; by the time Hullinger arrived, the neighbors had gathered at the house, who indicated a man had been shot. (R. 86, ll. 1-17). Hullinger was the first officer on the scene, but Scruggs had already left with paramedics. (R. 87, ll. 4-15). Hullinger explained his understanding from the people gathered on scene: Scruggs fled to a neighbor's house and banged on the door, prompting the initial 9-1-1 call, but the neighbor would not open the door; Scruggs then fled to another neighbor, who also called 9-1-1 and reported she was duct taped and had been shot in the head. (R. 87-89; R. 91-92). Sizemore, a

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the second neighbor Scruggs fled to, was at the scene and told Hullinger³ that Mauldin was draped from the couch to the ground, and that Sizemore had already entered the building and placed a blanket over Mauldin. (R. 90, ll. 14-22). Hullinger then cleared the house, and found it in total disarray. (R. 90-91). Hullinger observed no signs of life in Mauldin, and so left the body where it was. (R. 91, ll. 8-11). Hullinger went back outside and began to separate the witnesses present. (R. 91-92).

Sergeant Gregg Satterfield, SCSO, responded to the scene as the supervisor of the area and conducted a second search of the house. (R. 94-95). As Satterfield approached the house, he found bloody footprints in the kitchen, and a larger pool of blood to the right of the refrigerator. (R. 95-96). Satterfield, like Sizemore before him, found Mauldin's body draped from the couch. (R. 96, ll. 6-8). The house was in disarray and cluttered. (R. 96, ll. 23-25). Satterfield exited the house, directed the deputies who had arrived to start taking statements, and advised paramedics who arrived that Mauldin showed no signs of life, who checked him nonetheless. (R. 97-98). On cross-examination, Satterfield recalled the neighbors all reported Scruggs mentioned names to them and to paramedics before she was removed from the scene, and that he supplied that information to another sergeant who was heading to the hospital. (R. 99-100).

Zachary Hubbard was one of the paramedics who responded to the scene that morning. (R. 109-112). On scene, Hubbard found "a blonde female with a white shirt that appeared to be soaked and drenched in blood." (R. 112, ll. 1-3). Hubbard only learned that Scruggs had been shot after they got to the scene. (R. 112-13). Because nobody could tell Hubbard the whereabouts of the shooters, and because Scruggs' wound was "a code trauma[.]" Hubbard very

³ Hullinger erroneously refers to him as "Justin."

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quickly loaded her into the ambulance and left the scene. (R. 113, ll. 4-10). Hubbard hooked Scruggs up to an intravenous drip and to a cardiac monitor, then removed the tape over her mouth, prompting Scruggs to start screaming that two men had tied up her and her boyfriend, shot her boyfriend, then shot her. (R. 113-14). Scruggs identified the perpetrators as Drew Cash and Steven Lewis, but did not clearly indicate who did what. (R. 114, ll. 7-16; R. 117-18). Scruggs was very anxious and upset, but was fully alert. (R. 114-15). Hubbard bandaged her head, but found no injury except that on the back of her head. (R. 115-16). At the hospital, Hubbard turned Scruggs over to the emergency room physician and gave a written statement to law enforcement. (R. 116-17).

Investigator Robert Charles Talanges, SCSO, was the primary forensic officer who worked the scene. (R. 133-35). Talanges found a pool of blood, blood smears, and multiple spent cartridge casings, and noted that every room except the kitchen was "ransacked" at the time law enforcement arrived. (R. 136-38). The blood smears ran from room to room, indicating a victim had been drug through the house. (R. 138, ll. 13-21). Talanges also found a bloody shoe track and spent cartridge in the kitchen. (R. 142, ll. 5-12). In the bedroom, Talanges found a bloodstained stuffed animal, a piece of a blue latex glove, a cartridge casing, and a gray roll of duct tape that matched the tape used on the victims, but could not be definitively identified as the roll used. (R. 143-44). Once law enforcement began digging through the debris in the house, they found a bullet strike in the carpet, which led to a projectile lodged in the floor. (R. 145, ll. 5-9). Another projectile rolled off of Mauldin's body when law enforcement rolled him to check for wounds. (R. 147-48). Despite the pieces of latex indicating gloves were used, law enforcement recovered twenty-six latent prints from the crime scene. (R. 157-60).

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Investigators collected all of the casings and projectiles from the house. (R. 147, ll. 2-15). In total, Talanges testified they recovered three spent casings: one on the living room floor, one on the living room floor, and one on the bedroom floor. (R. 148, ll. 17-21). Three projectiles were also recovered at the scene: one in the kitchen ceiling, one in the living room floor, and one in the bedroom floor. (R. 148-49). A fourth projectile was recovered from Mauldin's body at the morgue, but no forth casing was ever found. (R. 149-50). Law enforcement sought no fingerprints from the shell casings because the process of firing the bullet would have destroyed the prints. (R. 156, ll. 3-15).

Talanges executed a search warrant on July 8, 2015, at a location on Flynn Road between Landrum and Campobello, South Carolina, following a lead on a Chrysler PT Cruiser that was missing from the scene. (R. 150-51). There officers found a clump of cloth, beneath which they recovered a ring of keys which included a key to a Chrysler vehicle. (R. 151-52). Talanges and another detective returned to the original scene with the keys, tried the keys on the locks to the house, and discovered they opened the doors. (R. 153-54). Talanges also executed a search warrant on a silver Mazda, from which he recovered "a yellow and black bag containing some type of drug paraphernalia[.]" (R. 154-55).

Investigator Todd Ruffner, of the South Carolina Law Enforcement Division, received a call about the shooting on May 22, 2015, and was dispatched to Spartanburg Regional Hospital to check on Scruggs. (R. 189-90). Ruffner found Scruggs surprisingly alert in the trauma area of the emergency room. (R. 190, ll. 3-6). After Scruggs was moved from the E.R. to a room, Ruffner took a statement, obtained a lineup including Applicant from the SLED Fusion Center, and directed other investigators to Applicant's last known address in Inman, South Carolina. (R. 190-91). Ruffner later joined officers at the Inman address, where they did not find Applicant.

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but executed a search warrant and took photographs. (R. 191-93). Ruffner found blue surgical gloves in a filing cabinet in Applicant's bedroom. (R. 196-97). On cross-examination, Ruffner affirmed that Scruggs told him she had been present and witnessed Applicant's sister purchase the Kel-Tec 9mm used in the burglary and murder. (R. 197-98).

Corporal Brian Ezell, a canine handler with the Guilford County Sheriff's Office in Greensboro, North Carolina, converged on an address in Guilford County on May 23, 2015, following a lead that Applicant and Lewis were at the property. (R. 232-33). Law enforcement approached the building in the dark of night, around 2:30 a.m., and set a perimeter around the two suspect houses. (R. 233-35). When Ezell pulled around to the back of one of the houses, Applicant fled out the back and into the woods; Ezell found Applicant in the woods in thick underbrush at 2:53 a.m., and apprehended him. (R. 235-36). Lewis remained in the house until the S.W.A.T. team breached the front door with explosives. (R. 236-37).

Detective Paul Anthony Norris, SCSO, interviewed Applicant's sister, Nicole Cash, after the burglary and killing. (R. 282-84). Norris told Nicole that he wanted to talk to her in reference to a possible shooting, and referenced his notes to indicate he was with her for about an hour. (R. 284-85). Norris denied Nicole was slurring her speech and that she appeared to not have any issues. (R. 285-86). In July 2015, Norris learned that the missing PT Cruiser might be located at the Flynn Road property, but when law enforcement got there, the only things they found were a set of keys and "a bumper absorber that goes to a Chrysler product based on the Chrysler stamp that's on the bumper or on the styrofoam." (R. 287-88). Norris and Talley returned to the original crime scene and found the keys worked on the doors to the house and storage shed. (R. 288, ll. 8-25). Norris testified he sent three cartridges and four bullets to the Greenville County Sheriff's Office for ballistics analysis, and noted that the .38/9mm bullets and

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cartridges all could have been fired from a Kel-Tec 9mm. (R. 289-90). The gun was never found. (R. 290, ll. 9-14). None of the latent prints lifted from the crime scene matched to Applicant. (R. 291, ll. 12-18). Too much time passed between the killing and Applicant's capture to conduct meaningful testing for gunshot residue. (R. 295, ll. 10-16).

Dr. John David Wren, the forensic pathologist, testified Mauldin suffered a through-and-through gunshot wound to the head, two through-and-through gunshot wounds to his back, and one shot to his left forearm. (R. 299-300). Dr. Wren recovered the bullet from Mauldin's arm. (R. 301-02). Mauldin also had a fracture of his ulnar of his left forearm, four lacerations to the left side of his head, and some various other superficial abrasions. (R. 300-01). Dr. Wren concluded Mauldin bled to death. (R. 303-04).

Applicant's Family and Friends

Emma Cooke, Applicant's grandmother, raised Applicant since he was four or five years old, and confirmed Applicant lived in a downstairs bedroom of her home. (R. 199-201; R. 201-03). Cooke first learned about the incident when she returned home from her youngest son's court hearing to find police cars everywhere about her home. (R. 204, ll. 8-17). Cooke testified she only met Lewis once: Applicant came home the evening of May 21, 2015, with Lewis in tow, prompting Cook to tell Applicant that Lewis could not stay there. (R. 205-06). They left fifteen minutes later. (R. 205-06). The next morning, Cooke left for court and exchanged kind words with Applicant as she left; she did not see Lewis. (R. 206-07). Sometime after Applicant's arrest, during a phone conversation with Cooke, Applicant asked her to obtain a gun from a property that had been her husband's and which Applicant had expected to inherit. (R. 208-11). Cooke refused, but searched for the gun anyway and could not find it. (R. 210-11).

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Applicant also asked her to retrieve a second gun from her youngest son's home, but she could not find it. (R. 211-12).

Tracy Lanning, a friend of Cooke's, was with her for the court hearing and with her on the way back home. (R. 204, ll. 18-25; R. 214-15). Lanning's ex-mother-in-law dropped her off at Cooke's at around 7:00 to 7:15 a.m. on May 22, 2015, where she was to join with Cooke to go to court. (R. 216, ll. 10-15). Lanning recalled seeing Cooke, Lewis, Applicant, and Applicant's sister Nicole at Cooke's house that morning, though she did not know who Lewis was at the time. (R. 216-17). Applicant's car was backed up to an outbuilding with the passenger side door open, where Lewis stood and stared at her. (R. 217, ll. 15-25). On her way in, Lanning grabbed a little black bag laying at the steps up to the house, brought it inside, looked in it with Cooke, and then took it downstairs to Applicant. (R. 218, ll. 1-14). Lanning overheard Lewis ask Applicant if she'd looked through the bag, which Applicant denied; Lanning did not bother to correct him. (R. 218-19). Lanning recalled the bag contained women's jewelry, perfume, and a piece of paper. (R. 219, ll. 6-10). Applicant and Lewis were still at the house when Lanning and Cook left for court. (R. 219, ll. 11-19). On their way home after court, Applicant called and texted Lanning multiple times to indicate that police were at Cooke's and he wanted them to find out why. (R. 215-16). They arrived home to find police present; the two went inside and were separated and interviewed by police. (R. 220, ll. 2-21).

Clifford Cash, Applicant's father, received a call from Applicant at around 2:00 or 3:00 a.m. on May 22, 2015; Clifford asked where Applicant was, and that he would come get him, but his son would not tell him. (R. 221-24). Clifford could not recall if he learned of Applicant's arrest from Cooke or from television. (R. 224, ll. 17-22). After his son's arrest, Clifford took himself to maintaining the Flynn Road property that Applicant expected to inherit, and which

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Applicant had been renovating. (R. 225, ll. 9-24). Nothing seemed unusual about the property at first, but Clifford eventually noticed the PT Cruiser parked behind the building with a tarp cloaked over it and pallets stacked atop. (R. 226, ll. 2-9). Clifford, while out-of-state, spoke to a detective about the vehicle, but by the time he returned to show law enforcement where it was, it was gone. (R. 226, ll. 12-24). Clifford spoke to Applicant about the PT cruiser, the gun, and other things in the vehicle while Applicant was in jail; Applicant told him that Lewis' fingerprints were all over the things and would lead to Applicant's acquittal. (R. 231-32).

Angela Ross, Applicant's mother, spoke to him almost every day since he was jailed. (R. 246-47). Applicant explained to Ross he had been in North Carolina for a "job in Charlotte." (R. 247-49). Applicant asked Ross to talk to somebody named "Jay" and get him to go to court to testify that Applicant was with him the night of the incident. (R. 249-50; R. 254, ll. 7-25). Ross denied knowing whether or not the requested alibi was true. (R. 249-51). Applicant also encouraged Ross to encourage his sister, Nicole, to not come to court, but Ross denied that Nicole deliberately attempted to hide from a subpoena. (R. 255-56).

Bridgette Nicole Cash, Applicant's sister, testified that she had owned five guns at various points in her life, but that she owned only one when the police visited her searching for her brother and the gun: the Kel-Tec 9mm. (R. 258-59; R. 264-65). Nicole was on the phone with Applicant and Lewis when law enforcement first arrived, and the two argued over what she should do: supposedly Applicant told her to go to the door, while Lewis wanted her to not cooperate. (R. 279, ll. 2-19). Nicole opted to answer the door, and placed the phone—still connected to Applicant and Lewis—in her bra. (R. 279, ll. 5-9). Nicole permitted the police to search for the gun, but they could not find it. (R. 265, ll. 8-13).

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Nicole testified her gun “had gotten pawned off[,]” and wound up in Mauldin’s possession. Mauldin told her he would return it, but never did. Lewis subsequently showed up the night before the killing in possession of the gun, among various other goods belonging to Mauldin, but refused to return the pistol to her, explaining he wanted to sell it back to Mauldin. Nicole only wanted to return the pistol to the pawn shop from which she originally purchased it. (R. 265-67). Lewis also mentioned his desire to rob Mauldin again, but Applicant replied “[n]o, Man, that’s not why we’re here.” (R. 267, ll. 12-19). Nicole testified Applicant then went into detail about his own experience getting robbed, and that he did not want to lose his connection to Mauldin, who was his only heroin dealer. (R. 267-68; R. 276, ll. 13-21). Nicole acknowledged telling police that her brother stated he was planning on robbing Mauldin, and acknowledged reporting Applicant said he “should put them on their knees and shoot them in the head[,]” but explained she had been under the influence of “Roxies⁴ and Xanax bars[,]” and was interrogated for seven hours. (R. 269, ll. 2-24; R. 274, ll. 15-20; R. 279-81). Nicole denied trying to dodge a subpoena, but acknowledged Applicant was upset with her upon learning that she had been subpoenaed. (R. 270-72). Nicole denied Scruggs was with her when she originally purchased the Kel-Tec 9mm. (R. 275, ll. 8-20).

III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons (excerpts verbatim):

1. “Ineffective Assistance of Counsel”
 - a. “Approx. (2) years of time lapsed awaiting trial and during that period of time my attorney, Travis Moore, only spent time on my case in a direct of me entering a plea of “Guilt” and negotiating a plea offer.”

⁴ Short for Roxicodone, an instant release form of oxycodone, an opioid painkiller.

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- "He, T. Moore, continuously advised me to do this even after informing him multiple times that I was not guilty of the charges that was being charged."
- b. "Also the fact that he and the Solicitor were discussing rounds of golf the coming Saturday after my trial being in shared plans scheduled to occur in leisure. This could have caused a conflict of interest due to the relationship being more than business oriented."
2. "At the time of my trial proceedings I was under an influence of psychotropic medication that put me in a state of mind to be unaware of the [severity] of my situation and to lack the ability to assist in my own defense due to the dose was being administered in an amount 3 times the intended/prescribed amount."
 - a. Applicant contends that officials at Spartanburg County Detention Facility administered doses of Seroquel two to three times the amount prescribed by his doctor prior to his incarceration.
 3. "Multiple States witness' gave false testimony, under oath, on the stand at my trial."
 - a. "During my trial proceedings, the state called (2) different witness' to the stand to testify in which stated they lied; (after a noted contradiction in storys), just moments prior and had NO logical OR rational reasons in reasons to why they testified to false allegations."

"The fact that a states witness claimed to have heard the victim state my name in addition to (co-defendant) Mr. Lewis' name the night of the incident and after 're-reading' HIS statement, given the same night, concluded and admitted to testifying moment prior to a lie and my name was in fact NOT spoken by Casey Scruggs (victim) to be involved; could have made an impact on the jury to have altered the verdict decision in the State's favor and the he also supported Solicitor's opening arguments and the story led to be believed as the truth. This being facts of my case and testimony given in my trial, this should be sufficient in reasons to grant an appeal in my favor for a re-trial."

Applicant requests relief as follows:

- "The relief that I am seeking is that I be granted an appeal and be re-tried for these alleged crimes to allow for assistance in preparing my defense and have understanding of procedures and laws of my case particulars and trial proceedings."

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, Applicant's appellate records (including the complete trial transcript), and the

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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

A. 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). 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

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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 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. “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)).

B. Failure to Prepare

Applicant alleges Counsel failed to prepare a defense for trial, instead focusing exclusively on negotiating a plea deal. 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,

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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)).

The trial record as a whole reflects Counsel prepared for trial and advanced a competent defense on Applicant's behalf. Applicant does not identify what, if anything Counsel could have done differently had he spent additional time in preparation for trial. Accordingly, Respondent denies Applicant is entitled to post-conviction relief by way of this allegation.

C. Conflict of Interest

Applicant contends Counsel was ineffective because he represented Applicant subject to a conflict of interest in the form of his alleged personal relationship with the solicitors prosecuting the case. "The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction." Jordan v. State, 406 S.C. 443, 449, 752 S.E.2d 538, 541 (2013) (quoting Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008)). "Indeed, until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for his claim of ineffective assistance." Id. (internal quotation marks omitted). An actual conflict of interest occurs:

when a defense attorney places himself in a situation inherently conducive to divided loyalties. If a defense attorney owes duties to a party whose interests are adverse to those of the defendant, then an actual conflict exists. The interests of the other client and the defendant are sufficiently adverse if it is shown that the attorney owes a duty to the defendant to take some action that could be detrimental to his other client.

Id. (quoting Duncan v. State, 281 S.C. 435, 438, 315 S.E.2d 809, 811 (1984)).

That Counsel was friendly with the solicitors who prosecuted the case is wholly inadequate to establish a conflict of interest, or even hint at the existence of one. To the

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contrary, attorneys practicing in the State of South Carolina must swear an oath of civility: “To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications....” In re Anonymous Member of South Carolina Bar, 392 S.C. 328, 335, 709 S.E.2d 633, 637 (2011) (quoting Rule 402(k), SCACR). “The interests protected by the civility oath are the administration of justice and integrity of the lawyer-client relationship.” Id., 392 S.C. at 337, 709 S.E.2d at 638. If anything, to whatever extent Counsel and the solicitor’s were friendly and courteous to one another in the courtroom, their conduct should be encouraged, not cast under the pall of a claim of error. Applicant fails to present a *prima facie* case of any conflict of interest, and this allegation should be summarily dismissed.

D. Conclusion and Action Requested

Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel addressed in Section IV.B. 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. RESPONSE TO CLAIM OF INCOMPETENCE IN FACT DURING TRIAL
 [ANYTHING ELSE? INVOLUNTARY GUILTY PLEA? DUE PROCESS? INEFFECTIVE
 APPELLATE COUNSEL? PROSECUTORIAL MISCONDUCT? STUFF TO DISMISS
 HINKY ISSUES THAT NEED TO BE ADDRESSED?]

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VI. RESPONSE TO CLAIM OF PERJURED TESTIMONY

Applicant alleges witnesses lied at trial. This allegation should be summarily dismissed. An application for post-conviction relief does not serve as a substitute for direct appeal, and an issue that could have been raised at applicant's trial or on appeal is not cognizable in an application for PCR. S.C. Code Ann. § 17-27-20(b); Drayton v. Evatt, 312 S.C. 4, 8-9, 430 S.E.2d 517, 520 (1993) (citing Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983)); Humbert v. State, 345 S.C. 332, 338, 548 S.E.2d 862, 866 (2001). Trial court error is not a cognizable claim for PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997); Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Absent some showing of newly-discovered evidence to support his claim, Applicant's allegation that witnesses lied could have been raised at trial and thereafter on appeal.

Furthermore, "[w]hen the evidence is susceptible of more than one reasonable inference, questions of fact must be submitted to the jury. Among other considerations is the credibility of the witnesses, including that of the [defendant] himself." State v. Vanderhorst, 257 S.C. 114, 184 S.E.2d 540 (1971) (citing State v. Richburg, 250 S.C. 451, 158 S.E.2d 769 (1968)). Almost every trial involves testimony among witnesses, or among a single witnesses' various statements, which may be inconsistent or contradictory. Inconsistencies and contradictions in witness testimony are then confronted by attorneys and the question of credibility is left to the jury. A mere contradiction between a witness' trial testimony and a prior statement does not alone give rise to a charge for perjury, or bring into question the validity of the conviction when the jury reaches a guilty verdict because of or in spite of the inconsistency.

For these reasons, Applicant's allegations relating to alleged perjury should be dismissed as not cognizable under the Uniform Post-Conviction Procedure Act.

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VII. MOTION FOR MORE DEFINITE STATEMENT

Respondent also hereby moves for a more definite statement. The Uniform Post-Conviction Procedure Act requires the Applicant to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50. It is incumbent upon Applicant, *through counsel*, to amend his application where necessary to set forth *specific facts* upon which his allegations are based. See Rule 71.1(d), SCRPC ("Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary."); see also Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974) ("[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of adequate and effective assistance of counsel is insufficient."). Where an applicant fails to adequately set forth the grounds upon which he seeks relief, the court may at any time prior to entry of judgment "issue orders for amendment of the application or any pleading or motion[.]" S.C. Code Ann. § 17-27-70(a); see also Rule 12(e), SCRPC (permitting a circuit court judge to require a more definite statement when vague or ambiguous pleadings are filed).

Applicant has failed to set forth sufficient facts to "support each ground" or to explain with sufficient specificity the facts upon which his claims are based. Namely, what is it that Counsel should have done in preparation in addition to what he did?

Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VIII. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed* by

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the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). 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. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

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.

IX. GENERAL DENIAL

Respondent denies each allegation not expressly admitted, qualified, or explained.

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X. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court grant its partial motion to dismiss as set forth in Sections IV.C. and VI, above, and thereafter convene an evidentiary hearing on the allegations of ineffective assistance of counsel and incompetence to stand trial.

Respectfully submitted,

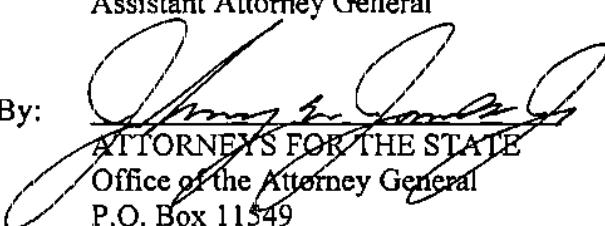
ALAN WILSON
Attorney General

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

7 Aug., 2019

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STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

JASON ANDREW CASH, #347420

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

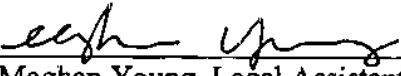
2019-CP-42-001576

AFFIDAVIT OF SERVICE BY MAIL

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 7th day of August, 2019.


 Meghan Young, Legal Assistant
 For Respondent

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State of South Carolina	)	
	)	
County of Spartanburg	)	
Jason Cash,	)	2019-CP-42-01576
	)	
Applicant,	)	
	)	
v.	)	Transcript
	)	
The State of SC,	)	of
	)	
Defendant.	)	Post-Conviction
	)	Relief Hearing
	)	
	)	
	)	
	)	
	)	
	)	

Date: September 17, 2021

Time: 12:03 p.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.
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Also Present: Travis Moore, Esq.
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EXHIBITS

There were no exhibits marked during this hearing.

1 PROCEEDINGS

2 THE COURT: All right. Yes, ma'am, Ms. Marto?

3 MS. MARTO: Good afternoon, Your Honor. May
4 it please the Court. We're here today in the
5 case of Jason Cash, Docket Number 2019-CP-42-
6 01576. He was indicted August 2015 by the
7 Spartanburg County Grand Jury for attempted
8 murder and murder and was additionally
9 indicted February 2017 for first degree
10 burglary. He was represented by Mr. Travis
11 Moore, and Derrick Bulsa and Nicholas Sharpe
12 of the 7th Circuit Solicitor's Office
13 prosecuted the case. February 27, 2017, he
14 proceeded to trial before the Honorable J.
15 Derham Cole and a jury. The jury found
16 Applicant guilty as indicted March 2nd, 2017.
17 THE COURT: All right. And "as indicted"
18 would be what charges?

19 MS. MARTO: From my understanding, Your Honor,
20 it was attempted murder, murder, and first-
21 degree burglary.

22 THE COURT: Found guilty of attempted murder,
23 first-degree burglary, and what?

24 MS. MARTO: Murder.

25 THE COURT: Oh, murder and attempted murder,

1 okay. I got you now.

2 MS. MARTO: Yes, Your Honor.

3 THE COURT: Yeah. Okay. Thank you.

4 MS. MARTO: And he was sentenced to
5 consecutive terms of 30 years for attempted
6 murder and life for murder. Judge Cole
7 additionally sentenced him to the concurrent
8 term of life for the burglary. He filed a
9 timely notice of appeal that was perfected by
10 appellate counsel, Robert Pachak, who filed an
11 Anders brief. The South Carolina Court of
12 Appeals dismissed Applicant's appeal by
13 unpublished opinion May 9th, 2018, and the
14 remittitur issued May 25th, 2018. This
15 application was filed May 1st, 2019. And I do
16 have a packet for you, Your Honor.

17 THE COURT: Yeah.

18 MS. MARTO: (To The Deputy) Thank you.

19 THE DEPUTY: Thank you.

20 MS. MARTO: And I'll turn it over to Mr.
21 Richey to discuss the allegations.

22 THE COURT: All right. Yes, sir, Mr. Richey?

23 MR. RICHEY: Thank you, Your Honor. He's
24 alleging that Counsel ineffectively
25 represented him, because he didn't properly

1 impeach witnesses at the trial because was not
2 given truthful testimony (as spoken.) He also
3 believes that the lawyer did not investigate
4 some taped evidence of statements by the
5 witness -- by the victim that would -- that
6 were exculpatory in nature and that would've
7 helped him in his case. He also believed that
8 at the time of the trial that he was unable to
9 assist his counsel because of the -- (To The
10 Applicant) the doses of medication you had; is
11 that correct?

12 THE APPLICANT: That's correct. Yes, sir.

13 MR. RICHEY: The doses of medication. But he
14 believed that Counsel could have prepared
15 better and cross-examined these witnesses and
16 as this -- they streamed (phonetic) this tape
17 evidence helps his position in the case.

18 THE COURT: Okay. And which witness does he
19 believe that his attorney failed to impeach
20 properly?

21 MR. RICHEY: The victim in the case. The
22 victim in the case made some contradictory
23 statements. Okay. Let me --

24 THE COURT: All right.

25 UNKNOWN MALE: It's Casey Scruggs.

1 MR. RICHEY: Casey Scruggs is that witness.

2 THE COURT: Okay. It is to my understanding
3 the allegations are so -- counsel did not
4 properly impeach the victim. He failed --
5 Counsel failed to investigate exculpatory
6 statements made by the victim at the time of
7 the trial, who was too heavily medicated to
8 assist in his defense; those are the three
9 claims?

10 THE APPLICANT: And overdose.

11 MR. RICHEY: And -- and Counsel encouraged him
12 to take a plea and not go to trial thus he
13 believed Counsel was not in a position to try
14 the case.

15 THE COURT: All right. Okay. And -- so the
16 claim would be that his attorney was not
17 prepared to try --

18 MR. RICHEY: Yes, sir.

19 THE COURT: -- the case?

20 MR. RICHEY: Yes, sir. And --

21 THE COURT: Hold on.

22 THE APPLICANT: (To Mr. Richey) I was being
23 overdosed with that medication.

24 MR. RICHEY: And the last one is Counsel
25 failed to investigate the -- the background of

1 the victim. The --

2 THE COURT: All right.

3 MR. RICHEY: -- alleged drug uses. And that
4 would be where we go forward on it, Your
5 Honor.

6 THE COURT: Sounds good.

7 MR. RICHEY: (To The Applicant) You ready?

8 THE APPLICANT: Yeah.

9 (WHEREUPON, the applicant was sworn.)

10 DIRECT EXAMINATION

11 BY MR. RICHEY:

12 Q Sir, will you state your name, please?

13 A Jason Andrew Cash.

14 Q And, Mr. Cash, are you currently in the Department
15 of Corrections, right now?

16 A Yes, sir.

17 Q And what are you in there for?

18 A Murder, attempted murder, armed robbery,
19 kidnapping, and burglary, first.

20 Q And you were convicted in Spartanburg County?

21 A Yes.

22 Q And who represented you?

23 A Mr. Travis Moore.

24 Q Okay. And you believe that he did not effectively
25 represent you; is that correct?

1 A No.

2 Q Okay.

3 A No. He did not.

4 Q And -- and just kind of for some brief background,
5 what happened the -- the night these charges
6 occurred?

7 A The night these charges occurred is -- as the lady
8 stated -- the victim stated, I was there to buy
9 drugs.

10 Q Okay. You went to a house?

11 A Yes.

12 Q Okay. Just tell me like basics. You went to a
13 house.

14 A I called before I came.

15 Q Okay.

16 A And she stated I had to call again when I actually
17 pulled in. They unlocked the door, told me to come
18 in. I was there when all of this other stuff
19 started to occur.

20 Q When all what stuff?

21 A Some people pulled up; Mr. Lewis along with the --
22 I guess, you can call them the "Hell's Angels
23 members" or whatever. And I was just a bystander
24 and going through the same stuff they were going
25 through, being pointed at with a gun by men, you

1 know, just demanding money and drugs that they knew
2 was there, or --

3 Q Okay.

4 A -- thought they new were there or --

5 Q Let me go back. Okay. You go to the house. You
6 called. You're going to buy drugs --

7 A Yes, sir.

8 Q -- okay? So -- so they invite you in?

9 A Yeah.

10 Q The -- was it a lady and a man?

11 A Yes. Ms. Scruggs and --

12 Q Right.

13 A -- Mr. Mauldin.

14 Q And they invited you into the home --

15 A Yes, sir.

16 Q -- for the purpose of buying drugs from them?

17 A And because I always do the first dose there, too,
18 yes.

19 Q Okay. You always do the first dose of drugs there?

20 A Yes.

21 Q Okay.

22 A Yes. I do --

23 Q Okay.

24 A -- yes.

25 Q All right. And that's to a benefit to them? Is

1 that a --

2 A That's to make sure that what I'm buying -- you
3 know, what I'm buying is supposed to be what I'm
4 buying. And that's also to make sure, you know,
5 I'm not driving and out with the stuff. You know,
6 they made sure that they provided a safe
7 environment for me to, you know --

8 Q Yeah.

9 A -- test out what --

10 Q Okay.

11 A -- I was getting, you know.

12 Q Okay. All right. And so you're there, and is --
13 is there anybody else in the house when you get
14 there?

15 A No. Just her and him.

16 Q Okay. All right. So you get in the house, you buy
17 the drugs, correct?

18 A Yes.

19 Q Then what happens after that?

20 A He tells me to hurry up.

21 Q Who is "he"?

22 A Mr. Mauldin.

23 Q Okay.

24 A He tells me to hurry up because him and his
25 girlfriend, Ms. Scruggs, were supposed to be laying

1 down because they had been up for a while.

2 Q Uh-huh.

3 A While I'm in the living room doing my thing, he
4 goes into the kitchen, I guess to get him some
5 water or something to drink or something. While
6 he's in the kitchen, somebody knocks on the door.
7 And that's when Mr. Lewis and these gang members or
8 -- or, you know --

9 Q And who is "Lewis"?

10 A "Scooter" is a --

11 Q So was -- was he supposed to be your codefendant?

12 A Yes. Supposed to be. He was my codefendant.

13 Q Okay. Then what happened -- he does what?

14 A Then he put -- he opened -- Mr. Mauldin opens the
15 door and Mr. Lewis forces his way further in and
16 that's when all this stuff starts happening.
17 They're arguing back and forth. At first it was
18 just Mr. Lewis that came in, but then, you know,
19 there was some other people standing out there on
20 the porch while this argument was going down --
21 going on.

22 Q And -- and Mister -- and where were you at when
23 this was going on?

24 A Sitting in the living room, trying to intravenously
25 use my -- what I had just bought.

1 Q Okay. And what happens when they come in and all
2 this commotion? What happens next?

3 A Mr. Mauldin's -- during the argument, Mr. Mauldin
4 runs at Mr. Lewis and that's when the two gunshots
5 went off and Mr. Mauldin started bleeding and
6 Scooter runs through the house and runs in their
7 bedroom -- runs past me and runs to the bedroom to
8 the girl -- to Ms. Scruggs.

9 Q Okay. And then what happens then?

10 A He -- I don't know where this duct tape came from,
11 but when he got done in there, she was, like, duct
12 taped hands, feet, and everything to the bed. But
13 while this was going on, the other gentleman come
14 through the door. And I'm sitting there with my
15 drugs and stuff in my lap, trying to get all this
16 stuff up, and he pulls a gun on me and tells me not
17 to do nothing; so I just sat -- I just sat there.

18 Q Okay. So your testimony is two gentlemen get in
19 the argument and the Lewis guy shoots the guy and
20 then --

21 A Because Mister -- Mr. Mauldin tried to run at Mr.
22 Lewis, and while they were -- so I guess he's
23 trying to take the gun from him or something.

24 Q Yeah.

25 A While they were sitting there tussling, that's when

1 that gun went off twice.

2 Q Okay.

3 A So when it went off, Mister -- Mr. Lewis takes off

4 to the bedroom to the girl while Mr. Mauldin's

5 laying on the floor bleeding.

6 Q And he -- and he duct tapes the girl?

7 A Yeah. He duct taped the girl.

8 Q Okay. What happens next?

9 A Like I said, his partner -- whoever this other guy

10 was -- came in and had a gun on me, so I'm not

11 doing nothing but sitting there at the time.

12 Q Okay.

13 A They start rummaging through the house, though.

14 Q You say "they"?

15 A Yes.

16 Q Okay.

17 A Mr. Lewis and this other gentleman. I don't know

18 who that guy was.

19 Q Did you -- did -- did you and your lawyer

20 discuss -- that's not the State's version of what

21 happened, correct?

22 A (No response.)

23 Q They alleged you were involved in stuff, right?

24 A They said -- yeah. They said that I was being a --

25 like a part of it. Like they said I was going

1 through the property with them or something. Like
2 I was being a part of this.

3 Q Okay. And -- and did you discuss this with your
4 lawyer? Did you discuss with him about the fact
5 that you just relayed to the Court?

6 A I did.

7 Q And what was his response?

8 A He wanted me to testify on Mr. Lewis, but also take
9 a 30-year plea -- take a 30-year plea and testify
10 on Mr. Lewis, but I was going to be pleading guilty
11 to being a part of this. So I was not -- why would
12 I plead guilty to being a part of this and have to
13 testify on Mr. Lewis? And I was questioning that.
14 Like -- and he just kept saying that's all that
15 they can do is give me a deal, or the 30-year deal,
16 where I'd have to testify and still take 30 years.
17 I wasn't going to accept 30 years for something
18 I -- I wasn't guilty for; so I did not -- I did not
19 accept that offer.

20 Q Okay. In -- in the preparation of the trial, you
21 had -- the -- this victim, she had talked to your
22 mom a bunch during this case?

23 A Yes. She did.

24 Q On the phone?

25 A She was calling her all the time.

1 Q Okay. And -- and did you discover that she -- some
2 of the information that she relayed to your mom was
3 somewhat different than what was actually relayed
4 at court, correct?

5 A Basically, the information she relayed to my mother
6 over these phone calls were that she was worried --
7 it was basically the same thing I'm saying, and
8 that she was worried about the fact that I would
9 get -- what did she -- how did she word it? Like
10 the hand of one, hand of all --

11 Q Yeah.

12 A -- thing.

13 Q Yeah.

14 A She was worried about me getting charged with it,
15 because I was just there with her. I mean, like,
16 there with all this stuff going on there with them
17 while this -- while this stuff was going on,
18 because I was there buying drugs. I was going to
19 be a part of -- put a -- a part of this other crime
20 that was being committed. I mean, that's what she
21 kept talking about.

22 Q Okay. And -- and you believe that at -- at the
23 trial -- you got the transcript?

24 A I do.

25 Q Okay.

1 MR. RICHEY: May I approach the witness, Your
2 Honor?

3 THE COURT: Sure.

4 Q Okay. Do you believe that your lawyer properly
5 cross-examined the victim in the case?

6 A No. I do not.

7 Q And -- and why is that?

8 A Well, when -- one thing in particular, Ms. Scruggs
9 stated when she was being questioned by my original
10 attorney, Mr. Moore, she stated that when they were
11 robbed on the 17th, that same weapon that she said
12 that I had in my possession and committed -- or was
13 under the commission of these crimes and possession
14 of is the gun that they had also had possession of.
15 And, you know, in fact was taken by Mr. Steven
16 Lewis --

17 Q Okay.

18 A -- on the 17th, a couple days prior to the time
19 that this happened, which was the 22nd.

20 Q Okay. So -- and at the time of the trial were you
21 on any medication?

22 A Yes. I was.

23 Q And what was that?

24 A It was Seroquel, a psychotropic medication they had
25 prescribed me in the County. They had prescribed

1 me a 150 milligram dosage of it, but -- and, in all
2 actuality, I was being given a 400 milligram dosage
3 of it every day.

4 THE COURT: Wait a minute. Your testimony is
5 they were not giving you the prescribed
6 dosages?

7 THE APPLICANT: They were giving me more.

8 THE COURT: How do you know that?

9 THE APPLICANT: Because when I went and talked
10 to the psych doctor and got prescribed this,
11 he prescribed me 150 milligrams of it. But
12 when I talked to the nurse that was giving me
13 the medication, because she was giving me a -
14 a tablet and a half, I was asking her if this
15 was a 400 and a 50, but she said, "No, sir.
16 This is 300 and a 150" -- and excuse me, I
17 said 400 and 450. So I was prescribed 150
18 milligrams. I was actually being given 450
19 milligrams every day/every night.

20 Q Okay. At the time -- at the time of your trial,
21 did you understand the proceedings?

22 A Not the way I should have.

23 Q The -- no. Did you understand them? Did you know
24 what was going on?

25 A No. Not at that time. Not all this, no.

1 Q Did you talk to your lawyer about that?

2 A Yes.

3 Q What did you say to him?

4 A I told him that I was being prescribed some
5 medication, and that, you know, he might have to go
6 over some stuff, you know, because -- because it
7 kind of makes me slow and, like, weary. I wasn't,
8 like, awake all the time. It was -- it was just
9 making like dead zone in my mind, but we didn't
10 know at that time that we -- that he -- that we
11 were dealing with such an overdose of medication.
12 It -- we didn't know that we were dealing with me
13 being -- actually being overdosed. My Aunt Kathy
14 (phonetic) is the -- the manager or the head nurse
15 at Spartanburg County --

16 Q Uh-huh.

17 A -- and that's how we find out -- found out that
18 they were giving me 450 milligrams --

19 Q Yeah.

20 A -- and that it was an overdose. But, I mean, that
21 was after I'd already asked and brought to their
22 attention and everything. They had to bring it
23 back to my Aunt Kathy's attention before we
24 actually found out it was an overdose. It was a
25 mistake on the -- on behalf of the County, but we

1 never took it any further.

2 Q Okay. Now, you -- you believe that -- that during
3 this incident that you had nothing to do with this
4 at all, correct?

5 A No. I was there buying drugs, man, and got taken
6 hostage just like they were. But, actually I got
7 taken out of the house and left in my car trying to
8 run from these people. The people that was with
9 Mr. Lewis, I don't know if they told him to get in
10 their car -- the victim's vehicle. He actually
11 followed me to my house in their vehicle. I left
12 in my vehicle trying to run from these people. He
13 jumped in their vehicle and followed me. When he
14 pulled in my house at -- not my grandmother's
15 house, but the -- the residence that my grandfather
16 was leaving to me, he pulled in behind me there,
17 and pulled the gun out and was, like -- made me
18 take him home. We -- he left the car at the house
19 my grandfather was giving me. He left their car --
20 that PT Cruiser --

21 Q Uh-huh.

22 A -- he left it there and made me take him to North
23 Carolina. By the time he fell asleep on his couch,
24 I'm trying to run out the back door to get away
25 from him. I'm not running from the police that

1 were pulling in and surrounding the house. I had
2 already ran out the backdoor running from him, but,
3 you know, that was around the same amount of time.
4 But if you read all, you know, their reports and
5 stuff, he was so out of it and so asleep at that
6 time, they had to blast the door down, and he still
7 didn't wake up. They went in and had to get him
8 off the couch. I mean, if -- you know, it's . . .

9 Q Well -- now, tell me -- the question that I -- now,
10 this story that -- that you're alleging that
11 happened, tell me how you and your lawyer discussed
12 this and what witnesses that he will have to
13 substantiate your story?

14 A Excuse me?

15 Q Okay. Your story about them coming in -- you're
16 just there to buy drugs and these people come in,
17 overcome y'all, kidnap y'all, what witnesses could
18 he have called to substantiate that story? Was it
19 just all the people during the --

20 A That's the thing. Once he --

21 Q Yeah.

22 A -- found out about it, he didn't -- he brought it
23 to the solicitor's attention, and they told my mama
24 and sister that this would be inadmissible
25 evidence, that, "We're not going to go with that,

1 because it would be too confusing for the jury."

2 And I even read in here, they even --

3 THE COURT: Mr. Cash, try -- try to answer
4 your attorney's questions. He asked you,
5 "What witnesses could have backed up your
6 version of events?" That's the question.

7 A I mean, my mother would be one of the main ones.

8 Q Okay.

9 A That's who she -- that's who Ms. Scruggs was
10 talking to all the time about this.

11 Q So -- so the -- so Ms. Scruggs -- the -- the
12 information -- Ms. Scruggs would be the one to
13 actually tell what happened and your version of it?
14 She could -- she could validate your version? Say
15 your version you're saying is the truth, right?

16 A Yeah.

17 Q Okay.

18 A She would validate my version of the story.

19 Q Because of all the stuff that was being done, you
20 and her were the two victim -- well, the guy that
21 got shot, y'all three was the victims to all this
22 madness, correct?

23 A Yes. And Mr. Bulsa confused her enough in these
24 questions, they just -- it -- she didn't know how
25 to -- other than what we're saying now, you know,

1 I --

2 THE APPLICANT: (To the Court) You're telling
3 me to answer his questions, right?

4 THE COURT: Right. I --

5 THE APPLICANT: But if --

6 THE COURT: -- yes. You need to answer his --

7 THE APPLICANT: -- if -- if he didn't ask
8 those --

9 THE COURT: -- questions.

10 THE APPLICANT: If he didn't ask the right
11 question for me to answer for the truth to
12 come out, though, then it wouldn't come out,
13 you know?

14 A If -- that's kind of how -- what was going on with
15 these -- with -- with her being questioned. My
16 lawyer wasn't asking the right questions after --
17 after Mr. Bulsa asked what he asked. It exposed a
18 lot of the things that was in here, but Mr. Moore
19 didn't -- what do you call it when you -- when you
20 question again? Cross-examine. He didn't cross-
21 examine her right.

22 I'm sitting here -- right here. She stated
23 that the gun that was used -- supposedly used in
24 this was in her and her boyfriend's possession. It
25 says, "The gun that Drew had, you know, loaned my

1 boyfriend for some stuff," meaning drugs, "that gun
2 was taken also by Mr. Lewis."

3 "Is that the gun that was used in this
4 incident?"

5 She said, "Yes, sir."

6 "So you're positive?"

7 "No. I just want to make sure that the jury
8 understands."

9 "And I understand that you all had this gun,
10 this Kel-Tec 9 millimeter, yes or no?"

11 "Yes, sir."

12 "It was in your house?"

13 "Yes, sir."

14 "And Steven Lewis stole it?"

15 "Yes, sir."

16 "And that's the same gun used in this
17 incident?"

18 "I don't know if it was the same one. I mean,
19 I'm thinking -- I mean, it had to be."

20 "And all this happened really so fast. It's
21 hard to remember, but, you know, for a fact that
22 was a Kel-Tec -- Kel-Tec name brand?"

23 And she said, "Yes, sir." And then she said,
24 "Wait just one second."

25 And then Mr. Moore said, "No further

1 questions." And that's just one example.

2 Q Well, I understand that. So you believe -- did --

3 did -- do you -- did he talk to the victim in this

4 case, that lady, Ms. Scruggs?

5 A Mr. Moore?

6 Q Yeah.

7 A That was -- that was him questioning --

8 Q No. Prior to trial? Do you know?

9 A I -- not that I know of, no.

10 Q Okay.

11 A I don't think he did.

12 Q And all this stuff about going to North Carolina

13 after it was over, y'all supposedly fled to North

14 Carolina?

15 A Well, he made me take him --

16 Q Well, no -- I'm -- okay.

17 A Okay. I'm sorry.

18 Q Let me finish the question --

19 A Okay.

20 Q -- okay? All that stuff about y'all fleeing to

21 North Carolina, you did not leave there and flee to

22 North Carolina trying to evade a crime?

23 A No, sir.

24 Q Okay. You went to North Carolina, because you were

25 under the duress of one of the people who came in

1 the house?

2 A Because he didn't have a vehicle, and he was making
3 me take him home, yeah.

4 Q And -- and you were at the grandfather's house that
5 you're going to inherit; is that what you said?

6 A Yes. That is where the PT Cruiser was found, and
7 that's why he couldn't take his cell phone, because
8 he did not want to drive a stolen vehicle from a --
9 I guess a -- a murder all the way to North
10 Carolina. So he was making me -- in my legal
11 vehicle -- he was making me take him to his house.

12 Q Okay. Thank you.

13 MR. RICHEY: Answer any questions the Attorney
14 General has.

15 THE COURT: Mr. Cash, I thought you said that
16 when the police came to the door, he was,
17 like, unresponsive or couldn't --

18 THE APPLICANT: He was. He had just fell
19 asleep. I was trying to get away from him.
20 He had just fell asleep, and I'm going to my
21 vehicle when all this -- all these police
22 started swarming.

23 THE COURT: So he -- he happened to fall
24 asleep at the exact time the police got there
25 and that was the first time you --

1 THE APPLICANT: I was out the back door going
2 to my car. Yes, sir.

3 THE COURT: (To Ms. Marto) Yes, ma'am?

4 MS. MARTO: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. MARTO:

7 Q Good afternoon, sir.

8 A Yes, ma'am.

9 Q So you were represented in this case by Mr. Travis
10 Moore, correct?

11 A Yes, ma'am.

12 Q How -- approximately, how long did -- did Mr. Moore
13 work on this case with you prior to trial?

14 A The only times I seen him was a couple of times in
15 the County very briefly, and it was mainly just to
16 try to talk me into taking a plea to testify on Mr.
17 Lewis and accepting some type of ownership in all
18 this -- all these crimes.

19 Q So was the State willing to cooperate with you, or
20 -- like if you gave information to the State,
21 they'd give you a deal? Was that --

22 A Yes. They were trying to give me a 30-year plea to
23 -- to testify on Mr. Lewis at his trial and accept
24 ownership of, I guess, whatever in this that they
25 were trying to get me to take ownership in. But I

1 was not going to -- I was not going to accept a 30-
2 year guilty plea and -- and -- for something I'm
3 not guilty of.

4 Q Okay. Now, did y'all discuss the discovery and
5 evidence in the case, you and Mr. Moore?

6 A I tried to. There was a couple of things I tried
7 to bring to his attention, but he would give me
8 like a -- kind of like a basic answer to why I was
9 wrong. Anything I tried to bring to his attention,
10 it was -- something was wrong with it.

11 Q What -- what were your questions or concerns about
12 the discovery?

13 A The bloody shoe prints and stuff that there were in
14 the -- the kitchen. We were trying to -- because I
15 was looking through it, and, you know, they put
16 those little measuring, little ruler things beside
17 these footprints. I wear a size nine and a half.
18 These were some big feet. Some big shoe prints.
19 Bloody shoe prints.

20 And, also, the fact that if all these bloody
21 shoe prints were supposed mine (verbatim), and I
22 got into my vehicle, which a vehicle that Guilford
23 County -- I guess, Spartanburg County, got back to
24 go through -- one of the officers were questioning,
25 "Somebody that had just walked through all this

1 blood and got in a vehicle and, you know, with
2 bloody shoe prints all over on their feet,
3 shouldn't there be blood in the vehicle?"

4 And he said, "Yes. There more than likely
5 should be, all that blood." There's not a drip of
6 blood found in my vehicle, I mean, stuff like that.
7 The gunshot residue -- if I was supposedly the one
8 that shot this gun or, you know, anything with a
9 gun being fired, well, shouldn't there be some type
10 of residue on my clothing or something? The GSR
11 kits were done, supposedly on her, too, but nothing
12 was ever processed.

13 Q Okay.

14 A There wasn't even one put -- done on me.

15 Q Now, what did Miss -- do you remember what Mr.
16 Moore told you about the evidence against you? Did
17 he discuss there was a lot of evidence? that there
18 wasn't much at all?

19 A He basically was saying there wasn't much at all.
20 I mean, but if there's not much at all, then why --
21 why was he so not wanting to go -- why was he not
22 wanting to go to trial? I mean, he did not want to
23 go trial at all. But there was not a lot of
24 evidence on me. No murder weapon. They still
25 haven't found this gun that was supposedly used.

1 But he did not want to go to trial. He kept
2 insisting that I take this 30-year plea that
3 couldn't even be promised to be 30 years. That's
4 the thing. He kept telling me that there's this
5 plea I could take and testify on Mr. Lewis, but,
6 you know, it's supposedly 30 years, but they
7 couldn't promise it would be 30 years was the
8 thing. That's what's crazy, you know what I mean.
9 He kept wanting me to take a plea. "Plead guilty.
10 Plead guilty." I'm trying to tell him that I'm not
11 guilty.

12 Q Okay. Now, who are the victims in this case?

13 A Mr. Mauldin, Ms. Scruggs, and myself.

14 Q Did you have any preexisting knowledge of them?
15 relationship with them at all?

16 A Yes, I did.

17 Q What --

18 A All the time.

19 Q What was that?

20 A I was over there all the time.

21 Q Did you live there for a period?

22 A I did not, but this was, basically, at the time
23 like my second home. I was there all the time.

24 Q Okay. And how did you know Casey? Where you two
25 friends? Did you date?

1 A There were plans to -- she like wanted to move --
2 get away from this guy and move out, but she didn't
3 have anywhere to go. And I was just being in
4 reception of this property from my grandfather
5 because, at the time, he had just passed. I mean,
6 we were thinking about it. Thinking about dating.
7 She just didn't have anywhere to go. I mean, she
8 was a good friend, and, I mean --

9 Q Yeah.

10 A -- I felt -- I had the feeling -- I had feelings
11 for her, yes.

12 Q Yeah. And she testified at the trial, right?

13 A Yes. She did.

14 Q And she placed you with Mr. Lewis?

15 A She placed me at the house at the same time this
16 was happening, yes.

17 Q Okay.

18 A But was very confused about details and stuff.

19 Q Okay. Now, did you by any chance discuss hand of
20 one, hand of all with Mr. Moore?

21 A That's what he kept trying to say that this was
22 going to fall under. That was a big disagreement
23 between myself and him, too, the hand of one, hand
24 of all thing. Just because I'm present at a place
25 where a crime happens, does not make me a part of

1 this crime.

2 Q Did you know Mr. Lewis before that night?

3 A I did. He -- he used to live with Ms. Scruggs and
4 Mr. Mauldin.

5 Q Oh, he used to live with them?

6 A Until he robbed them. And on the 17th, stole
7 the -- stole even the gun and everything else --

8 Q Okay.

9 A -- that he took with him and moved -- I guess moved
10 on or whatever he done in -- on the 17th. That's
11 when she said, "The 17th. He took what he took and
12 left."

13 Q Okay.

14 A Including this gun that is supposedly in my
15 possession.

16 Q Okay.

17 A And . . .

18 Q Now, did your attorney mention any other evidence
19 taking place, like, concerning the PT Cruiser? Is
20 there any evidence that he said didn't look very
21 good for you concerning that?

22 A I think he may have mentioned the PT Cruiser and
23 the fact that it was at that property, but the
24 thing was, he wasn't trying to hear anything that
25 I've been saying -- anything that I was saying at

1 the time. He just -- he knew in his mind and heart
2 -- he seemed like -- he just kept telling me I was
3 guilty. He kept saying, "And I know your guilty.
4 You might" -- I mean, it was almost like him and
5 the solicitor were against me. Even before the
6 trial, they were talking about a game -- a round of
7 golf that they had together that Saturday. But
8 you're -- you're supposed to be trying to be for
9 me, but you're talking about golfing with the
10 person that's against me.

11 Q So even though he's told you there wasn't much
12 evidence at all in the case, he still stated it
13 looked like you were guilty; is that your
14 statement?

15 A Basically.

16 Q Yeah?

17 A He thought that I was guilty and didn't have a
18 chance taking it to a trial.

19 Q Now, were there ever any neighbors --

20 THE COURT: Wait, wait, wait. Stop. Hold on
21 just one second. I want to follow-up on that.
22 You just said he thought there was little
23 chance if you took it to trial?

24 THE APPLICANT: No. He said there was no
25 chance.

1 THE COURT: Okay. So he --

2 THE APPLICANT: There was like --

3 THE COURT: He told you he didn't think --

4 THE APPLICANT: He didn't -- like there's
5 little to no chance like --

6 THE COURT: Of you being found not guilty?

7 THE APPLICANT: Correct.

8 THE COURT: Like you were already convicted?

9 THE APPLICANT: Yeah. Basically, saying that
10 if we go to trial -- he told me if I get -- if
11 I go to trial, I'm going to get found guilty
12 and be given a life sentence is what he told
13 me.

14 THE COURT: Which is in fact what happened?

15 THE APPLICANT: Yes. But at the time it
16 wasn't what happened, so for my lawyer to tell
17 me that . . .

18 THE COURT: Okay. But so you're -- you're --
19 so I'm still struggling. You -- you keep
20 saying --

21 THE APPLICANT: He got mad at me one day.

22 THE COURT: And so -- let me ask the question.

23 THE APPLICANT: Okay.

24 THE COURT: You keep saying your lawyer told
25 you there wasn't very much evidence against

1 you, but you also just told me your lawyer
2 said, "If you take the case to trial, you're
3 going to get found guilty." Why did he say
4 that? I mean, I don't -- how -- how can those
5 two things both be true?

6 THE APPLICANT: Because in the beginning,
7 there wasn't much evidence, and, okay, he
8 said, you know, "There's not much in the
9 beginning, but once everything was broughted
10 (phonetic) out and we're getting close to
11 trial, you will -- stuff, I guess, started
12 coming together and --

13 THE COURT: Then he said "later"?

14 THE APPLICANT: Then -- yeah.

15 THE COURT: So --

16 THE APPLICANT: Then he said, if I take this
17 to trial, I'm going to get found guilty and
18 get a life sentence is what he told me.

19 THE COURT: So prior to trial, your attorney
20 warned you that the State had good evidence
21 against you and he thought you would be
22 convicted?

23 THE APPLICANT: And that was prior to trial is
24 when he told me that, yeah.

25 THE COURT: Right. I know, originally, he --

1 you said he said the --

2 THE APPLICANT: Yeah. Originally, he --

3 THE COURT: -- evidence was weak.

4 THE APPLICANT: Right. Originally, but then I
5 never seen him again. I sat in the County for
6 almost two years, didn't see him for almost
7 like a year or so. And then he visited me
8 again, and he said, "Getting worse pretty
9 much." Like the evidence against me was like.

10 And then when I started seeing him again,
11 that's when he was coming at me with the --
12 the plea. He wanted me to plead guilty. It's
13 almost like he's flipped sides. He's no
14 longer for me anymore. He just . . .

15 THE COURT: But -- so prior to trial --

16 THE APPLICANT: Prior to trial.

17 THE COURT: -- your attorney said, "The
18 evidence against you is strong, you should
19 take the plea, and not go to trial because if
20 you go to trial" --

21 THE APPLICANT: Because if I go to trial --

22 THE COURT: -- "you will be convicted"?

23 THE APPLICANT: -- I'll get found guilty and
24 be given a life sentence. And I -- he --
25 might've said a life sentence, and if not a

1 life sentence, something close to it. But,
2 you know, pretty much telling me I was going
3 to get found guilty and be given, if not a
4 life sentence, something close to it, 40 or
5 50-year sentence. It is just the same thing
6 as a life sentence, so . . .

7 THE COURT: All right.

8 THE APPLICANT: "Be given a lot of time," I
9 think was his exact words.

10 THE COURT: Okay. Ms. Marto?

11 CROSS-EXAMINATION CONTINUES

12 BY MS. MARTO:

13 Q Now, sir, do you remember if any of the neighbors
14 testified at the trial, as well?

15 A Yes, they did.

16 Q What did -- do you remember roughly what
17 evidence --

18 A One of the neighbors --

19 Q -- was?

20 A -- actually lied on the stand and said that she
21 said my name when all this stuff was happening and
22 he was listening to what she was saying and he
23 actually told a lie and said that she said my name
24 and Mr. Lewis's name. But in his statement that he
25 wrote -- the night that this happened -- the

1 statement that he gave, he never said my name. He
2 never said that she said my name, because she
3 didn't say it. And they actually compared the
4 statement that he said -- or -- or wrote that night
5 to what he said was saying on the stand was
6 contradictory.

7 Q And --

8 A On the stand, he's saying my name and his name, but
9 his statement, the night that it happened, that he
10 gave, never said my name. Nobody ever said -- said
11 my name.

12 Q Do you remember if your attorney pointed that out
13 at trial?

14 A Oh, yeah. He -- he pointed it out at trial.

15 Q Okay.

16 A He did point that out.

17 Q And the witness's testimony at the trial was that
18 you were with Mr. Lewis, right?

19 A No. Oh, well -- yeah. At the trial, yeah. She --
20 he said that Ms. Scruggs -- when he asked, "Who did
21 it?" He stated at trial, on the stand, that she
22 said, "It was Scooter and Drew Cash." But his
23 statement that was given -- that he gave that night
24 -- a written statement, was that it was just Mr.
25 Lewis, Scooter. Said that Scooter had done this --

1 robbed or shot her boyfriend. That was what the
2 statement said. So it was something added later.
3 My name was added later.

4 Q Did any of your family members testify at the
5 trial?

6 A Yes. They did.

7 Q Who testified at the trial?

8 A My grandmother, my father, and my sister.

9 Q Do you think that they provided helpful information
10 to you or no?

11 A I mean, they answered the questions that they were
12 asked.

13 Q Okay. Do you remember any conversation about you
14 running from the police or you saying something
15 about that?

16 A Yes. To my father. I was commenting on the fact,
17 you know, in a humorous manner, which I shouldn't
18 have been. But then how my father is, I guess I
19 was trying to -- I don't know if I was trying to
20 impress him or what I was trying to do. The fact
21 that I ran so far with these people chasing me --

22 Q Yeah.

23 A -- I seen all -- just laughing at the fact that,
24 "God, you have two dogs, and 20 men chasing me, and
25 I ran a mile and a half. Ha-ha." I mean it was

1 like that, you know?

2 Q Yeah.

3 A But it wasn't me saying -- or taking any guilt or

4 ownership of the reason they were chasing me. You

5 know, I was --

6 Q Yeah.

7 A -- I just thought it was funny that I ran that far

8 with all these people and dogs chasing me. It was,

9 you know, it was "Ha"--

10 Q Yeah.

11 A -- "ha, ha." I mean, you know. Nothing --

12 Q Yeah. So you meant -- yeah. You were running from

13 the police like a joke?

14 A Running that far from the police like a joke.

15 Q Oh, okay.

16 A Not running from, no. Not like that. You know --

17 Q Yeah.

18 A No. Not like --

19 Q Yeah.

20 A -- that, no.

21 Q I gitcha. Now --

22 THE COURT: Mister -- Mr. Cash, when you said

23 that you -- the police were there to rescue

24 you from Mr. Lewis, why did you run from the

25 police?

1 THE APPLICANT: I didn't say "rescue me."

2 THE COURT: Well, you said you were being held
3 prisoner by Mr. Lewis, so I'm -- wasn't it
4 great that the police showed up?

5 THE APPLICANT: They did not state that they
6 were the police when they showed up. All that
7 was going on in my mind, I was running from
8 Mr. Lewis and a gang of these Hell's Angels
9 members.

10 THE COURT: Uh-huh.

11 THE APPLICANT: I didn't even have a clue that
12 these were the police until I was already way
13 out in the woods and, you know, I was like,
14 "Damn," and I just laid down in the woods.

15 THE COURT: So -- so you -- you were being
16 held prisoner and then the police showed up
17 and you ran away from them, because you
18 thought they were --

19 THE APPLICANT: Well, I didn't know that -- I
20 didn't know they was the police, sir. So --

21 THE COURT: Then what -- no one --

22 THE APPLICANT: -- they never said --

23 THE COURT: -- said "police" or --

24 THE APPLICANT: -- they -- I was -- I was
25 already running halfway down the field when

1 they were pulling in. I was running to my
2 vehicle. And when I seen these car lights
3 behind me, chasing me, I mean, what -- I just
4 kept on running, man.

5 THE COURT: All right.

6 THE APPLICANT: And then later on, yeah, laid
7 down in the woods. They took me to jail, and
8 I was hoping -- then I made a -- a joke about
9 it like, "Well, yeah. I ran this far. These
10 are -- these were some 20-odd members of the
11 law enforcement and like two dogs that were
12 chasing me." I didn't mean, you know, I'm
13 like, "I ran a mile and a half with this many
14 people chasing me." I was like, you know, I
15 was -- one of those dumb, kid things.

16 THE COURT: All right.

17 THE APPLICANT: I understand now.

18 Q So you didn't have a gun in this case, right?

19 A No, ma'am.

20 Q That was Mr. Lewis?

21 A The gun that I did have, I gave to Mr. Mauldin
22 weeks prior to this happening, and Ms. Scruggs will
23 tell you that, or it's stated in this.

24 Q So you're saying Scooter fired the shots, though,
25 right?

1 A Yes.

2 Q Yeah? Was it his gun, or did he borrow it from

3 someone? Do you know?

4 A I don't know if it was the gun that he stole from

5 here, which would have been it. I don't know. I

6 don't know.

7 Q The gun he stole from who?

8 A Mr. Mauldin and Ms. Scruggs.

9 Q Okay.

10 A Which was -- would be the same gun that I did take

11 to them and gave to them. It -- I gave it to them

12 for drugs.

13 Q Okay. So it -- was it your gun, initially, or did

14 it belong to somebody else?

15 A No. It was a -- it was a gun that my sister had.

16 Q Okay. So --

17 A I stole it from her trying to get high. Took it to

18 him, and pawned it to him, gave it to him, as

19 she -- as Ms. Scruggs states right here; and Mister

20 -- Mr. Steven Lewis stole it on the 17th is what

21 she says.

22 Q Okay. So Steven used your sister's gun to commit

23 the murder?

24 A I didn't say that. I -- you know.

25 Q Okay.

1 A That's what she said that she thinks it is the same
2 gun. I don't know. I know that -- the last time I
3 seen this gun, I gave it to Mr. Mauldin and Ms.
4 Scruggs. Ms. Scruggs states that Mr. Lewis stole
5 it. So either Mr. Lewis stole it and he had it or
6 it was -- it would've still be in whatever they
7 done with it in their possession.

8 Q Okay.

9 A But I -- I sold it to them for -- for drugs.
10 That's why I didn't understand how I could have a
11 gun that I sold for drugs. And it's clearly in the
12 transcript -- or, you know, the transcript states
13 that I gave it to them for "stuff" is what she
14 said, but we all know what that means.

15 Q So one of your main contentions here today is that
16 Counsel didn't properly cross-examine the victim;
17 is that the case?

18 A (No response.)

19 Q You wish he did a better job at that where he asked
20 certain questions?

21 A At that and a lot of other things.

22 Q What did you wish he questioned her on?

23 A The fact that she says that she knew the exact type
24 of gun that was used during this commission of this
25 crime. She said that she seen me with the gun, but

1 also says that I was outside when she seen me. She
2 stated to my mother several times that -- you know,
3 she would call crying saying that she cared for me
4 and -- and loved me and didn't want me to get any
5 time with Mister -- with Scooter -- with Mr. Lewis.
6 But when she went to talk to him about this, he
7 brought it to the solicitor's attention. They both
8 were saying that this would be inadmissible to
9 bring forth to the Court.

10 The fact that I was on all this heavy
11 psychotropic medication. There was no -- there was
12 no psych test done. No -- you know -- like to
13 prove that I was even properly in my own mind to
14 stand trial.

15 If you look at the times he came and saw me,
16 the time that was actually spent on this serious --
17 I guess, I'll call it, you know, "high-profile
18 case," you know, and there wasn't a lot of time at
19 all spent on this. The time mostly that was spent
20 on it was him trying to get me to take a plea -- a
21 guilty plea; to plead guilty. And the whole time
22 I'm telling him, "I'm not -- not guilty." So he
23 wanted me to take a guilty plea, and say I was
24 guilty for this and testify on somebody that, by
25 the way, is on the same -- at the same institution

1 that I'm in right now. So if I were to testify on
2 this guy, and I'll be doing time with the guy that
3 I was in the same dorm with last year. We were out
4 on the same rotation, but you wanted me to testify
5 on this guy. So, I mean --

6 Q Yeah.

7 A -- it doesn't make much sense.

8 Q So getting back to cross-examining the victim, when
9 you asked him for certain things he could question
10 her on, you were told that all of that was
11 inadmissible; is that true?

12 A Ma'am? Re-say (verbatim) that again.

13 Q So concerning cross-examination of the victim, when
14 you brought up your concerns and the things you
15 wanted her to be cross-examined on, you were told
16 that all of those questions were inadmissible; is
17 that --

18 A Well, there were facts in the case that my mother
19 and sister was bringing up to him that he told both
20 of them that the stuff they were telling him was
21 inadmissible. My mother was never even called
22 to -- to my trial.

23 Q Your mother didn't testify at your trial?

24 A No. But she should have, because Ms. Scruggs, one
25 of the victims, was constantly calling her and

1 speaking to her about the -- about this case. But
2 my lawyer, Mr. Moore, said that the -- the things
3 that she was telling him, I guess, or bringing to
4 his attention would be inadmissible.

5 Q So your -- your mother never testified at your
6 trial?

7 A No.

8 Q Then who was it that introduced themselves as being
9 your mother at trial?

10 A Grandmother.

11 Q Your grandmother testified --

12 A Yeah.

13 Q -- but Ms. Angela Ross testified.

14 THE APPLICANT: (To Ms. Ross) You did?

15 MS. ROSS: Uh-huh.

16 THE COURT: Sir, you need to -- to direct your
17 comments --

18 THE APPLICANT: Oh.

19 THE COURT: -- to the attorney, please.

20 Q You don't remember that?

21 A No.

22 Q Okay. Now, what exactly do you think -- you stated
23 you were on medication and that hindered your
24 ability to work with your attorney on your case,
25 right? Because of your meds, that made things

1 difficult in preparing on your end?

2 A Because of the overdose of the medication, yes.

3 Q What exactly do you think would have been different
4 had you not been on those medications?

5 A I could have paid more attention to what was going
6 on --

7 Q Okay.

8 A -- maybe hire another lawyer, spoke to my family
9 about things that would get another lawyer hired.

10 I mean . . .

11 Q Do you think that would have led to you being found
12 not guilty in this case?

13 A Possibly.

14 Q Possibly?

15 A That's what I would hope for.

16 Q Yeah.

17 MS. MARTO: One moment, Your Honor.

18 Q Now, you stated -- was one of your allegations that
19 you wanted tape evidence of recordings of phone
20 conversations to be entered in at trial?

21 A Ma'am?

22 Q Between the -- Casey and your mom, did you want
23 those tapes entered in at the trial?

24 A At the time, I didn't -- I didn't really know what
25 they entailed, because he didn't -- my lawyer

1 didn't share that with me. He shared it with the
2 solicitor and gave those back to my sister and
3 mother and told them they would be ruled as
4 inadmissible evidence; that there's nothing they
5 could do with them.

6 Q Okay. So your lawyer didn't admit those tapes
7 because they'd be inadmissible?

8 A That's what they said. That's what he said.

9 Q Did he say that they were helpful to your case?

10 A I didn't get anything out of them, you know,
11 besides that, that they would be ruled as
12 inadmissible.

13 Q Okay. Now, another one of your complaints is that
14 your attorney didn't bring out evidence concerning
15 the victim's past drug usage; is that correct? You
16 wished he had talked about that?

17 A Well, this -- this was a -- would make a big, you
18 know, difference in somebody's judgment if you had
19 been on a drug for so many days, you know,
20 especially like methamphetamines, and you'd been up
21 for four or five days, you know, you wouldn't too
22 much have proper recollection of what happened
23 anyway; but, I mean, that's just one minor thing,
24 but . . .

25 Q So you don't think it would've changed the results

1 of the trial that fact alone?

2 A Possibly would have. Probably --

3 Q But they didn't bring out any information --

4 A No.

5 Q -- or evidence?

6 A No.

7 Q Sir, do you have a copy of the transcript before

8 you?

9 A I do.

10 Q Would you mind flipping to Page 180 for me?

11 A I'm almost there now. 180.

12 Q Now, if you look at Line 18 and going down, your

13 attorney did ask Casey Scruggs, the victim, "What

14 drugs did you do at the time when all of this was

15 going on?"

16 She said, "Suboxone, like Subutex, and meth."

17 And she stated that, that was provided to her by

18 her boyfriend.

19 A Uh-huh.

20 Q Do you remember that at all?

21 A Oh, I read it this morning, yes.

22 Q Yeah. Do you -- so the -- your attorney did

23 question the victim about her drug usage, then?

24 A Yes. He did.

25 Q Yeah. And your concerns were that it would show

1 she stays high days at a time and doesn't really --
2 it alters her perception of reality, right?

3 A Basically, yeah.

4 Q Then you go on to Page 181, and she says, "It just
5 gives me energy and I stay up."

6 "How many days were you saying up at a time?"

7 And then she changes her story again, and she
8 says, "Actually, I slept." Do you remember that
9 now?

10 A Yeah.

11 Q Yeah. Yeah. Okay.

12 A But we couldn't get her drug tested the day of
13 trial.

14 Q Well, I mean, she already stated she was on drugs,
15 though, right?

16 A Not at trial.

17 Q She didn't say that at the trial?

18 A No. She didn't say that she was on drugs at trial.

19 She said she --

20 Q Oh --

21 A -- she said she was on drugs then, but . . .

22 Q Okay.

23 A There was no way to know if she was on drugs at
24 trial or not, high under oath, answering questions,
25 you know --

1 Q Yeah.

2 A -- without her being drug tested.

3 Q Did you have any indication that she was on drugs
4 that day?

5 A Well, she couldn't even tell the truth about
6 chewing a piece of bubble gum.

7 Q And your attorney pointed that out to her, right?

8 A Yes. I think he did.

9 Q Yeah.

10 THE COURT REPORTER: Sir, can you speak up a
11 little bit with your answers? Thank you.

12 Q Yeah. Page 179, "One of the reasons why I want to
13 make sure you understand, that this is one of the
14 very first questions Mr. Bulsa asked you was
15 whether or not you're chewing gum. And you shook
16 your head, 'No.' Did you swallow it?"

17 "Yes, sir." Yeah. Okay.

18 MS. MARTO: No further questions, Your Honor.

19 THE COURT: I -- I have a question about that
20 actually. The big picture --

21 THE APPLICANT: Yes, sir.

22 THE COURT: -- you testified your lawyer told
23 you, you should take the plea and that -- and
24 that you should not take this case to trial --

25 THE APPLICANT: Yes.

1 THE COURT: -- and if you take it to trial you
2 will get convicted and --

3 THE APPLICANT: And he told me I will get
4 found guilty.

5 THE COURT: -- and -- and the life sentence?
6 Okay.

7 THE APPLICANT: Or --

8 THE COURT: And you --

9 THE APPLICANT: -- something right along with
10 the life, yeah.

11 THE COURT: And you rejected your attorney's
12 advice. You chose to go to trial and you got
13 found guilty and got a life sentence, right?
14 That's what you said?

15 THE APPLICANT: I rejected him, because I
16 didn't want to plead guilty to something I
17 wasn't guilty of.

18 THE COURT: Right. But his advice was to take
19 the plea?

20 THE APPLICANT: His advice was to take the
21 plea and testify on my codefendant.

22 THE COURT: Right. And you rejected that
23 advice, but now you're hear today saying that
24 it's your lawyer's fault that you got
25 convicted; is that what you're telling me?

1 THE APPLICANT: His handling of this case --

2 THE COURT: But he told you --

3 THE APPLICANT: -- is --

4 THE COURT: -- not to go to trial?

5 THE APPLICANT: But he was telling me to plead
6 guilty myself, so . . .

7 THE COURT: You made the choice to not take
8 his advice.

9 THE APPLICANT: Why would I plead guilty and
10 take his advice --

11 THE COURT: I -- and this -- and this --

12 THE APPLICANT: -- and plead guilty, though,
13 of something that I'm not guilty of? I'm not
14 going to take the advice from somebody telling
15 me to plead guilt -- take ownership of these
16 charges, right here, that they're saying
17 you're guilty of. "Even though you're not
18 guilty, take this plea, and say you're
19 guilty." No. that's not good advice.

20 That -- matter of fact, if you're not guilty
21 and you know your not guilty, but he's giving
22 me advice to take a guilty plea, that's not
23 good advice. That's . . .

24 THE COURT: Mr. Richey, do you have anything?

25 MR. RICHEY: No other questions.

1 THE COURT: (To The Applicant) Sir, you can
2 step down.

3 (WHEREUPON, the applicant was excused.)

4 MR. RICHEY: We'll call Mr. Moore -- Travis
5 Moore.

6 (WHEREUPON, the witness was sworn.)

7 THE COURT: Just something. Let me put on the
8 record. I spoke with Mr. Moore for
9 approximately 30 seconds earlier today. He
10 had a family court hearing at 12:15, and I saw
11 him in the hall. This matter was scheduled at
12 1:30, and I asked if he could come immediately
13 after his family court hearing, so we did not
14 have to wait till 1:30. And that was the
15 entire substance of the conversation.

16 MR. RICHEY: Yes, sir.

17 DIRECT EXAMINATION

18 BY MR. RICHEY:

19 Q State your name, please.

20 A Travis Moore.

21 Q Mr. Moore, are you a -- an attorney in Spartanburg?

22 A I am.

23 Q And do you recall representing Mr. Cash?

24 A I do.

25 Q My question -- we've heard what his story was. Can

1 you tell me in -- in talking to Mr. Cash, what was
2 his story of what happened that night?

3 A What was -- at the time of trial or --

4 Q No, no, no. When you sat down and talked with
5 him --

6 A Uh-huh.

7 Q -- and -- to figure out what had happened, the
8 facts of the case, did -- did he tell you that he
9 was not guilty of this?

10 A Yeah. He -- he at times said he was not guilty of
11 this; that's correct.

12 Q Okay. And did he tell you that he got there that
13 night to buy drugs? He tell you he's there to buy
14 drugs?

15 A Yes.

16 Q And that after he got there, then Lewis and some
17 other people came later. Did he tell you that?

18 A No.

19 Q He --

20 A I don't believe so.

21 Q Okay. He -- he didn't tell you that -- that Lewis
22 and some other people came in after him?

23 A I recall him and Lewis going there together.

24 Q Okay.

25 A And that he thought it was a drug deal, and that

1 Lewis escalated it to a robbery gone bad. That's
2 what I recall --

3 Q Okay.

4 A -- our discussions being.

5 Q So --

6 A I don't remember any discussions about additional
7 people besides Lewis.

8 Q Okay. And -- and Lewis get -- and you said they
9 got there together, and Lewis escalated it; is that
10 -- is that what happened? That the other guy
11 escalated it, right?

12 A That -- that's what he told me, yes.

13 Q Okay. And -- and did you see any truth to that?

14 A Uh --

15 Q Well, based on the evidence? Did you see that,
16 that was a provable point based off the evidence?

17 A No.

18 Q Okay. So it would -- it would surprise you if the
19 facts of the case was that he got over there, and
20 then subsequently later, other people came and they
21 actually did all this stuff and he didn't act in
22 concert with them at all? That would surprise you,
23 that story?

24 A Yes.

25 Q Okay. And that he went to North Carolina -- that

1 he was pressured to go to North Carolina?

2 A (No response.)

3 Q That he didn't flee -- that he was under duress and
4 was told to drive one individual to North Carolina.
5 Did he tell you that?

6 A I remember something -- I remember "Hell's Angels"
7 coming up at some point in some of our discussions.

8 Q Okay.

9 A And I thought that was post-incident. I never
10 remember him saying he had any affiliation with the
11 Hell's Angels. I think I remember him saying that
12 Lewis did, or potentially did. But I don't -- I do
13 remember some discussion about duress and Hell's
14 Angels, but I don't recall any evidence in the case
15 that suggested that.

16 Q And his mom -- his mom brought you these, quote,
17 "tapes" over. And she -- you knew his mom had been
18 talking to this victim during the course of the
19 case, right?

20 A I did know that.

21 Q And -- and that -- that she had taped some of these
22 conversations with this victim, correct?

23 A Correct.

24 Q And did she -- did y'all discuss those tapes?

25 A We talked about -- I think we talked about the

1 content of them. I can't remember if I ever had a
2 copy of them or anything, but I know we talked
3 about them. I --

4 Q And --

5 A I made an effort to get in touch with the victim
6 myself.

7 Q Yes, sir. The -- the contents of the tape -- well,
8 do you think -- you think that it could have helped
9 you to cross-examine the victim if that was
10 information that was taped that could help you?
11 That's a circular question.

12 A Yeah. It was.

13 Q Okay.

14 A I mean, yeah. If there was beneficial evidence on
15 the tapes, and I had those tapes, then potentially
16 they would have been --

17 Q And --

18 A -- had some beneficial effect on the case.

19 Q And things like Mr. Cash was not there to hurt the
20 victim? And -- and if -- if it's her position that
21 he was not there to hurt her, you think that would
22 have helped the case?

23 A Yeah. I mean, I think that could've helped the
24 case.

25 Q And -- and what about the victim said that there

1 are actually other people that came over, and
2 actually the Hell's Angels did come? You think
3 that would have been helpful?

4 A I'm not aware of her saying that, but if --

5 Q If she said that, that'd be helpful, correct?

6 A -- if like -- yeah. I don't think it could've
7 hurt.

8 Q Okay. And --

9 MR. RICHEY: (To the Court) One moment. (To
10 Mr. Moore) Answer the questions the Attorney
11 General has, please.

12 THE COURT: Ms. Marto?

13 CROSS-EXAMINATION

14 BY MS. MARTO:

15 Q Afternoon, sir. Thank you for accommodating our
16 schedule.

17 A Uh-huh.

18 Q So you represented Mr. Cash on this case since its
19 inception pretty much, right?

20 A I think he may have had another attorney originally
21 that was conflicted to me because of his potential
22 cooperation.

23 Q Okay. How many times did y'all meet?

24 A I don't know exactly how many times. I mean, it
25 was multiple times at the -- at the detention

1 center, and then right before trial the detention
2 center, and then actually here at the -- what we
3 call the "old jail" or used to call it the "old
4 jail." We met here, too.

5 Q Okay.

6 A I met with -- I met with his mother and his sister
7 on many occasions, phone calls and in person.

8 Q Okay.

9 A Or several. I won't say many. Several occasions
10 at the office.

11 Q And did y'all talk about the discovery and evidence
12 in the case?

13 A Yes.

14 Q And what evidence existed in the case, in broad
15 strokes? Do you remember?

16 A Eyewitness testimony from the victim who survived.
17 I remember there being neighbors. There were jail
18 phone calls. These are -- this is the evidence
19 that comes to my mind as being problematic in
20 preparation for trial: Jail phone calls, testimony
21 from neighbors, the -- the eyewitness surviving
22 victim testimony was probably the most compelling.

23 There was -- his sister's testimony was very
24 difficult to overcome, because it -- it totally
25 thwarted the idea of the other guy -- this last

1 second, you know, escalated the situation. It --
2 it really -- I mean, she -- if I remember
3 correctly, her statement -- her testimony was that
4 they talked about it, were planning it, were wiping
5 down bullets and -- and that was going to be huge
6 issue for us at trial.

7 I'm trying to remember what else was -- I
8 mean, those -- those were the biggest ones. The --
9 some of the jail phone calls about running, where
10 the vehicle was located. I think there was a phone
11 call with his grandmother regarding getting rid of
12 the -- the potential weapon that might have been
13 used or associated with the incident. I mean, all
14 -- all those things were major issues.

15 Q Okay. So you thought that there was a great deal
16 of evidence against Mr. Cash?

17 A Yes.

18 Q And that's why you tried to encourage him to take
19 the plea?

20 A Yes. And I did that because I thought Mr. Lewis
21 was more culpable. And I knew and I believed to be
22 and I believed the evidence showed that he was the
23 shooter, and the only way to mitigate the
24 consequences to Mr. Cash were to cooperate and tell
25 the truth. And I believe the evident -- I believe

1 the State was willing to agree to something in the
2 range of 30 to 40 if he cooperated and pled guilty.
3 And I told him that. I told him, "We -- we don't
4 have a chance of winning. We don't have a
5 defense." And I didn't feel we did. And that was
6 my -- you know, that was my opinion.

7 Q Yeah.

8 A I told his family that.

9 And then I made special arrangements with the
10 solicitor's office that his mother and father could
11 meet with him in this building and tell them their
12 opinion of the evidence and their opinion of the
13 offer and their opinion of what -- that he should
14 do. And his mother and father pled with him, in
15 tears, asking him to take the offer, asking him not
16 to go to trial, and warning him that he would do
17 the rest of his life in prison if he pushed the
18 issue. And he was confident that the victim would
19 not testify. He was confident his sister would not
20 testify, and he wanted to take his chances with a
21 trial.

22 Q And they ultimately testified, right?

23 A They did. And his sister actually was in a very
24 difficult position. I believe she was undergoing
25 her own substance abuse issues at the time. She

1 was in an awful position in that she had given a
2 statement, you know, implying her brother's
3 involvement in the -- in the case, but then,
4 obviously, doesn't want to do anything to hurt his
5 situation at all. She was seeking advice about
6 avoiding the subpoena, if they would issue a bench
7 warrant for her, if she would be made to come to
8 court. And, if I remember correctly, even on Day 1
9 of the trial, the State did not have her under
10 subpoena; and they were still looking for her. And
11 ultimately did find her, and ultimately she did
12 come to trial and testify. And we talked about all
13 those things in preparation.

14 Q Okay. Do you remember him being on drugs at the
15 time/medication that he potentially overdosed on?

16 A Overdosed on?

17 Q That -- that was Mr. Cash's testimony that he
18 overdosed at one point and was on medication triple
19 the amount -- prescribed amount. Do you remember
20 any --

21 A Overdosed where?

22 Q In preparation for trial? Do you remember that at
23 all?

24 A I cannot remember that.

25 Q No. You don't remember him seeming affected by any

1 medication he could have been on while you all were
2 talking and preparing for trial?

3 A I don't recall that.

4 Q No?

5 A I mean, he might've been on medication. I don't
6 remember specifically asking him what medication he
7 was on or what doses, but I didn't feel -- I didn't
8 feel that he was under the influence of anything.

9 Q Okay. Was there ever an issue concerning his
10 competency?

11 A No. He was very active in his participation. When
12 I pulled my file and looked, I mean, he has -- I
13 have a copy of his discovery with his highlights
14 and notes; and then, in addition, I have a copy of
15 the legal pad where he wrote proposed questions for
16 the State's witnesses. So, I mean, he was -- he
17 was following. We were sitting right at the table
18 together, and we -- I -- I thought we were working
19 together, you know, to try to put up the best
20 defense possible under the circumstances.

21 Q Okay. Do you remember cross-examining the victim
22 at trial?

23 A I do.

24 Q What was your strategy there?

25 A First of all, it was very difficult, because she

1 was very sympathetic. If I remember correctly -- I
2 don't remember the exact details of her injuries,
3 but she may have been shot in the head. So it was
4 very difficult to be very aggressive against her.
5 She was scared. She was nervous; it was obvious.
6 And she obviously lived a lifestyle that previously
7 involved lots of illegal, you know, drug issues and
8 stuff.

9 So the overall strategy was to -- to be polite
10 to her, but attempt to point out inconsistencies in
11 previous given statements and her testimony in the
12 courtroom.

13 Q Yeah.

14 A And that was -- that was -- that was really the
15 only thing we could do. I mean, she was there.
16 She knows exactly what happened, and she was,
17 presumably, going to testify to that effect. So we
18 had to try to figure out what was different in the
19 courtroom versus what she had previously said.

20 Q You pointed out her past drug use during cross-
21 examination?

22 A I -- I believe so, yes.

23 Q Okay. Do you remember the tape evidence Mr. Richey
24 pointed out concerning phone calls between the
25 victim and Cash's mother?

1 A I don't remember the specifics of them, but I knew
2 they were communicating.

3 Q Okay.

4 A Because I -- I got the impression from his
5 family -- and probably his mother. I got the
6 impression that she either had regret or remorse or
7 hesitancy about testifying. And that was kind
8 of -- that was the big picture what I thought was
9 the issue going on; I thought that she was not
10 wanting to testify. And, honestly, if she hadn't
11 testified, that would have been a huge issue for
12 the State. I -- she was the most compelling
13 evidence, in my opinion.

14 And there was just a lot of speculation or
15 feeling that she wasn't going to testify. That
16 they had some previous friendship or relationship
17 that she didn't want anything bad to happen to him,
18 and that she ultimately would not -- would not come
19 and testify against him. And she wanted the other
20 guy to, you know, face -- you know, face the
21 charges or whatever.

22 So I tried to contact her personally and
23 couldn't get in touch with her. I -- I believe it
24 was -- I -- I had no other reason to have her
25 number. I -- I guess they provided it to me. I

1 couldn't get in touch with her. She wouldn't
2 contact me. So I actually contacted the solicitor,
3 and specifically asked him, "Are you telling the --
4 why is the victim not calling me back. You've not
5 instructed her to not speak with me, have you?"

6 And he said, "No. I -- I would never instruct
7 her to do that, but I can't -- you know, she can
8 call you back whether she wants to or not."
9 Because I wanted to ensure that nobody else was
10 influencing her not to cooperate with me, and I
11 think I still have that email. But she never would
12 talk to me prior to trial.

13 Q Okay.

14 A So when I cross-examined her, I'm pretty sure that
15 was the first time I had ever spoken to her.

16 Q Okay. Did you think that there was a way -- well,
17 did you think that the tapes as a whole, do you
18 remember them being more helpful or unhelpful to
19 the case?

20 A I don't recall listening to the tapes.

21 Q Okay.

22 A I'm not saying I didn't. I just don't recall
23 listening to, like, long tapes or -- I don't know
24 if they were long or short. I remember I might
25 have listened to some of the tapes, but I just

1 don't recall -- and they may have -- they may have
2 provided them. I don't -- I mean, I would -- when
3 you're preparing for any trial, but particularly a
4 murder trial, you're going to be trying to grasp
5 anything you can. And, obviously, if there was
6 something beneficial there, I would have, you know,
7 seized that. And I don't recall there being
8 anything beneficial.

9 Q Okay. So you thought, basically, all the evidence
10 in the case was condemning?

11 A I did not see how we were going to overcome the
12 evidence they had. I just did not see a way
13 forward.

14 Q Okay.

15 A And that's why I suggested that we testify against
16 the codefendant and ask for the mandatory minimum
17 under the law.

18 Q In retrospect, was there anything you thought you
19 could have done differently that would have changed
20 the results of the trial?

21 A I mean, I -- you always can do something
22 differently. Now, whether anything -- I could have
23 done something differently would change the result,
24 I'm not sure I could have. I mean, I could have
25 talked to somebody more about something. I could

1 have looked into something more in-depth or less
2 in-depth, not spent so much time on this and more
3 time on that, but I -- I personally can't think of
4 something that would change the result.

5 The -- the sister's testimony about the
6 premeditation planning of the incident, combined
7 with what the surviving victim testified to, I just
8 didn't see how we got around that.

9 Q Okay.

10 MS. MARTO: No further questions, Your Honor.

11 THE COURT: (To Mr. Richey) You have any?

12 MR. RICHEY: No questions.

13 THE COURT: All right. Any objection to Mr.
14 Moore stepping -- being excused?

15 MR. RICHEY: None.

16 MS. MARTO: No, Your Honor.

17 MR. RICHEY: We call Ms. Ross.

18 THE COURT: Thank you, Mr. Moore.

19 (WHEREUPON, the witness was excused.)

20 (WHEREUPON, the witness was sworn.)

21 DIRECT EXAMINATION

22 BY MR. RICHEY:

23 Q Ma'am, will you state your name, please?

24 A Angela Ross.

25 Q Ms. Ross, do you know Mr. Cash?

- 1 A That's my son.
- 2 Q Okay. And you've heard us talk about this victim
3 that you're the person she was talking to on the
4 phone, correct?
- 5 A Yes.
- 6 Q And you had several conversations with her,
7 correct?
- 8 A Yes. A lot.
- 9 Q And during any of those conversations, did -- did
10 she -- you've heard -- you've heard Mr. Cash's
11 position or story on the case, correct?
- 12 A Uh-huh.
- 13 Q You've heard what he said. You were in the
14 courtroom when he testified and all that?
- 15 A Uh-huh.
- 16 Q Right? You have to answer yes or no.
- 17 A Uh-huh. Yes.
- 18 Q Okay. The conversation you had with this victim,
19 were there any -- during this conversation, did she
20 corroborate any of the information that your son
21 gave about the Hell's Angels or anything?
- 22 A Yes. She did mention the Hell's Angels.
- 23 Q That --
- 24 A And she mentioned that my son -- that she knew that
25 he just feared for his life and that -- feared for