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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable Kristi F. Curtis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

COREY RASHAD BROWN,

APPELLANT

APPELLATE CASE NO. 2021-000521

RECORD ON APPEAL

SARAH E. SHIPE
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

AMBREE M. MULLER
Assistant Attorney General

PO Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

ERNEST A. FINNEY, III
Solicitor, Third Judicial Circuit

215 N. Harvin St.
Sumter, SC 29150
(803) 436-2236

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
COURT’S EXHIBIT #4 (SIX PERSON PHOTOGRAPHIC LINEUP);
STATE’S EXHIBIT #3 (SURVEILLANCE VIDEO); and STATE’S
EXHIBIT #23 (ENHANCED SURVEILLANCE VIDEO).**

1 State of South Carolina)
2 County of Sumter) In the Court
3 State of South Carolina,) Of General Sessions
4 Plaintiff,) Indictment No.: 2020-GS-43-00238
5 vs.) Transcript of Record
6 Corey Rashad Brown,)
7 Defendant.)
8 _____)

9
10 April 28th through 30th, 2021
11 Sumter, South Carolina

12 BEFORE:
13 The Honorable Kristi F. Curtis, Judge, and a
14 Jury

15
16 APPEARANCES:
17 William Jason Corbett, Assistant State
18 Solicitor
19 Attorney for the Plaintiff/State
20 Michael D. Routzong, Assistant Public Defender
21 Attorney for the Defendant

22 ALSO PRESENT:
23 Corey Rashad Brown

24
25

1 totality of the circumstances under which he was
2 questioned that the statement was voluntary and
3 admissible at trial.

4 MR. CORBETT: Thank you, Your Honor.

5 THE COURT: Any other pretrial issues that we need
6 to address? Is there an identification issue? I wasn't
7 trying to eavesdrop.

8 MR. ROUTZONG: It's hard to say because it doesn't
9 seem like it at first, but it could evolve into that.
10 What it is, Judge, he was, sometime between the incident
11 date and maybe, I don't know, probably within two weeks,
12 maybe a two week period of time, maybe less, he was shown
13 a six pack and he couldn't pick anybody out.

14 THE COURT: You're referring to the victim?

15 MR. ROUTZONG: That was the victim.

16 THE COURT: Mr. Anselmo?

17 MR. CORBETT: Yes, ma'am.

18 MR. ROUTZONG: And then there was a preliminary
19 hearing and the victim in the case was at the preliminary
20 hearing, had a good long time to look at him during the
21 preliminary hearing. That was at the jail. At that time
22 I asked Detective McFadden if the victim had identified
23 or had been shown any pictures, but you know, the jail
24 doesn't record anything so I don't have any means and I
25 didn't have any reason to think I would need a

1 transcriber or anything like that, someone to record it
2 and it's not recorded at the jail.

3 THE COURT: The preliminary hearing took place at
4 the jail?

5 MR. ROUTZONG: Yes, ma'am. But he was present. The
6 preliminary hearing took place in August. That would be
7 about a month, a little bit more than a month after this
8 incident. Then we were planning a trial, I want to say
9 it was in October or November probably 2019, wasn't it?
10 Or 2020. Yeah. It was sometime in 2020 in the fall we
11 were planning a trial. In between this outbreak of the
12 virus and all of these other things the Solicitor's
13 Office showed the victim the video and I'm told by the
14 Solicitor at that point in time he said, well, that is,
15 basically he said that is the person that robbed me. So
16 that was a --

17 THE COURT: After the preliminary hearing but before
18 the October trial, initial trial date?

19 MR. ROUTZONG: That's correct. So then the question
20 becomes, you know, in my mind does that amount to, do
21 these other things amount to some kind of a, the fact
22 that he was present for a lengthy period of time during
23 the preliminary hearing, what is the effect on the
24 subsequent identification. He was shown two different,
25 on two different occasions he was shown pictures and then

1 the question becomes can he make an in court
2 identification at this point in time. The preliminary
3 hearing and the six pack he didn't identify so that's
4 probably not an issue. Certainly the preliminary hearing
5 could be an issue because he had a real good time to take
6 a look at him and so it's not strictly speaking what you
7 would call a Biggers issue, but then it kind of does seem
8 like Biggers. I think we're trying to figure it out,
9 perhaps by tomorrow morning.

10 THE COURT: Can you tell me the circumstances of the
11 -- Mr. Anselmo was shown a six pack photo lineup?

12 THE WITNESS: Yes, ma'am. He was shown that shortly
13 after I got it, received it from SLED.

14 THE COURT: Was Mr. Brown's photo one of the six?

15 THE WITNESS: Yes, ma'am. It was.

16 THE COURT: And Mr. Anselmo was not able to identify
17 anyone?

18 THE WITNESS: No, ma'am. He couldn't pick anyone
19 out from the photos.

20 THE COURT: Do you know about when this was?

21 THE WITNESS: The date I believe was, six photo
22 lineup, okay, it was photo lineup sent July 27th, 2019.
23 So I received it July 27th, 2019 at 1:27 a.m. in the
24 morning through email and I believe that during the
25 daytime either that day or sometime shortly thereafter we

1 went over there and tried to see if he could identify
2 from the six photo lineup.

3 THE COURT: Okay. And can you tell me the timing of
4 when Mr. Anselmo would have been shown the video from
5 Harmony Court? This is the same video that Mr. Corbett
6 was referring to that you took the still shots from.
7 That's Court's Exhibit 2.

8 THE WITNESS: I'm sorry. I couldn't hear you, Your
9 Honor.

10 THE COURT: This is the same video from which you
11 took the still shots?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: And you have a time frame that you
14 showed to Mr. Anselmo?

15 THE WITNESS: Yes. I just don't remember the exact
16 time. We posted it on social media as well. I can't
17 remember the exact time, Your Honor.

18 THE COURT: Do you know if it was after the
19 preliminary hearing?

20 THE WITNESS: I do not remember.

21 MR. CORBETT: Judge, I'm sorry. For clarification
22 purposes may I ask this officer a question in the
23 presence of the officer? I have an approximate time
24 frame in which I reviewed the video with the victim. I'm
25 not sure if he saw it separate and apart from that and

1 perhaps that might - if he didn't see it separate and
2 apart from that, I can narrow that down somewhat for the
3 Court.

4 THE COURT: Okay.

5 BY THE WITNESS:

6 A. All right. If he saw it -- All right. I'm confused
7 now. Separate and apart from the photo lineup?

8 BY MR. CORBETT:

9 Q. No. No. No.

10 MR. CORBETT: Judge, may I?

11 THE COURT: Yes.

12 BY MR. CORBETT:

13 Q. The victim came to my office --

14 A. Right.

15 Q. -- and reviewed the video tape with me and I believe
16 that you were present?

17 A. That's right.

18 Q. Prior to that time, did you show him the video?

19 A. That is correct, prior to that time.

20 Q. You did?

21 A. Yes, sir.

22 THE COURT: Was this before or after the preliminary
23 hearing?

24 THE WITNESS: The prelim was in -- Do we have a date
25 on the prelim? I don't remember the exact date.

1 MR. CORBETT: Judge, I'm sorry. I wasn't present
2 for the prelim.

3 MR. ROUTZONG: It was on August 29th of 2019, Your
4 Honor.

5 THE COURT: Okay. So, Detective McFadden, do you
6 know whether the victim was shown the video by either you
7 or Mr. Corbett before or after that August 29th, 2019
8 preliminary hearing?

9 THE WITNESS: Your Honor, honestly, I don't recall
10 whether it was before or after and I don't want to be
11 guessing as far as, you know, whether it was before or
12 after, but I do not recall.

13 THE COURT: Okay. So, well, first of all, do you
14 want to ask him any questions regarding this issue?

15 MR. CORBETT: No, ma'am.

16 THE COURT: Mr. Routzong, do you want to ask him any
17 questions --

18 MR. ROUTZONG: No, Your Honor.

19 THE COURT: -- with regard to this issue? I feel
20 like I need to see the video if y'all are asking me to
21 make a ruling. If I understand, the issue is whether
22 Mr. Anselmo can make an in court identification of your
23 client at trial?

24 MR. ROUTZONG: Yes, ma'am.

25 THE COURT: And I'm not trying to put words in your

1 mouth, but are you asking me to make a pretrial
2 determination of whether that would be admissible?

3 MR. ROUTZONG: Yes, ma'am. I don't mean to speak
4 for Mr. Corbett, but what we had discussed was maybe it
5 would be appropriate to have the victim in the case, the
6 accuser in the case and the translator, and that's why we
7 were kind of wondering about whether we should, this is
8 kind of the background, but maybe tomorrow morning when
9 he has access to that we might be able to make a fuller
10 determination.

11 THE COURT: Well, he had somebody here with him. I
12 have got Ms. Morgan coming at 11. Do we need to get her
13 earlier or will he have somebody with him? This is gonna
14 be all off the record so y'all don't need to certify an
15 interpreter, but he'll have some family member with him
16 that maybe can interpret just for purposes of maybe
17 questioning him or you don't think so?

18 MR. CORBETT: I don't think so. His son was with
19 him today and has to work tomorrow.

20 THE COURT: Okay. So it would be better if I can
21 get Ms. Morgan in here earlier.

22 MR. CORBETT: I mean, Judge, if we are, in fact,
23 doing the Neil versus Biggers type hearing, yes, ma'am.

24 THE COURT: Well, I mean, y'all tell me. I'll do
25 whatever you want me to do.

1 MR. ROUTZONG: Well, it's really a good question
2 because if there was - the case law is Lewis. I have it
3 here.

4 THE COURT: I've got Lewis in front of me.

5 MR. ROUTZONG: If there was -- It's okay for an in
6 court identification even though he's never made an
7 identification before. That's okay. But the question
8 is, is that video, does that amount to an out of court
9 identification and then I think that triggers Biggers
10 because at the preliminary hearing he had a good long
11 time to look at him, so that's why it's not really clear
12 as to whether or not this is a Biggers issue and that's
13 why we kind of wanted to make you aware of it this
14 evening.

15 THE COURT: And I think in order for me to do a
16 pre-trial Biggers hearing I need to see both the six
17 person lineup and I need to see the video and know the
18 timing of when, if he identified him by the video, the
19 timing of that because, I mean, what I would just say off
20 the cuff from looking at this still is that if you had a
21 very clear six person SLED lineup that clearly shows the
22 faces and he could not identify him and then he sits in
23 the prelim with him for a couple hours and then sees a
24 video that's about that same quality which I couldn't
25 identify him from this fuzzy photo, if he says, yes, this

1 is the guy, then I think we have a definite problem.

2 But, you know, I don't know if this is poor quality
3 because you've taken a still. Maybe the video itself is
4 of much better quality. These are all questions that I
5 would have to have answered before I could make an
6 intelligent ruling on it. So y'all tell me what you want
7 me to do. Do we want to address this at 9:30 tomorrow in
8 the morning and have the video cued up? If he has never
9 identified him before, then I think that's a little bit
10 different issue. If the first time he identifies him is
11 in court, at least the majority of Lewis addresses that.

12 MR. ROUTZONG: It seems to me to hinge on as to how
13 -- I wasn't present when these events obviously in the
14 Solicitor's Office took place, but I recall Mr. Corey
15 kept me well informed and he said my understanding of
16 what happened was that Anselmo said, was shown a video.
17 I don't know if there were close ups or anything. He
18 never got into that with me, but Anselmo said, well, that
19 person is the person that robbed me. I don't know. It's
20 hard to say because the video shows, you know, long shots
21 all the way to the house, all the way away from the house
22 and, of course, you'll see that when you see the video,
23 but I don't know if he was saying that, well, I looked at
24 his face and that's the guy or that's somebody running
25 from my house. It must have been him. There are so many

1 possibilities and that's probably why it seems that we
2 might nail it down a little bit better if we have
3 Anselmo.

4 THE COURT: Okay. Well, I'll have - I'll call Ms.
5 Morgan and see if she can be here at like 9:30, I guess.
6 Is the victim's identification of Mr. Brown, is that
7 crucial to the State's case?

8 MR. CORBETT: No, ma'am. And, Judge, if I may just
9 to provide the Court with some context, and I hate to say
10 it this way, but I have to ask the Court to understand
11 that when I talk to Anselmo, I'm actually speaking
12 through another person.

13 THE COURT: Sure.

14 MR. CORBETT: So it leaves a little bit of sometimes
15 not --

16 THE COURT: It's a language barrier, I understand.

17 MR. CORBETT: For example, what the State alleges is
18 that in the video tape that we allege that you see the
19 defendant exiting the victim's residence and within a few
20 seconds thereof that the victim also comes out. So the
21 victim has said to me the person running away from my
22 house is the person who just robbed me.

23 THE COURT: Okay.

24 MR. CORBETT: So from our perspective whether or not
25 he could sit in the courtroom and say that's the

1 individual is not dispositive of our case. Also in light
2 of the fact that the defendant identified himself in the
3 still photo.

4 THE COURT: Got you. Okay. Does that change your
5 position on it?

6 MR. ROUTZONG: If Mr. Corbett is saying he's not
7 gonna ask him to make an in court identification but he's
8 gonna show him the video, I don't think it's a Biggers
9 issue then.

10 THE COURT: Well, what I understood Mr. Corbett to
11 say, correct me if I'm wrong, is it's not necessarily
12 that he's gonna say this man, that Mr. Anselmo is gonna
13 say, is this man in the photo the man who -- I'm sorry.
14 That's a terrible, terrible characterization. He's not
15 gonna point and say, is this the man who robbed you?
16 You're gonna say, in this video we see this person
17 running away. The person that's running away, is that
18 the man that robbed you?

19 MR. CORBETT: Your Honor, I understand that question
20 and quite honestly other than the preliminary hearing for
21 which I was not present I believe that today would have
22 been the first day that Anselmo would have seen the
23 defendant since this incident leaving out any photo
24 lineups or videos, but in terms of in person, and quite
25 honestly I did not ask him that question today because of

1 the pace in which we were moving.

2 THE COURT: Well, I guess if you do not intend to
3 ask him to identify Mr. Brown in court, then I don't
4 think we have a Biggers issue. What you're saying is his
5 testimony is just gonna be, yes, you can see me coming
6 out. The person who came out in front of me is the
7 person who robbed me. I was right there. Certainly he
8 can testify to that. If you're not gonna ask him to
9 point out the defendant in the courtroom, then I don't
10 think we have a Biggers issue.

11 MR. CORBETT: Judge, my apologies. I will have a
12 clarification of that first thing in the morning.

13 THE COURT: Okay. Again, you need me to have Ms.
14 Morgan present so you can have a meaningful discussion
15 with Mr. Anselmo?

16 MR. CORBETT: Yes, ma'am. Probably so.

17 THE COURT: Okay.

18 MR. CORBETT: We will make efforts to locate another
19 Spanish speaker, but I don't have any guarantees that I
20 can make that happen.

21 THE COURT: I don't think we'll have any trouble
22 getting her here at 9:30. She's been very accommodating.
23 Any other issues we need to talk about?

24 MR. CORBETT: Judge, this may not be the appropriate
25 time, but since the jury is not in the room perhaps I can

1 go ahead and bring it up because this was a discussion we
2 were having in my office today. I understood the case
3 law to say that the development of a suspect as a result
4 of a Crime Stoppers tip is not hearsay, but I didn't want
5 to open that line of questioning in front of the jury and
6 create a legal issue. My preference is to only try cases
7 one time.

8 THE COURT: Mr. Routzong, do you have anything you
9 want to -- What's your position?

10 MR. ROUTZONG: In light of the alleged statement
11 that he made I'm not so sure why the Crime Stoppers thing
12 would be particular relevant since, I mean, I guess it's
13 part of their case and I don't know that I -- If I can
14 think of an objection to that, I'll let him know before,
15 give him a heads up. Right now off the top of my head I
16 can't think of any objection. That's part of their case.
17 That's how they developed him as a suspect. If I think
18 of one, I'll be glad to let him know.

19 THE COURT: I mean, all I can say is that I have
20 seen it done many times before without objection, but
21 that does not necessarily mean that it's not
22 objectionable. Okay. Well, I'll see you in the morning
23 at 9:30.

24 (Whereupon, court was adjourned for the day at 5:00
25 p.m.)

1 April 29, 2021.

2 (Defendant's Exhibit #1 through #12 marked for
3 identification.)

4 BAILIFF: Come to order. All rise. The Honorable
5 Judge Curtis presiding.

6 THE COURT: Thank you all. Please have a seat.
7 Anything that we need to address before we bring the jury
8 in? I understand that all of our jurors and the
9 alternates are present.

10 MR. CORBETT: Your Honor, other than the matters
11 discussed in chambers, the State is ready to go
12 forward.

13 THE COURT: Let's go ahead and put on the record, I
14 understand that there was a, the State just discovered
15 there's some body camera footage from Officer Austin is
16 it?

17 MR. CORBETT: That's correct, Your Honor.

18 THE COURT: And you've got it on a flash drive and
19 at some point this morning Mr. Routzong will get a chance
20 to look at it and, of course, we are reserving the right
21 for Mr. Routzong to recall the officer if the timing ends
22 up such that you call the officer before he's had a
23 chance to look at that footage.

24 MR. CORBETT: That's correct, Your Honor.

25 THE COURT: Is that a fair assessment, Mr. Routzong?

1 MR. ROUTZONG: Yes, Your Honor.

2 THE COURT: Okay. Just a couple things. It's
3 perfectly fine with me for the attorneys when you're
4 addressing the jury to take off your masks off when
5 you're doing your direct and cross examination. It's
6 just gonna be so much easier for the court reporter, for
7 our witnesses and attorneys when you're up at the podium
8 to take the mask off. Just keep in mind that the jurors
9 on the front row, they're fairly close. If you get too
10 close to them, you're just gonna run the risk that you're
11 alienating those jurors if you have your mask off and
12 you're getting close to them. So my preference would be
13 let's kind of put one of the podiums where you're going
14 to stand. You're welcome to move throughout this area,
15 just don't get too close to the jurors with your mask
16 off. Can I go ahead and address Mr. Brown before we get
17 the jury in? Good morning.

18 COREY BROWN: Good morning, Your Honor.

19 THE COURT: Mr. Brown, I have a few things to go
20 over with you, sir.

21 COREY BROWN: Yes, ma'am.

22 THE COURT: The State is gonna start us off with
23 their case in chief and then when they rest, it will be
24 your chance to present a defense on your behalf. You
25 have a constitutional right to remain silent. That means

1 it's your decision as to whether or not you choose to
2 testify and so I just want us to go over the consequences
3 of that decision.

4 COREY BROWN: Yes, ma'am.

5 THE COURT: If you choose not to testify, I will
6 instruct the jury that that is your constitutional right
7 and they cannot hold that against you in any way, shape
8 or form. I will instruct them that it's the State that
9 has the burden of proving you guilty and you do not have
10 any burden of proving yourself innocent of the charges.

11 I will further instruct them that they cannot even
12 discuss the fact that you chose not to testify in the
13 jury room. It shouldn't be a factor in their
14 deliberations whatsoever. If you chose to testify,
15 again, that's your right. This is your days in court.
16 You will testify from the witness stand. Your attorney
17 will ask you questions on direct examination and then the
18 State will get a chance to ask you questions on cross
19 examination. I have no idea if you have a criminal
20 record or not, but they may be able to impeach you with
21 evidence of a prior crime. Mr. Routzong, do you have a
22 copy of an NCIC provided by the State?

23 MR. ROUTZONG: Yes, Your Honor. I do.

24 THE COURT: Is there anything on there that the
25 State would seek to impeach him with?

1 MR. ROUTZONG: I don't think there is, Your Honor.
2 I don't think there's anything that's qualified. I just
3 briefly looked at it I think in the last couple days, but
4 I didn't see anything that struck me as being anything
5 that would be impeachable.

6 THE COURT: Okay. Well, we'll clarify that then
7 certainly before the State rests so that you know
8 absolutely the answer to that question before you make
9 your decision whether or not you want to testify. The
10 decision as to whether or not you want to testify is
11 yours and yours alone. You should, however, consult with
12 your attorney, talk to friends and family members. It's
13 a big decision and again your attorney can advise you but
14 that's ultimately your decision to make.

15 COREY BROWN: Yes, ma'am.

16 THE COURT: Thank you. Are we ready for the jury?

17 MR. CORBETT: Judge, we are. If I could have about
18 literally about 30 seconds. I'm gonna need a little bit
19 of technology help. I'm gonna step outside the door and
20 call my office and ask somebody to bring up some computer
21 equipment.

22 THE COURT: Okay.

23 MR. CORBETT: Judge, I just know if it's left to me,
24 I'll just mess up the computer so I'll have someone from
25 my office come up and help me with that. Other than

1 that, Judge, we are ready.

2 MR. ROUTZONG: What time do you want to address the
3 issue -- I think we talked about the State proffering
4 testimony of the accuser for Biggers purposes.

5 THE COURT: Is your victim present?

6 MR. CORBETT: He is, Your Honor.

7 THE COURT: And the interpreter?

8 MR. CORBETT: Yes, ma'am.

9 THE COURT: Is that Ms. Morgan?

10 INTERPRETER: Yes, Your Honor.

11 THE COURT: Okay. Whatever is your preference. If
12 y'all want to go ahead and do that now before we bring
13 the jury in.

14 MR. ROUTZONG: We can do that at break as well I
15 guess.

16 THE COURT: Can you give me an idea of the order of
17 your witnesses?

18 MR. CORBETT: Yes, Your Honor. I anticipate the
19 order of witnesses being Officer Austin, Officer Hunter.
20 Those are both responding officers. Detective Brunson,
21 largely a chain of custody witness, Mr. Teachout to
22 establish chain of custody and then also, Your Honor, I
23 will probably have to take them somewhat out of order,
24 but Dr. Luis Muniz from Tuomey Hospital. I indicated
25 that I would try to get him in and out as quickly as

1 possible.

2 THE COURT: Okay. Well, then, let's go ahead with
3 openings and move into the case and we'll do the proffer
4 on the break. Are you showing videos, photographs?

5 MR. CORBETT: I'm using aerial.

6 THE COURT: So tell me what technology we're waiting
7 on.

8 MR. CORBETT: Judge, in just a few moments Mr. Brown
9 will be back, and when I begin my case with my first
10 witness, or actually my second witness, I'm gonna be
11 using a disk with photographs.

12 THE COURT: Can we go ahead and do the openings?

13 MR. CORBETT: Yes, ma'am. I'm sorry, Judge. I
14 thought we were waiting on the jury to walk in.

15 THE COURT: You can go ahead and get the jury. I
16 thought you were waiting on them to come up, that it was
17 something that you needed for your opening.

18 (Whereupon, the jury entered the courtroom at 9:55
19 a.m.)

20 THE COURT: Good morning, ladies and gentlemen.
21 Mr. Tomlin, would you swear our jury in.

22 THE CLERK: Yes, ma'am.

23 (Whereupon, the jury was duly sworn by the Clerk of
24 Court at 9:55 a.m.)

25 THE CLERK: You may be seated. Is there anyone who

1 could not take the oath? They have been sworn, Your
2 Honor.

3 THE COURT: Okay. Ladies and gentlemen, the case
4 we're about to try is the State versus Corey Rashad
5 Brown, and before we begin this trial, I will tell you
6 that it may be different from what you may expect. A lot
7 of people don't have the chance to attend actual court
8 sessions and so we kind of go off of what we've seen on
9 television or movies, read in books, where there's a lot
10 of action and very intense drama. An actual trial is
11 usually the exact opposite of that. Sometimes it's slow,
12 deliberate, it may seem repetitive to you and probably
13 the exact opposite of what you've seen on television.

14 But the courtroom is place of honor dedicated to the
15 rights and the protection and preservation of citizens'
16 rights through what many call the greatest justice system
17 ever created. The attorneys appearing before you are
18 advocates for the parties that they represent, but first
19 and foremost they're officers of the Court and they're
20 sworn to uphold the integrity and fairness of our
21 judicial system and to help you in your role as the fact
22 finders. You should expect them to be professional,
23 competent and ethical in the representation of their
24 client's interests.

25 And remember that you have also taken an oath to try

1 this case and reach a verdict based on the testimony and
2 evidence presented. You're also expected to be
3 professional, reasonable and ethical. So first of all
4 I want to thank you for accepting this very important
5 responsibility. What I'm now going to say is intended to
6 serve as an introduction to the trial of the case. These
7 remarks are not a charge on the law. I will instruct you
8 on the law that's applicable to this case at the end.
9 This is merely an explanation of the procedure that we'll
10 follow during the trial of this case to give you a better
11 understanding of what's happening.

12 The defendant is charged by indictment filed in this
13 court and he's charged with armed robbery, burglary in
14 the first degree, assault and battery in the first degree
15 and possession of a weapon during a violent crime and the
16 elements of each of those offenses will be explained to
17 you later on during the course of the trial. The
18 indictment, however, is simply the charge by which this
19 case is brought into court. It is not in any sense
20 evidence of the allegations that it contains. The
21 defendant has pled not guilty to this indictment and the
22 State, therefore, has the burden of proving each of the
23 elements of the indictment beyond a reasonable doubt. It
24 will be your duty, ladies and gentlemen, to decide
25 whether the State has met that burden.

1 Your purpose as jurors is to find and determine the
2 facts of the case. You are the sole Judges of the facts
3 of the case. If at any time I seem to make any comment
4 regarding the facts, you must disregard it. I do not get
5 to have an opinion about the facts. That is solely for
6 you to determine. You are to determine the facts from
7 the testimony that you hear. You will hear sworn
8 testimony from this witness stand and any other evidence
9 that's properly introduced in court. It's up to you to
10 determine the inferences which you feel may be properly
11 drawn from the evidence. It's especially important that
12 you perform your duty of determining the facts diligently
13 and conscientiously because ordinarily there's no way to
14 correct an erroneous determination of the facts by a
15 jury.

16 On the other hand and with equal emphasis the same
17 law that makes you the Judges of the facts makes me the
18 Judge of the law. The law as given by the Court is the
19 only law you may consider, and you must accept and follow
20 it even though you may disagree with it. I cannot tell
21 you what the facts of the case are and you cannot
22 disagree with me about what the law is or should be.
23 Your job is to take the law as I give it to you, apply it
24 to the facts as you find them from the testimony of the
25 witnesses and any other evidence introduced and after

1 doing that you will be in a position to render your
2 verdict.

3 Until I advise you to begin your deliberations you
4 must not discuss the case with anyone including your
5 fellow jurors, friends, family members, and certainly not
6 anyone involved in the case. After the case is submitted
7 to you for deliberation, you must discuss it only in the
8 jury room with your fellow jurors. The attorneys and
9 parties in this case, the witnesses all know they're not
10 to have any contact with you. If you are to come across
11 them in the elevator, in the lobby, if you were to see
12 them, just happen to run into them let's say at the
13 grocery store in the evening and they don't speak to you
14 at all, they're not being unfriendly or rude, they're
15 just trying to obey my instructions to have no contact
16 with you.

17 During the trial don't read, listen to or watch any
18 news reports about this case. I don't expect any media
19 coverage, but this would include anything that you might
20 see in the newspapers, on social media, radio or
21 television. You must not consider anything that you may
22 have read or heard about the case outside the courtroom
23 whether before or during the trial. It is important that
24 you keep an open mind and not decide any issue in the
25 case until all of the evidence has been presented, you've

1 had your instruction on the law and the parties have made
2 their closing arguments.

3 It is your solemn responsibility to determine the
4 guilt or innocence of the defendant and your verdict must
5 be based solely on the evidence as it is presented to you
6 in this trial and on the law as I instruct you during and
7 at the close of the trial.

8 In just a moment the Solicitor, Mr. Corbett, will
9 make what's called an opening statement in which he'll
10 tell you what the State contends are the issues in this
11 case. The attorney for the defendant, Mr. Routzong, may
12 also make an opening statement although he's not required
13 to do so. What the attorneys tell you during the opening
14 statements is not evidence however. It's only their
15 contention as to what the issues are. Again, the
16 evidence will be presented to you in the form of
17 testimony again from this witness stand and then any
18 other evidence that's introduced during the course of the
19 trial.

20 From time to time during the trial you may hear one
21 of the lawyers make an objection or possibly ask to take
22 up a matter of law outside of your presence. In that
23 case we will dismiss you back to the jury room so we can
24 discuss some matters of law again outside of your
25 presence. We're not trying to hide anything from you,

1 but we may have to discuss the facts during the course of
2 that discussion and that would be inappropriate for us to
3 do in your presence. We may also need to rule on the
4 admissibility of evidence before we see or hear that
5 evidence so we'll need to do that outside of your
6 presence.

7 In determining what the facts are in this case, you
8 must decide whether or not the testimony of the witnesses
9 is believable. It's my responsibility to rule as a
10 matter of law whether certain testimony is admissible,
11 but once it's admissible whether or not you believe it is
12 solely for you to determine. In deciding whether to
13 believe a witness you have the right to consider whether
14 the witness has shown to you any interest, bias, motive,
15 any prejudice, the opportunity that the witness had to
16 see or hear the things that the witness is testifying
17 about, the way the witness acts on the witness stand,
18 what their demeanor is. You have the right to consider
19 anything that's in the record that will help you evaluate
20 the testimony of the witnesses. That means it's your
21 duty to pay close attention to these witnesses, observe
22 them, listen to them. Pay close attention to the
23 attorneys and to the Court. Please don't let your
24 thoughts wander, but give strict attention to the
25 testimony so that at the end after all the testimony, the

1 arguments of counsel, the charge on the law by the Court,
2 you will then be in a position to determine what the
3 facts are and apply the law to those facts and render
4 your verdict.

5 At the first break I'm gonna ask if you will please
6 select a jury foreperson. Any of the 12 main jurors can
7 be the foreperson. The only caveat is that Mr. Harvin
8 and Ms. Scott-Sadler, as alternates you would not be
9 eligible to serve as foreperson. I'm sure that's a real
10 heartbreak to you this morning. As foreperson your
11 responsibility would be if there's a matter that needs to
12 be brought to my attention, somebody has an issue or a
13 question, anything that I need to help you with, you
14 would write a note, you would give that to the bailiff
15 and they will get it to me. The foreperson also presides
16 over jury deliberations and would be the person who
17 records the jury's verdict at the end of the trial. You
18 do not need any specific qualifications, experience,
19 anything like that to be the foreperson. You are
20 equipped with everything you need to be a foreperson just
21 by your life experience and good common sense. So again,
22 at the first break I'll ask that you all select a jury
23 foreperson.

24 Any objections or exceptions to my introductory
25 remarks before we turn it over to opening?

1 MR. CORBETT: Nothing from the State, Your Honor.

2 MR. ROUTZONG: Nothing from me, Your Honor.

3 THE COURT: Okay. Mr. Corbett.

4 MR. CORBETT: Thank you, Your Honor.

5 THE COURT: Mr. Routzong, you're welcome to move
6 around to where you can see as well. I would say you
7 might have better luck that way.

8 MR. ROUTZONG: Thank you, Your Honor.

9 MR. CORBETT: Ladies and gentlemen, good morning.
10 Thank you so much for being here. I always like to start
11 off even though it's very serious business that we're
12 here about, sometimes I start off with a moment of levity
13 and I say I agree with the Judge. This isn't television.
14 This isn't scripted. This is real human beings who
15 suffered under real and intense circumstances, and quite
16 honestly, if it was television, I would be taller and
17 better looking, so that's why I know it's not television,
18 but it's a serious matter that we're here about today.

19 As you know, Mr. Brown is charged with armed
20 robbery, burglary in the first degree, assault and
21 battery of a high and aggravated nature and possession of
22 a weapon during the commission of a violent crime, the
23 charges that you as a jury will decide. Now, a few
24 moments ago you took an oath and in that oath you're
25 taking an oath to well and truly try the facts of this

1 case. Ultimately the facts of this case will come from
2 right here, from here, and from exhibits that you see,
3 things that are gonna be placed into evidence.

4 So if you would please, permit me for a moment, and
5 by the way, do this for me, as I'm making the opening
6 statement and telling you about the facts, rely on that
7 witness stand and rely on those exhibits. Don't take my
8 word for it. I will do my best to accurately relay all
9 of the information that I believe is gonna come from that
10 witness stand, but that's where you have to hear it from,
11 from there.

12 What are the facts in this case? The facts are that
13 on July 22nd, 2019 sometime in the late afternoon Anselmo
14 Lopez came home from work. He lives at 228 Hannah Street
15 here in Sumter. Now, for those of you who may not be
16 familiar with this side of Sumter, this is the Boulevard
17 Road right here. Harmony Court Apartments. His house,
18 228 Hannah Street. So what do we know from the facts of
19 that day, well, fortunately for us there's a video camera
20 in Harmony Court Apartments. There's more than one
21 camera pointing in different directions. So what do we
22 see? At approximately 7:02 what appears to be a dark in
23 color Dodge Ram truck with that kind of distinctive curve
24 to the hood goes onto Hannah Court. 7:03, comes back
25 out. 7:05 rides by the house. 7:07 rides back by the

1 house. 7:08 rides back by the house. 7:11 rides back by
2 the house, and then you lose sight of the truck.

3 At approximately 7:19 that truck stops about here,
4 backs up and pulls into this driveway. I'm sorry. What
5 appears to be the same truck and parks here. The
6 defendant gets out of that vehicle and walks across this
7 open field through here onto Hannah Court, takes a hard
8 right turn and disappears behind the victim's residence.
9 That's at approximately 7:23, almost 7:24. At 7:25
10 you see the defendant exit the house, but this time he's
11 not walking, he's running, and he runs back through this
12 area, back to the vehicle which then drives away and
13 leaves the scene.

14 So, Jason, why are you telling us that an individual
15 gets out of this car and goes, what's the connection? In
16 the video you will see the victim come outside and he
17 will tell you that person who was running right here is
18 the person who just robbed me with a knife and punched me
19 in my face. What else will you know? That when the
20 defendant is asked about it, he admits, that's me in the
21 video. That's me in the video. Now, as I used, I used
22 that term deliberately, it appears to be the same truck,
23 appears to be a four door truck, passes by six times,
24 parks here over 600 feet away. I'm not particularly good
25 at estimating distances, but 600 feet is two football

1 fields.

2 So why would you need to ride by a house multiple
3 times, park here, walk the 600 feet to here and then run
4 back? Because that's what somebody who commits a robbery
5 does. They check out the scene and then they position
6 themselves for a get away. That's what somebody who
7 commits a robbery does. And you're gonna hear from
8 various witnesses today, and I will tell, you the
9 witnesses will have different parts of the puzzle to tell
10 you because when we call witnesses, there are going to be
11 some witnesses that will provide you some context for
12 investigation, what happened first, how things got
13 started. Other witnesses will talk to you about the
14 video system and how they came into possession of that.
15 Other witnesses will talk to you about the victim and
16 what happened to him and you will hear from the victim
17 himself.

18 Now, does the victim get all of the details of this
19 correct? No. He doesn't. But I want you to keep
20 something in mind. He's been a victim of something very
21 traumatic, in his house, minding his own business when
22 someone forces their way in, punches him in the face and
23 holds a knife to him and makes him give him his money,
24 the money he gets up and goes to Florence Concrete nearly
25 everyday to earn. Here's something else you're gonna

1 find out. Mr. Lopez speaks Spanish so his testimony will
2 have to be through an interpreter and even with the covid
3 protocols I can feel that things are different and when
4 we're using an interpreter, it's gonna feel a little bit
5 different and you'll have to bear with us. I'll have to
6 stop and make sentences short. He'll have to make
7 sentences short. We'll have to make it a little bit
8 choppy so that it can be interpreted for you, but that's
9 what you're gonna hear from the witness stand, ladies and
10 gentlemen.

11 And I will tell you, I don't care where you live,
12 where you were born, or what language you speak, nobody
13 deserves to have their home invaded, to be injured and
14 robbed. Nobody. And what you have taken an oath to do
15 is well and truly try the facts and the evidence in this
16 case.

17 Ladies and gentlemen, the State believes that when
18 you see all of this evidence, it will lead you to one
19 conclusion, that Mr. Brown is guilty. It's not easy to
20 sit in judgment of your fellow man, but days of
21 accountability do come around and that's what this is.
22 It is for you to see that evidence and to rule on that
23 evidence, not on feelings but on evidence, with the
24 understanding that Mr. Lopez didn't do anything to bring
25 this on him, in his house minding his own business.

1 Thank you, ladies and gentlemen.

2 THE COURT: Mr. Corbett and Mr. Routzong, can I have
3 you approach for one moment.

4 (Side bar off the record.)

5 MR. CORBETT: All right. Ladies and gentlemen, my
6 brain got ahead of me. When I was addressing the
7 charges, I said assault and battery of a high and
8 aggravated nature. What I should have said was assault
9 and battery in the first degree. They are different
10 charges. They do have different elements. At the
11 conclusion of the case I'll have an opportunity to speak
12 to you about the elements of the charge, but like I said,
13 I want to do my best to always say it accurately and it
14 is assault and battery in the first degree.

15 THE COURT: Mr. Routzong.

16 MR. ROUTZONG: Thank you, Your Honor. Good morning
17 everyone. My name is Michael Routzong. I'm the attorney
18 for Mr. Corey Brown. I'm gonna be really brief because
19 from my point of view there's only a couple of facts and
20 I agree you will hear those from that witness stand and
21 that's what you should rely on. There's only a couple
22 facts here that are salient and important.
23 Remember that picture he just had up there, there was a
24 red dot up there. That was where the incident location
25 is alleged to be. Here is the important fact, at least

1 twice at that incident location he described his
2 assailant as a black man dressed all in black and when
3 you see this video and the pictures, what you're gonna
4 see, remember Mr. Corbett said that, he traced the
5 outline of the way the person walked, what you're gonna
6 see is a black man dressed in an orange shirt. He goes
7 over there in an orange shirt, about a minute later he
8 comes back with an orange shirt on.

9 Now, how you can explain that away, Mr. Corbett gave
10 us a clue about how he intends to do that. He said,
11 well, people get details wrong because they're
12 traumatized. At least twice at that incident location he
13 said the person was all dressed in black, to the 911
14 operator through an interpreter, to one of our responding
15 officers, gave that description and then he gave that
16 description I assume it was probably at the police
17 department to Detective McFaddin, gave the same
18 description through an interpreter, a man dressed all in
19 black, a black man. That's not a detail we can overlook
20 and that's the most important thing I can communicate to
21 you as I'm standing up here.

22 I don't know anything about what happened. I just
23 know that if a person is describing something and it's
24 demonstrably untrue, then you start to wonder about
25 everything they say and then you enter into the realm of

1 reasonable doubt which is what I'll be arguing to you
2 after this trial, at the conclusion of this trial. There
3 are other things to be said about inconsistency, but
4 that's the one important fact that I want to bring to
5 your attention because that's what you're gonna hear from
6 up there.

7 I just want to briefly mention this because this
8 pickup truck issue, well, you'll get a chance to see the
9 video. Nobody knows if it's the same truck. Nobody can
10 even tell you what truck it is. Nobody has a license
11 plate. Is it consistent? Maybe. Maybe not. That's for
12 you to decide. But they can't tell you and nobody can
13 sit up there and testify. They don't know who the owner
14 is. They don't know nothing from nothing so to speak.
15 Their case is going to be built on a lot of things like
16 innuendo or inferences that we really don't know anything
17 about. They're gonna want you to conclude things based
18 on certain inferences, but you ought not to I would argue
19 without deep consideration of what I initially told you,
20 the description is incorrect.

21 You know, Mr. Corbett said, no one should be
22 assaulted. No one should be the victim of an armed
23 robbery. He's right. People are, but no one should be.
24 No one should be wrongfully accused. No one should be
25 charged when the description doesn't match, and if the

1 description doesn't match, it's not him. He's not the
2 perpetrator. He shouldn't be wrongfully accused either.
3 I appreciate your attention. I told you I would be brief
4 so I'm gonna shut up and we'll start the trial. Thank
5 you so much.

6 THE COURT: Mr. Corbett.

7 MR. CORBETT: Your Honor. Your Honor, the State
8 calls Dr. Luis Muniz.

9 THE COURT: Good morning, sir. If you will follow
10 this gentleman right up to the witness stand.

11 Thereupon,

12 LUIS E. MUNIZ, M.D.

13 after having been first duly sworn, testified as follows,

14 THE CLERK: Please have a seat. Once you're seated,
15 state your full name spelling your last please.

16 THE WITNESS: Dr. Luis Muniz, M-u-n-i-z.

17 DIRECT EXAMINATION

18 BY MR. CORBETT:

19 Q. Good morning, doctor. Pronounce your name for me
20 one more time. I want to make sure I'm saying it right.

21 A. Muniz.

22 Q. Muniz?

23 A. Yes.

24 Q. Dr. Muniz, if you would, please, I'm gonna refer you
25 back to July 22nd of 2019. At that time where were you

1 employed?

2 A. At Tuomey.

3 Q. Tuomey Hospital?

4 A. Yes.

5 Q. In what capacity?

6 A. ER doctor.

7 Q. Now, on that evening in question do you have
8 recollection or do your records reflect that you treated
9 Anselmo Lopez Martinez?

10 A. Yes.

11 Q. And what was the date of that treatment?

12 A. July 22nd.

13 Q. Of 2019?

14 A. 2019. Yes, sir.

15 Q. Okay. And you were the emergency room physician; is
16 that correct?

17 A. Yes.

18 Q. So it would be normal for you to see the folks who
19 come in through the emergency department?

20 A. That's normal.

21 Q. And in this case would you tell us a little bit
22 about Mr. Lopez's treatment and his ultimate diagnosis?

23 MR. CORBETT: I'm sorry, Judge. If I can back up
24 for just a moment and confer with Mr. Routzong.

25 THE COURT: Okay.

1 MR. CORBETT: Judge, if I may, my conversation with
2 Mr. Routzong was whether or not he felt it was necessary
3 for me to establish the witness as an expert. I will
4 continue on and if we get to that point --

5 THE COURT: If he's just testifying to the facts,
6 then he will not need to be. If he's gonna give
7 opinions, if we reach that stage, we'll determine whether
8 we need to qualify him.

9 MR. CORBETT: Very good.

10 BY MR. CORBETT:

11 Q. Dr. Muniz, I'm very sorry. I jumped ahead a little
12 bit. You are a medical physician?

13 A. Yes.

14 Q. Working in Tuomey Hospital?

15 A. Yes.

16 Q. Now, with regard to your treatment of, in your
17 records indicating Anselmo Lopez Martinez, tell us about what
18 you observed and what your diagnosis was.

19 A. Well, he was seen, he was examined and an injury to
20 his face was noted, diagnostic x-rays were done, CAT scans,
21 several CAT scans, and a diagnosis of a facial fracture.

22 Q. So he actually had a bone broken in his face?

23 A. That's correct.

24 Q. I don't know the medical terminology all that well
25 so I want to make sure I'm thinking of it in the right way.

1 So somewhere here in the face he had a broken bone?

2 A. Of the face and the maxillary sinus.

3 Q. Okay. Now, maxillary sinus --

4 A. The cheek.

5 Q. Okay. The cheek. All right. Thank you. Now, Dr.
6 Muniz, as an emergency physician you typically refer patients
7 for follow up to other doctors; is that correct?

8 A. Often. Yes.

9 Q. In this particular case would you have had any
10 additional treatment beyond the July 22nd date?

11 A. He was referred. Yes.

12 Q. But that was to someone else?

13 A. Yes.

14 Q. So you didn't see him again?

15 A. No. I did not.

16 MR. CORBETT: Thank you. That's all the questions
17 that I have.

18 THE COURT: Mr. Routzong, any questions for Dr.
19 Muniz?

20 MR. ROUTZONG: I do not, Your Honor.

21 THE COURT: Thank you, sir. You may step down.

22 MR. CORBETT: May it please the Court, Your honor.

23 THE COURT: Yes.

24 MR. CORBETT: The State calls Detective Michael
25 Austin.

1 Thereupon,

2 MICHAEL AUSTIN

3 after having been first duly sworn, testified as follows,

4 THE CLERK: Please have a seat. Once you're seated,
5 state your full name spelling your last please.

6 THE WITNESS: Michael Austin, A-u-s-t-i-n.

7 DIRECT EXAMINATION

8 BY MR. CORBETT:

9 Q. Detective Austin, good morning.

10 A. Good morning, sir.

11 Q. Let's start with a couple obvious ones. By whom are
12 you employed?

13 A. Sumter Police Department.

14 Q. How long have you been with the Sumter Police
15 Department?

16 A. Since 2016.

17 Q. So you were working with Sumter Police Department
18 back on July 22nd, 2019?

19 A. Yes, sir.

20 Q. What capacity or division were you in at that
21 time?

22 A. At the time I was working on patrol.

23 Q. Just if you would tell us, I think it's pretty
24 obvious, but tell us what it means to be working on patrol?

25 A. On patrol you respond to calls for service so any

1 time any individual calls asking for assistance or needing
2 emergency services, we respond. We also try to deter crime
3 before or as it happens, but before it turns into something
4 further.

5 Q. Now, on the evening of July 22nd, 2019 did you have
6 occasion to respond to 228 Hannah Street?

7 A. Yes, sir.

8 Q. What is the method by which you get the information
9 to go to that location?

10 A. Dispatch gave a general broadcast across the radio
11 that an armed robbery just took place to an individual in that
12 general location. They didn't have the correct location.
13 They just told us it was at the corner of Hannah Street and
14 Hannah Court.

15 Q. Is that where you responded?

16 A. Correct. I responded, located a juvenile
17 individual, Hispanic male claiming that a friend of his in the
18 residence at --

19 Q. Hold up for me. I want to be careful about what
20 other people may have said at this point. Let me back up for
21 just a moment. What time were you dispatched to that
22 location?

23 A. I'm not sure. I would have to refer to my original
24 report, sir.

25 MR. CORBETT: Sure. Your Honor, is it all right if

1 I approach the witness?

2 THE COURT: Sure.

3 BY MR. CORBETT:

4 Q. Will that document help refresh your recollection?

5 A. Yes, sir.

6 Q. And what time would you have received, approximate
7 time you received the dispatch call?

8 A. 19:43, 7:43 in the evening on the 22nd.

9 Q. I will go ahead and tell you that I'm terrible at
10 military time so you may have to correct me as we go. So
11 19:43 in military time is 7:43 p.m.?

12 A. Yes, sir.

13 Q. Does it indicate the approximate time you arrived on
14 scene?

15 A. Yes, sir. I arrived on scene at 19:50 which is 7:50
16 p.m.

17 Q. And you indicated that you made contact with a
18 younger Hispanic male?

19 A. Yes, sir.

20 Q. Was that the victim?

21 A. No, sir. That was his interpreter, translator.

22 Q. Now, when you say interpreter or translator, was
23 that someone in an official capacity or someone from law
24 enforcement, anything of that nature?

25 A. No, sir. It was somebody who was trying to assist

1 with the situation because of it being an emergency.

2 Q. And were you ultimately directed to the victim in
3 the case?

4 A. Yes, sir.

5 Q. Okay. Tell us what you observed.

6 A. At the time of the incident I observed that the
7 incident location was at 228 Hannah Street which is in the
8 City of Sumter, County of Sumter and the younger Hispanic male
9 directed me to the back door of that residence where Mr.
10 Lopez, the victim, was and at the time he had blood on his
11 face and across his chest, and his shirt was kind of
12 distraught and in the back room at the residence chairs were
13 flipped over and there appeared to be a marking of blood on
14 the fridge.

15 Q. Now, as you as a responding officer arrived on the
16 scene and gathered this initial information, what is it that
17 y'all do next?

18 A. At that time we pretty much just keep the scene
19 secure. We call for the on-call detective to respond to
20 further investigate, we also got the K9 unit en route.

21 Q. Now, while you were on scene, were there any type of
22 apprehensions or any arrests or anything of that nature?

23 A. No, sir. At the time the interpreter explained to
24 me that the victim said the suspect left the area.

25 MR. CORBETT: Thank you very much. I appreciate

1 that. Please answer any questions Mr. Routzong may
2 have.

3 CROSS EXAMINATION

4 BY MR. ROUTZONG:

5 Q. Good morning, Detective Austin. How are you?

6 A. I'm good, sir. How about you?

7 Q. I'm fine. Once again, I'll be a little bit brief.
8 When you got to the incident location, one of the jobs that
9 you have is to secure the location so that nothing is changed;
10 is that correct?

11 A. Correct, sir.

12 Q. Did you let anybody back inside the home or was
13 everybody outside?

14 A. Yes, sir. People went back in the residence.

15 Q. I'm sorry. I didn't hear that.

16 A. Yes, sir. Mr. Lopez went back in the residence.

17 Q. You didn't observe him change anything?

18 A. Not at that time, sir.

19 Q. In your supplemental incident report you recorded
20 that the person that did this was dressed in black --

21 MR. CORBETT: Your Honor --

22 BY MR. ROUTZONG:

23 0. -- all in black.

24 MR. ROUTZONG: I'm asking -- I'm sorry.

25 THE COURT: Mr. Corbett, what's your objection?

1 MR. CORBETT: Your Honor, I believe my objection is
2 hearsay because we aren't exactly sure where this
3 information is coming from based on that question.

4 THE COURT: Well, I guess, ask him the question. If
5 he needs to refresh his recollection with the
6 supplemental report, he certainly can.

7 MR. ROUTZONG: Yes, Your Honor. It's in his report.
8 I'll address it, if I can, the hearsay objection. I'm
9 asking him what he recorded, not what somebody told him.
10 I'm asking him did he record it in his incident report.
11 I think he already has a copy. I can show him what's
12 been previously marked for identification purposes as
13 Defendant's Exhibit number 12, but I think it's the same
14 thing he already has, Your Honor.

15 MR. CORBETT: Your Honor, may we approach.

16 THE COURT: Sure.

17 MR. ROUTZONG: I'll hand up, Your Honor, what's
18 marked for identification purposes as defendant's number
19 12.

20 THE COURT: What is your question again?

21 MR. ROUTZONG: Did he record that the person that is
22 alleged to have assaulted the victim in this case, the
23 alleged victim, did he record that person as having been
24 dressed in all black.

25 THE COURT: You're asking what someone told him.

1 MR. ROUTZONG: No, ma'am. I'm asking him did he
2 record - what did he record in his report.

3 THE COURT: That someone else told him.

4 MR. ROUTZONG: I'm not -- It would be silly for me
5 to argue that that's not what obviously happened, but I'm
6 asking him specifically what he recorded in his report.

7 THE COURT: So again, your objection is hearsay?

8 MR. CORBETT: That is correct.

9 THE COURT: So if you want to respond to the hearsay
10 objection.

11 MR. ROUTZONG: Your Honor, the response is it's not
12 hearsay because I'm just asking him did he record in his
13 report that the person that they're looking for is
14 dressed in all black.

15 THE COURT: Well, again, I think what you're asking
16 him is did someone tell him that which then caused him to
17 write it in his report so is there a hearsay exception
18 that you think this falls into?

19 MR. ROUTZONG: Judge, I would say if there's an
20 exception, it would probably be under the exception that
21 a police officer's record of what people tell them, it's
22 a business record, that kind of an exception, Your Honor,
23 but I'm specifically asking him did he record that in his
24 report, not what somebody told him.

25 THE COURT: Because generally the contents of a

1 police report would not be admissible in trial because
2 it's hearsay. Mr. Corbett, do you want to be heard on
3 that regarding it falling into some hearsay exception?

4 MR. CORBETT: Judge, I agree with Your Honor's
5 assessment that incident reports are hearsay and to ask
6 someone what they recorded and by leaving out a portion
7 of what was told to you, that's a distinction without
8 merit. It's still what another person said and we
9 believe it constitutes hearsay.

10 THE COURT: That's sustained.

11 MR. ROUTZONG: Thank you, Your Honor.

12 BY MR. ROUTZONG:

13 Q. Detective Austin, when you were there, you had an
14 opportunity to surveil the whole area? In other words,
15 there's trailers behind there, like two right behind this
16 house; is that correct?

17 A. Yes, sir.

18 Q. And there were people living in those trailers; is
19 that correct?

20 A. Yes, sir.

21 MR. ROUTZONG: I don't have any other questions.
22 Thank you, detective.

23 THE COURT: Any redirect?

24 MR. CORBETT: Nothing on redirect, Your Honor.

25 THE COURT: Thank you, sir. You can step down.

1 (Whereupon, State's Exhibit #1 and #2 marked for
2 identification.)

3 MR. CORBETT: Your Honor, as we are setting that up,
4 may I go ahead and call Officer Hunter?

5 Thereupon,

6 TREY HUNTER
7 after having been first duly sworn, testified as follows,

8 THE CLERK: Please have a seat. Once you're seated,
9 state your full name spelling your last please.

10 THE WITNESS: Trey Hunter, H-u-n-t-e-r.

11 DIRECT EXAMINATION

12 BY MR. CORBETT:

13 Q. Officer Hunter, good morning.

14 A. Good morning.

15 Q. Again, I'm gonna start with the obvious questions.
16 By whom are you employed?

17 A. Sumter Police Department.

18 Q. How long have you been with the Sumter Police
19 Department?

20 A. Since 2018.

21 Q. Do you recall having an occasion to respond to 228
22 Hannah Street on July 22nd, 2019?

23 A. Yes.

24 Q. And at that time were you with patrol?

25 A. Yes.

1 Q. Okay. I'm going to show you what's been marked for
2 identification as State's number 2 and ask you to thumb
3 through that and tell me if you can identify it?

4 A. (Witness complies.) Identify the house or
5 Mr. Martinez?

6 Q. Tell us generally what that is.

7 A. This is the house that I took pictures at for the
8 armed robbery.

9 Q. So you took those pictures?

10 A. Yes, sir.

11 Q. Now, is there a cover sheet there indicating that
12 you are the one who took the pictures?

13 A. Yes, sir. There is.

14 Q. Those were at 228 Hannah Street; is that correct?

15 A. 222A, alpha, Hannah Street.

16 Q. Do those photos reflect what you observed on the
17 night that you arrived?

18 A. Yes.

19 MR. CORBETT: Your Honor, if I may because of our
20 covid circumstances I'm gonna offer this as State's
21 Exhibit number 2 and then in just a moment I'm gonna
22 offer for identification State's number 3 which is just a
23 digital format of what's in print so I don't have to hand
24 it to everyone. But at this time I would offer this as
25 State's number 2.

1 THE COURT: Any objection?

2 MR. ROUTZONG: No, Your Honor.

3 THE COURT: It is admitted.

4 BY MR. CORBETT:

5 Q. Now, Officer Hunter, if I may, if you would kind of
6 double check me with your printed version there, but I would
7 like for you, these are some photos on a disk marked for
8 identification as State's number 1. Bear with me one moment.
9 Now, Officer Hunter, is this what you also have there in your
10 printed version?

11 A. Yes, sir.

12 Q. If you would, I'm just gonna have you kind of walk
13 us through, this is your cover sheet?

14 A. Yes. It is.

15 Q. Okay. There's a lot of these. I apologize for the
16 tediousness of it. Look at these with me, if you would. Do
17 you recognize this?

18 A. Yes.

19 Q. What location is this?

20 A. 228A Hannah Street.

21 Q. And again there?

22 A. Yes, sir.

23 Q. And again, if you would, I think it's fairly
24 obvious, but tell us what we're looking at here?

25 A. This is the victim's house where the incident

1 occurred.

2 Q. That's looking down the left side?

3 A. Yep.

4 Q. And can you tell us about where this picture was
5 taken?

6 A. This is on the left side of the house. This is the
7 back left corner, and this is the back. That's the back from
8 a different angle, the back right. That's the right side.
9 That's the right side just further up. That's the right
10 corner. Back to the back door. The back door. The left
11 door. That's the victim.

12 Q. Now, is this how Mr. Lopez appeared to you when you
13 arrived?

14 A. Yes, sir. That's how he was.

15 Q. Bear with me one moment. That's also Mr. Lopez?

16 A. Yes. I believe he had the hat on when I first
17 arrived.

18 Q. The hat that's there on the ground?

19 A. Yes, sir.

20 Q. Okay. Bear with me just one moment. I'm sorry.
21 I'm unable to get that one to pivot, but that's a back shot of
22 Mr. Lopez?

23 A. Yes, sir. It is. That's his right side, both of
24 his hands, the top. Both hands the top side. Both of his
25 hands again.

1 Q. Again, that's Mr. Lopez's hands?

2 A. Yes, sir. Those are Mr. Lopez's hands. Those are
3 Mr. Lopez's hands, the underside palms. Those are Mr. Lopez's
4 hand again. Mr. Lopez's hands again. This is Mr. Lopez.

5 Q. Bear with me one moment. Again, that's Mr. Lopez?

6 A. Yes, sir. And that's Mr. Lopez.

7 Q. Mr. Lopez again?

8 A. Yes, sir.

9 Q. Does that appear to be the conclusion of the
10 pictures that you took?

11 A. Yes, sir. That was the last one.

12 Q. This picture in particular, what does that appear to
13 be there below his nose?

14 A. Blood.

15 Q. And these are the pictures you took on July 22nd of
16 2019?

17 A. Yes, sir.

18 Q. Was Officer Austin already on scene when you
19 arrived?

20 A. Yes, sir. He was already there.

21 Q. Okay. So he was doing one part of it while you were
22 taking pictures?

23 A. Yes, sir.

24 MR. CORBETT: Okay. Very good. Thank you very
25 much. Please answer any questions Mr. Routzong has.

1 Your Honor, if I may, another witness is going to place
2 into evidence some additional photos on this disk. At
3 this time I would leave it for identification purposes
4 only.

5 THE COURT: Okay.

6 CROSS EXAMINATION

7 BY MR. ROUTZONG:

8 Q. When you got there at the scene it was already
9 secured; is that correct?

10 A. Yes, sir.

11 Q. Nobody was allowed back in the house, right?

12 A. Not as far as I know.

13 Q. There are trailers right behind that house, aren't
14 there, in some of the pictures I think you took?

15 A. Yes, sir.

16 MR. ROUTZONG: I don't have any other questions,
17 Your Honor.

18 THE COURT: Anything further?

19 MR. CORBETT: Nothing further, Your Honor.

20 THE COURT: Thank you, sir. You can step down.

21 MR. CORBETT: Your Honor, may the State call their
22 next witness?

23 THE COURT: Please.

24 MR. CORBETT: Detective Brunson, Your Honor.

25 Thereupon,

1 JAMES BRUNSON

2 after having been first duly sworn, testified as follows,

3 THE CLERK: Please have a seat. Once you're seated,
4 state your full name spelling your last please.

5 THE WITNESS: James Brunson, B-r-u-n-s-o-n.

6 DIRECT EXAMINATION

7 BY MR. CORBETT:

8 Q. Detective Brunson, good morning.

9 A. Good morning, sir.

10 Q. Again, the obvious question, who do you work for?

11 A. Sumter Police Department, sir.

12 Q. How long have you been with Sumter Police
13 Department?

14 A. Since 2004.

15 Q. You're currently assigned to the detective
16 division?

17 A. Yes, sir.

18 Q. July 22nd, 2019 which division were you assigned
19 to?

20 A. Investigator services division.

21 Q. The case at 228A Hannah street, did you have any
22 participation or involvement in that case?

23 A. Not initially, no, sir.

24 Q. What was your role in that case?

25 A. I was tasked with calling Ocean 10 Security to try

1 and gain access to their camera system. They ended up
2 emailing me copies of footage.

3 Q. So it was in a digital format?

4 A. Yes, sir.

5 Q. And they were able to email it to you?

6 A. Yes, sir.

7 Q. So you didn't actually work the scene or you weren't
8 the assigned detective?

9 A. No, sir.

10 Q. And at some point in time did you take those digital
11 files and transfer them to a disk into evidence?

12 A. Yes, sir.

13 (Whereupon, State's Exhibit #3 marked for
14 identification.)

15 BY MR. CORBETT:

16 Q. So your role was to assist Detective McFadden in
17 obtaining the video?

18 A. Yes, sir.

19 Q. Did you actually go out to the scene?

20 A. No, sir. I didn't respond the scene, sir.

21 Q. Do you know where the cameras were located?

22 A. Yes, sir.

23 Q. Just generally where were they located?

24 A. The one was located across the field from that
25 location Harmony Court Apartments.

1 Q. Harmony Court Apartments?

2 A. Yes, sir.

3 MR. CORBETT: Thank you. That's all the questions
4 that I have.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Mr. Routzong.

7 MR. ROUTZONG: No questions, Your Honor.

8 THE COURT: Thank you, sir. You can step down.

9 MR. CORBETT: Your Honor, the State calls Stephen
10 Teachout.

11 Thereupon,

12 STEPHEN TEACHOUT

13 after having been first duly sworn, testified as follows,

14 THE CLERK: Please have a seat. Once you're seated,
15 state your full name spelling your last please.

16 THE WITNESS: Stephen Teachout, that's tango, echo,
17 alpha, charlie, hotel, oscar, uniform, tango.

18 DIRECT EXAMINATION

19 BY MR. CORBETT:

20 Q. Mr. Teachout, good morning.

21 A. Hello.

22 Q. Thank you some much for being here. Mr. Teachout,
23 if you would, please tell us by whom are you employed?

24 A. I'm the CEO of Ocean 10 Security. We're a defense
25 contractor for the U.S. Government.

1 Q. Where are you based out of?

2 A. Our head office is in Asheville, North Carolina.
3 That's where I was this morning.

4 Q. Do you also have businesses or business here in the
5 Sumter community?

6 A. We do. So Ocean 10 Security manufactures a device
7 called the Tsunami. It's a bullet proof surveillance system
8 just only for military police, Housing Urban Development
9 communities. We have one customer with two properties. It's
10 the HUD property which is Harmony Court in Friendship and that
11 would be Harmony so we have our surveillance system there.
12 It's an ultra high definition bullet proof camera system for a
13 forensic device as opposed to just video.

14 Q. Have you ever personally been to the Harmony Court
15 area?

16 A. Many times. Yes. I have.

17 Q. Bear with me one moment please. Now, Mr. Teachout,
18 I'm going to do something to you that's very unfair and ask
19 you to look at an overhead map because it's always a little
20 difficult to get oriented to it.

21 MR. CORBETT: Your Honor, may I have the witness
22 step down?

23 THE COURT: Sure.

24 BY MR. CORBETT:

25 Q. I'm kind of surprising you with this. Do you

1 recognize this area?

2 A. Affirmative. I believe north is this way. So this
3 is Harmony Court. This is their office here. Here is another
4 office.

5 Q. I may be giving you the south view.

6 A. Okay. Right. Right. Right. This is the main road
7 so we have four systems here in this community that we've
8 installed.

9 Q. All right. So you have security systems here in
10 this complex?

11 A. Yes. We do. We have four Tsunami camera systems
12 each one is 360 degrees.

13 Q. Now, in order to accomplish the 360 degrees, is that
14 one camera or multiple?

15 A. We have four cameras on one fixed position, 90
16 degrees in each so 90, 90, 90, 90, north, south, east and west
17 and they're all coordinated.

18 Q. And if you would please, sir, I'm gonna let you step
19 back over to the witness chair.

20 A. (Witness complies.)

21 MR. CORBETT: Your Honor, bear with me a moment. As
22 always I have messed up the technology component of this.

23 BY MR. CORBETT:

24 Q. Now, Mr. Teachout, are you able to see the feed
25 that's there now?

1 A. Yes, sir.

2 Q. Okay. I'm sorry that this will be a little bit
3 tedious but bear with me.

4 A. I recognize the area.

5 Q. What is the date there in the top right corner?

6 A. It says 19:00 hours on the 22nd of July, 2019.

7 Q. So July 22nd, 2019, 19:00?

8 A. Yes, sir.

9 Q. Now, bear with me one moment. And I also notice at
10 the bottom left there's an indication.

11 A. Yes. It says Tsunami one. That would be camera one
12 on our Tsunami surveillance system, one out of four. That
13 would be the same Tsunami system just a second angle on that
14 same system. That one was facing north. Okay. So this one
15 is the same Tsunami, camera three facing south.

16 Q. So if I may, I'm gonna jump back to the first one
17 for just a moment and that's number 2. And then this one is
18 number 3. And all of those are mounted in the same
19 location?

20 A. Exact same location, they're just pivoted in a
21 different angle.

22 Q. Now, if you would please, I want to talk to you just
23 a moment about the date and the time in there. I'm an old guy
24 and I remember the VCR's flashing 12 and never ever changing,
25 things of that nature. Tell us how does it track the time and

1 the date here on the system?

2 A. So since we're a government agency provider, we have
3 to have forensic quality time and date. Used to be a stamp,
4 almost like a water mark. Now, this video that you're showing
5 us is encrypted, it's a 256 bit encryption and the time is set
6 at the factory, at our factory in Asheville before deployment.
7 It's connected to what's called an MTP server and that is a
8 windows server. It's basically a big clock out in cyberspace
9 and the Tsunami asks for the time twice a day just to verify
10 to the millisecond what it is. Daylight savings time could be
11 affected so it's geolocated to that one location. Places like
12 Arizona, they don't have daylight savings time so the server
13 knows the location. This is 30 frames per second so the time
14 is actually imbedded into the video 30 times every single
15 second and encrypted as well.

16 Q. So based on the way that your security cameras are
17 configured, the time stamp in the top right corner should be
18 accurate both as to date and time?

19 A. Correct. And to 1/10th of a second.

20 Q. And in this particular instance it's not unusual for
21 someone like the City of Sumter Police Department to contact
22 your office and ask that these files be transferred over?

23 A. That is correct. So when these systems originally
24 went in, it was paid for by the Housing and Urban Development
25 in DC. Immediately the day following we trained the police

1 department how to access their own footage. In the event that
2 they were not able to, we're able to log into the system
3 remotely over a 4G encrypted network and we can actually pull
4 the video, send it over another encrypted to the officer at
5 the scene in realtime.

6 Q. And when Officer Brunson was testifying a little bit
7 earlier, that would have been that process where he contacted
8 you and you guys send the files to him?

9 A. That's correct.

10 Q. I'm sorry. When I say files, we're also talking
11 about video data as well?

12 A. That's correct. It's basically the cloud and so
13 we're not sending anything on DVD or any fixed device. We're
14 sending it over the air, over the Internet and we're sending
15 it over a secured channel.

16 Q. And to the best of your knowledge there's been no
17 efforts to compromise, alter, change or no steps taken at your
18 office to alter any of the data, date and time, content, or
19 anything of that nature?

20 A. That's correct. So the video that I'm looking at is
21 the video that was sent. To date no one has ever been able to
22 manipulate the video that we've provided. We even had a
23 cryptologist from NSA to attempt it and he failed.

24 MR. CORBETT: Thank you so much for your time here.

25 Please answer any questions Mr. Routzong may have.

1 MR. ROUTZONG: Thank you, sir. I don't have any
2 questions.

3 THE COURT: Thank you, sir. You can step down.
4 Ladies and gentlemen, we've been going almost two hours.
5 Let's take a 10 minute break. Don't begin deliberations
6 or discussing the case at all.

7 (Whereupon, the jury entered the jury room at 11:13
8 a.m.)

9 THE COURT: Let's be at recess a few minutes.
10 (Short break.)

11 BAILIFF: All rise.

12 THE COURT: Thank you. Y'all please have a seat.
13 The jury has selected juror number 120, Kathryn Newman as
14 the foreperson.

15 (Whereupon, the jury entered the courtroom at 11:40
16 a.m.)

17 THE COURT: Ladies and gentlemen, we have, this is a
18 rare occurrence, we've moved a little faster than we
19 anticipated which almost never happens so we're gonna go
20 ahead and dismiss you for lunch a little bit early. I'm
21 gonna ask that you be back at 1:15. We do have a number
22 of matters that we're gonna discuss, some legal issues
23 outside of your presence before we break for lunch. Of
24 course, I want to give the attorneys time to get some
25 lunch as well. So if you will please report back at

1 1:15. Please do not begin any deliberations. Do not
2 discuss the case with anyone during lunch break. Thank
3 you.

4 (Whereupon, the jury was released for lunch at 11:41
5 a.m.)

6 THE COURT: Okay. Mr. Corbett, you want to proffer
7 some testimony, sir?

8 MR. CORBETT: Your Honor, if I may, yesterday
9 afternoon prior to the beginning of the trial but after
10 jury selection, Mr. Routzong and I had a conversation
11 with Your Honor concerning any potential in court
12 identification issues. Judge, admittedly in that Mr.
13 Lopez is Spanish speaking, I was concerned that I don't
14 have a clear picture of how that answer may come out and
15 also that I wouldn't be in a very good position to
16 intercept any answer that may be problematic. So, Judge,
17 my suggestion was that if we are concerned regarding any
18 matters concerning Lewis or Neil v. Biggers lines of
19 cases, that perhaps the safer way to proceed would be to
20 proffer some testimony from the victim concerning
21 identification. Admittedly, Your Honor, some of the
22 answers are probably the first time me hearing them as
23 well with an official translator.

24 THE COURT: You want to call your witness.

25 MR. CORBETT: We call Anselmo Lopez to the stand.

1 Thereupon,

2 CAROL MORGAN, Interpreter

3 after having been first duly sworn, translated from English
4 into Spanish and from Spanish into English as follows,

5 Thereupon,

6 ANSELMO LOPEZ MARTINEZ

7 after having been first duly sworn, testified as follows
8 through the interpreter,

9 THE CLERK: State your name and spell your last name
10 for the record.

11 THE WITNESS: Anselmo Lopez Martinez,
12 M-a-r-t-i-n-e-z.

13 MR. CORBETT: Your Honor, may it please the Court.

14 THE COURT: Yes, sir.

15 DIRECT EXAMINATION

16 BY MR. CORBETT:

17 Q. Mr. Lopez, good morning.

18 A. Good morning.

19 Q. Mr. Lopez, you reported back on July 22nd of 2019
20 that you were the victim of a robbery?

21 A. Yes.

22 Q. Did this take place at your residence at 228A Hannah
23 Street?

24 A. Yes.

25 Q. The individual who robbed you, did you see them that

1 day?

2 A. Yes.

3 Q. Now, since the incident date, when is the next time
4 that you saw that person?

5 A. From the day that it happened?

6 Q. Yes.

7 A. Can you please repeat it?

8 Q. Okay. After the robbery, when is the next time you
9 saw the person that did it?

10 A. I haven't seen him. Just that one time. Just
11 once.

12 MR. CORBETT: Your Honor, will this be a State's
13 Exhibit or Court's Exhibit?

14 THE COURT: We'll call it Court's Exhibit.

15 MR. CORBETT: I believe this will be Court's number
16 4 for identification.

17 (Whereupon, Court's Exhibit #4 marked for
18 identification.)

19 BY MR. CORBETT:

20 Q. Mr. Lopez, do you recall Detective McFadden showing
21 you those pictures?

22 A. Yes.

23 Q. Okay. Do you remember when you first saw those?

24 A. When I first saw some of them?

25 Q. Do you remember when Detective McFadden showed this

1 to you?

2 A. Yes.

3 Q. About how long after the robbery did Detective
4 McFadden show that to you?

5 A. Tell him that I don't remember the exact time.

6 Q. All right. Now, other than being in court this
7 week, did you go to any other court hearings involving
8 Mr. Corey Brown?

9 A. No.

10 Q. Do you remember if you went to a hearing in a
11 building across the street?

12 A. I saw him at the last one, yes.

13 THE COURT: Mr. Corbett, was that at the jail?

14 MR. CORBETT: Judge, if we are talking about the
15 preliminary hearing, I wasn't present so Mr. Routzong may
16 have a better answer than me.

17 THE COURT: I thought y'all mentioned yesterday that
18 it was at the jail.

19 MR. ROUTZONG: It was at the jail, Your Honor. I
20 didn't hear the answer. I couldn't hear the answer that
21 she just made to his last question.

22 MR. CORBETT: A little bit louder please.

23 (Last answer read back by the reporter.)

24 BY MR. CORBETT:

25 Q. Mr. Lopez, when Detective McFadden showed you these

1 pictures, were you able to pick out a person?

2 A. Yes.

3 Q. All right. Mr. Lopez, the person that robbed you on
4 July 22nd of 2019, do you recognize them in the courtroom
5 today?

6 A. From the ones that are here?

7 Q. No. No. Present in the courtroom?

8 A. Tell him it's the guy in the blue shirt.

9 Q. Now, earlier when you said that you saw him at the
10 last hearing, where was that hearing?

11 A. In the court over there where the police were.

12 Q. Mr. Lopez, did you come to my office and watch the
13 videotape from the apartment complex?

14 A. Yes.

15 MR. CORBETT: Your Honor, bear with me one moment
16 please.

17 BY MR. CORBETT:

18 Q. Mr. Lopez, were you at your residence when you were
19 robbed?

20 A. Of course.

21 Q. Were you inside the house or outside?

22 A. Inside.

23 MR. CORBETT: Your Honor, I'm referring to State's
24 Exhibit number 2 and using this photo.

25 BY MR. CORBETT:

1 Q. Mr. Lopez, is that where the robbery took place?

2 A. That's where it is. Yes.

3 Q. Did the person come in from the front door or the
4 back door?

5 A. In behind.

6 Q. Is that the door where the person entered?

7 A. Yes. That's the one from the back.

8 Q. When did you first notice the individual coming into
9 your house?

10 A. When he stepped on the step.

11 Q. Was your back door open or closed?

12 A. Open.

13 Q. When you saw the individual step on to the back
14 step, what did you do?

15 A. I got up and I went to close the door.

16 Q. Did you try to close the door before they came in?

17 A. Yes.

18 Q. Where were you in the house? What room in the
19 house -- I'm sorry. What room in the house were you when you
20 first saw the person?

21 A. In the kitchen.

22 Q. What happened when the individual came in your
23 house?

24 A. I tried to close the door, but because he's stronger
25 than me he pushed it and I just let him in.

1 Q. What happened when he came inside?

2 A. He took two steps, he took the knife out and told me
3 to, tell you, to tell him, friend, don't move.

4 Q. What happened next?

5 A. He said to give me your money.

6 Q. Was any money taken from him, from Mr. Lopez?

7 A. Yes. Yes.

8 Q. Was Mr. Lopez injured?

9 A. Yes.

10 Q. Does he remember how long the other man was in the
11 house?

12 A. Yes. It was just seconds.

13 THE COURT: Mr. Corbett, you can address your
14 question directly to Mr. Lopez and then she'll translate
15 for you.

16 MR. CORBETT: Yes, Your Honor.

17 MR. ROUTZONG: I couldn't hear his last answer, Your
18 Honor.

19 THE INTERPRETER: Yes. It was just seconds.

20 MR. ROUTZONG: Thank you.

21 BY MR. CORBETT:

22 Q. Mr. Lopez, were the lights on in the house?

23 A. I don't remember. It was late and I don't
24 remember.

25 Q. Was there enough light in the house for you to see

1 the man?

2 A. Yes. It was sufficient.

3 Q. Did you speak with the police?

4 A. No.

5 Q. Did you speak to the police through an
6 interpreter?

7 A. Yes.

8 Q. When the man was in your house, how close did he get
9 to you?

10 A. I called them because I needed help because I don't
11 speak English. They took about 20, 25 minutes to get there.

12 Q. When the man was in the house and robbed you, how
13 close did he get to you?

14 A. I don't understand. The man or the interpreter?

15 Q. The man who robbed you.

16 A. You want to know how far away he was?

17 Q. Yes.

18 A. He came through the door and got close to my hand to
19 grab the money.

20 Q. Was there anything about the man who robbed you that
21 stood out to you? And then I'll follow that up. For example,
22 glasses, jewelry, clothing, tattoo, anything of that nature?

23 A. I didn't see anything. I didn't see anything
24 because it was just seconds.

25 MR. ROUTZONG: I'm sorry. I'm having troubling

1 hearing. What was the last answer?

2 (Last answer read back by court reporter.)

3 MR. ROUTZONG: Thank you.

4 BY MR. CORBETT:

5 Q. When Detective McFadden showed you this, you did not
6 pick a person out; is that correct?

7 A. Yes.

8 Q. When you saw Mr. Brown in court, was it the court
9 out on the edge of town where the jail is?

10 A. If I saw him?

11 Q. Let me ask it a different way. You said that you
12 saw him at the prior court hearing?

13 A. Yes.

14 Q. Was that the court building up on North Main
15 Street?

16 A. Where I saw him was at the court where they take him
17 out of the jail and that's where I went.

18 Q. After seeing him there, have you seen him again
19 before yesterday?

20 A. Before yesterday?

21 Q. Correct.

22 A. Before yesterday I saw him over there.

23 Q. Okay. When you saw Mr. Brown at the other court,
24 did you recognize him as the person who robbed you?

25 A. Yes.

1 Q. Is there anything different about the way Mr. Brown
2 looks today than he did when you saw him in court last?

3 A. No.

4 MR. CORBETT: Please answer any questions Mr.
5 Routzong has for you.

6 CROSS EXAMINATION

7 BY MR. ROUTZONG:

8 Q. Good afternoon, sir.

9 A. Good afternoon, sir.

10 Q. I believe I heard you say two different things. I
11 heard you say that you did identify Mr. Brown's picture when
12 Detective McFadden showed it to you.

13 A. Can you repeat the question?

14 Q. Yes, sir. Mr. Corbett asked you did you pick out
15 Mr. Brown from that group of photos and you said yes.

16 A. When I first saw them, I could not choose right away
17 because there could be a difference or an error. I wear
18 glasses.

19 Q. Mr. Corbett asked you again if you could, if you
20 picked out Mr. Brown from that group of photos and you said
21 no. Please tell me, did you pick him out of that group of
22 photos when Detective McFadden showed you those photos, yes or
23 no?

24 A. Are you referring to this group?

25 Q. Yes, sir.

1 A. Yes.

2 Q. Your testimony is that you picked out Mr. Brown from
3 that group of photos when Detective McFadden showed them to
4 you?

5 A. Yes.

6 Q. Do you remember signing a statement for Detective
7 McFadden?

8 A. Yes.

9 Q. Did someone read the statement to you?

10 A. I don't remember.

11 MR. ROUTZONG: May I approach, Your Honor? This is
12 -- I'm handing to Mr. Lopez Martinez defense exhibit
13 number 11.

14 BY MR. ROUTZONG:

15 Q. Is that your signature?

16 A. Yes.

17 Q. Did you tell Detective McFadden that the person that
18 robbed you was a black man dressed all in black?

19 A. Yes.

20 Q. Do you remember telling Detective McFadden that the
21 person that was all dressed in black had a knife in his right
22 hand?

23 A. He had a knife. Yes. He had it.

24 Q. Do you remember telling Detective McFadden that that
25 person punched you with his other hand?

1 A. In one hand he had the knife and in the other hand
2 he hit me.

3 Q. I'm sorry. I forgot to ask you. Do you want me to
4 address you as Mr. Lopez Martinez or just Martinez?

5 A. Completely please.

6 Q. Lopez Martinez?

7 A. Anselmo Lopez Martinez.

8 Q. Yes, sir. Mr. Lopez Martinez, do you remember going
9 to Mr. Corbett's office?

10 A. Yes.

11 Q. Do you remember when that happened?

12 A. No. Right now in three days I don't remember what
13 I'm doing.

14 Q. I know exactly what you mean. Do you think it was
15 last year?

16 A. I can't really explain to you because when I show
17 up, they're the ones that make notes. I don't take any
18 notes.

19 MR. ROUTZONG: Thank you, Mr. Lopez Martinez.

20 THE COURT: Anything further, Mr. Corbett?

21 MR. CORBETT: Your Honor, I think ultimately the
22 question for the purpose of this in limine hearing was
23 whether or not any Neil v. Biggers or Lewis matters are
24 addressed. Just from my understanding of the testimony
25 the victim indicated that he did not pick out the

1 defendant, or this is my best understanding of it, that
2 he did not pick out the defendant from the lineup.

3 THE COURT: Well, I think we've heard two different
4 answers. I heard him say no one time and I heard him say
5 yes one time.

6 MR. CORBETT: I did as well. There's no written
7 indication on the six person lineup that anyone
8 selected.

9 THE COURT: I'm assuming the detective who gave him,
10 showed him the lineup can tell us definitely one way or
11 the other.

12 MR. CORBETT: That's correct. I can call him as a
13 witness if I leave to do that before continuing my
14 argument.

15 THE COURT: I think need to hear what the detective
16 has to say. So no more questions for Mr. Lopez Martinez?

17 MR. CORBETT: No, Judge.

18 THE COURT: Thank you, sir. You can step down.

19 MR. CORBETT: Your Honor, the State calls Willie
20 McFadden.

21 Thereupon,

22 WILLIE McFADDEN

23 after having been first duly sworn, testified as follows,

24 THE CLERK: Please have a seat. Once you're seated,
25 state your full name spelling your last please.

1 THE WITNESS: Willie McFadden, M-c-F-a-d-d-e-n.

2 DIRECT EXAMINATION

3 BY MR. CORBETT:

4 Q. Detective McFadden, good afternoon.

5 A. Good afternoon.

6 Q. Detective McFadden, I'm gonna show you what's been
7 marked for identification as Court's Exhibit number 4 and ask
8 if you can identify that please?

9 A. That's a six photo lineup sent from SLED.

10 Q. Are you the one who requested that from SLED?

11 A. That's correct.

12 Q. And look at the reverse of that document please.

13 A. Yes. It has the photo lineup, SLED address, date
14 and time that it was received and to myself Willie McFadden
15 and the subject NCIC photo lineup request, Corey Brown,
16 attachment, photo lineup.

17 Q. What was the date that email was sent back to you?

18 A. It was sent back to me on July 27th, 2019 at 1:27
19 a.m.

20 Q. And that was sent to you because you requested a
21 photo lineup from SLED containing Mr. Brown's picture along
22 with five others?

23 A. That is correct.

24 Q. And sometime after receiving that email, did you
25 show that to Mr. Lopez?

1 A. Yes. I did.

2 Q. And was he able to pick anyone out?

3 A. No. He wasn't able to pick anybody out.

4 Q. And now I'm gonna fast forward in time a little bit.

5 Were you present for Mr. Brown's preliminary hearing?

6 A. I was.

7 Q. Do you remember if Mr. Routzong was present also?

8 A. He was.

9 Q. Do you remember if Mr. Lopez was present?

10 A. Not -- I'm not a hundred percent sure. I can't

11 remember if he showed up or not. I can't remember.

12 MR. CORBETT: Okay. Very well. Thank you. That's
13 all the questions that I have.

14 THE COURT: Mr. Routzong.

15 MR. ROUTZONG: I don't have any questions, Your
16 Honor.

17 THE COURT: Okay. Thank you, sir. You can step
18 down. So the question before me is whether I'm gonna
19 allow Mr. Lopez Martinez to identify Mr. Brown in front
20 of this jury, whether that would be admissible.

21 MR. CORBETT: Yes, Your Honor.

22 THE COURT: I'm glad to hear what the State's
23 position is and, Mr. Routzong, then I'll hear from you.

24 MR. CORBETT: Yes, Your Honor. In considering the
25 issue before the Court, it appears that he did not ID him

1 from a six person lineup, but that he did identify him at
2 the preliminary hearing otherwise known as an in court
3 identification. Judge, I have reviewed some of the
4 material concerning identification and if the victim ID'd
5 him for the first time at an in court appearance during
6 which the defendant is represented, I don't see in the
7 case law where there's any suggestiveness or anything of
8 that nature because ultimately the due process concern
9 only arises when the procedure is suggestive and
10 unnecessary and a victim has a right to be present in
11 court hearings so he was apparently present at the
12 preliminary hearing and then identified him at an in
13 court identification.

14 THE COURT: Okay. Mr. Routzong, you want to
15 respond, sir?

16 MR. ROUTZONG: Yes, Your Honor. I think the factors
17 that you're supposed to consider are as follows: The
18 opportunity of the witness to view the accused. He
19 testified that it was seconds. The factors for the Court
20 to consider are as follows, I think, from Biggers. The
21 opportunity of the witness to view the accused and he
22 testified that it was seconds. The witness' degree of
23 intention. That's, I think, probably something I can't
24 really say too much about. That's more based on what you
25 heard, Judge. I don't really have an argument as to

1 that.

2 The accuracy of the witness' prior description. We
3 have a big problem there, Judge. Even today we have the
4 answer yes, I did pick him out. No, I didn't pick him
5 out. The level of certainty demonstrated by the witness
6 at the confrontation. Judge, Detective McFadden, when he
7 was first presented the six pack, Detective McFadden said
8 he couldn't pick him out. So it's not until a very
9 suggestive -- and I'm not saying that it was intentional
10 on the part of the police, that's obviously not true, but
11 it's, just common sense would tell us if a man is in a
12 orange jump suit and handcuffs at the jail with the State
13 saying, well, that's the guy, that's inherently
14 suggestive. He couldn't pick him out before and Your
15 Honor is well aware there's been no testimony about how
16 long the preliminary hearing was, but that goes without
17 saying. You have done many. There were several minutes
18 at least that he's sitting there viewing Mr. Brown.
19 That's inherently prejudicial, unfairly prejudicial and I
20 don't think they should be allowed to ask that question
21 about, or elicit testimony amounting to an in court
22 identification.

23 The final factor, Judge, is the length of time
24 between the crime and the confrontation. I don't think
25 we have an exact date from when he was offered the

1 opportunity to identify him out of the six pack lineup.
2 I can say from my notes that the preliminary hearing I
3 believe was August 29th, so that would be probably around
4 a month period of time or less. I'm sure, you know, I
5 think Detective McFadden told us yesterday, but I didn't
6 ask him, there's no testimony, but I think he said
7 yesterday it would have been somewhere in close proximity
8 to when he received the six pack which would have been, I
9 think, the 29th of July. I think it's inherently
10 unfairly prejudicial, Judge, and we would ask the Court
11 to consider not allowing that testimony.

12 THE COURT: I don't find that the in court
13 identification would be admissible. We have Mr. Lopez,
14 if this incident occurred on July 22nd, Mr. Lopez is very
15 candid that it's a very short period of time, that it was
16 just seconds when the perpetrator was in front of him.
17 He was not able to identify him from a six person lineup.
18 Detective McFadden testified yesterday that he believed
19 the lineup was shown to Mr. Lopez very shortly after it
20 was generated, maybe the next day, certainly before the
21 preliminary hearing. He was not able to identify the
22 defendant from the six person photo lineup. There's been
23 no testimony that anyone asked him whether he recognized
24 Mr. Brown at the preliminary hearing. To my knowledge
25 the only time he said yes, I recognized him at

1 preliminary hearing as being the perpetrator is in court
2 today. So the danger is that his seeing him at the
3 preliminary hearing was basically a show up. He was the
4 only person. Again, he's in an orange jump suit. He's
5 been arrested. The State believes he's the person and
6 certainly no offense to Mr. Lopez, but it's just human
7 nature that the only person presented to you at the
8 preliminary as this being the perpetrator would be the
9 person that he's identifying today. So I think it's
10 unduly suggestive to have him now testify that that is
11 the person. As we discussed before, that's a different
12 matter, however, of him looking at the video and saying
13 that the person who ran out of the house in the video is
14 the person who robbed me. I think that's an entirely
15 different matter. But I would not permit testimony from
16 Mr. Lopez that he identifies Mr. Brown in court as the
17 person who committed the robbery.

18 MR. CORBETT: Okay. I understand, Your Honor.
19 Thank you.

20 THE COURT: Anything further?

21 MR. ROUTZONG: No, ma'am, not from the defense.

22 THE COURT: Anything before we break for lunch?

23 MR. CORBETT: No, ma'am.

24 THE COURT: At some point you're gonna show the
25 video to the jury?

1 MR. CORBETT: That is correct, Judge.

2 THE COURT: You've already got it set up for that?

3 MR. CORBETT: Judge, we'll work on it during lunch.
4 We have a technical issue.

5 THE COURT: All right. We'll be at recess.

6 (Lunch break.)

7 BAILIFF: All rise.

8 THE COURT: Thank you y'all. Please have a seat.
9 Are we ready to bring the jury in?

10 MR. CORBETT: Judge, just one moment please. Mr.
11 Routzong has indicated an objection to a couple of my
12 photos.

13 THE COURT: Okay.

14 MR. CORBETT: And I want to - I may be able to
15 redact the offending portion here fairly quickly. Judge,
16 if I may, so as to not chop this up with the jury coming
17 in and out, I have some photographs that I intend to
18 introduce through my next witness. They were photographs
19 taken at the time of his arrest, so in several of the
20 photos you're able to see the handcuffs. Mr. Routzong
21 objected to that. I believe the simplest and quickest
22 solution for me would be to cut off that portion of the
23 picture.

24 THE COURT: You're talking about physically --
25 You're going to introduce hard copies?

1 MR. CORBETT: Well, Judge, here's the problem. If I
2 do it from the disk, I don't know how to deal with the
3 objectionable material, if that makes any sense because
4 the way they're on the disk, if I start to click through
5 them, I don't know how to jump over it.

6 MR. CAULFIELD: Your Honor, with everybody watching,
7 I could open that photo on the disk right now, I could
8 open it and paste and simply crop out that section and
9 then save it to that format.

10 THE COURT: Does that satisfy you, Mr. Routzong?

11 MR. ROUTZONG: I'm okay, Judge, as long as he's not
12 in shackles and handcuffs in front of the jury.

13 THE COURT: Sure.

14 MR. ROUTZONG: I don't know that -- So if the jury
15 wants to see -- I doubt they will, but just for purposes
16 of this conversation -- if the jury wants to see that,
17 you know, in other words, the disk can't go back with
18 them, they would have to come out here and see that.
19 They might want to see it. I don't know.

20 THE COURT: If you crop the photos, can you save the
21 cropped version to the disk?

22 MR. CAULFIELD: Yes, but we may have to burn a new
23 disk. I'm not sure how it's written. That being said, I
24 could create a file on a desktop and he can show it to
25 the jury just for expediency sake and then we can burn a

1 new disk actually at the appropriate time.

2 THE COURT: Because if we -- The reason I say that
3 is because if we cut it off and it's obvious that we have
4 cut it off, then we're inviting the jury to wonder what
5 we've cut off. You know what I'm saying? So if you're
6 cropping the photo and it's the same size as the other
7 photos -- you know what I'm saying? -- versus a hard copy
8 that's obviously been cut off.

9 MR. CAULFIELD: Your Honor, I was given a copy of it
10 and it's actually a flash drive so I can do it very
11 quickly. I can crop it so that it doesn't look like -- I
12 understand what your concern is. I think I can fix that
13 problem right away.

14 THE COURT: Okay.

15 MR. CAULFIELD: Can I have a second please?

16 THE COURT: Please.

17 (Short break.)

18 THE COURT: Are you ready for the jury?

19 MR. CORBETT: Yes, Your Honor.

20 MR. ROUTZONG: Yes, Your Honor.

21 (Whereupon, the jury entered the courtroom at 1:50
22 p.m.)

23 THE CLERK: They are all seated, Your Honor.

24 THE COURT: Mr. Corbett.

25 MR. CORBETT: Thank you, Your Honor. At this time

1 the State calls Detective Willie McFadden.

2 Thereupon,

3 WILLIE McFADDEN

4 after having been first duly sworn, testified as follows,

5 THE CLERK: Please have a seat. Once you're seated,
6 state your full name spelling your last please.

7 THE WITNESS: Willie McFadden, M-c-F-a-d-d-e-n.

8 DIRECT EXAMINATION

9 BY MR. CORBETT:

10 Q. Detective McFadden, good afternoon.

11 A. Good afternoon.

12 Q. All right. I'm gonna start with a couple of the
13 obvious questions. Who do you work for?

14 A. Sumter Police Department.

15 Q. And how long have you been with the Sumter Police
16 Department?

17 A. Since 2014.

18 Q. Continuously since then?

19 A. Yes, sir.

20 Q. Okay. So you were with the Sumter Police Department
21 back on July 22nd of 2019?

22 A. That is correct.

23 Q. Now, in July of 2019, what division or what task
24 were you serving with the Sumter Police Department?

25 A. I was working in investigations.

1 Q. While working in investigations, did you have
2 occasion to respond to an incident at 228A Hannah Street on
3 July 22nd of 2019?

4 A. That is correct. I was working as an on-call
5 detective that day.

6 Q. Now, I know it sounds obvious, but just kind of
7 briefly tell us what it means to be the on-call detective and
8 what it is you do.

9 A. Anytime we have any serious incidents that happen
10 like this, armed robbery, burglary, they call out the on-call
11 detective. What we want to do is pretty much find out what
12 happened. We want to process the scene, get evidence, pretty
13 much who, what, when, where and why is what we're looking for.
14 Who done it. Who is involved. Where at. That's what we look
15 for for everything as far as investigation goes.

16 Q. Now, Detective McFadden, did you actually go to the
17 scene on the day in question?

18 A. Yes. I did.

19 Q. Now, you would not have been the first on scene; is
20 that correct?

21 A. No, sir. Not the first.

22 Q. You would have arrived sometime later?

23 A. That is correct.

24 MR. CORBETT: Judge, if I may take us off the
25 courtroom monitors for just a moment to make sure I'm

1 doing this correctly. Judge, I can unhook my cable here
2 if that's easier.

3 THE COURT: Yes.

4 BY MR. CORBETT:

5 Q. Now, Detective McFadden, you indicated you arrived
6 on the scene?

7 A. Yes, sir.

8 Q. Now, I'm showing you this photograph. This is off
9 of a disk marked State's number 1 for identification. Tell us
10 what we're looking at right here.

11 A. That's just a form that we use, a marker to pretty
12 much say that this is the first photo right here and then we
13 usually give the date, time, type of crime, location and the
14 victim's information and, of course, my information at the
15 bottom.

16 Q. Now, are you aware that Officer Hunter also took
17 photographs?

18 A. Yes. I am.

19 Q. Were yours after his?

20 A. It was after his. Yes, sir.

21 Q. If you would please, we're just gonna work through
22 your crime scene photos here.

23 MR. ROUTZONG: Your Honor, if we could approach
24 please.

25 THE COURT: Yes.

1 (Side bar off the record.)

2 BY MR. CORBETT:

3 Q. Detective McFadden, let me back up. You took these
4 pictures on the evening of July 22nd of 2019?

5 A. Yes, sir.

6 Q. Where did you take them?

7 A. At 228 Hannah Court.

8 Q. Does it include both outside and inside
9 photographs?

10 A. It does.

11 Q. Does it reflect the property that you found once you
12 arrived?

13 A. Yes, sir.

14 Q. And this was sometime after Officer Hunter took his
15 pictures?

16 A. That is correct.

17 MR. CORBETT: Your Honor, at this time we would
18 offer State's number 3. It contains some pictures that
19 Officer Hunter previously testified to as well as photos
20 taken by Detective McFadden.

21 MR. ROUTZONG: Just for clarification, I'm trying to
22 keep track myself. The ones from McFadden are just
23 number 1?

24 MR. CORBETT: The photos from McFadden are on disk
25 number 1 along with the photos from Hunter.

1 MR. ROUTZONG: And you're admitting number 1?

2 MR. CORBETT: Yes.

3 THE COURT: I'm sorry. I thought this was State's
4 number 3? State's Exhibit number 3 which we marked for
5 identification only during Officer Hunter's testimony
6 because those photographs are also on this disk; is that
7 correct?

8 MR. CORBETT: I'm sorry, Judge. I think I said the
9 wrong number there.

10 THE COURT: Do you agree with that, Mr. Routzong?

11 MR. ROUTZONG: So you're admitting 3 or number 1?

12 MR. CORBETT: Bear with me one moment please.

13 THE COURT: I have it marked as 3, but I could be
14 wrong. I wrote that we marked it as State's Exhibit 3
15 for identification only during Detective Hunter.

16 MR. CORBETT: Judge, I believe that's where the
17 error may be. I believe it is actually State's number 1.
18 I'm going to eject it from the player and verify that
19 with the sticker and hopefully we'll get this accurate.
20 Judge, my apologies for the confusion. It is State's
21 number 1.

22 THE COURT: Okay.

23 MR. ROUTZONG: Without objection, Your Honor.

24 THE COURT: All right. Number 1 is admitted.

25 BY MR. CORBETT:

1 Q. Detective McFadden, if we may, we'll just briefly
2 work through your crime scene photographs here and those
3 things that need explanation or just a brief explanation of
4 the pictures you've taken here for us.

5 A. That's a picture of the address 228 Hannah Street
6 just to kind of establish the location. If you're facing the
7 front of the house, that's the left side of the house with the
8 front porch on the right side of the picture.

9 Q. Now, it appears that by the time you took these
10 photographs it had become darker?

11 A. Yes, sir.

12 Q. As opposed to Officer Hunter's?

13 A. That is correct. That's the front of the house on
14 the right side and then again on the left side. That's the
15 left side of the residence with the air conditioners and
16 mailbox. Front of the residence.

17 Q. If I need to slow down, you stop me.

18 A. Okay. Another picture of the front and then you
19 start going towards the right side of the residence. That's
20 towards the roadway. That's the left side of the residence.
21 That's the left side of the residence. Took a picture of the
22 number on the residence as well. Another photo of the left
23 side of the residence. This is going towards the back where
24 you see like it's a little driveway going towards the back of
25 the residence. That's another picture going towards the back.

1 Another picture of the back. You can see there's another
2 mobile home on the left side of the picture. That's going to
3 the back of the residence and the back porch. Another picture
4 of the back. That's another picture of the back with the back
5 door open. And that's the picture right there if you were
6 standing probably about 10 or 15 feet back you could see
7 inside the residence. That's again a picture taken from the
8 back of the residence on the left side. That is another
9 picture of the back of the residence. Back of the residence
10 again.

11 Q. I think this falls into the category you would
12 rather have too many than too few?

13 A. Right. And then I'm starting to walk towards the
14 house and kind of get a view of what we're seeing when I
15 arrived on scene. That's walking up to the residence. Uhm,
16 that's a picture of where I took towards the floor because it
17 looked like a little bit of blood on the carpet. That's
18 walking into the residence. It appeared blood was on the
19 refrigerator as well on the back. That's another picture,
20 another shot of kind of facing up towards the ceiling. That's
21 when I took maybe a step or two inside the residence and took
22 a picture from that angle. Then I turned the camera a little
23 bit over to the right and took a picture of that angle.

24 Q. Are you basically doing like this (indicating)?

25 A. Pretty much. Yes, sir. Doing like that

1 (indicating.) That's a picture when you step in and look all
2 the way to the right you will see the sink, microwave, pots
3 and pans. Another picture looking right there to the right.
4 So I backed up some. I took a picture looking outside the
5 door. That's again the back door open. Again the back door,
6 and there's a --

7 Q. Do I need to go back?

8 A. No. It's in this picture as well. There's another
9 door right there and another door on the other side with the
10 table right there in the middle, and then another picture of
11 the side of the refrigerator as I walked in. Another picture.
12 That is right there by the kitchen table. That's another
13 picture of the kitchen table. I went back behind the table to
14 kind of get a view of the residence from that angle as well
15 taking pictures of the sink, the stove. Took a lot of
16 pictures of the kitchen. Uhm, another picture of the sink,
17 stove. Another picture of the refrigerator. Then another
18 picture of the refrigerator. That's the picture that led into
19 beside the refrigerator. They had like a sheet that covered
20 from going into the next room right there, and that's when I
21 pulled the sheet back. That's kind of a photograph of what
22 the next room looked like. That's the next room going through
23 the kitchen. And that's another picture of the room.

24 Q. Okay. Now, let me back up for just a moment. Based
25 on the information you gathered, what was the location inside

1 the house of the incident?

2 A. In the kitchen area.

3 Q. In the kitchen area?

4 A. Yes, sir.

5 Q. To your knowledge, was there any indication that any
6 of the incident took place in other rooms of the house?

7 A. No, sir.

8 Q. Are you comfortable with me stopping at the kitchen
9 pictures?

10 A. That's fine. Yes, sir.

11 Q. Bear with me just one moment. All right. Now,
12 Detective McFadden, you arrived on scene, you took pictures.
13 Did you speak to any of the parties or anyone else there that
14 evening?

15 A. Yes. Well, through an interpreter that was on scene
16 I spoke to Mr. Lopez.

17 Q. Now, when you say through an interpreter, was that
18 a police department official or was that a neighbor, relative,
19 friend?

20 A. From my understanding it was a relative.

21 Q. Now, at this point you have gathered what
22 information you have. What are the next steps in your
23 investigation?

24 A. To find out, the next thing I wanted to know, to
25 find out like what happened, where was he at, the process, you

1 know, to try to gather whatever evidence I could as far as if
2 there's any touch DNA, if there's any fingerprints, or did he
3 touch anything inside the residence when he came in there or
4 was it just, you know, he hit him and pretty much took his
5 money or whatever the situation was. So I was trying to find
6 out exactly, all right, so he was hit, and what he told me is
7 he was hitting him --

8 Q. Hold up on what somebody else told you.

9 A. I'm sorry. I'm getting into what -- I'm sorry.

10 Q. I understand. Let me change just a little bit.

11 Does the City of Sumter Police Department utilize any type of
12 social media to put out information to the community
13 requesting information back or anything of that nature?

14 A. Yes. We do. Yes, sir.

15 Q. Was that done in this case?

16 A. Yes. It was.

17 Q. Tell us a little bit about what that entailed?

18 A. Uhm, we learned that there was video in Harmony
19 Court Apartments which is, of course, the apartment right in
20 front when you're looking at the photographs right across the
21 street. What we did was we got the video from the security
22 company. I forget the name of it, but we gathered that, we
23 put it out on Facebook looking for any Crime Stoppers tips to
24 come in.

25 Q. Was that Mr. Teachout's company, the gentleman who

1 was here this morning?

2 A. That is correct. It was his company.

3 Q. Okay. So y'all actually put some of that on social
4 media?

5 A. That is correct.

6 MR. CORBETT: Now, bear with me just a moment. Your
7 Honor, may I have the witness step down?

8 THE COURT: Sure.

9 BY MR. CORBETT:

10 Q. Detective McFadden, I'm gonna show you this overhead
11 photo and first of all ask is that still the basic layout of
12 that neighborhood and that community?

13 A. That is correct. Yes, sir.

14 Q. Did you personally go into this area --

15 A. Yes, sir.

16 Q. -- right here? Okay. Now, you were referencing
17 some cameras at -- This is Harmony Court?

18 A. Harmony Court Apartments.

19 Q. Do you remember where those were set up?

20 A. Yes. They were set up right here. There's a little
21 dumpster right there so that would be the camera right in
22 front of the dumpster area. They had cameras facing towards
23 Hannah Street, Hauser Street, and also the Harmony Court area
24 over here as well.

25 Q. Was there also one facing the dumpster?

1 A. Yes. Also one facing where the dumpster was at.

2 Q. Okay. Now, the camera facing the dumpster, was
3 there anything of relevance that you found on that?

4 A. I don't recall that showing anything. Uhm, the one
5 facing away from the dumpster and one facing on Hauser Street
6 and one facing on Hannah Street right there.

7 Q. So the Tsunami camera system is in this area here?

8 A. That is correct.

9 Q. All right. And then obviously 228 is where the red
10 dot is?

11 A. Yes, sir. 228 is right there, the victim's house.

12 Q. If I could please, I'm gonna have you return to the
13 witness stand.

14 A. (Witness complies.)

15 Q. Now, at some point in time -- Now, you have already
16 mentioned using the videotape to create some social media
17 outreach?

18 A. Yes, sir.

19 Q. How is that done? Is that through a Sumter Police
20 Department account?

21 A. Sumter Police Department has a Facebook page and we
22 put it out on that particular page just anything to help us
23 during our investigation.

24 Q. So that's where you obtained the pictures from?

25 A. That's right.

1 (Whereupon, State's Exhibit #9 and #10 marked for
2 identification.)

3 BY MR. CORBETT:

4 Q. I'm gonna show you what's been marked for
5 identification as State's Exhibit number 9 and ask you if you
6 can identify that?

7 A. Yes. This is the post that the Sumter Police
8 Department put on their Facebook page. It shows a still shot
9 photo along with a short clip of the video that we received
10 from the security company.

11 Q. And just for our purposes -- Well, excuse me just a
12 second.

13 MR. CORBETT: Your Honor, at this time we would
14 offer that as State's Exhibit number 9.

15 MR. ROUTZONG: I'm going to object at this time,
16 Your Honor. It has a little recitation of facts there
17 that I don't think is appropriate to go to, be presented
18 to the jury. I don't mind him using it as just for
19 identification purposes so they can all be on the same
20 page. I do object to anything going back with a
21 recitation of the facts.

22 THE COURT: Can I see it?

23 MR. CORBETT: Absolutely, Your Honor. I'm handing
24 up State's number 9 for ID (proffering.)

25 THE COURT: It's being marked for identification

1 only at this point. If you want it admitted into
2 evidence, I think we would have to redact the narrative
3 at least until such time that there's testimony.

4 MR. CORBETT: Thank you, Your Honor.

5 BY MR. CORBETT:

6 Q. Now, Detective McFadden, you obviously know
7 Detective Brunson?

8 A. That's correct.

9 Q. And I believe he assisted in this case in obtaining
10 some videos from the apartment complex?

11 A. That is correct.

12 Q. Did you have an occasion to review those videos?

13 A. Yes. I did.

14 Q. Do those videos bear the July 22nd, 2019 date?

15 A. Yes. They do.

16 Q. As well as the time stamp?

17 A. Yes, sir.

18 MR. CORBETT: Your Honor, as we are setting that up,
19 if I may finish with a few foundation questions?

20 THE COURT: Sure.

21 BY MR. CORBETT:

22 Q. Now, Officer McFadden, you reviewed that video
23 footage; is that correct?

24 A. Yes, sir.

25 Q. Do you recall how many camera views that you

1 reviewed?

2 A. Yes, sir.

3 Q. How many was that?

4 A. There were three different angles.

5 Q. Do these camera views reflect the July 22nd, 2019
6 date from approximately 7:00 p.m. to approximately 7:30 p.m.?

7 A. Yes, sir.

8 Q. Now, the files once received from Ocean 10 Security,
9 Mr. Teachout's company, to your knowledge was there any effort
10 made to alter, change or modify them in any way?

11 A. No, sir.

12 MR. CORBETT: Your Honor, we would offer this as
13 State's number 3.

14 MR. ROUTZONG: Without objection, Your Honor.

15 THE COURT: Number 3 is admitted.

16 BY MR. CORBETT:

17 Q. Now, Detective McFadden, looking at this screen, are
18 you able to tell us the angle here?

19 A. Yes, sir. That's the angle facing towards the
20 Hannah Street side where the victim lived right there on the
21 corner.

22 Q. I'm sorry to make you jump up and down, but would
23 you come and show us that on this overhead?

24 A. (Witness complies.) Okay. So the camera is right
25 here and that particular angle is facing towards right here on

1 that corner so on that particular frame it's facing towards
2 the house, this angle.

3 Q. Thank you. And if you will stay right here for just
4 a moment. Upon reviewing this footage, was there anything in
5 particular about this camera angle that initially stuck out to
6 you?

7 A. Yes, because the victim's house is right there on
8 the corner, you can see what went on during the time frame
9 that he reported this incident happened.

10 Q. What else were you able to observe on that
11 footage?

12 A. A vehicle that the defendant got out of, driving
13 back and forth numerous times past the victim's residence.

14 Q. All right. Bear with us just a moment please. I'm
15 sorry to do this to you. I'm gonna have to get you to sit
16 where you can see the screen so I'm gonna get you to return
17 for us please.

18 A. Okay. (Witness complies.)

19 Q. All right. Now, in the top right corner what is the
20 date?

21 A. It says July 22nd, 2019.

22 Q. And next to it is a time stamp?

23 A. Yes, sir.

24 Q. What does that say?

25 A. That says 19:01:57.

1 Q. All right. If you would please, watch for the next
2 few seconds.

3 A. I see a black pickup truck turning down the road
4 passing by the victim's residence. It appeared to stop for
5 just a second and started driving again towards the end of
6 that road. Appears to be the same truck, turned off the
7 lights, coming back passing by the victim's residence again.

8 Q. And that appears to be the same pickup truck?

9 A. It does. Yes, sir.

10 Q. Now, Detective McFadden, if I may for the sake of
11 time, I'm gonna jump us forward just a little bit.

12 A. Okay. There goes what appears to be the same black
13 pickup truck driving back towards, past the victim's residence
14 towards Boulevard Road.

15 Q. What's the time stamp in the upper right-hand
16 corner?

17 A. It's 19:05:16. There goes what appears to be the
18 same black pickup truck at 19:07:10 driving back towards the
19 back of the Harmony Court Apartments. There goes the vehicle
20 again. Appears to be the same vehicle at 19:08:28 driving
21 past the victim's residence again going towards the Boulevard
22 Road. There goes the vehicle again at 19:11:19, appears to be
23 driving past the victim's house again going towards the back
24 of Harmony Court again.

25 Q. Now, you also had occasion to review the other

1 angles --

2 A. Yes, sir.

3 Q. -- from that video camera?

4 A. Yes, sir.

5 Q. Detective McFadden, if you would please watch with
6 us on this one for a few moments. Detective McFadden, I'm
7 gonna pause it for just a second. If you would come and show
8 us what angle we're looking at here. Again, I'm sorry to make
9 you get up and down.

10 A. (Witness complies.) Uhm, this angle which is facing
11 towards the Hauser Street side, this is the parking lot that
12 you can see from this camera angle right here.

13 Q. Thank you. Return to your seat.

14 A. (Witness complies.) If you look at the top right
15 there, it appears to be the same black pickup truck at
16 19:19:21 time stamp, stops and then you're gonna see it
17 back up. It's still stopped.

18 Q. Bear with me a moment. I think that might be a lag.

19 A. You see it backing up right here and then turn.
20 There's a road right there that you can turn into that leads
21 to that back parking lot so that appears to be the same
22 vehicle coming around and then it parks right there inside
23 that parking lot.

24 Q. Detective McFadden, are you able to show us on this
25 aerial what we just watched?

1 A. Yes, sir. All right. So the vehicle, it pulled up
2 here and I think it passed it a little bit, backs up, it
3 turned right there and parked right there. That's the angle
4 you see on the video footage right there. All right. Looks
5 like a vehicle door is opening up on the driver's side and
6 then somebody gets out of the vehicle and then they're walking
7 towards the camera going towards the Hannah Street side where
8 the victim was living. Walking in between the trees still
9 coming towards the camera going towards the Hannah Street
10 side, black jeans, orange shirt. Looks like he dropped
11 something. In this photograph you can see the unique haircut
12 the defendant had at the time during this incident. Smoking a
13 cigarette.

14 Q. So now we're out of camera view there; is that
15 correct?

16 A. That is correct.

17 Q. Is there a third camera that you looked at?

18 A. Yes. The one facing towards the Harmony Court side.
19 I'll show you. All right. There's one, the camera right here
20 faces towards that way right there. You're gonna see him walk
21 through this area all the way behind the victim's residence.

22 MR. CORBETT: Judge, if I may have a moment. I
23 believe when I touched this monitor, I'm putting those
24 yellow triangles there by mistake. There we go.

25 BY THE WITNESS:

1 A. Not that angle. The one towards Harmony Court.

2 BY MR. CORBETT:

3 Q. Bear with me just one moment.

4 A. That's the one. That's the one facing towards the
5 back of Harmony Court.

6 Q. I want to back up to that last camera view for just
7 a moment.

8 A. Okay.

9 Q. If you would please, the individual in the black
10 pants, orange shirt, what's the time stamp at this point?

11 A. It is 19:22:42.

12 Q. Please return to your seat.

13 A. (Witness complies.)

14 Q. Now, that's the camera angle you were just telling
15 us about?

16 A. Yes, sir.

17 Q. This one?

18 A. Yes, sir. Towards the back of Harmony Court. Yes,
19 sir. It's 19:22:41. That's just as he was walking into that
20 angle of the video.

21 THE COURT: Let me stop you all for just a minute.
22 I understand, is one of the juror's monitor not working?
23 Is somebody's monitor out? Sir, are you able to see the
24 monitor in front of you?

25 JUROR: Yes.

1 THE COURT: Can you see that okay?

2 JUROR: Yes.

3 THE COURT: Is that sufficient for our purposes?

4 JUROR: Your Honor, it was in and out all the
5 time.

6 THE COURT: The one in front of you. The one in
7 between those two folks in front of you, you can see that
8 one clearly?

9 JUROR: Yes.

10 THE COURT: And that one is not going in and out?

11 JUROR: No.

12 THE COURT: Okay.

13 BY MR. CORBETT:

14 Q. Now, if you would please tell us what time stamp is
15 here?

16 A. It is 19:22:43.

17 Q. So at this point the individual is walking from one
18 camera into the next camera?

19 A. Next camera. Yes, sir. And as he's walking he has
20 that type of haircut that he has that stood out. Like I say,
21 it's a unique hair style, unique haircut.

22 Q. Now, Detective McFadden, what's your time stamp
23 there?

24 A. That's 19:22:42. I'm sorry. 19:22:44.

25 Q. And if you would, bear with us a moment. I want to

1 jump back to the first camera angle that we used.

2 A. Okay. That is 19:22:45. That's just as he entered
3 towards, going towards the Hannah Street side.

4 Q. Was there anything that struck you about his
5 appearance in this video?

6 A. Right. His unique haircut.

7 Q. All right.

8 A. Now he's coming up to the Hannah Street leaving out
9 of the parking lot. Again, that's the victim's residence
10 right there at the corner.

11 THE COURT: Please approach.

12 (Side bar off the record.)

13 THE COURT: Detective McFadden, take your mask off
14 and move the mic in front of you while you're facing the
15 monitor, your microphone. Just make sure you speak into
16 the microphone so they can hear you all the way across
17 there.

18 BY THE WITNESS:

19 A. Okay. That's him coming to Hannah Street and the
20 victim's residence right there at the corner. He just crossed
21 over the street. He's easing over towards the right side from
22 where that driveway was that I showed in the photographs
23 earlier and then you see him walking.

24 BY MR. CORBETT:

25 Q. Pause it right there for a moment. And which

1 direction did he turn now?

2 A. What was that? Which direction?

3 Q. I'm sorry. So we paused the camera here for just a
4 moment and tell us what's happening.

5 A. He's about to walk behind the victim's residence.

6 Q. Okay.

7 A. And then --

8 Q. What is your time stamp there?

9 A. 19:23:51. Right there 19:25:04. That's when the
10 same individual that went behind that residence, you see him
11 in the corner right between like the tree and the residence
12 that's right there.

13 Q. And we're gonna resume playing.

14 A. Sir, I couldn't hear you.

15 Q. We are resuming the play.

16 A. You see the same individual come back running across
17 Hannah Street. He's trying to get close to the apartments.

18 Q. Now, if you would please, I would like you to look
19 back at the rear of the residence.

20 A. Yes. You can see the victim come outside and see
21 this individual running away from his residence.

22 Q. Detective McFadden, bear with us for just a moment.
23 We're gonna back up just a little bit.

24 A. All right. So looking at the rear, we see the
25 victim, you see his legs right just, he's standing like right

1 there.

2 Q. Do you need us to back up a little bit?

3 A. Yeah. You can see him moving right there where he
4 gets in between the trees and the house and then he just stops
5 there for a second to see where this individual is running to.
6 Okay. Keeps looking at the rear of the residence. Right
7 there.

8 Q. And what's our time stamp here?

9 A. That is 19:25:24.

10 Q. If you would, bear with us for a moment. We want to
11 switch to the middle camera angle. What was that last time
12 stamp you gave us? Was it 19:25:24?

13 A. I believe so.

14 Q. Tell us what you remember seeing here.

15 A. That's leaving the angle towards Hannah Street
16 facing towards the back of the courts and he's running back
17 towards that vehicle that he came from. The time stamp on
18 that is 19:25:24.

19 Q. So crossing from one camera view to the next?

20 A. To the next. Yes, sir. He slows down, takes off
21 running again.

22 Q. And give me that time stamp please.

23 A. That is 19:25:36. Now he's back at where the truck
24 pulled into. All right. You're gonna see him running back
25 towards the truck on this last camera angle right here.

1 Q. And what's our time stamp here?

2 A. It's 19:25:35.

3 Q. So moving from one camera to the next?

4 A. Yes, sir. That's where it appears he gets back into
5 the vehicle again on the driver's side and the vehicle is
6 backing up, driving back towards the Hauser Street side of the
7 apartment complex and he makes a right going back towards the
8 Boulevard. I'm sorry. That's a left going back towards the
9 Harmony Court side. My apologies.

10 Q. Now, Detective McFadden, I'm gonna show you what's
11 been marked for identification as State's number 9 and you
12 testified earlier that that's a screen shot of some
13 information Sumter Police Department put on its Facebook
14 page?

15 A. That is correct.

16 Q. On that social media post there's two pictures,
17 correct?

18 A. Yes, sir. Two pictures on the post, screen shot --
19 I mean, it's a video that's supposed to be on the right side
20 of this picture that we posted on Facebook as well.

21 Q. Okay. I'm sorry. I may have asked you incorrectly.
22 Is one of them a still shot and one of them a portion of a
23 video?

24 A. Yes, sir.

25 Q. Okay. Which one is the still shot?

1 A. The one on the left side of the paper.

2 Q. Okay. And if you would, just kind of hold that up a
3 little bit so the jurors can see what you're talking about.

4 A. (Witness complies.)

5 Q. So that's the individual in the orange in color
6 shirt?

7 A. Yes, sir.

8 Q. And where did that still shot come from?

9 A. From this video.

10 Q. The video we were just watching?

11 A. Correct.

12 Q. Is that correct?

13 A. That is correct.

14 Q. Okay. So you took that still shot from the video
15 and put on the police department's Facebook page?

16 A. That's correct.

17 Q. Okay. And then the portion next to it is a small
18 clip of video also taken from that?

19 A. Yes, sir. That video shows him walking towards the
20 Hannah Street side in that first part of the video.

21 Q. Is there on the screen, is that the approximate time
22 frame that the picture was taken?

23 A. That is correct. Still got his hand in his pocket.
24 Yes, sir. So that was a part of the clip that we posted on
25 Facebook of him walking up right here.

1 Q. As well as the still shot?

2 A. Yes, sir.

3 Q. Thank you very much. Now, at some point in time --
4 I'm sorry. That information is now on the Sumter Facebook
5 page; is that correct?

6 A. Yes, sir.

7 Q. Now, at some point in time do you interview Corey
8 Brown regarding this matter?

9 A. Yes. I did.

10 Q. Now, how is it that you came to interview Mr. Brown
11 concerning this matter?

12 A. We received a Crime Stoppers tip from the Facebook
13 post that we posted.

14 Q. I'm gonna show you what's been marked for
15 identification as State's number 10. Tell me what that is
16 please.

17 A. This is another post that we posted. After we got
18 Corey Brown's information, we wanted to put out his picture
19 and that he's wanted for questioning related to an armed
20 robbery incident, a burglary incident at Harmony Court.

21 Q. So step one was posting this --

22 A. Yes, sir.

23 Q. -- Crime Stoppers tip and then posting this onto
24 social media?

25 A. That is correct.

1 Q. Now, at some point in time did you interview
2 Mr. Brown?

3 A. Yes, sir. I did.

4 Q. Okay. And the first document I'm gonna show you --

5 MR. CORBETT: Your Honor, previously marked as a
6 Court's Exhibit, at this point I'm gonna mark it for
7 identification as State's number, I believe that would be
8 11.

9 (Whereupon, State's Exhibit #11 marked for
10 identification.)

11 BY MR. CORBETT:

12 Q. All right. Detective McFadden, tell us what we're
13 looking at right here?

14 A. This is the Sumter Police Department Interview Form.
15 It has the Miranda Rights and then also Waiver of Rights and
16 then, of course, signature block at the bottom.

17 Q. Now, is that sort of standard operating procedure
18 for people who are being interviewed?

19 A. Yes, sir. Anybody that we interview we read them
20 this Miranda form, this interview form with the Miranda Rights
21 on it.

22 Q. And that's created by the Sumter Police
23 Department?

24 A. Yes, sir. It is.

25 Q. Okay. Bear with me just one moment please. I'll

1 move that in in a moment. Before we do that, if you would
2 please, that document that you have there that's been marked
3 for identification as State's number 11, just read that form
4 to us starting from the top.

5 A. At the top it says Sumter Police Department
6 Interview Form.

7 THE COURT: Hang on for just a moment.

8 MR. ROUTZONG: If he wants to admit it, I think he
9 has to ask the Court if it's okay to admit it and I get a
10 chance to object I need to.

11 MR. CORBETT: My apologies, Judge. I'm sorry. Let
12 me back up.

13 BY MR. CORBETT:

14 Q. Detective McFadden, that form that you have there,
15 were you present when it was completed?

16 A. Yes, sir.

17 Q. Does it bear your signature?

18 A. Yes, sir.

19 Q. Does it bear the signature of Mr. Brown?

20 A. Yes, sir.

21 Q. Now, in the course of that form, did Mr. Brown read
22 that form or did you read it to him?

23 A. Both. I read it to him at the same time with him
24 looking at it. We went line for line.

25 Q. I believe you testified that it bears his

1 signature?

2 A. Yes. It does.

3 Q. Does it also bear his initials in several places?

4 A. Yes. It does.

5 MR. CORBETT: Your Honor, we would offer this as
6 State's number 11.

7 MR. ROUTZONG: Without objection, Your Honor.

8 THE COURT: Number 11 is admitted.

9 BY MR. CORBETT:

10 Q. So if you would please, begin at the top and tell us
11 what's on that form.

12 A. Okay. At the top it has Sumter Police Department
13 Interview Form, and then the next line it says, before we ask
14 you any questions, you must understand your rights. And then
15 the next line, you have the right to remain silent, which
16 Corey Brown, he put his initials beside that right. I advised
17 him, anything you say can be used in court. He also initialed
18 beside that line. You have the right to talk to a lawyer
19 before -- I'm sorry. You have the right to talk to a lawyer
20 for advice before we ask you any questions and have him or her
21 with you during the questioning. So he initialed beside that
22 line as well. If you cannot afford a lawyer, one will be
23 appointed for you before any questioning if you wish. He
24 initialed beside that line. If you decide to answer any
25 questions now without a lawyer present, you still would have

1 the right to stop answering at any time until you talk to a
2 lawyer. He initialed beside that line as well. Then we have
3 got the Waiver of Rights. It says, before any questioning, I
4 was furnished the above statement of my rights at 9:36 a.m. on
5 July 31st, 2019 at the Sumter Police Department by
6 Officer/Detective W. McFadden of the Sumter Police Department,
7 which "W" is for Willie McFadden. And then just below that it
8 says, I have read or had read to me this statement of my
9 rights. I understand what my rights are. I am willing to
10 answer questions at this time without a lawyer present. No
11 promises or threats have been made to me and no pressure has
12 been used against me. And then he signed his name just below
13 that. He dated it that date the interview was and the time
14 that the interview started and then down here as a witness it
15 has my signature along with my badge number beside it.

16 Q. Thank you. Now, Detective McFadden, where did this
17 interview take place?

18 A. At the Sumter Police Department.

19 Q. In what area of the Sumter Police Department?

20 A. We have interview rooms set up, two on each side of
21 the building.

22 Q. So a normal interview room?

23 A. That's right. Yes, sir.

24 Q. Okay. So now at the time of the questioning, was
25 Mr. Brown promised anything --

1 A. No, sir.

2 Q. -- to get him to talk to you?

3 A. No, sir.

4 Q. Did you threaten him in any way?

5 A. No, sir.

6 Q. Do you remember about how long the interview
7 lasted?

8 A. Maybe two hours.

9 Q. So you weren't there all day?

10 A. No, sir.

11 Q. Was he deprived of any meals or sleep or -- Well,
12 what time did you say it took place?

13 A. At 9:36 a.m.

14 Q. 9:36 in the morning?

15 A. Yes, sir.

16 Q. So was there any type of sleep deprivation, food,
17 water, anything of that nature?

18 A. No, sir.

19 Q. When Mr. Brown was talking with you during the
20 course of the interview, was there anything about his behavior
21 or demeanor that gave you any cause for concern about his
22 understanding?

23 A. No, sir. He appeared to be fine.

24 Q. Okay. Appeared to be able to understand the form,
25 read the form, et cetera?

1 A. Correct.

2 Q. Was there anything that caused you to believe that
3 he was under the influence or not in his right mind or
4 anything else that would keep him from being able to
5 understand you?

6 A. No, sir.

7 Q. And you indicated he initialed each block?

8 A. Yes, sir. He initialed each line as I explained, as
9 I read his rights to him.

10 Q. Was there anything that you did by word or deed that
11 made this anything but voluntary?

12 A. No, sir.

13 Q. So no types of threats or coercion?

14 A. No, sir.

15 Q. Now, during the course of the interview -- Bear with
16 me one moment.

17 MR. CORBETT: Your Honor, previously marked as
18 Court's number 2 now being marked as State's number 12.

19 (Whereupon, State's Exhibit #12 marked for
20 identification.)

21 BY MR. CORBETT:

22 Q. Detective McFadden, I'm showing you what's been
23 marked for identification as State's number 12. Can you
24 identify that please, sir?

25 A. Yes. This is the still photo that we posted on

1 Facebook, print it out on a sheet of paper and then it has
2 lines right here where he put what he was supposedly doing
3 over in that particular area as well as he printed his name,
4 signed his name, date and time. Also I witnessed it at the
5 bottom which is my signature, my badge number at the bottom.

6 MR. CORBETT: Your Honor, we offer this into
7 evidence as State's Exhibit number 12.

8 MR. ROUTZONG: Without objection.

9 THE COURT: 12 is admitted.

10 BY MR. CORBETT:

11 Q. Now, Detective McFadden, with regard to State's
12 number 12, first of all, the picture in that document, and if
13 you would, just sort of hold it up we can all get a general
14 idea of how it's formatted, in that top left is the Sumter
15 Police Department logo?

16 A. Yes, sir. It is.

17 Q. Okay. Now, the photograph, is that the same
18 photograph that was on the Facebook page?

19 A. That is correct.

20 Q. Now, tell me sort of the process by which Mr. Brown
21 looked at that and filled it out. Sort of what was that
22 interview process? What was the questioning, et cetera?

23 A. I explained to him that I was investigating an armed
24 robbery, burglary and assault that happened on this date and
25 time, and then when I showed him the picture, he said that was

1 him. He was just walking through and that he didn't see
2 anything or hear anything.

3 Q. So he identified that as himself?

4 A. Yes, sir.

5 Q. And signed it?

6 A. Yes, sir.

7 Q. Okay. And that was during the course of your
8 interview; is that right?

9 A. Yes, sir.

10 Q. I think you may have just done this, but if you
11 would please, read it for me, the handwritten portion and
12 whose signature is on it, et cetera.

13 A. Corey Brown. He wrote, I was just walking through.
14 I didn't see anything or hear anything. Then he printed his
15 name, signed his name, and then date and time and again at the
16 bottom I witnessed it along with my badge number.

17 Q. Now, at that point in time Mr. Brown was looking at
18 video or is that a still shot?

19 A. At that point in time just a still shot. We showed
20 him the video later on.

21 Q. All right. Now, after showing him the video, did he
22 confirm that that was him?

23 A. Yes. We showed him the part of him running away
24 from the residence. He said, I was just running. Sometimes
25 he likes to run.

1 MR. CORBETT: Hold there for me for just a moment.
2 Your Honor, previously marked as Court's number 3 now
3 being marked for identification as State's number 13.

4 (Whereupon, State's Exhibit #13 marked for
5 identification.)

6 BY MR. CORBETT:

7 Q. Detective McFadden, I just handed you State's number
8 13. Can you identify that for us please?

9 A. This is our statement form which is, it has his
10 name, date of birth, and a good phone number for him and then
11 his statement in the paragraph just below.

12 Q. Hold there for just a moment. Now, this form that
13 you're looking at now, is it a statement of Corey Brown?

14 A. Yes. The statement of Corey Brown.

15 Q. Does it relate in time to the Waiver of Rights Form
16 and the still shot which are State's 11 and State's 12?

17 A. That is correct.

18 Q. Same interview?

19 A. Same interview.

20 Q. Wasn't a different time or a different place,
21 anything of that nature?

22 A. All this was done on that same day during that two
23 hour time frame.

24 Q. Now, during the course of the interview and the
25 statement in particular number 13 that you're looking at, is

1 that typed or handwritten?

2 A. It's typed.

3 Q. And who typed it?

4 A. I typed it as he was talking.

5 Q. Does it bear Mr. Brown's signature?

6 A. It does.

7 Q. Is there anything else on there?

8 A. It has my signature as well along with my badge
9 number, and then just above his signature it has, I have read
10 or have had read to me above statement consisting of one page
11 and attest that it is true and accurate to the best of my
12 knowledge of the events that took place on or about or during
13 the above given times. I have received a copy of this
14 statement from Detective McFadden.

15 Q. And it bears Mr. Brown's signature?

16 A. Yes, sir.

17 Q. As well as yours?

18 A. Yes, sir.

19 Q. Is there any other handwriting on it?

20 A. Yes, sir.

21 Q. Okay. Whose handwriting is on it other than the
22 signatures you just told us of?

23 A. Corey Brown's handwriting where he made a correction
24 on the statement and then he initialed and signed it.

25 Q. So he actually corrected your typing?

1 A. Yes, sir.

2 MR. CORBETT: Your Honor, at this time we move into
3 evidence State's number 13.

4 MR. ROUTZONG: Without objection, Your Honor.

5 THE COURT: 13 is admitted.

6 BY MR. CORBETT:

7 Q. Detective McFadden, if you would at this time,
8 please read that statement for us.

9 A. The statement says, I was being questioned about
10 this incident. I was in the area on that day. You showed me
11 the photo of me, but I didn't see or hear anything. I was
12 just walking through Harmony Court. I walk through there
13 frequently. I walk through there so much. I probably was
14 going to -- I'm sorry. I probably was going to the store or
15 home or the transit. Sometimes I run all down the Boulevard.
16 I stay fit. That's probably why I was running that day. You
17 probably could see another day I did it. I never saw anything
18 out of the ordinary. I wasn't looking for it. If I was going
19 home, I was going to Martin Jackson's house off of Boulevard.
20 I stayed with him for a couple of months.

21 Q. I believe it was the "with" that was added?

22 A. Yes. It was the "with" that was added and he
23 initialed by it.

24 Q. So with regard to that statement, he indicated that
25 he sometimes runs in the neighborhood?

1 A. That is correct.

2 Q. Now, if I could have you step down for just a
3 moment.

4 A. (Witness complies.)

5 Q. You indicated the vehicle parked somewhere in this
6 area?

7 A. Yes, sir.

8 Q. And that the victim's residence is here?

9 A. That is correct.

10 Q. Now, did you have occasion to measure that
11 distance?

12 A. I did.

13 Q. Okay. How did you measure it?

14 A. With a, it's called, it's a measuring device. I
15 measure the foot we walked. Well, we walked from where the
16 vehicle appeared to be parked at and then while watching the
17 video trying to take the same direction that he took all the
18 way across here, measured to right there where the victim's
19 residence is at right beside the victim's residence.

20 Q. Now, that measuring device, is it a wheel with a
21 counter?

22 A. A wheel that gives you the feet, whatever, every
23 foot you take.

24 Q. Okay. Do you remember the approximate distance from
25 the parking lot to here?

1 A. 644 feet.

2 Q. All right. Thank you very much. If you could
3 return there.

4 A. (Witness complies.)

5 Q. And with regard to this aerial photograph, are the
6 parking lot and the residence in the same place?

7 A. I'm sorry.

8 Q. Where we see the vehicle parked in the video and
9 where he goes, the parking lot hasn't moved or changed or
10 anything?

11 A. No, sir.

12 Q. Now, Detective McFadden, at the conclusion of the
13 interview was there also some photographs taken of Corey
14 Brown?

15 A. Yes, sir.

16 MR. CORBETT: Your Honor, may we detach from the
17 monitor just a moment because I need to open it.

18 THE COURT: Sure.

19 BY MR. CORBETT:

20 Q. Now, after the interview, did you take some pictures
21 of Corey Brown?

22 A. Yes. I did.

23 Q. Have you reviewed those prior to today, the
24 photographs?

25 A. I couldn't hear you.

1 (Whereupon, State's Exhibits #4 through #8 marked
2 for identification.)

3 BY MR. CORBETT:

4 Q. I'm sorry. Let me show you what's been marked for
5 identification as State's 4 through 8 (proffering.)

6 A. These are the photographs that I took.

7 Q. And what day were they taken?

8 A. On July 31st.

9 Q. Tell us again what the incident date was?

10 A. The incident date was July 22nd.

11 Q. Now, with regard to the photos, do they accurately
12 reflect the appearance of Corey Brown on that day?

13 A. Yes. They do.

14 Q. Did you do anything to alter or modify the images?

15 A. No, sir.

16 Q. Okay. And those were taken with a digital camera?

17 A. Yes, sir.

18 Q. So there's also a digital copy of these as well?

19 A. Yes, sir.

20 MR. CORBETT: Your Honor, at this time we would move
21 into evidence State's Exhibits number 4 through 8,
22 photographs of Corey Brown.

23 MR. ROUTZONG: Without objection, Your Honor.

24 THE COURT: They are admitted.

25 BY MR. CORBETT:

1 Q. Now, Detective McFadden, I'm gonna refer you to the
2 monitor please, sir.

3 A. Yes, sir.

4 Q. Now, tell us what we're looking at here.

5 A. I took a front picture of Corey Brown.

6 Q. Where was this taken?

7 A. At the Sumter Police Department.

8 Q. The same date?

9 A. Same day.

10 Q. Same date as the interview?

11 A. That's right. Same day as the interview during that
12 time frame.

13 Q. Is this also Corey Brown?

14 A. Yes, sir.

15 Q. I'm sorry. We're gonna run through a short list of
16 these. Next please.

17 A. That's Corey Brown. That's the side view of Corey
18 Brown. Another side view. A close up side view. I wanted to
19 get a good picture of how his hair style is from that picture
20 from the video. Both resemble the same type of haircut.
21 Another side view. That's the back view of his head. Another
22 back picture. Again, a closer back picture, and then that's
23 another side view. Then a close up of the side view. Another
24 close up. Another picture of the side view.

25 (Whereupon, State's Exhibit #14 marked for

1 identification.)

2 MR. CORBETT: Judge, at this time we would offer
3 this group of photos as State's number 14 to be submitted
4 on a disk.

5 THE COURT: Any objection?

6 MR. ROUTZONG: I'm sorry. I didn't catch that.

7 MR. CORBETT: I'm sorry. At this time we would
8 offer this collection of photos as State's number 14 to
9 be provided to the court reporter on a disk.

10 MR. ROUTZONG: Without objection, Your Honor.

11 THE COURT: 14 is admitted.

12 BY MR. CORBETT:

13 Q. Now, Detective McFadden, if you would please, was
14 there anything that struck you about Corey Brown's appearance
15 in his photos on that day as it relates to what you observed
16 on the video?

17 A. Yes. As I stated earlier, the haircut resembles the
18 same type of haircut that he had during the time of the
19 video.

20 Q. And he watched himself on video?

21 A. He did.

22 Q. Do you remember which camera angle it was?

23 A. He watched both camera angles as far as the one of
24 him walking up and then running back so he seen both of them,
25 the one towards Hauser Street and the one towards Hannah

1 Street.

2 Q. So he watched both of those?

3 A. Yes, sir.

4 Q. And admitted that that was him running from the
5 scene?

6 A. He said yes, that's him.

7 MR. CORBETT: Your Honor, exhibit 9 and 10
8 previously marked for identification only, the State
9 would move into evidence at this time.

10 MR. ROUTZONG: I think you've already ruled that
11 they have to redact that, Judge, the statements that are,
12 one that looks like they are from the Facebook page has a
13 narrative. This may be a different one --

14 MR. CORBETT: No. They're the same.

15 MR. ROUTZONG: -- but I would have the same
16 objection.

17 THE COURT: Sure. Either we need to redact the
18 narrative or you can offer it again after there's been
19 testimony. I don't think there's been testimony yet
20 regarding the narrative.

21 BY MR. CORBETT:

22 Q. Now, Detective McFadden, you spoke with the victim
23 in this case Mr. Lopez; is that correct?

24 A. That is correct.

25 Q. As a matter of fact, you actually showed him a six

1 person lineup?

2 A. Yes, sir. I did.

3 Q. Was he able to pick anybody out at that time?

4 A. No, sir. Not at that time.

5 Q. Now, Detective McFadden, you told us about
6 investigative techniques, et cetera. Were you able to recover
7 any type of fingerprints?

8 A. No, sir.

9 Q. Now, you had mentioned something about touch DNA?

10 A. Yes, sir. When I first got to the scene, I was
11 trying to find out what happened and from my understanding is
12 that as the victim was trying to shut the door as the
13 defendant was coming in, he pushed the door open so I tried to
14 get touch DNA from the area that, you know, that he possibly
15 touched.

16 Q. Okay. Now, touch DNA is different from a typical
17 DNA submission; is that correct?

18 A. Right. Right. It's not blood or anything like
19 that. It' just like, the best I can explain it, like if you
20 were the last person that touched the counter right here,
21 we'll try to get that area to see, compare it to if we have
22 any matches inside of the system that will come back to that
23 person.

24 Q. So you were kind of just taking a shot at the
25 door?

1 A. Yes, sir.

2 Q. So we're not talking about a bodily fluid or blood
3 recovery?

4 A. No, sir.

5 (Whereupon, State's Exhibit #15 marked for
6 identification.)

7 BY MR. CORBETT:

8 Q. Now, I'm just gonna ask you to look at what's been
9 marked for identification as State's number 15.

10 A. This is the --

11 Q. Bear with me just a moment. So you swabbed the
12 door, is that how it works?

13 A. Yes, sir.

14 Q. You're not looking at anything in particular?

15 A. No, sir.

16 Q. Did anything come back that was of sufficient
17 quality to be used for comparison?

18 A. No, sir.

19 (Whereupon, State's Exhibit #16 marked for
20 identification.)

21 MR. CORBETT: Bear with me just a moment. Your
22 Honor, because I referred to it so many times, I'm gonna
23 offer the poster board as State's number 16.

24 THE COURT: I'm sorry. What was number 15?

25 MR. CORBETT: Number 15 was marked for

1 identification only. I'm sorry, Judge. It's a report
2 from SLED. Your Honor, State's number 16 offered into
3 evidence.

4 THE COURT: Any objection, Mr. Routzong?

5 MR. ROUTZONG: No, Your Honor.

6 THE COURT: 16 is admitted.

7 MR. CORBETT: Detective McFadden, please answer any
8 questions that Mr. Routzong may have.

9 THE WITNESS: Yes, sir.

10 (Side bar off the record.)

11 THE COURT: Ladies and gentlemen, we have had you in
12 here about two hours now. Let's take about a 10 minute
13 break and let everybody stretch your legs and use the
14 facilities. Do not begin discussing the case yet.

15 (Whereupon, the jury entered the jury room at 3:30
16 p.m.)

17 MR. CORBETT: Your Honor, may I say to Detective
18 McFadden because he's on the stand, myself nor anyone
19 else is allowed to discuss his testimony with him.

20 THE COURT: You can use the facilities, just don't
21 talk to anyone about your testimony.

22 THE WITNESS: Yes, ma'am.

23 THE COURT: Ms. Morgan, we are not going to reach
24 apparently, Mr. Corbett and Mr. Routzong, I'm gonna go
25 ahead and let her leave for the day. We're not going to

1 reach Mr. Lopez until tomorrow. Are you available to
2 come back tomorrow?

3 INTERPRETER: Yes, Your Honor. What time do you
4 want me?

5 THE COURT: We're gonna start back at 9:30.
6 Probably won't get to him until 10:30 or so.

7 INTERPRETER: 9:30 or 10:30?

8 THE COURT: If you can be here at 9:30 that's
9 preferable if you're available.

10 INTERPRETER: I will do that.

11 THE COURT: Thank you so much. We appreciate it.
12 Okay. We're back on the record. We had some discussions
13 off the record and the parties have agreed, and y'all
14 correct me if I'm wrong, we're gonna have Officer
15 McFadden step down and we're gonna take a witness out of
16 order because of some travel deadlines we've got here.
17 We're going to resume your cross examination tomorrow
18 morning. So let me just instruct you, please don't
19 discuss your testimony over the evening.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Thank you. Everybody in agreement?

22 MR. ROUTZONG: Yes, Your Honor.

23 MR. CORBETT: And, Judge, if I may, I don't want to
24 step into your shoes, but just for Detective McFadden's
25 purposes because this is a little bit out of the

1 ordinary, that means with me, other officers or anyone
2 else who's in the courtroom.

3 THE COURT: All right. Thank you.

4 THE WITNESS: Thank you.

5 MR. CORBETT: Judge, I'll tell you, it may not be a
6 bad idea for just long enough for the disk to come up.
7 Although they've already had to sit through me doing that
8 a dozen times. Your Honor, the State is ready.

9 THE COURT: Bring the jury in.

10 (Whereupon, the jury entered the courtroom at 4:05
11 p.m.)

12 MR. CORBETT: Your Honor, so the Court is aware, we
13 will be going through Ms. Nugawela's training and
14 education regarding her field of video enhancement.

15 THE COURT: Ladies and gentlemen, I'm just going to
16 take a minute to explain to you, we're taking a witness a
17 little bit out of order. You would normally be seeing
18 next the cross examination of Detective McFadden when
19 Mr. Routzong gets a chance to ask him questions. We're
20 gonna take that a little bit out of order because our
21 next witness has travelled from out of state and is gonna
22 be traveling back to her home state or to somewhere I
23 think this evening so we want to go ahead and put her
24 testimony up for you and respect her travel plans so
25 you're gonna hear her testimony in full today and then

1 that I verify that it's the same video is I take, it's called
2 a hash value, it's basically a digital fingerprint, so you
3 take the one that he sent me, you hash that, and you take the
4 one that I made a copy of, just drag and drop copy, and you
5 hash that and if those two values are the same, you can verify
6 that as the same file that he sent you and your computer
7 didn't try and change that in any way.

8 Q. So we sent you three videos. Tell me what you do
9 with them.

10 A. So I was asked by Investigator Caulfield to create a
11 timeline video so the three video files were of three
12 different cameras and he had a individual that he wanted to
13 track through those three different cameras so he provided me
14 a timeline of where on each camera according to the time stamp
15 on the video files that he wanted me to play and then at a
16 certain time stop on one camera and go to the next so you can
17 watch the individual or the vehicle go from camera to camera
18 without any break in time and then he also asked if I could
19 create some stills so just some individual pictures of the
20 individual in question and the vehicle in question so he could
21 use that for identification purposes.

22 Q. Did you, in fact, do that?

23 A. Yes. I did.

24 Q. Now, the document that I placed there before you,
25 your report, for identification State's number 17, is that

1 THE COURT: I think so.

2 MR. ROUTZONG: It's pretty brief, Your Honor. It's
3 not real long.

4 (Playing the 911 call.)

5 THE COURT: Okay. Mr. Corbett, do you want to be
6 heard on this?

7 MR. CORBETT: Yes, ma'am. Your Honor, we believe
8 that the 911 call constitutes hearsay. Judge, it's my
9 understanding, if I may expand a little bit.

10 THE COURT: Yes.

11 MR. CORBETT: It appears that Mr. Routzong wants to
12 offer this in terms of a potential inconsistent statement
13 by the witness. But I believe that, I want to say it's
14 Rule 613, I could be wrong on that, lays out the
15 procedure by which extrinsic evidence of an inconsistent
16 statement can be put into court.

17 THE COURT: Well, I mean -- I don't want to speak
18 for Mr. Routzong, but I think he is introducing it
19 subject to the hearsay rule as an excited utterance not
20 necessarily as a prior - it wouldn't be an inconsistent
21 statement yet because we don't have the statement from
22 the victim in yet. The victim hasn't testified so it's
23 not an inconsistent statement unless he gets on the stand
24 and says something counter to what is on here. So, in
25 other words, if it's an excited utterance, it doesn't

1 also have to fit within the other exception.

2 MR. CORBETT: So it's being offered as an excited
3 utterance by a person who is not the victim.

4 THE COURT: Are you asking me?

5 MR. CORBETT: Judge, I'm sort of thinking out loud.
6 I don't think it could constitute an excited utterance
7 because there's nothing in the nature of the phone call,
8 the tone, urgency or anything of that nature to suggest
9 it's an excited utterance, and we could probably figure
10 out the time frame in there. I think I know it. I'm not
11 entirely certain, but it's a neighbor, my understanding a
12 neighbor who comes over and makes the 911 call. So I'm
13 not aware of any circumstance where a person who is not a
14 party to the action or crime as it were in this case can
15 call 911 and it be an excited utterance.

16 THE COURT: Well, I don't think the excited
17 utterance exception is limited to people who are victims
18 or a party. I mean, it could be a bystander who is
19 making the excited utterance. So the issue is whether
20 him translating what the victim is saying whether we're
21 imputing the victim's excitement to the translator. In
22 other words, if the victim is excited and the translator
23 is translating what this person who is making an excited
24 utterance states, does that fall within the exception.

25 Mr. Routzong, let me just preface it by saying this:

1 My issue with it at this point is for me to determine
2 whether or not it falls within the exception, I've got to
3 look at the totality of the circumstances, you know, how
4 close in time the statement was made to the event that
5 caused him to be still under the excitement of the
6 experience, whether it was made while he was still under
7 the stress of excitement, and whether the stress or
8 excitement was caused by this startling event.

9 So for me to have any information to look at the
10 totality of the circumstances, I've got to have some
11 foundation about when this call was made in relation to
12 the startling event. So there's got to be some
13 foundation before I can even make a determination of
14 whether it was an excited utterance. So there's two
15 things. I've got to have a foundation, and secondly,
16 I want to hear your position as to whether basically I
17 can - whether the victim's excitement being under the,
18 still under the, say, under the influence of this
19 startling event, that they are still in that excited
20 state when we've got a translator in the middle of this,
21 whether I can let in the translator's statement when he's
22 interpreting what this person -- Let's presume he's still
23 under the stress and excitement of this startling event,
24 whether I can let in the translator's or the
25 interpreter's statements in --

1 MR. ROUTZONG: Judge --

2 THE COURT: -- who was not present during the
3 startling event.

4 MR. CORBETT: And I apologize for interrupting, Mr.
5 Routzong, but if I may add a fault that I think is of a
6 related nature, how do we ask -- If we let this in and
7 it's not hearsay, how to you question the caller as to
8 the accuracy of his translation?

9 THE COURT: You can't. I mean, there's no way to.
10 Unless y'all know who he is and can call him to the
11 stand, I don't know any way that you could.

12 MR. CORBETT: In addition to my issues with it being
13 an excited utterance, that's also a component of my
14 hearsay problem in that we have to now make an assumption
15 that this is being translated correctly, but we don't
16 have a person to ask that of if we don't require them to
17 be here.

18 THE COURT: Mr. Routzong, do you want to respond,
19 sir?

20 MR. ROUTZONG: Yes, Your Honor. I would. I think
21 some of your concerns have already been addressed. You
22 have had testimony that the dispatch was at 19:43. That
23 was the testimony. And you also have the timeline of
24 when the State alleges that Mr. Brown left that area so
25 that time would be by my calculations around 18 minutes

1 difference. And certainly one of your concerns that
2 you want to address is whether or not this event was what
3 caused the excited utterance. That goes without saying,
4 I think, because, of course, we don't know. Some event
5 happened. It may have been more than one event or he
6 may be pretending. I don't know. But certainly based on
7 the evidence you've heard so far the event that he's
8 referring to would have been the event of being robbed.
9 And lastly, Judge, I would say in the context of
10 wondering about whether or not we can trust the
11 translation, you've already heard from him. This is
12 another issue of foundation. He already testified that
13 he said, yes, I told Detective McFadden afterward that
14 the person that did it was dressed all in black. That's
15 exactly what the 911 call states. The person that's
16 translating is consistent with what his prior testimony
17 was today.

18 MR. CORBETT: Your Honor, if I may, I don't believe
19 that's in evidence.

20 THE COURT: I didn't think that Detective McFadden
21 testified or the first officer, I didn't think that he
22 actually stated anything about he was told that the
23 person was in all black.

24 MR. ROUTZONG: No. I'm referring to under his
25 testimony, Mr. Lopez Martinez under oath he testified at

1 the Biggers hearing, so that was under oath. It's not in
2 evidence I agree, but certainly it was testimony that you
3 received under oath so it's consistent with that.

4 THE COURT: Uhm, I think that the statement, if you
5 can lay the proper foundation through the proper witness,
6 I think that it is admissible up until the point that the
7 caller starts to give his own impression of the scene.
8 He says, it looks like he fought back, because that's not
9 him translating anything. That's his own impression and
10 he wasn't there for the startling event according to what
11 we heard from Mr. Lopez while he was on the stand. But
12 again, my concern is if you were trying to introduce it
13 through Mr. Lopez who you can establish a foundation
14 through, but I don't know how you're gonna necessarily
15 establish a foundation through Mr. McFadden other than
16 just the timing.

17 MR. ROUTZONG: Well, it's my understanding, Your
18 Honor, he's the lead investigator and I would -- Of
19 course, it's not probably proper for you to make any
20 assumption, but since he's the lead investigator, I
21 assume he's familiar with all the evidence that was
22 turned over by the Sumter Police Department to the State
23 and the State turned that particular disk over to me and
24 so there's a chain. That's the connection. It comes
25 directly from the Sumter Police Department and, of

1 course, he's the lead investigator. This was, the thing
2 I played to you was for identification purposes defense
3 number 1. Certainly Detective McFadden has heard it now
4 and he's familiar with defense number 1 and I think
5 I should be able to lay a foundation since it's his case.
6 This emanates from the Sumter County Police Department.
7 I'm sorry. The Sumter City Police Department.

8 THE COURT: Again, Mr. Corbett, anything else you
9 want to add, sir?

10 MR. CORBETT: Well, Judge, I think this would be a
11 little bit different conversation if we were talking
12 about it during Mr. Lopez's testimony, but the way I now
13 understand it is Detective McFadden, who wasn't
14 dispatched or didn't receive that call, is now going to
15 be asked to lay a foundation for an excited utterance?

16 THE COURT: No. He's gonna be asked to lay a
17 foundation for the 911 call to enter it into evidence and
18 presumably what time it was made. Here's my ruling.
19 Subject to Mr. Routzong being able to lay the proper
20 foundation, he's going to move to enter this into
21 evidence. I'm sure you're going to make the objection at
22 the time. My feeling is that the 911 call, again,
23 subject to the proper foundation, would be admissible up
24 until the point that he says it looks like he did fight
25 back. There was quite a lot of blood, et cetera. You

1 will have the opportunity to put Mr. Lopez Martinez on
2 the stand and he can certainly testify if that's not what
3 he told the interpreter and the interpreter just got it
4 wrong. You know, if he's got some quarrel with the
5 interpretation, then you can certainly bring that out in
6 his testimony. So that would be my ruling. Again, this
7 is all subject to how this actually plays out during the
8 course of the testimony, but in no circumstances is the
9 portion that he starts to say it looks like he fought
10 back, that would not be admissible.

11 MR. ROUTZONG: Yes, Your Honor.

12 THE COURT: Okay. Any questions?

13 MR. CORBETT: Thank you, Your Honor.

14 THE COURT: Anything else we need to address?
15 Tomorrow morning we've got the cross examination of
16 Detective McFadden, then we've got Mr. Lopez and I know
17 you can't tell me with a hundred percent certainty, but
18 that would appear to be the State's case at that point or
19 do you have some additional witnesses?

20 MR. CORBETT: Your honor, that appears to be the
21 State's case unless in light of the ruling I may kind of
22 look back over if there's any way I could address some of
23 these concerns. It's unlikely so I think those would be
24 my last two.

25 THE COURT: So at some point before we get started

1 (Side bar off the record.)

2 THE COURT: Okay. Let's bring the jury back in.

3 MR. CORBETT: Your Honor, if I may, assuming that
4 the case proceeds in the manner we discussed yesterday,
5 has the 911 tape been redacted, that portion the Court
6 instructed was not appropriate?

7 THE COURT: Mr. Routzong, do you know where to stop
8 it or have you redacted the tape?

9 MR. ROUTZONG: About two minutes and 29 seconds and
10 after that was when the other person starts to talk. I
11 don't know how to redact it. I can stop it.

12 THE COURT: Okay. We'll need to contact IT or
13 somebody so that the copy that goes back with the jury
14 can't be the one that's not redacted. Let's just make
15 sure you know exactly where to stop it so we don't get
16 into anything that I have already said is not
17 admissible.

18 MR. ROUTZONG: Yes, Your Honor. Barring my
19 disability about being able to redact it, if they wanted
20 to hear it, we can always bring them back out.

21 THE COURT: They're gonna deliberate in this room.
22 When we break, they're in two separate jury rooms so
23 we're gonna actually have them deliberating in this
24 room.

25 MR. ROUTZONG: Okay.

1 (Whereupon, the jury entered the courtroom at 9:45
2 a.m.)

3 THE COURT: Good morning, ladies and gentlemen.
4 We're gonna jump right in. We're going to resume with
5 the cross examination of Detective McFadden. So,
6 Detective McFadden, if you'll come on up. If you recall,
7 we took a witness out of order yesterday afternoon and
8 put off the cross examination until this morning.
9 Detective McFadden, you're still under oath, sir.

10 CROSS EXAMINATION

11 BY MR. ROUTZONG:

12 Q. Good morning, Detective McFadden. How are you?

13 A. Good morning. Good.

14 Q. There's just a few things I want to nail down and
15 give the jury a really good opportunity to hear. I'll be as
16 brief as I can. I think you testified that you were the lead
17 detective on this case?

18 A. Correct.

19 Q. And as the lead detective it's my understanding
20 based on what you said that you go to the crime scene; is that
21 correct?

22 A. That is correct. Yes, sir.

23 Q. And you talk to witnesses?

24 A. Yes, sir.

25 Q. And in this case you talked to Mr. Lopez Martinez?

1 A. That's correct, through an interpreter.

2 Q. Let me get this, what's been already admitted as
3 State's number 16 I believe. You might have to --

4 MR. ROUTZONG: Is it all right if Detective McFadden
5 can comes down here, Judge?

6 THE COURT: Sure.

7 MR. ROUTZONG: I don't know if the jury can actually
8 see this and I can't show it to him up there.

9 BY THE WITNESS:

10 A. Yes, sir.

11 BY MR. ROUTZONG:

12 Q. I think you testified that this little red dot,
13 that's the incident location; is that correct?

14 A. That's correct.

15 Q. And what's the name of this street that goes back
16 there like that?

17 A. I'm not a hundred percent sure. I can't remember
18 the name of the street.

19 Q. Well, there is a street that goes back there?

20 A. That is correct. Yes, sir.

21 Q. And I hope I'm not standing in the way of anybody.
22 Behind here there's a trailer, two trailers and houses that go
23 all the way back; is that correct?

24 A. That's correct.

25 Q. Ends in a dead end back there; is that correct?

1 A. Yes, sir. It's like a small road that goes to the,
2 I think you can come out from the other side over here. Well,
3 if you make a left, it's a dead end back on this side, but
4 there's like a little small road that goes all the way to that
5 other side over there.

6 Q. There are trailers right here and there are
7 houses?

8 A. Yes, sir.

9 Q. And there are people living back there?

10 A. Yes, sir.

11 Q. Thank you, detective. Please take your seat.

12 A. (Witness complies.)

13 Q. Did you manage to talk to anybody back there, any
14 witnesses back there?

15 A. No, sir.

16 Q. Did you go back there and kind of go through and
17 canvass the neighborhood?

18 A. Canvass the neighborhood in the back? No, sir.

19 Q. Okay. I think yesterday you testified that I think
20 you used the term or the phrase processing the crime scene.
21 That's one of the things you do, right?

22 A. Yes, sir.

23 Q. And you testified you looked for fingerprints?

24 A. Yes, sir.

25 Q. And you didn't find any?

1 A. No, sir.

2 Q. You took swabs of the door because that's where you
3 believed that there might be touch DNA I think you testified
4 to?

5 A. Correct.

6 Q. And you submitted that to SLED?

7 A. Yes, sir.

8 Q. And you actually took swabs of Mr. Brown's cheek --

9 A. Yes, sir.

10 Q. -- so it could be compared. And SLED, basically
11 nothing came from that?

12 A. Yeah. Basically. I don't have the sheet to read
13 off to you what it said.

14 Q. That's okay. There was nothing usable for you
15 today?

16 A. Correct. Yes, sir.

17 Q. Okay. The people that you submitted that to,
18 they're in Columbia; is that correct?

19 A. Yes, sir.

20 Q. I guess they're law enforcement people too?

21 A. State Law Enforcement Division. Yes, sir.

22 Q. And they're laboratory technicians?

23 A. Yes, sir.

24 Q. And people that really know about DNA, that's why
25 they're there?

1 A. Yes, sir.

2 Q. I know that you just testified that you talked to
3 Mr. Lopez Martinez?

4 A. Yes, sir, through an interpreter.

5 Q. At the crime scene?

6 A. Yes, sir.

7 Q. And you also took a statement from him at your
8 office; is that correct?

9 A. That is correct.

10 Q. You yourself typed it?

11 A. Yes, sir. I typed it for him.

12 Q. I would like to show to you what has been previously
13 marked as defense number 11. Is that your signature at the
14 bottom there?

15 A. Yes, sir. It is.

16 Q. Is that the statement that was made?

17 A. Yes, sir. It is.

18 Q. And you typed it?

19 A. Yes, sir. I did.

20 Q. Have I done anything to alter that?

21 A. Besides just mark out the address and date of birth,
22 no. The statement, it's all there, the statement is.

23 Q. Thank you, sir. Mr. Lopez Martinez spoke with you
24 at least twice then; is that correct?

25 A. Yes, sir.

1 Q. And he was consistent in all his statements to you;
2 is that correct?

3 A. Yes, sir.

4 Q. Pursuant to your job as a lead detective here, did
5 you get a chance to listen to the 911 call?

6 A. Yes, sir.

7 Q. Did you get a chance to hear what had been marked as
8 defense number 1 yesterday afternoon?

9 A. Yes, sir.

10 Q. Is that the same 911 call that you heard? It's a
11 copy, but is that the same? Is it identical to what you heard
12 previously?

13 A. Yes, sir. It is.

14 Q. I didn't do anything to alter or change it?

15 A. No, sir. I don't believe so.

16 Q. Is everything you heard in the 911 call, his two
17 statements to you, everything was consistent in what he told
18 you?

19 MR. CORBETT: Objection, Your Honor.

20 THE COURT: Grounds.

21 MR. CORBETT: The grounds are he's saying is
22 everything consistent that he told you. I'm assuming he
23 means the victim, but it wasn't the victim who made the
24 call.

25 THE COURT: I'm going to sustain that objection as

1 to his impressions as to whether or not it's consistent.
2 That's for the jury to determine.

3 MR. ROUTZONG: I know that you've already ruled. At
4 sometime may I make a -- I know you've already ruled
5 so...

6 THE COURT: Please go ahead and state your grounds
7 for the record.

8 MR. ROUTZONG: A law enforcement person, Your Honor,
9 I would think one of their primary jobs when they're
10 investigating something --

11 MR. CORBETT: Your Honor, if I may, does this
12 require a side bar?

13 THE COURT: Yes. Please come around.

14 (Side bar off the record.)

15 BY MR. ROUTZONG:

16 Q. Thank you, detective. I'm gonna show you what's
17 been already admitted as State's number 4. Do you remember
18 what day that was taken on?

19 A. July 31st when I interviewed him on the same day.

20 Q. And the date of this incident was what, the date
21 that this incident happened that we're here trying this case,
22 alleged armed robbery?

23 A. July 22nd.

24 Q. I'm sorry. This was on the 31st?

25 A. That is correct.

1 Q. When you on the 31st -- Did somebody else go out and
2 arrest Mr. Brown? I guess you testified he wasn't under
3 arrest. He came voluntarily with you. He wasn't in custody.

4 A. That is correct. I think another officer brought
5 him up there.

6 Q. Do you know where they encountered him at?

7 A. No. I don't. I would be assuming.

8 MR. ROUTZONG: Thank you, Detective McFadden.

9 THE COURT: Any redirect?

10 MR. CORBETT: Nothing on redirect, Your Honor.

11 THE COURT: Thank you, sir. You can step down.

12 MR. CORBETT: Your Honor, at this time we call
13 Anselmo Lopez Martinez.

14 Thereupon,

15 CAROL MORGAN, Interpreter

16 after having been first duly sworn, translated from English
17 into Spanish and from Spanish into English as follows,
18 Thereupon,

19 ANSELMO LOPEZ MARTINEZ

20 after having been first duly sworn, testified as follows,

21 THE CLERK: Please have a seat. Once you're seated,
22 state your full name spelling your last please.

23 THE WITNESS: Anselmo Lopez Martinez, L-o-p-e-z.

24 DIRECT EXAMINATION

25 BY MR. CORBETT:

1 Q. Mr. Lopez, good morning.

2 A. Good morning.

3 Q. Mr. Lopez, I have been referring to you as
4 Mr. Lopez, but it's actually Lopez Martinez?

5 A. Yes.

6 Q. Do you occasionally sign your name as Anselmo
7 Lopez?

8 A. Yes.

9 Q. Mr. Lopez Martinez, is it fair to say that you're
10 somewhat nervous being here today?

11 A. Yes.

12 Q. All right. Do you remember the robbery back on July
13 22nd of 2019?

14 A. Yes.

15 Q. Do you still suffer from the effects of that
16 robbery?

17 A. Yes.

18 Q. In what way?

19 A. I'm traumatized. I can't see a lot of people on the
20 street. I go into a store and I can't see a lot of people.
21 Going in or out I have to find someone to help me. I go to my
22 job from the door to the car door. I go from the car into
23 work. I can't go out.

24 Q. Thank you. Now, Mr. Lopez, at the time of the
25 robbery where were you living?

1 A. 228 Hannah Court.

2 Q. And how long had you lived there?

3 A. Between three and a half and four years.

4 Q. Now, on the day of the robbery approximately what
5 time did you get home?

6 A. 5:30.

7 Q. Where had you been that day?

8 A. At my house.

9 Q. Did you go to work that day?

10 A. Yes.

11 Q. Where do you work?

12 A. Florence Concrete.

13 Q. Mr. Lopez Martinez, I'm gonna show you a photograph
14 from the group listed as State's Exhibit number 2 and ask if
15 you can identify this?

16 A. Yes.

17 Q. And what is that?

18 A. That's where I lived at the time when this person
19 arrived.

20 Q. And that picture, is it the front?

21 A. It's the front.

22 Q. Now, I'm gonna show you the next pictures also from
23 State's Exhibit 2 and can you identify that?

24 A. Yes.

25 Q. And what is that picture?

1 A. The rear part.

2 Q. Does this photograph show your back door?

3 A. Yes.

4 MR. CORBETT: Judge, if I may just briefly hold that
5 up for the jury for this particular picture.

6 BY MR. CORBETT:

7 Q. Now, back on July 22nd, 2019 you indicated you
8 arrived home around 5:30 in the afternoon?

9 A. Yes.

10 Q. And after arriving home, did you go out again before
11 the robbery?

12 A. No.

13 Q. Now, if you would please, describe for us how the
14 robbery happened?

15 A. Yes.

16 Q. Please describe how it happened for us.

17 A. I just arrived from my job. I went around my
18 house.

19 THE COURT: Speak up just a little bit, both
20 Mr. Lopez and Ms. Morgan. Speak up a little louder.

21 THE WITNESS: Should I repeat it?

22 THE COURT: You're fine.

23 BY THE WITNESS:

24 A. I arrived from my job and I went around my home. I
25 have a little animal that I have and I went in the house. I

1 sat down with my little animal.

2 BY MR. CORBETT:

3 Q. Let me interrupt you. What kind of animal?

4 A. It's a little dog, a Chihuahua. I was sitting
5 inside in front of the door where he entered. I heard the
6 footsteps on the stairs. He stood at the door. I got up and
7 closed the door. I saw that he was pushing the door
8 forcefully from the outside. I just let him open it. When he
9 placed a foot inside, he took out a knife and he told me,
10 friend, don't move. I went back two steps. He went forward
11 three steps and told me, give me your money. I told him I
12 have no money. He raised his hand with the knife. He said,
13 give me your money. I took out my money and I gave it to him.
14 When he had the money put away, get more money because you
15 have more money. I told him I have no more. You have more
16 money in your other pocket. No. I told him no. I don't have
17 none. He said, you have no more money, then go to the room.

18 I thought that if I went back into the room, him
19 with the knife, he could do something more dangerous to me. I
20 quickly thought just give him more money. I checked the money
21 that I had. They had a few papers in it. He saw that it was
22 money. He turned around, went out through the same door from
23 where he came from. He went out. He went out into the street
24 and in that moment I went out to look to where he was going.
25 When I went out to the street, he went running, running into

1 the apartments. There I saw him that he was running. There I
2 couldn't do anything else. I just knew where he was gonna to
3 and I went back inside the house and that's where I saw him up
4 to where he was running.

5 Q. Mr. Lopez Martinez, the address of 228 Hannah, is
6 that where you live?

7 A. Yes.

8 Q. And at the time of the robbery you were living
9 there?

10 A. I used to live where I was robbed.

11 Q. Now, when you were sitting inside, was the back door
12 open?

13 A. Yes.

14 Q. Were you in the kitchen?

15 A. Yes.

16 Q. Now, you said that you heard a footstep on the back
17 steps and you tried to close the door?

18 A. Yes.

19 Q. And I believe your testimony was that the man forced
20 the door open?

21 A. The door was open. When I tried to close it is when
22 he pushed it.

23 Q. Did he ever have permission to come inside your
24 house?

25 A. No.

1 Q. Now, inside the house did he have a knife?

2 A. Yes.

3 Q. Inside the house were you injured?

4 A. Yes.

5 Q. Tell me how please.

6 A. When I didn't want to give him the second amount of
7 money, that's when he hit me.

8 Q. Where were you struck?

9 A. In my face.

10 Q. Can you point to where you were hit?

11 A. On this side (indicating.)

12 Q. Did you go to the hospital as a result of this
13 injury?

14 A. Yes.

15 Q. And do you know what injury the doctor diagnosed you
16 with?

17 A. The injury that I had.

18 Q. Do you know what the doctor called your injury?

19 A. Yes.

20 Q. And what was that?

21 MR. ROUTZONG: Objection, Judge. That's hearsay.

22 THE COURT: I'm gonna allow it. Thank you.

23 THE WITNESS:

24 A. It's a fracture. I can't really name it. It's a
25 fracture (indicating.) The mandibular area (indicating.)

1 BY MR. CORBETT:

2 Q. Are you pointing to where the injury was?

3 A. Yes.

4 Q. When you were struck, did you start bleeding?

5 A. Yes.

6 Q. There are photos from your kitchen that appear to
7 show blood on the refrigerator. Is that your blood?

8 A. Yes.

9 Q. Do you know approximately how much money was stolen
10 from you?

11 A. Approximately between 2500 and 2900.

12 Q. Were you able to describe the person who robbed you
13 to the police?

14 A. Yes.

15 Q. Did you describe the person directly to the police
16 or did you have to use an interpreter?

17 A. No. An interpreter.

18 Q. Mr. Lopez Martinez, what were you able to tell the
19 police about the person who robbed you?

20 A. I told them the height, the color of the clothing,
21 the type of haircut. That's all.

22 Q. Was the person who robbed you taller than you?

23 A. Yes.

24 MR. CORBETT: Your Honor, may I have the witness
25 step over to me? I want to ask him a demonstration

1 question.

2 THE COURT: Sure.

3 BY MR. CORBETT:

4 Q. Mr. Lopez Martinez, if you would come out for me
5 please.

6 A. (Witness complies.)

7 Q. As best you remember, would you show us how the man
8 approached you with the knife and hit you? And I will play
9 the part of you. Show us how.

10 A. (Witness complies.)

11 Q. And what is in this hand?

12 A. The knife.

13 Q. Okay. And then you're hit with this hand?

14 A. Yes.

15 Q. Across here?

16 A. (Indicating.)

17 Q. Thank you. Please, I'm gonna let you -- Mr. Lopez
18 Martinez, I want to show you a video.

19 A. Yes.

20 Q. Mr. Lopez Martinez, before we get to the video, how
21 did you describe the clothing of the man who robbed you?

22 A. A dark pair of pants and a T-shirt dark.

23 Q. Mr. Lopez Martinez, as the video plays, I have drawn
24 a box on the screen. Do you see that?

25 A. Yes.

1 Q. If you would please, focus on that box.

2 A. Okay.

3 Q. Did you see a person walking into the box on the
4 screen?

5 A. Yes.

6 Q. Who is that person?

7 A. That's the one that came in my house.

8 Q. No. The person inside the box walking out?

9 A. I can't see it very well without my glasses.

10 Q. Let me ask the question this way: Did you walk out
11 of the house after you were robbed?

12 A. Yes.

13 Q. Is that you we see in the video coming out?

14 A. That's me.

15 Q. If you would please, continue to focus on the box,
16 I'm going to play a little more video. You came outside,
17 correct?

18 A. Yes.

19 Q. Did you see the person running from your
20 residence?

21 A. Across the street going onto the grass.

22 Q. Is that the same person who just robbed you?

23 A. Yes.

24 Q. Did you tell the police through an interpreter which
25 direction the robber ran?

1 A. Yes.

2 Q. Where did you tell the police the robber ran?

3 A. They interviewed me at various times.

4 Q. Did you tell the police that the person who robbed
5 you ran into the apartment area?

6 A. Yes.

7 Q. Is that because you could see the person from where
8 you were standing outside?

9 A. Yes.

10 MR. CORBETT: Mr. Lopez Martinez, thank you very
11 much. Mr. Routzong is gonna ask you some questions.
12 Please answer his questions.

13 CROSS EXAMINATION

14 BY MR. ROUTZONG:

15 Q. Good morning, Mr. Lopez Martinez. How long have you
16 worked at Florence Concrete?

17 A. More than 20 years.

18 Q. More than 20 years. I would like to show you a
19 couple photographs. I've got them marked for identification
20 purposes as Defendant's number 2 and number 3. Mr. Lopez
21 Martinez --

22 MR. ROUTZONG: I forgot to show them to Mr. Corbett.
23 I'm sorry, Your Honor. I neglected to show them to Mr.
24 Corbett first.

25 BY MR. ROUTZONG:

1 Q. Mr. Lopez Martinez, do you recognize those?

2 A. I don't see very well but yes.

3 Q. I'm sorry. I didn't understand the answer.

4 A. I don't see very well but yes.

5 Q. Where is that? What are those pictures of?

6 A. The two of them are the vans that take the things to
7 the mixture.

8 Q. In other words, those are pictures of where you work
9 at?

10 A. Yes.

11 Q. Mr. Lopez Martinez, I took a trip over there not
12 long ago and I noticed that everybody has a hard hat on that
13 works there. Do you have a hard hat too when you work
14 there?

15 A. Yes.

16 Q. Is there a lot of heavy equipment there?

17 A. Yes.

18 Q. Cement trucks, big concrete blocks?

19 A. Yes.

20 Q. Rebar, metal bars that go inside concrete?

21 A. Yes.

22 Q. Since you've been working there has anybody ever
23 gotten hurt?

24 A. Yes.

25 Q. Thank you, Mr. Lopez Martinez. Mr. Lopez Martinez,

1 a minute ago you testified that you told the police that the
2 person was dressed in a dark shirt?

3 A. Yes.

4 Q. Actually you told the police that the person was
5 dressed in all black clothes; isn't that right?

6 A. Tell him that it was dark pants and a dark
7 T-shirt.

8 Q. Mr. Martinez Lopez, I'm sorry, Lopez Martinez, I'm
9 sorry, you testified a minute ago that the person had a knife
10 in their left hand and hit you with their right hand?

11 A. Yes.

12 Q. But you told the police that the person had a knife
13 in their right hand and hit you with their left hand in your
14 statement to Detective McFadden; isn't that correct?

15 A. No. That's not correct.

16 Q. Mr. Lopez Martinez, I'm going to show you what has
17 been marked as Defendant's number 11. This is a statement
18 that you gave Detective McFadden on July 25th, 2019 at the
19 Sumter City Police Department. Would you like to see your
20 statement?

21 A. Yes.

22 Q. (Proffering.) Is that your signature at the bottom
23 of that statement?

24 A. Yes.

25 MR. ROUTZONG: At this time, Your Honor, would you

1 ask the translator please to let him be made known or
2 aware of the substance of his statement.

3 THE COURT: If you can read his statement to him.
4 Do you wear reading glasses?

5 INTERPRETER: The interpreter will read the
6 statement.

7 (Whereupon, the interpreter read the statement to
8 Mr. Lopez Martinez in Spanish.)

9 BY MR. ROUTZONG:

10 Q. Mr. Lopez Martinez, do you admit or do you deny that
11 you told the police the person that assaulted you was a black
12 man wearing all black clothes? Do you admit or deny that?

13 A. No. I don't understand.

14 Q. Do you admit that that's your signature right
15 there?

16 A. Yes.

17 Q. That's a statement that you gave to Detective
18 McFadden; is that correct?

19 A. Yes.

20 Q. You just heard the court interpreter read that
21 statement, correct?

22 A. Yes.

23 Q. In your statement that you signed did you tell
24 Detective McFadden that the person that assaulted you was a
25 black man wearing all black clothes?

1 A. Here was the interpreter. Maybe it wasn't. Might
2 not be. Maybe he wasn't certified to do that.

3 Q. That's your signature on there. You've already
4 testified to that.

5 A. Yes.

6 Q. And that statement was read to you before you signed
7 it.

8 A. If they would have done it in Spanish, I would have
9 understood. I do not read English nor do I speak English. I
10 would have been able to read it and say it's not this way.

11 Q. Do you admit or deny that in your statement you said
12 the opposite of what you testified here today that the person
13 had a knife in their left hand and hit you with his right
14 hand, but in your statement you say the opposite, the knife is
15 in the right hand and he hit you with the left hand? Isn't
16 that what you said?

17 MR. CORBETT: Objection, Your Honor. That is not
18 what he said in his statement.

19 THE COURT: May I see his statement?

20 MR. CORBETT: (Proffering.)

21 THE COURT: Repeat your question, Mr. Routzong.

22 BY MR. ROUTZONG:

23 Q. I will be more specific. In your statement you say
24 he had a black handled knife in his right hand. You go
25 further down and it says he made stabbing motions with the

1 knife, but he punched me in my nose with his other hand.

2 A. Yes. That's true.

3 Q. I want to make sure for the record. Do you admit or
4 do you deny that in this statement you told Detective McFadden
5 the person that did this to you was a black man dressed all in
6 black clothes? Do you admit or do you deny that?

7 A. Please repeat the question.

8 Q. You listened to the interpreter read your statement
9 back to you. This is a yes or no question. Did you in that
10 statement tell Detective McFadden that the person that
11 assaulted you was a black man dressed all in black clothes,
12 yes or no?

13 A. Yes.

14 Q. Thank you, Mr. Lopez Martinez. You've heard the
15 substance of that statement through the court interpreter.
16 Did you tell Detective McFadden in your statement did you say
17 anything about the person's haircut?

18 A. Yes.

19 Q. I just want to make sure I understand. In that
20 statement you mentioned the person's haircut?

21 A. No.

22 Q. Thank you, Mr. Lopez Martinez. Mr. Lopez Martinez,
23 every time you've spoken to the police you've been consistent
24 including with Detective McFadden; isn't that true?

25 A. Could you please repeat it for me?

1 Q. Yes, sir. When the police came to your house --
2 Let's go before then. When someone called 911 for you -- I'll
3 withdraw that part of it. That's a little bit messy. Every
4 time you've spoken to the police you've told them the same
5 thing that you told Detective McFadden; is that correct?

6 A. Yes.

7 MR. ROUTZONG: I'll be right back with you,
8 Mr. Lopez Martinez. Thank you, Mr. Lopez Martinez.

9 THE COURT: Mr. Corbett, any redirect?

10 MR. CORBETT: One moment please, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. CORBETT:

13 Q. Mr. Lopez Martinez, the man who robbed you, how did
14 you describe his clothing to the police?

15 A. Dark pants and a dark T-shirt.

16 Q. And on the occasions where you spoke to the police
17 you had to speak through an interpreter; is that correct?

18 A. Yes.

19 Q. The person in the video running from your house, is
20 that the person who robbed you?

21 A. Yes.

22 MR. CORBETT: Thank you.

23 THE COURT: Okay. Thank you, sir. You can step
24 down.

25 MR. CORBETT: Your Honor, the State rests.

1 THE COURT: Ladies and gentlemen, we have a few
2 matters of law to take up outside of your presence. I'll
3 excuse you to the jury room. Please do not begin
4 deliberating yet. Thank you.

5 (Whereupon, the jury entered the jury room at 11:15
6 a.m.)

7 THE COURT: Okay. Mr. Routzong.

8 MR. ROUTZONG: Your Honor, at this time since the
9 State has rested, we're moving for a directed verdict in
10 favor of the defendant. Viewing the evidence in a light
11 most favorable to the State, we're asking you to consider
12 whether there's enough competent and credible evidence
13 for this case to move forward or whether a verdict should
14 be directed in favor of the defendant, Your Honor.

15 THE COURT: Do you want to be heard, Mr. Corbett?

16 MR. CORBETT: Thank you, Your Honor. As Your Honor
17 said, the presentation of evidence, I will try to hone in
18 on the key moments in order to be brief. The allegations
19 from the State are that the victim states that the
20 individual running from the scene is the person who
21 robbed him. There is evidence in the record that that
22 person is the defendant Corey Brown as evidenced by
23 physical characteristics and the statement of the
24 defendant himself.

25 THE COURT: I do find that the State has presented

1 evidence as to the elements of each offense, assault and
2 battery first degree, burglary in the first degree, armed
3 robbery, and possession of a weapon during a violent
4 crime. The motion for directed verdict is respectfully
5 denied. Okay. Mr. Routzong, any decision from your
6 client as to whether he's going to testify?

7 MR. ROUTZONG: Last night, Your Honor, he said no.
8 I don't know that I asked him today. I don't think he's
9 changed his mind.

10 THE COURT: Mr. Brown, are you going to testify,
11 sir?

12 COREY BROWN: No, ma'am.

13 THE COURT: Again, that's your decision to make. I
14 will charge the jury that that's your constitutional
15 right. Thank you, sir.

16 COREY BROWN: Yes, ma'am.

17 THE COURT: Mr. Routzong, I'm kind of in the
18 position that I feared. I know you have a witness who I
19 believe is not gonna be here until 2:00; is that correct?

20 MR. ROUTZONG: That's correct. They're going to be,
21 I would think they're going to be very brief.

22 THE COURT: Okay.

23 MR. ROUTZONG: There's just a couple questions.

24 THE COURT: Let me go ahead and get the jurors back
25 in here. We'll dismiss them and ask them to be back at

1 THE COURT: Okay. Let me give you both a copy of
2 the verdict form. Do you want to take a look at the jury
3 charges over the lunch break?

4 MR. CORBETT: Yes, ma'am, if we could please.

5 THE COURT: All right. Then I think we're good to
6 recess for lunch. Ms. Morgan, I'm signing your form
7 right now. We have told the jury to be back at 1:30 so
8 I'll see y'all back at 1:30.

9 (Lunch break.)

10 BAILIFF: All rise.

11 THE COURT: Thank you. Please have a seat. Mr.
12 Routzong, were you able to reach your witness?

13 MR. ROUTZONG: She's present, Your Honor.

14 THE COURT: Okay. Are we ready for the jury?

15 MR. CORBETT: Ready for the jury, Your Honor.

16 (Whereupon, the jury entered the courtroom at 1:40
17 p.m.)

18 THE COURT: Mr. Routzong.

19 MR. ROUTZONG: Thank you, Your Honor. May it please
20 the Court. The defense calls Ms. Sherri Fidler.

21 Thereupon,

22 SHERRI FIDLER

23 after having been first duly sworn, testified as follows,

24 THE CLERK: Please have a seat. Once you're seated,
25 state your full name spelling your last please.

1 THE WITNESS: Sherri Fidler, F-i-d-l-e-r.

2 DIRECT EXAMINATION

3 BY MR. ROUTZONG:

4 Q. Good afternoon, Ms. Fidler. How are you?

5 A. Fine.

6 Q. Please speak into that microphone so everybody can
7 hear you, okay?

8 A. Okay.

9 Q. Ms. Fidler, where do you live now?

10 A. In Sumter, South Carolina.

11 Q. Are you married?

12 A. Yes, sir.

13 Q. Have children?

14 A. Yes, ma'am.

15 Q. How many?

16 A. Four.

17 Q. Where do you work at?

18 A. Prisma Health.

19 Q. How long have you worked there?

20 A. Four years.

21 Q. I'm sorry?

22 A. Four years.

23 Q. What do you do at Prisma Health?

24 A. I'm an occupational therapist.

25 Q. What does an occupational therapist do?

1 A. We help patients recover after a injury whether it
2 be a stroke, a cut, we just help them to try to regain
3 function of whatever they have lost to be able to do their
4 daily living skills such as dressing, bathing and then
5 functionally get back to work and things.

6 Q. I'm looking at a business card in front of me. What
7 is MHS?

8 A. Masters in Health Sciences.

9 Q. And OTR?

10 A. Occupational therapist licensed and registered.

11 Q. Okay. How long have you been a therapist?

12 A. 23 years.

13 Q. A long time. Now, let me ask you, did there come a
14 time when you met a gentleman, a patient named Corey Brown?

15 A. Yes, sir.

16 Q. I'll get out of the way. Is Mr. Brown in the
17 courtroom?

18 A. Yes, sir.

19 Q. Can you point him out for me please?

20 A. This gentleman with the blue mask on.

21 MR. ROUTZONG: Let the record reflect that she's
22 pointed out the defendant, Your Honor.

23 THE COURT: Yes, sir.

24 BY MR. ROUTZONG:

25 Q. When did Mr. Brown become a patient?

1 A. He became a patient in 2018.

2 Q. When was the last time you actually saw him?

3 A. It was April of 2019.

4 MR. ROUTZONG: April of 2019. Your Honor, I'm gonna
5 ask Mr. Brown to step forward. I need him to show his
6 arm to the jury.

7 THE COURT: Okay.

8 COREY BROWN: (Complies.)

9 MR. ROUTZONG: Can you do your sleeve up there,
10 Mr. Brown? Do it up all the way.

11 COREY BROWN: (Complies.) I can't do it all the
12 way.

13 BY MR. ROUTZONG:

14 Q. Was this the arm that you were treating, his left
15 arm?

16 A. Yes, sir.

17 MR. ROUTZONG: Mr. Brown, thank you.

18 BY MR. ROUTZONG:

19 Q. Ms. Fidler, the times that you've had a chance to
20 work with him, have you been able to yourself see how well his
21 left arm functions?

22 A. Yes, sir.

23 Q. Was he able to make a fist?

24 A. No, sir.

25 Q. Was he able to hold things?

1 A. No, sir.

2 Q. Was his strength greatly impaired in his left arm?

3 A. Yes, sir.

4 MR. ROUTZONG: I'll be right back with you. Ms.
5 Fidler, please answer any questions that Mr. Corbett has
6 for you.

7 CROSS EXAMINATION

8 BY MR. CORBETT:

9 Q. Ms. Fidler, how are you this afternoon?

10 A. Good. Thank you.

11 Q. Very good. Bear with us just one moment please.

12 Ms. Fidler, I'm gonna show you a few photographs.

13 A. Okay.

14 Q. The first has been marked as State's Exhibit number
15 5. Do you recognize that photograph?

16 A. Yes, sir.

17 Q. And who is that?

18 A. That's Mr. Brown.

19 Q. And I'm gonna show you what's been marked as State's
20 number 7 and ask if you can identify that?

21 A. That's Mr. Brown.

22 Q. That's Mr. Brown as well. So 5 and 7. I'm gonna
23 show you what's been marked as State's Exhibit number 12. Can
24 you identify that individual?

25 A. Yes. That's Mr. Brown.

1 Q. That's Mr. Brown there?

2 A. Yes.

3 Q. On State's number 12. I'm gonna show you what's
4 been admitted as State's number 18 front and back. If you
5 would look at both sides of that for me please.

6 A. Yes, sir. That's Mr. Brown.

7 Q. And a little bit repetitive, but I'm going to show
8 you State's numbers 19, 20, 21 and 22 and ask if you would
9 look at the front and back of those.

10 A. Yes. That's Mr. Brown.

11 Q. Thank you. You were working with Mr. Brown
12 regarding an injury to his left arm?

13 A. Yes, sir.

14 Q. Okay. If you could please, I'm gonna ask you to
15 look at a piece of video for me. This is going to be State's
16 Exhibit 23.

17 (Playing State's Exhibit #23.)

18 BY MR. CORBETT:

19 Q. Other than Mr. Brown's left arm, does he appear
20 healthy?

21 A. Yes, sir.

22 Q. Right arm working okay?

23 A. Yes, sir.

24 Q. Ms. Fidler, if you would please, watch with me some
25 video. I will tell you that it's a video that has been

1 created with a picture within picture so the original is
2 playing in the background and the picture in picture enlarged
3 and overlaid in front. State's number 23 beginning at
4 approximately 19:21:41.

5 (Playing State's Exhibit #23.)

6 BY MR. CORBETT:

7 Q. Ms. Fidler, are you able to tell who that is?

8 A. Yes. That's Mr. Brown.

9 Q. Ms. Fidler, if we may, we're gonna jump forward just
10 a little bit. Ms. Fidler, do you recognize that individual?

11 A. Yes. That appears to be Mr. Brown.

12 Q. So Mr. Brown is capable of running?

13 A. It appears. Yes, sir.

14 Q. And is capable of holding that left arm up in a
15 running motion?

16 A. It appears he compensated a lot. Just so you know,
17 he would tuck it in his pocket and things because he didn't
18 have full mobility of it. You can tell that it's not a normal
19 arm swing.

20 Q. Now, it's not a normal arm swing, but it is an arm
21 swing?

22 A. Yes. From the shoulder.

23 Q. And, Ms. Fidler, as part of your job you are helping
24 people strengthen their injured limb or whatever joint or
25 appendage it may be --

1 A. Yes, sir.

2 Q. -- through a series of exercises?

3 A. Yes, sir.

4 Q. I imagine there's probably some stretching?

5 A. Correct.

6 Q. Some strength training exercises?

7 A. Yes, sir.

8 Q. Mobility exercises?

9 A. Yes, sir.

10 Q. Did you do those with Mr. Brown?

11 A. I did.

12 MR. CORBETT: Thank you. That's all that I have.

13 THE COURT: Any redirect?

14 MR. ROUTZONG: Yes, Your Honor. Just briefly.

15 REDIRECT EXAMINATION

16 BY MR. ROUTZONG:

17 Q. Ms. Fidler, that left arm that was tucked into his
18 pocket, is that the same left arm that can't make a fist?

19 A. Yes, sir.

20 Q. Is it the same one that's not very strong, can't
21 pick up anything?

22 A. Correct.

23 Q. By the way, since we're identifying stuff, what
24 color was his shirt?

25 A. Orange.

1 MR. ROUTZONG: Thank you very much. I don't have
2 any other questions.

3 THE COURT: Thank you, ma'am. You can step down.

4 MR. ROUTZONG: May she be excused, Your Honor?

5 MR. CORBETT: No objection from the State.

6 THE COURT: Yes, ma'am, you're free to go.

7 MR. ROUTZONG: Thank you, Ms. Fidler.

8 MR. CORBETT: Your Honor, I'm sorry. I think I may
9 have one question on recross if that's okay.

10 THE COURT: Let me have you approach.

11 (Side bar off the record.)

12 THE COURT: Thank you, Ms. Fidler. You're free to
13 go.

14 MR. ROUTZONG: The defense rests, Your Honor.

15 THE COURT: Okay. Ladies and gentlemen, we have, we
16 need to briefly take up a few matters of law outside of
17 your presence. If you will please return to the jury
18 room. We won't be long. Please don't begin discussing
19 the case yet.

20 (Whereupon, the jury entered the jury room at 1:55
21 p.m.)

22 THE COURT: Mr. Routzong, do you want to renew your
23 motion for directed verdict?

24 MR. ROUTZONG: I do, Your Honor, for the reasons
25 that I have already stated.

1 THE COURT: Okay. Anything from the State?

2 MR. CORBETT: Your Honor, repeating our prior
3 argument.

4 THE COURT: Okay. Thank you. The motion for
5 directed verdict is respectfully denied. Do we need to
6 have any discussion about jury charges? Have y'all had a
7 chance to look over the jury charges?

8 MR. CORBETT: No objection from the State.

9 MR. ROUTZONG: None from the defense, Your Honor.

10 THE COURT: Okay. Since we have let them go back,
11 let's let them have just a couple minutes. If anyone
12 needs to use the facilities, just be at ease for about
13 five minutes. Since you did put up a witness, our
14 closing order is going to be Mr. Corbett, Mr. Routzong,
15 Mr. Corbett. You know what our time constraints are.
16 I'm not putting any limit on it but...

17 MR. CORBETT: Judge, we have kicked around this idea
18 a number of times. When the Supreme Court changed the
19 closing argument procedure and I understand that I open
20 on the law and I'm asking if I've missed anything
21 recently about how they may have changed the procedure.

22 THE COURT: Okay. Here's what I require. The State
23 opens in full, and that anything you say on reply needs
24 to be in direct response to something Mr. Routzong said.
25 So in other words, nothing new raised on your reply. The

1 State, as I said, opens in full, Mr. Routzong gets to go
2 and then you get a true reply that is only responding to
3 what he has raised and is not raising any new matters.

4 MR. CORBETT: Very good. Thank you, Your Honor.

5 THE COURT: Just stand down for about five minutes
6 and then we'll move straight into closings.

7 (Short break.)

8 THE COURT: Back on the record. Do either of y'all
9 still have the verdict forms?

10 MR. CORBETT: I do, Your Honor.

11 THE COURT: I can printout another copy, but I don't
12 have a copy ready to go. Ready for the jury?

13 MR. CORBETT: The State's ready, Your Honor.

14 MR. ROUTZONG: Yes, Your Honor.

15 (Whereupon, the jury entered the courtroom at 2:10
16 p.m.)

17 THE COURT: Ladies and gentlemen, we're ready to
18 move into closing arguments. Mr. Corbett.

19 MR. CORBETT: Thank you, Your Honor. May it please
20 the Court.

21 Good afternoon, Ladies and Gentlemen. Yesterday
22 morning I had an opportunity to speak with you and tell
23 you a little bit about what I expected the evidence to
24 show, and this afternoon is the opportunity for me to
25 talk to you a little bit about the evidence and the law

1 in this case. I apologize that some of this will be
2 tedious, but it's nonetheless important.

3 First of all, let me talk about the law for a
4 moment. The defendant Corey Brown is charged with
5 burglary in the first degree, he's charged with armed
6 robbery, he is charged with assault and battery in the
7 first degree, and he is charged with possession of a
8 weapon during the commission of a violent crime. All of
9 those arise out of this one incident. And the way the
10 law is in South Carolina, you can be charged with more
11 than one offense in a single incident. So let me briefly
12 talk about how the facts will apply to these charges, but
13 then a more general and broader approach to the facts of
14 the case.

15 Burglary in the first degree is that you enter a
16 dwelling which is where a person lives without consent
17 and with the intent to commit a crime therein. And I'm
18 sorry. Let me pause for a moment because I meant to say
19 this first. Ultimately the Judge will charge you on the
20 law. If I say anything different than what she tells
21 you, you must take the law as the Judge charges it to
22 you, but I will do my best to give a concise overview of
23 it.

24 So, enters without consent, I'm sorry, a dwelling
25 without consent and with intent to commit a crime

1 therein. Robbery is a crime therein. Now, armed
2 robbery, that is you take goods or monies from a person
3 by force or intimidation while armed with a deadly
4 weapon. And there are some extensions to that
5 definition. If you use a representation of a deadly
6 weapon while alleging that it's such, that can also be
7 armed robbery. For example, give me your money or I will
8 shoot you. But that's not our case. Our case involves a
9 knife. What the Judge will charge you in the law is that
10 under South Carolina law a knife is a weapon that
11 qualifies for armed robbery.

12 Now, the next one is pretty simple. Possession of a
13 weapon during the commission of a violent crime. You've
14 got a knife while you're committing a violent crime,
15 that's burglary first and that's armed robbery. That's
16 what a violent crime is. The other one is assault and
17 battery in the first degree, and that is that you injure
18 a person, and there are several factors that can apply to
19 this, but of particular importance is that you injure a
20 person during the commission of another crime such as
21 burglary or robbery. So that's the general framework of
22 the law that you jurors will have to apply to the facts.
23 So that's where we are.

24 Now, let's talk about the facts for a moment. I
25 will tell you I know I have a tendency to be a little bit

1 long winded, but I do want to try to be brief and point
2 out some things that make sense and some things that
3 don't make sense, okay? So here's what we know. Let's
4 talk about the evidence. Officer Michael Austin
5 testifies I was dispatched at 19:43, 7:43 in the evening.
6 He explained that to us. He gets to the house and he
7 sees the victim Mr. Lopez bleeding and he has blood on
8 him, okay? So what I'm going to ask you to do for a
9 moment is to acknowledge that something happened to Mr.
10 Lopez before 7:43, okay?

11 Now, prior to 7:43 -- I'm sorry. Let me state it
12 over. Sometimes my mouth gets ahead of my brain.
13 Officer Hunter came in and he took some pictures of the
14 scene. There's one I want to show you. I'm gonna refer
15 back to it a little bit later, but it's here and this is
16 in evidence. You'll have this available to you, but what
17 struck me as I was getting ready to speak to you was this
18 stump or log. I'm not sure what word we want to use for
19 it, a portion of a tree on the ground. I noticed that
20 and then it struck me because I noticed something later
21 in one of the videos.

22 So, Officer Hunter takes pictures. And by the way,
23 Officer Austin talked about the chair being turned over
24 in the kitchen and he talked about the blood in the
25 kitchen. Mr. Lopez's blood. Excuse me. Lopez Martinez.

1 So the investigation gets initiated. Officers are
2 working on the case and they catch a break because
3 there's a video system across the street. It is rare
4 that you have a video system across the street from your
5 house and not only was there a video system across the
6 street, but it was a pretty good one because it had
7 multiple cameras on it.

8 So, I have a guy named Mr. Teachout come and
9 testify. He wasn't up here very long so you may be
10 thinking he was only up there for five minutes. What's
11 that about? Because I asked him about the date and the
12 time stamp on that, okay? Because he talked about it
13 being a web based camera system, about how it touches out
14 to that server so he knows this date and this time, that
15 it's geolocated so that accounts for daylight savings
16 time, et cetera, so when you're watching our videos,
17 you're seeing the correct date and time. He even used
18 words about five hundred and something bit encryption and
19 that those cameras hadn't been broken into. So keep that
20 in mind. Why is that significant? Because later on when
21 Detective McFadden shows that video to the defendant
22 Corey Brown, he admits that's me, okay? So, why is that
23 significant? Because it's the right day and it's the
24 right time, okay? It's the right day and it's the right
25 time.

1 Now, this is what I found interesting and I'm gonna
2 kind of mix two thoughts here. When the Judge talks to
3 you in a little bit, she's gonna talk to you about the
4 difference between circumstantial evidence and direct
5 evidence, okay? Let me give you an example.
6 Circumstantial evidence -- I'm sorry. I'm gonna have to
7 have the easel because I can't do that with one hand. I
8 am referring to State's Exhibit number 16, an aerial view
9 of the neighborhood. Circumstantial evidence. See a
10 black truck pull in here. Tell you what, let me grab my
11 notes and we'll talk times. Approximately 7:02. 7:03
12 comes back. I was curious. On the come back trip up the
13 side street here, I think that's Hannah Court, remember
14 Mr. Lopez said his back door was open. You can see his
15 back door in this picture.

16 The truck comes back by. 19:05, 19:07, 19:08,
17 19:11, a black truck passes by the house. Circumstantial
18 evidence. What's the old phrase we used years ago?
19 Casing. Checking out the neighborhood. Seeing if it's
20 clear. Who's around. Lo and behold, within the context
21 of that circumstantial evidence, sometime around 19:19,
22 excuse me, 7:19 p.m., the truck comes up. And by the
23 way, this video is in evidence. You guys, if you need
24 to, you can look at it. It stops and backs up a little
25 bit, comes and turns in, parks here.

1 Now we see the individual, dark pants and there's
2 been several different descriptions what the shirt color
3 is. I will tell you when it comes to color, you should
4 see me and my wife talk about it. I call something
5 white, she calls it azure. I call it orange, she calls
6 it peach. I call it purple, she calls it plum or mauve
7 which I still don't know what that is. But we're getting
8 bogged down on color and I'm gonna get to that in a
9 minute, because we're dealing with Spanish, we're dealing
10 with translations, we're dealing English. But we see an
11 individual walk all the way across the parking lot, go
12 into here, remember we enhanced this video, and if you
13 take time to watch the enhanced video, that person who
14 I'm gonna call Mr. Brown since he said it was him and
15 since somebody who knows him said it was him, passes in
16 front of this stump right here near the back corner of
17 this house. And these pictures are also on the disk in
18 evidence and available to you. He passes right in here.
19 He goes off camera behind the victim's residence and then
20 comes back into view one minute and 11 seconds later.
21 One minute and 11 seconds.

22 Now, here's where common sense comes into play and
23 here's where well and truly trying the facts of the case
24 come into play. Circumstantially we see the dark truck,
25 I would call it black, but we have already talked about

1 that color issue, multiple times passing here, now parked
2 here, and Detective McFadden testified that it was
3 approximately 644 feet. He went out and measured it.
4 Who parks here and walks to here and remains for one
5 minute and 11 seconds? What would be the purpose of
6 that? Why would anybody ride by the location, but go and
7 park more than two football fields away to walk over
8 there? Why would you do that? I don't know, Jason.
9 Maybe somebody just likes to walk. Okay. Let's take
10 this a step further. Why after one minute and 11 seconds
11 -- and in just a moment I'm gonna play the enhanced video
12 for you because I think this is important -- do you come
13 out of the victim's residence not strolling around the
14 tree, but running around the corner? Look carefully at
15 it and tell me if you don't notice on the trip, the jog
16 from here back to here you don't see this (indicating)
17 looking over his shoulder. That's what a robber does.
18 You don't park here, walk over, stay for one minute and
19 11 seconds and jog back. That makes no sense.

20 Mr. Caulfield, would you bring up the enhanced video
21 please.

22 (Playing State's Exhibit, a video.)

23 MR. CORBETT: Making that turn right behind the
24 victim's house right beside the log. You can see it
25 there in the blowup picture.

1 Ladies and gentlemen, I'm gonna jump forward one
2 minute and 11 seconds, but as I said, this video is
3 available to you. He comes around the corner of the
4 victim's house in between the tree and the house running
5 after one minute and 11 seconds. On the way walked along
6 the sidewalk and down the street this time running behind
7 the clothes line. He thinks, let's take a look around.
8 Let's take a look behind us. Pause for a moment.

9 Folks, something we didn't know until we saw the
10 enhanced version. If you would please, look at the
11 picture in picture. Pause it. Look just to the left of
12 the defendant to what appears to be a blue line by the
13 door. Play it please. Now the blue line lifts up into
14 the truck. Lo and behold, there was somebody else in
15 that truck. You know what we call that in my line of
16 work? The get away driver. So why would a person drive
17 back and forth here, park here while someone runs here
18 for one minute and 11 seconds, or walks over here, stays
19 one minute and 11 seconds and runs back? Because that's
20 what robbers do.

21 Now, what are some of the other facts that we need
22 to talk about as it relates to these charges? Let's talk
23 about burglary in the first degree for a moment. Mr.
24 Lopez took the stand. I'm sorry. Apparently someone
25 dropped a piece of jewelry.

1 JUROR: It's mine.

2 MR. CORBETT: I'll set that right over here, okay?

3 Mr. Lopez took the stand and I want you to think
4 back his testimony because I asked him and I don't
5 remember the exact word I used but for now I'll say, what
6 was the impact of this on you? Do you remember how he
7 described it? How he needs somebody to go with him now.
8 How he goes straight to work and if I'm getting in the
9 car, I go get straight to the car. When I get home, I go
10 straight inside. I don't like to be out. Does he strike
11 you as someone who's traumatized or did he strike you
12 like a liar? Is that what you think of him, that he's a
13 liar? Because what I heard is somebody who is now afraid
14 to go out. Who has been traumatized. Who told you how
15 the person came in his house. Remember? I had the door
16 open, heard the step on the back. I tried to close it
17 and they forced the door open. Hey, did they have
18 consent to come in your house? No. They didn't. He
19 came inside the house and robbed him entering without
20 consent with the intent to commit a crime therein.

21 What happened in your kitchen? He held up the knife
22 and asked me for my money. I had some money in this
23 pocket. Gave it to him hoping that would end this. I'm
24 paraphrasing his testimony. Hoping this would end this.
25 Made some additional, for lack of a better term I'll call

1 them threatening gestures. Where is the rest of your
2 money? Where is the rest of your money? Get in the
3 other room. Remember how he described that? How he
4 thought something bad was going to happen. I don't think
5 that was the exact words he used, but I think that
6 conveys the thought. I didn't want to go into that other
7 room. Then he flees out.

8 Mr. Caulfield, bring up the expanded video please,
9 sir.

10 So, do we believe that Mr. Lopez lied about being
11 robbed? That there was some other mechanism by which
12 he's bruised and bloodied when the police arrived?
13 They're not arriving the next day or the next week. That
14 black vehicle goes off camera at 7:26 and approximately
15 22 seconds p.m. Officer Austin testified he was
16 dispatched at 7:43. 17 minutes. It wasn't a different
17 day. It wasn't a different week. It was that evening.
18 And keep in mind what he testified to. All my
19 communication had to be through somebody else. So he had
20 to get somebody else to notify the police of the
21 incident.

22 Mr. Caulfield, if you would please, pull up 19:25
23 please.

24 I know it's hard to look at picture in picture, but
25 I want you to look at the corner of the residence. Now,

1 it's difficult to see on your monitor. My computer is
2 actually a little clearer. If you need it, you're
3 welcome to it. You see the victim Mr. Lopez Martinez
4 come out of his house. Now, we can talk about left hand
5 versus right hand. We can talk about orange versus dark.
6 We can talk about all those things, but we know from
7 video as Mr. Lopez Martinez comes outside and testifies
8 that guy running through Harmony Court, that's the guy
9 who just robbed me and punched me in the face breaking
10 his cheek bone. That's what the evidence is showing us.

11 A moment ago I was talking about circumstantial
12 evidence, the black truck. Direct evidence is the
13 witness sitting right there looking at y'all saying
14 that's the person who did it. Direct evidence, somebody
15 saying, yeah, that's me. A picture walking across that
16 grassy area. Direct evidence. Direct evidence, the
17 person sitting on the witness stand saying I know Corey
18 Brown. That's him. Detective McFadden walked you
19 through this video. He told you about the statement
20 because what we have to do is we have to put that
21 together, watching him come across, being out of view for
22 a minute and 11 seconds, coming back, the victim saying
23 that's him, running through, him identifying himself from
24 the still photo here and another witness identifying him.

25 At this point I'm probably being redundant, but the

1 enhanced stills, and in these I'm looking at State's
2 number 21, very distinctive haircut. These are in
3 evidence and available to you. The defendant I believe
4 it was eight or nine days later after the interview with
5 Detective McFadden. So, if for some reason you did not
6 believe Corey Brown when he said that's me, you have
7 still photos, you have video, you have the victim saying
8 that's the person who robbed me and a witness saying yes,
9 that's Corey Brown. Those are the facts as they apply to
10 this case, ladies and gentlemen.

11 We're fortunate. We're fortunate that Ocean 10
12 Security put a video camera system right there. We're
13 fortunate that we had three angles of this. We are.
14 We're fortunate that when they took that still shot and
15 put it on Facebook, the Crime Stoppers tip came in.
16 Corey Brown is who you want to talk to.

17 Ladies and gentlemen, yesterday I said to you this:
18 It is not always easy to sit in judgment of someone, but
19 you've taken an oath to well and truly try the facts of
20 this case without regard to feelings, but to the facts
21 and that's what we're asking you to do, to look at the
22 facts of this case. Anselmo Lopez Martinez living in the
23 Sumter community working at Florence Concrete. Do you
24 remember his testimony? 20 years. A man who gets up and
25 goes to work everyday, comes home and is in his own house

1 minding his own business. You know the old saying, a
2 man's home is his castle. And Corey Brown went into that
3 house, punched him in the face hard enough to break his
4 cheekbone and then took \$2000.00 of his money. What's it
5 like to earn \$2000.00 at Florence Concrete? Do you think
6 that's hard work?

7 It's an important day in this courtroom. It's an
8 important day for everyone, but it's an important day for
9 Anselmo Lopez Martinez, because like I said yesterday, it
10 doesn't matter to me where you're from, doesn't matter to
11 me what language you speak, nobody deserved that and from
12 the video and all of the other evidence you have we know.

13 Now, I will tell you, this case has been a little
14 bit different because of the language barrier.
15 Everything had to pass through at least one other person.
16 Can I explain the translation process to you? I'm sorry,
17 I can't, but when we start talking about discrepancies,
18 please keep in mind that it's going through a couple of
19 different hands, but there's nothing about this video
20 that tells you anything different.

21 So coming back to close the circle. Do we believe
22 Anselmo Lopez Martinez when he said I was in my house
23 that evening and robbed? If we do, then we have to look
24 at the person who went to his back door for one minute
25 and 11 seconds and then ran from his house, and

1 Mr. Martinez coming outside and saying that's the guy who
2 did it.

3 Ladies and gentlemen, it may not be easy. It may
4 not be pleasant, but the facts lead us to one conclusion.
5 They lead us to one conclusion. Corey Brown committed a
6 burglary, he committed an armed robbery, he committed
7 possession of a weapon during the commission of a violent
8 crime, and he committed an assault and battery in the
9 first degree. Certainly, he may have some health issues,
10 but he likes to keep fit. And I'm sorry. I should have
11 read this to you a little bit earlier. The statement he
12 gave Officer McFadden. I was being questioned about this
13 incident. I was in the area on that day. You showed me
14 the photo of me, but I didn't see or hear anything. I
15 was just walking through Harmony Court. I walk through
16 there frequently. I walk through there so much I was
17 probably going to the store, home or the transit.
18 Sometimes I run all down the Boulevard. I stay fit.
19 That's probably why I was running that day. You probably
20 can see another day I did it. I never saw anything out
21 of the ordinary. I wasn't looking for it. If I was
22 going home, I was going to Martin Jackson's house off the
23 Boulevard. I stayed with him for a couple of months.

24 Now, do you see anybody going to the store? Do you
25 see anybody going home? Is anybody going to the transit?

1 Who do you know gets somebody to park here, walks 640
2 some odd feet and then jogs back? Is that the way people
3 exercise? Is that how they stay fit? Because it's not
4 true. Because he went there to commit a robbery and a
5 burglary and he hit a man in the face so hard it
6 fractured a bone.

7 Ladies and gentlemen, it wasn't an overly long case
8 and I suspect I'm beginning to wear out my welcome
9 sharing with you things that are probably somewhat
10 obvious, but it's an important day. It's an important
11 day for Anselmo Lopez Martinez, somebody who deserves to
12 go to the store without having to be afraid. Somebody
13 who deserves to go to work without being afraid.
14 Somebody who deserves to be able to leave their house
15 without being afraid. Thank you.

16 MR. ROUTZONG: Judge, did I control anything on
17 here? I'm trying to run something on video. I'm pushing
18 the button like I was instructed.

19 MR. CORBETT: Mr. Routzong, if I may, where is your
20 HDMI cord?

21 MR. ROUTZONG: That's the only one that fits in this
22 one. Well, I had it working earlier.

23 THE COURT: The monitor is on.

24 MR. ROUTZONG: I actually had it working earlier.

25 MR. CORBETT: May I?

1 MR. ROUTZONG: Yes. Thank you very much Mr.
2 Corbett.

3 Ladies and gentlemen, thank you very much for paying
4 so close attention. We appreciate it. I will be as
5 brief as I can. I'm gonna agree with Mr. Corbett about
6 some things and I kind of wrote them down. Something he
7 just said struck me that's really true in part. He
8 mentioned to you right off the bat, he said didn't
9 something happen basically and it struck me, you know,
10 that's a question, but it's not the question. The
11 question is who did it if something happened?

12 The State has frequently played video and pointed
13 out that there's 600 feet this way and 600 feet that way.
14 That's 600 feet wearing an orange shirt. 600 feet back
15 wearing an orange shirt. Very much different than the
16 testimony from Mr. Lopez Martinez. Mr. Corbett also said
17 we were lucky to catch a break because there was video.
18 That's true. Because there's video you can see that 600
19 feet this way and 600 feet that way in an orange shirt
20 contrary to what finally Mr. Lopez Martinez testified to.
21 I'll get back to that later.

22 Mr. Corbett said it's the right date and the right
23 time. I don't know what to say to that. I really don't
24 know what to say to that. But I can say this: On that
25 date and that time it's the wrong man according to Mr.

1 Lopez Martinez because he said it right up there. He
2 gave a description of the person who did this. He said
3 he was this far away. I'm not sure, I'm not trying to
4 disparage anybody, believe me, but I'm not sure how the
5 State can argue that, well, I want you to forget the
6 orange shirt and the faulty description given to the
7 police with his name signed under it. I just want you to
8 forget all that because it's probably just a glitch in
9 the translation. Think about how difficult it was for me
10 to get him admit what he actually told the police.
11 That's something you're supposed to consider, the
12 credibility of the witness, his willingness to admit to
13 the things that he signed his name to after having it
14 read to him, how his testimony changed from left hand to
15 right hand. You saw his hand. You heard the testimony
16 of Ms. Fidler. We'll get to all that later.

17 I wanted to show you something because I noticed
18 something. I don't have a lot of technology capability
19 either and I'm gonna try to make this full screen right
20 here. I want you to look at your monitor and lo and
21 behold, who is that dressed in dark clothing? Maybe even
22 all black. The State never mentioned that. I wonder
23 where he goes. That's definitely not orange. Oh, look,
24 he's starting to turn and he goes right back to this
25 alleged incident location right there.

1 Now, I'll tell you what bothers me about this. The
2 State made a big deal of how the man in the orange shirt
3 comes around the corner and they make a big deal about
4 the time. Remember that officer testified it happened at
5 19:43. That's when I got dispatched. I wrote the times
6 down I believe. So whatever they say that Mr. Brown is
7 supposed to have done, at 19:25:04, I think that is
8 correct. I've got seven. I let it run a little bit too
9 much. Whatever was going on allegedly that he was
10 supposed to be involved with, if you subtract 19:23, I'm
11 sorry, 19:25 from 19:43, I guess it's about 18 minutes.
12 What's going on in those 18 minutes? If they're right,
13 this event is already over with. But they didn't get
14 called and dispatched until 19:43. These time stamps are
15 good. He said that just a minute ago. They're NASA
16 technology or whatever it is, and I'll guarantee you
17 Sumter, South Carolina probably has a pretty good clock
18 so we can rely on these time stamps. What's going on for
19 the next 18 minutes? Well, maybe the camera will tell
20 us. I will speed this up and we'll see where it stops
21 at. Looks like it stopped, it looks like it stopped
22 right, I don't know, 19:28 or something like that. In
23 other words --

24 MR. CORBETT: Your Honor, may we approach?

25 THE COURT: Yes.

1 (Side bar off the record.)

2 MR. ROUTZONG: I'm sorry. We had to take care of a
3 misunderstanding. I'm gonna try to get that back on
4 there. You will have a chance to look at it. It cuts
5 off, I don't know, it looks like it's right before it
6 shuts off, I think it was 19:28, that's 28 minutes after
7 seven in the evening. They didn't get called until
8 19:43. You've got a gap in there of time that we don't
9 know what happened. Now, if something happened to him,
10 maybe it happened in that period of time. Maybe it was
11 by that guy in the dark clothing. Maybe that's how they
12 can account for that. I don't have to account for that.
13 They do. The only thing I can tell you is there's
14 somebody back there following the person in the orange
15 shirt.

16 MR. CORBETT: Your Honor, I believe this is an
17 effort to raise third party guilt in closing.

18 THE COURT: Y'all approach please.

19 (Side bar off the record.)

20 MR. ROUTZONG: We had to clear up another
21 misunderstanding. I apologize. So the camera stops. We
22 don't know what's going on after that point in time. You
23 got to wonder to yourself, why does it take so long to
24 call 911?

25 Now, I can anticipate what you're going to be told

1 so I'll start talking about that now just briefly.
2 Mr. Lopez Martinez testified that he's worked at Florence
3 Concrete for 20 some years. I showed him a couple
4 pictures. I asked him, are these cement trucks? He
5 described some of the equipment. Do you have to wear a
6 hard hat? He said yes. In other words, he works at a
7 place where people can get hurt. He even says since he's
8 worked there people can get hurt. How much English do
9 you have to know to call 911 and say help? Has he worked
10 there all that time and never said to anybody, an English
11 speaking person, help me? Certainly was somebody that
12 just walked back there. In other words, this is not an
13 unpopulated area. You know, there are, you heard
14 testimony, there's a trailer, trailer, house, house,
15 house, all the way back. Well, no. This horrible thing
16 happened to me and I've got to wait. It's just something
17 about it doesn't feel right. This huge gap in time. The
18 description is wrong.

19 Let's talk about Detective McFadden. He processed
20 this scene. Ladies and gentlemen, he did what he's
21 supposed to do. He talked to a witness. He got a
22 statement. He swabbed the door to try to get DNA
23 evidence. Nothing. No fingerprint evidence. With all
24 the host of witnesses that the State has presented to you
25 it's really just Mr. Lopez Martinez and the description

1 of a black man dressed all in black. All these other
2 witnesses, the doctor, everything else, anything I have
3 done, it really is that. It's always been that. I've
4 told you since the beginning that's the case. And when
5 you're back there, when you start talking about
6 reasonable doubt, with all these, I will call them gaps,
7 the camera stops, don't know what's going on after that,
8 there's a period of time between the event when going
9 around the corner there and calling 911, with people
10 walking around and the description is wrong. I think
11 it's as important.

12 The testimony of Ms. Fidler. So let's go back to
13 what Mr. Lopez Martinez finally admitted to. Remember,
14 he first testified that the knife was in the left hand, I
15 got hit with this hand. Then on cross examination he
16 reversed himself. He finally, I mean, it was hard and
17 that wasn't all translation, he didn't want to admit it.
18 I mean, I would ask you to consider that. I asked
19 relatively simple questions that he didn't want to answer
20 or couldn't answer and maintain this story. And you saw
21 Mr. Brown's hand and you heard the testimony. He can't
22 even make a fist. She testified he can't even pick
23 anything up. But they want you to believe, and remember
24 what Mr. Lopez Martinez testified after, I believe it
25 took a while, but finally I got him to admit that he told

1 Detective McFadden that the knife was in the right hand
2 and I got hit by the left. And I say that because you
3 heard me read the statement. He said the other hand. So
4 if that's -- I'm not real bright, but if the knife is in
5 this hand, the other hand means this one. He can't do
6 it.

7 When you're thinking about what ought to be done
8 here, you have to take into consideration the appearance
9 of all the witnesses and I really want to stress that.
10 In my humble opinion Mr. Lopez Martinez didn't want to
11 tell you the truth. When I asked him, he took several
12 minutes and he understood. I can't believe he didn't
13 understand. He had the translator telling him what I
14 said in Spanish, but he didn't want to tell you the truth
15 because it doesn't fit the story that they want to tell.
16 You have to consider that. I ask you to consider that
17 because that goes to his truthfulness. If you can't
18 believe him when he's on the witness stand, then you
19 can't believe him when he testified that that person 600
20 feet in the orange, 600 feet back in an orange shirt,
21 that he told the police was dressed all in black, if you
22 can't believe him up there, you can't believe that.

23 That video. Let's go to that haircut. That's
24 another good example of what I'm talking about. You
25 know, it took a while for me to get him to admit. He

1 never said anything about the haircut, the unique haircut
2 he said. He didn't say anything about that in his
3 statement to the police. He said it after he had the
4 chance to look at the pictures that the police put up, or
5 that the State put up there. Then he says it up there
6 initially. Then like pulling teeth I got him to admit
7 that he never told the police in his statement that he
8 signed. They're stuck with that. They can't fix that
9 and they got other problems. There's no corroborating
10 evidence like DNA, no fingerprints, no other witness,
11 just the person who I would argue is not credible and you
12 could tell by the way he acted on the witness stand.

13 I want to leave you with this very old saying. A
14 picture is worth a thousand words. But I submit to you,
15 ladies and gentlemen, sometimes it's only worth two, not
16 guilty. I appreciate you listening to me. Thank you so
17 much.

18 THE COURT: Mr. Corbett, any reply?

19 MR. CORBETT: Yes, ma'am.

20 MR. CORBETT: The way our system works is, on behalf
21 of the State I'm allowed to reply to the defendant's
22 closing statement.

23 I was waiting on it. Sure enough it happened. Sure
24 enough it happened. The victim is a liar. That's what
25 it comes down to. A man standing there with blood on his

1 face, the man with the broken cheekbone, went to Tuomey
2 Hospital, he's the liar. Can't believe him. Good
3 gracious. That man gets up and goes to work at Florence
4 Concrete, comes home in his own house. You know what,
5 it's time for me to lie about somebody today. Who can I
6 find to get in trouble? Somebody I know or maybe should
7 I pick them at random? It's insulting. A man who
8 doesn't speak much English, and he's gonna stand here and
9 tells 12 of you, oh, he's a liar. See how he was
10 struggling? What was he struggling with? Yes or no, is
11 it correct that you did not or did say this in the
12 statement? Are you surprised that a Spanish speaker is
13 struggling with that?

14 MR. ROUTZONG: I'm gonna object to that, Your Honor,
15 because that is not any question that I asked that I can
16 recall. If he's going to, if he's going to quote what I
17 say, I think he should be accurate.

18 MR. CORBETT: I'll withdraw that, Your Honor. So,
19 we stand here and we call Mr. Lopez Martinez a liar. But
20 as I was sharing with you earlier, I'm going to the store
21 or I'm going to the transit or I'm going home or I'm out
22 for a jog is the truth? Does that sound like the truth?
23 Mr. Lopez told you about his struggles with translation
24 in language.

25 Now, how about this gap in time, okay? Mr. Lopez

1 Martinez told you that all of his communications with the
2 police were through a translator. Do you think there was
3 one standing in his backyard waiting on him? Hey, I'm
4 gonna hang out here in case you're robbed today. I'll
5 just be right here by the back door. Let me know when
6 you need me. Wow, it took 17 or so minutes for him to
7 find somebody to communicate with the police. That's
8 hard to believe? How about this one. There's no
9 corroborating evidence. Oh, really? What was the video
10 we were watching? If that's not corroborating evidence,
11 what is when he comes out of this house and sees the man
12 running away? Admittedly there's a language barrier in
13 this case and Mr. Routzong sort of honed in on this shirt
14 and how its described. Dark T-shirt. Interestingly
15 enough, I remember some months back on the Internet
16 people having an argument over what color something was.
17 I believe it was a picture of a dress or something.

18 MR. ROUTZONG: I object, Your Honor. That's not
19 what was testified to.

20 THE COURT: It's overruled. Thank you.

21 MR. CORBETT: You know, I wonder, Mr. Caulfield, my
22 investigator over there, I wonder if I walked over there
23 and hit him hard enough in the face to break his
24 cheekbone, would he remember the punch or would he
25 remember my tie? More than likely he would remember the

1 punch.

2 Ladies and gentlemen, you've sat here through the
3 testimony and I apologize if my remarks have come across
4 as emotional, but it's hard to sit there with Anselmo
5 Lopez Martinez while he's called a liar when all he did
6 was go home from work. Do you think that's the kind of
7 man who would come in here and lie to you about something
8 this serious? Thank you.

9 THE COURT: Okay. Ladies and gentlemen, you have
10 heard all of the testimony and evidence in this case and
11 it's now my duty to instruct you on the law that applies.

12 The indictment in this case alleges several
13 different offenses against the defendant and those
14 charges are burglary in the first degree, armed robbery,
15 assault and battery in the first degree, and possession
16 of a weapon during the commission of a violent crime.

17 Each indictment charges a separate and distinct
18 offense. You must decide each indictment separately on
19 the evidence and the law applicable to it uninfluenced by
20 your decision as to any other indictments. The defendant
21 may be convicted or acquitted on any or all of the
22 offenses charged. You will be asked to write a separate
23 verdict of guilty or not guilty for each separate
24 offense.

25 The defendant has pled not guilty to this

1 indictment, and that puts the burden on the State to
2 prove the defendant guilty. A person charged with
3 committing a criminal offense in South Carolina is never
4 required to prove himself innocent.

5 I charge you that it is an important rule of the law
6 that the defendant in a criminal trial, no matter what
7 the seriousness of the charge may be, will always be
8 presumed to be innocent of the crime for which the
9 indictment it issued unless guilt has been proven by
10 evidence satisfying you of that guilt beyond a reasonable
11 doubt. The presumption of innocence does not end when
12 you begin your deliberations, but it accompanies the
13 defendant throughout the trial until you reach a verdict
14 of guilt based on evidence satisfying you of that guilt
15 beyond a reasonable doubt.

16 The presumption of innocence is not just a legal
17 phrase. It's not just a mere legal theory. It's a
18 substantial right to which every defendant is entitled,
19 again, unless you, the jury, are satisfied from the
20 evidence of the defendant's guilt beyond a reasonable
21 doubt.

22 What is reasonable doubt in the law? First of all,
23 it's the kind of doubt for which you can give a reason.
24 It's also defined as the kind of doubt that would cause a
25 reasonable person to hesitate to act. Proof beyond a

1 reasonable doubt is proof that leaves you firmly
2 convinced of the defendant's guilt. There are very few
3 things in this world that we know with absolute
4 certainty, and in criminal cases the law does not require
5 proof that overcomes every possible doubt. If, based on
6 your consideration of the evidence, you are firmly
7 convinced that the defendant is guilty of the crimes
8 charged, you must find the defendant guilty. If on the
9 other hand, you think there is a real probability that
10 the defendant is not guilty, then you must give the
11 defendant the benefit of the doubt and find him not
12 guilty.

13 I remind you that during this trial you and I have
14 separate and certain duties to perform. As the trial
15 Judge, it is my responsibility to preside over the trial
16 of the case, and I also the duty to rule on the
17 admissibility of the evidence offered during this trial.
18 You are to consider only the competent evidence before
19 you. If there was any testimony ordered stricken from
20 the record in this case during the trial, you must
21 disregard that testimony. You are to consider only the
22 testimony which has been presented from this witness
23 stand, and any exhibits which have been made a part of
24 the record in this case.

25 I have the additional duty to charge you the law

1 applicable in this case. As the presiding Judge, I am
2 the sole Judge of the law of this case, and it is your
3 duty as jurors to accept and apply the law as I now state
4 it to you. If you already have any idea as to what the
5 law is or what the law ought to be and it does not agree
6 with what I now tell you the law is, you must abandon
7 this previous idea because you are sworn to accept the
8 law and apply the law exactly as I state it to you.

9 In every case tried in this court before a jury, the
10 jury becomes the sole and exclusive Judges of the facts.
11 A trial Judge cannot intimate, comment on, or make any
12 statement to a trial jury about the facts in a case.
13 Since you, the jury, are the sole Judges of the facts,
14 you are not infer from what I have said during the
15 progress of this trial in ruling upon the admissibility
16 of evidence, or otherwise, or anything that I say now
17 during the course of this instruction to you, that I have
18 any opinion about the facts in this case. The law does
19 not allow me to have an opinion about the facts. This is
20 a matter solely for you, the jury, to determine. As
21 jurors, it is your duty to determine the effect, value,
22 weight and truth of the evidence presented during this
23 trial.

24 There are two types of evidence which are generally
25 presented during a trial. There's direct evidence and

1 there's circumstantial evidence. Direct evidence
2 directly proves the existence of a fact and does not
3 require deduction. Circumstantial evidence is proof of a
4 chain of facts and circumstances indicating the existence
5 of a fact.

6 Crimes may be proven by circumstantial evidence.
7 The law makes no distinction between the weight or value
8 to be given to either direct or circumstantial evidence,
9 however, to the extent the State relies on circumstantial
10 evidence, all of the circumstances must be consistent
11 with each other, and when taken together, point
12 conclusively to the guilt of the accused beyond a
13 reasonable doubt. If these circumstances merely portray
14 the defendant's behavior as suspicious, the proof has
15 failed.

16 The State has the burden of proving the defendant
17 guilty beyond a reasonable doubt. This burden rests with
18 the State regardless of whether the State relies on
19 direct evidence, circumstantial evidence, or some
20 combination of the two.

21 Now, necessarily you must determine the credibility
22 of the witnesses who have testified in this case and
23 credibility simply means believability. It is your duty
24 as jurors to analyze and evaluate the evidence and
25 determine which evidence convinces you of its truth.

1 In determining the believability of witnesses who
2 have testified, you may believe one witness over several
3 witnesses or several witnesses over one. You may believe
4 a part of the testimony of a witness and reject the
5 remaining part of the testimony of that same witness.
6 You may believe the testimony of a witness in its
7 entirety or you may reject the testimony of a witness in
8 its entirety. You can consider whether any witness
9 exhibited to you any interest, bias, any motive, any
10 prejudice. You may consider the appearance and manner of
11 the witness while on the witness stand or what their
12 demeanor was while testifying.

13 The rules of evidence ordinarily do not permit
14 witnesses to testify to opinions or conclusions, but an
15 exception to this rule exists for witnesses that we call
16 "expert witnesses". This is a witness who by education
17 and experience or some combination of the two has become
18 an expert in some art, science, profession, or calling,
19 and they may state an opinion as to relevant and material
20 matter in which the witness claims to be an expert, and
21 they can also state the reasons for that opinion.

22 In this case you heard the testimony of a witness
23 qualified as an expert in the area of video enhancement.
24 You should consider the expert opinion received in
25 evidence in this case and, like any other evidence, give

1 it the weight you think it deserves. If you decide that
2 the opinion of an expert witness is not based on
3 sufficient education and experience, or if you conclude
4 that the reasons given in support the opinion are not
5 sound, or that the opinion is outweighed by other
6 evidence, you may disregard the opinion entirely.

7 An expert witness' testimony is to be given no
8 greater weight than that of other witnesses simply
9 because the witness is an expert. Further, you are not
10 required to accept an expert's opinion, even though it's
11 not contradicted.

12 I instruct you and emphasize that the fact that the
13 defendant chose not to testify is not a factor to be
14 considered by you in any way in your deliberation and in
15 your consideration on the question of the guilt or
16 innocence of the defendant. It must not be considered by
17 you in any manner whatsoever. A defendant has the
18 constitutional right to remain silent, and the assertion
19 of this right must not be considered by you at all in
20 your deliberations. I repeat, under your oath, you are
21 to draw no conclusion whatsoever from the fact that the
22 defendant in this case did not testify. The fact that
23 the defendant did not testify should not even be
24 discussed in the jury room. The burden of proof, as I
25 stated to you, is on the State. The defendant is not

1 required to prove his innocence. The burden of proof
2 remains on the State to prove guilt beyond a reasonable
3 doubt.

4 An issue in this case involves the identification of
5 the defendant as the person who committed the crime
6 charged. The State has the burden of proving identity
7 beyond a reasonable doubt. You must be convinced beyond
8 a reasonable doubt of the accuracy of the identification
9 of the defendant before you may convict the defendant.

10 Identification testimony is an expression of belief
11 or impression by a witness. You must determine the
12 accuracy of the identification of the defendant. You
13 must consider the believability of each identification
14 witness in the same way as any other witness. You may
15 consider whether the witness identification had an
16 adequate opportunity to observe the offender at the time
17 of the offense. This will be affected by things like how
18 long or short of time was available, how far or close the
19 witness was, the lighting conditions and whether the
20 witness had the chance to see or know the person in the
21 past.

22 Once again, I instruct you, the burden of proof on
23 the State extends to every element of the crime charged
24 and this specifically includes the burden of proving
25 beyond a reasonable doubt the identity of the defendant

1 as the person who committed the crime.

2 If after examining the testimony you have a
3 reasonable doubt as to the accuracy of the
4 identification, you must find the defendant not guilty.

5 The defendant is charged with armed robbery. In
6 order to prove this offense, the State must first prove
7 beyond a reasonable doubt that the defendant took
8 personal property from a person or presence of another
9 person. Property is in the presence of a person it is
10 within the person reach, inspection, observation, or
11 control so that the person could, if not overcome with
12 violence or prevented by fear, keep possession of the
13 property.

14 The State must also prove beyond a reasonable doubt
15 that the defendant carried the property away, intending
16 to permanently deprive the owner of the property and to
17 keep the property for the defendant's own use. The
18 slightest removal of the property or the complete
19 possession of the property, even for an instant by the
20 defendant, is sufficient to show a taking and carrying
21 away of the property. The taking and carrying away of
22 property must have been done by violence or by putting
23 the owner of the property in fear of violence.

24 Finally, the State must prove beyond a reasonable
25 doubt that the defendant was armed with a deadly weapon

1 during the robbery. A deadly weapon is any article,
2 instrument, or substance which is likely to cause death
3 or great bodily harm. Whether an instrument has been
4 used as a deadly weapon depends on the facts and
5 circumstances of each case.

6 The follow are examples of instruments which may be
7 used as deadly weapons; a pistol, a shotgun, a rifle, a
8 dirk, a dagger, a knife, a slingshot, metal knuckles, a
9 razor, gasoline, a fire bomb, or Molotov cocktail, and
10 lighter fluid. A gun may be a deadly weapon even if it
11 is not operating.

12 Next the State has charged the defendant with the
13 offense of assault and battery in the first degree. A
14 person commits the offense of assault and battery in the
15 first degree if the person unlawfully injures another
16 person, and the act occurred during the commission of a
17 robbery, burglary, kidnapping, or theft. A person may
18 also commit the offense of armed robbery -- Excuse me --
19 of assault and battery in the first degree if the person
20 unlawfully offers or attempts to injure another person
21 with the present ability to do so and the act either is
22 accomplished by means likely to produce death or great
23 bodily injury, or it occurred during the commission of a
24 robbery, burglary, kidnapping, or theft.

25 Great bodily injury means bodily injury which causes

1 a substantial risk of death or which causes serious
2 permanent disfigurement or protracted loss or impairment
3 of the function of a bodily member or organ.

4 I have to have a sip of water after all of that.

5 The defendant is also charged with first degree
6 burglary. The State must prove beyond a reasonable doubt
7 that the defendant entered a dwelling without consent. A
8 dwelling is any building or portion of a building in
9 which a person ordinarily sleeps. A building constructed
10 as a dwelling, but has never occupied, cannot be
11 considered a dwelling for purposes of burglary, but a
12 dwelling is a dwelling even if the residents are
13 temporarily absent from the building.

14 In order to prove that the defendant entered the
15 dwelling, the State does not have to show that the
16 defendant's entire body entered the dwelling. The
17 smallest entry is sufficient. It may be any part of the
18 body which is a hand, or foot, or even an instrument
19 which is a hook or other instrument.

20 In addition, the State does not have to prove that
21 force was used to gain entry. If a person enters a
22 building by using deception, artifice, trick, or
23 misrepresentation to get consent to enter, this is an
24 entry without consent.

25 Next, the State must prove beyond a reasonable doubt

1 that the defendant intended to commit a crime, either a
2 felony or misdemeanor, at the time of entry. The mere
3 entry into a dwelling without consent is not burglary.
4 If the intent to commit a crime is formed after the
5 entry, it is not burglary. On the other hand, if the
6 defendant intended to commit a crime at the time of the
7 entry, it is a burglary, even if the intent was abandoned
8 after the entry. It does not matter that the intended
9 crime was not completed.

10 Intent may be shown by act and conduct of the
11 defendant, and other circumstances from which you may
12 naturally and reasonably infer intent.

13 Finally, the State must prove beyond a reasonable
14 doubt that one of the following occurred. First, when
15 entering, while in the dwelling or when fleeing, the
16 defendant was armed with a deadly weapon or explosive. A
17 deadly weapon is any article, instrument, or substance
18 which is likely to cause death or great bodily harm.
19 Whether an instrument has been used as a deadly weapon
20 depends on the facts and circumstances of each case.

21 The following are examples of instruments which may
22 be used as deadly weapons; a pistol, a shotgun, a rifle,
23 a dirk, a dagger, a knife, a slingshot, metal knuckles, a
24 razor, gasoline, a fire bomb, or a Molotov cocktail, and
25 lighter fluid. Again, a gun, may be a deadly weapon even

1 if it is not operating.

2 Or, second, the State may show that when entering,
3 while in a dwelling or when fleeing, the defendant caused
4 physical injury to anyone not participating in the crime.

5 Or, third, when entering while in the dwelling or
6 when fleeing, the defendant used or threatened to use a
7 dangerous object.

8 Or, fourth, when entering while in the dwelling or
9 when fleeing, the defendant displayed what was or
10 appeared to be a knife, pistol, revolver, rifle, shotgun,
11 machine gun, or other firearm.

12 Or, fifth, the defendant entered or remained in the
13 dwelling in the nighttime. Nighttime is the period
14 between sunset and sunrise during which there is not
15 enough daylight to recognize the person's face except by
16 artificial light or moonlight.

17 The final offense is possession of a weapon during
18 the commission of a violent crime. The defendant is also
19 charged with possession of a weapon during the commission
20 of a violent crime. The State must prove beyond a
21 reasonable doubt that the defendant visibly displayed a
22 knife during the commission of a violent claim. A knife
23 means an instrument or tool with a sharp cutting blade,
24 whether or not fastened to a handle, which can be used to
25 inflict a cut, slash, or wound.

1 In order to find the defendant guilty of possession
2 of a weapon during the commission of a violent crime, you
3 must first find that the defendant is guilty of either
4 committing a violent crime or attempting to commit a
5 violent crime. Both armed robbery and burglary are
6 considered violent crimes under our South Carolina code.

7 The State must prove beyond a reasonable doubt that
8 the weapon further advanced or helped in the commission
9 of the crime.

10 Ladies and gentlemen, we're gonna send you back to
11 the jury room with four separate verdict forms. There is
12 one verdict form for each of the charges against the
13 defendant. So, for example, on this one you will see
14 caption and the case number and it states, as to the
15 charge of armed robbery, we, the jury, unanimously find
16 the defendant, and there it says guilty and there is a
17 blank and then there is a not guilty and a blank. Please
18 don't read anything into the fact that guilty is the
19 first the one and not guilty is the second one. One has
20 to come first and one has to come second.

21 After you've reach a unanimous verdict, you'll just
22 check whether you have found the defendant guilty or not
23 guilty and then Ms. Newman will sign as the jury
24 foreperson. Again, there is an identical verdict form
25 for each of the four offenses.

1 Once you have reached a unanimous verdict as to all
2 four of the charges, if you will please knock on the door
3 and let the bailiffs know that you are done with your
4 deliberations. We are al gonna clear out of the
5 courtroom and we're gonna give you this room to
6 deliberate in so that you've got plenty of room for all
7 12 of you to be together spread out with proper social
8 distancing.

9 Any exceptions or additions from the State?

10 MR. CORBETT: Judge, may we approach?

11 THE COURT: Yes.

12 (Side bar off the record.)

13 THE COURT: And again, as I said, when you've
14 reached a unanimous decision, that means that all 12
15 jurors must agree. Let me ask our two alternate jurors
16 -- First of all, let me ask the 12 of you, is everyone
17 feeling well enough to continue today with deliberations
18 before I release our alternates? Is there anyone who is
19 not able to continue with deliberations? Okay. Then our
20 two alternate jurors, Mr. Harvin and Ms. Scott-Sadler,
21 I'm gonna go ahead and release you. You will not go
22 actually back into the jury room. So I will have the 12
23 of you return to your jury room just briefly so that we
24 can make sure we have all of our exhibits gathered
25 together and ready for your inspection and we'll go ahead

1 wanted to see what the verdict was, otherwise you are
2 perfectly free to go. Thank you so much. Before we get
3 to the exhibits, let's make sure there's not anything
4 y'all want to put on the record. I know we had several
5 side bars during that last little bit. Anything that
6 anybody needs to put on the record?

7 MR. CORBETT: Thank you, Your Honor. Jason Corbett
8 on behalf of the State. Your Honor, if I did not hear
9 correctly, I apologize. What the State was requesting
10 was the instruction that the verdict of the jury must be
11 unanimous either way.

12 THE COURT: Well, and I felt I sufficiently covered
13 it by telling them that their verdict must be unanimous
14 and that they all 12 must agree on the verdict. Mr.
15 Routzong, anything you want to put on the record, sir?

16 MR. ROUTZONG: No, Your Honor.

17 THE COURT: Okay. Then if we can just agree on what
18 exhibits are going to come in front of the jury.

19 (Whereupon, jury deliberations began at 3:45 p.m.)

20 (Whereupon, the jury entered the courtroom at 4:30
21 p.m.)

22 BAILIFF: All rise.

23 THE COURT: Thank you all. Please have a seat.
24 Okay. Ms. Newman, I understand that the jury has reached
25 a verdict?

1 FORELADY: Yes, ma'am.

2 THE COURT: Mr. Tomlin, if you will.

3 BAILIFF: (proffering.)

4 THE COURT: Okay. I have the jury's verdicts and it
5 states, as to the charge of assault and battery in the
6 first degree, we, the jury, unanimously find the
7 defendant guilty. As to the charge of armed robbery, we,
8 the jury, unanimously find the defendant guilty. As to
9 the charge of burglary in the first degree, we, the jury,
10 unanimously find the defendant guilty. As to the charge
11 of possession of a weapon during a violent crime, we, the
12 jury, unanimously find the defendant not guilty.

13 Ladies and gentlemen, let me ask you, is this your
14 verdict?

15 (Whereupon, the jury responds affirmatively.)

16 THE COURT: Anything further from the State?

17 MR. CORBETT: Nothing further from the State, Your
18 Honor.

19 THE COURT: Mr. Routzong?

20 MR. ROUTZONG: No, Your Honor.

21 THE COURT: Ladies and gentlemen, I want to thank
22 you very much for your service. Jury service is probably
23 one of the highest services that you can render to your
24 community, especially during these last months when we
25 have not been able to have jury service, it's made us

1 particularly appreciative of citizens being willing to
2 come and participate in this process. But I do want to
3 thank you. If you will follow Mr. Hainesworth, we'll
4 make sure you get a work excuse, if you need it, and
5 we'll take your badges. Once again, thank you so much.

6 (Whereupon, the jury was released from further jury
7 duty at 4:45 p.m.)

8 THE COURT: Okay. Let's talk about the
9 sentencing.

10 MR. CORBETT: Your Honor, if I may, I probably need
11 about five minutes to print the sentencing sheets.

12 THE COURT: Okay. Let's be at recess for just a few
13 minutes.

14 MR. CORBETT: Judge, if I may, because my computer
15 is here unplugged, I think it may be quicker if I run
16 downstairs and use someone else's computer that's already
17 booted up.

18 THE COURT: That's fine. We'll just be at recess
19 for a few minutes.

20 MR. ROUTZONG: Your Honor, I'm going to have a
21 motion that I need to be heard on before sentencing.

22 THE COURT: Okay.

23 (Short break.)

24 MR. CORBETT: Your Honor, may I approach?

25 THE COURT: Yes, sir.

1 Your Honor, with regard to sentencing, the State's
2 position is that armed robberies are terrible crimes.
3 Burglary first are terrible crimes. When they are
4 combined together they become a home invasion which is an
5 incredibly dangerous situation. At that point a victim
6 has no place to go.

7 Your Honor, the translator is not available at the
8 moment, but you've heard testimony from the victim
9 regarding the impact that this crime had on his life, the
10 sense of fear that he now lives with, and we trust Your
11 Honor to sentence accordingly.

12 THE COURT: The sentencing range on armed robbery
13 I'm showing is 10 to 30, on assault and battery first
14 degree up to 10, and on burglary first degree 15 years to
15 life.

16 MR. CORBETT: That is our understanding as well,
17 Your Honor.

18 THE COURT: Mr. Routzong, glad to hear from you,
19 sir.

20 MR. ROUTZONG: Thank you, Your Honor. You've heard
21 the facts of the case that has been alleged. Of course,
22 Mr. Brown and I don't necessarily agree with the verdict.
23 I'm sure he doesn't, but we're stuck with it. But we can
24 say in his mitigation, Your Honor, we heard his record.
25 There are not any of these kind of crimes listed among

1 them. He's 30 years old. He has family here. He showed
2 up for court. He was ready to face these charges. I
3 would ask the Court to consider the minimums on all of
4 these, Judge, and that is a substantial amount of time,
5 but I would argue that if the facts of this case are
6 true, then a minimum sentence would comport to the
7 facts.

8 THE COURT: On the offense of burglary in the first
9 degree the sentence of the Court is that the defendant is
10 committed to the Department of Corrections for a term of
11 20 years. This will be a concurrent sentence. With the
12 sentence for assault and battery in the first degree that
13 sentence is 10 years, and this is concurrent. The
14 sentence for armed robbery is also 10 years. These are
15 concurrent sentences. I'm giving him credit for any time
16 that he has served pretrial.

17 MR. CORBETT: Thank you, Your Honor.

18 THE COURT: Thank you.

19 MR. ROUTZONG: Thank you, Your Honor.

20 WHEREUPON, THE TRIAL WAS CONCLUDED.

1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

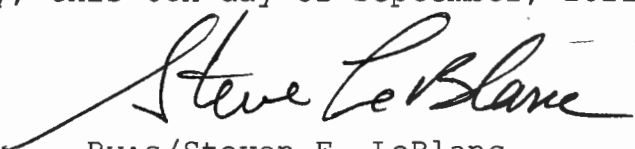
3 (COUNTY OF LEXINGTON)

4
5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of General Sessions in and for the
10 State of South Carolina on the 28th through the 30th day of
11 April, 2021.

12 I FURTHER CERTIFY that the forgoing 298 pages
13 constitute a true and accurate record of said proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Lexington County, this 6th day of September, 2021.

18
19 
20 By:s/Steven E. LeBlanc

21 Steven E. LeBlanc, Sr., R.P.R.
22 Eleventh Circuit Court Reporter
23 State of South Carolina.
24
25

WITNESSES

Willie J. McFadden Sumter
Police Dept.

ARREST WARRANT NUMBER

2019A4320100580 2019A4320100581
2019A4320100582 2019A4320100583

ACTION OF GRAND JURY

TRUE BILL

Eric Hatcher
Foreperson of Grand Jury
Date: 3-19-20

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2020-GS-43-0238

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

March TERM 2020

THE STATE

VS.

COREY RASHAD BROWN

Indictment for

Armed Robbery
Burglary 1st Degree
Assault and Battery 1st Degree
Possession of a Weapon Violent Crime

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Armed Robbery
 Burglary 1st Degree
 Assault and Battery 1st Degree
 Possession of a Weapon Violent Crime

At a Court of General Sessions, convened on March 12, 2020 the Grand Jurors of
 SUMTER County present upon their oath:

COUNT ONE
ARMED ROBBERY

That on or about July 22, 2019, in Sumter County, South Carolina, the Defendant, Corey Rashad Brown, at 228-A Hannah St., Sumter, SC, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Anselmo Lopez with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

COUNT TWO
ASSAULT AND BATTERY 1ST DEGREE

That Corey Rashad Brown did in Sumter on or about July 22, 2019, violate Section 16-3-600(C)(1) of the Code of Laws of South Carolina (1976), as amended, in that he did unlawfully injure another person, to wit: struck the victim Anselmo Lopez causing a facial fracture and the act occurred during the commission of a robbery, burglary, kidnapping, or theft.

COUNT THREE
BURGLARY 1ST DEGREE

That Corey Rashad Brown did in Sumter on or about July 22, 2019, break and enter the home of Anselmo Lopez located at 228-A Hannah Street, Sumter, SC, without consent and with the intent to commit a crime therein (robbery) and during said breaking and entering the Defendant was armed with a deadly weapon and/or the Defendant did cause injury to victim, in violation of Section 16-11-311 of the Code of Laws of South Carolina (1976), as amended.

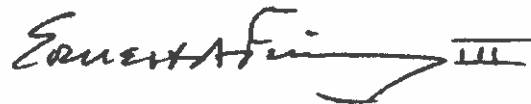
INDICTMENT# 2020-GS-43-238, PAGE 2 OF 2

COUNT FOUR
POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

That Corey Rashad Brown did in Sumter County, on or about July 22, 2019, possessed a knife or visibly displayed a knife, during the commission or attempted commission of a violent crime, to wit: Burglary 1st degree and/or armed robbery, in violation of Section 16-23-490, South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor

A handwritten signature in black ink, appearing to read "Ernest A. Finney III", with a stylized flourish at the end.

230
COURT OF
STATE

SUMTER

VS.

Corey Rashad Brown

AKA:

Race: Black Sex: M Age: 30

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] St

City, State, Zip: Sumter, SC 291502928

DL#: [REDACTED] SID#: [REDACTED]

*CDL ☐ CMV ☐ Hazmat ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

W. Jason Corbett
Corbett, Jason W065340
SC Bar#

Defendant

Routzong, Michael David
Attorney for Defendant

SCB71861

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.75</u>

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2020-GS-43-0238

A/W#: 2019A4320100580

Date of Offense: 7/22/2019

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther:

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

Kristine
2762
4-30-21

COUNTY OF SUMTER
STATE VS.

Corey Rashad Brown

AKA:

Race: Black Sex: M Age: 30

DOB: SS#:

Address: St

City, State, Zip: Sumter, SC 291502928

DL#: SID#:

*CDL ☐ CMV ☐ Hazmat ☐In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery 1st degree

INDICTMENT/CASE#: 2020-GS-43-0238

A/W#: 2019A4320100581

Date of Offense: 7/22/2019

S.C. Code § 16-03-0600 (C) (1)

CDR Code #: 3412

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0600 (C) (1) of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: W. Jason Corbett
Corbett, Jason W065340
SC Bar#

Defendant

Routzong, Michael David
Attorney for DefendantSCB71861
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$, plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
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§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ca
3% to County (if paid in installments)	\$

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

Krista Carter
2762
4-30-2021

COUNTY OF
STATE

SUMTER

VS.

Corey Rashad Brown

AKA:

Race: Black Sex: M Age: 30

DOB: SS#:

Address: St

City, State, Zip: Sumter, SC 291502928

DL#: SID#:

*CDL ☐ CMV ☐ Hazmat ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree

INDICTMENT/CASE#: 2020-GS-43-0238

A/W#: 2019A4320100582

Date of Offense: 7/22/2019

S.C. Code § 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Jason Corbett

06534

SCB71861

Corbett, Jason W

SC Bar#

Defendant

Routzong, Michael David

SC Bar#

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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§14-1-211(A)(1) (Conv. Surcharge)	\$100
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

1/18/2021
2762
4-30-21

INVESTIGATIVE



SERVICES

DIVISION

STATEMENT

NAME: Corey Brown
 ADDRESS: N/A

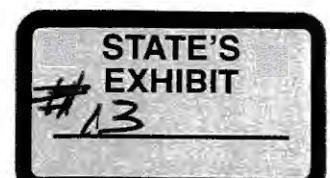
DOB: [REDACTED]
 PHONE: 803-316-4350

I was being question about this incident. I was in the area on that day you showed me the photo of me, but I didn't see or hear anything. I was just walking through Harmony Court. I walk through there frequently. I walk through there so much, I probably was going to the store, home, or the transit. Sometimes I run all down the Boulevard, I stay fit. That's probably why I was running that day, you probably can see another day I did it. I never saw anything out of the ordinary, I wasn't looking for it. If I was going home, I was going to Martin Jackson house off the Boulevard, I stayed with C.B him for a couple of months.

I have read or had read to me the above statement consisting of 1 page and attest that it is true and accurate, to the best of my knowledge, of the events that took place on or about or during the above given times. I have received a copy of this statement from Detective McFadden.

Corey Brown 7-31-19
 Signature: Date:

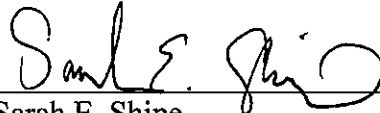
William McFadden #1874
 Witness:



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of August, 2022.

RECEIVED

Aug 03 2022

SC Court of Appeals

