

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable G.D. Morgan, Jr., Circuit Court Judge

STEVEN R. LEWIS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000539

APPENDIX

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1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

) IN THE COURT OF GENERAL SESSIONS

3 The State,

4 -vs-

5 Steven Richard Lewis,
6 Defendant.

) TRANSCRIPT OF RECORD
) 2015-GS-42-3788-3790
) 2017-GS-42-523;524

) May 22 - 24, 2017
) Spartanburg, South Carolina

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11 B E F O R E:

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

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15 A P P E A R A N C E S:

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22 Linda D. Moffitt
23 Circuit Court Reporter
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1 (Proceedings May 22, 2017)

2 MR. BULSA: Your Honor, we have an issue regarding
3 arraignment.

4 The defendant was originally charged with murder, Your
5 Honor, and attempted murder. We directly indicted him for
6 kidnapping, armed robbery, burglary in the first degree.

7 He's never been formally arraigned. He has been
8 provided with copies of those indictments through his
9 attorney.

10 THE COURT: Mr. Shealy, does Mr. Lewis wish to be
11 arraigned --

12 MR. SHEALY: Yes, sir.

13 THE COURT: -- or does he waive arraignment on the
14 burglary first degree, armed robbery and kidnapping
15 indictments?

16 MR. SHEALY: We would ask for an arraignment, Judge.

17 THE COURT: Okay. You are Steven Richard Lewis.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Shealy is your lawyer.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: As you have been previously made aware,
22 you're charged in Indictments 15-42-3789 and 3790 with the
23 crimes of murder and attempted murder.

24 Having previously been arrested on those charges, you
25 have been informed as to the nature of the charges, as well

1 as the potential punishment. Is that true?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You have been directly indicted by the
4 prosecutor bringing cases before the Spartanburg County
5 Grand Jury.

6 You've been charged in Indictment 2017 -- excuse me --
7 2015-3788 with the crime of kidnapping.

8 The state alleges that you did here in Spartanburg
9 County on or about May the 22nd of 2015 unlawfully seize,
10 confine, inveigle, decoy, kidnap, abduct or carry away one
11 Casey Scruggs without authority of law.

12 If convicted of the crime of kidnapping you could
13 receive a sentence of up to 30 years in jail.

14 Do you understand the nature of that charge and its
15 potential sentence?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you wish to plead guilty or not guilty
18 to the charge?

19 THE DEFENDANT: Not guilty.

20 THE COURT: I also have before me Indictment
21 2017-0523.

22 It charges Steven Richard Lewis with the crime of
23 burglary in the first degree, the state alleging on May the
24 22nd of 2015 that you did enter a dwelling located on the
25 Chesnee -- located on Highway 11, Chesnee, South Carolina,

1 without consent and with the intent to commit a crime in
2 that dwelling, and when in effecting entry or while in the
3 dwelling or in immediate flight therefrom you or another
4 participant in the crime was armed with a deadly weapon or
5 caused physical injury to a person who was not a
6 participant in the crime, or used or threatened the use of
7 a dangerous instrument, or displayed what appeared to be a
8 knife, pistol, revolver, rifle, shotgun, machinegun or
9 other firearm, or the burglary was committed by you with a
10 prior record of two or more convictions for burglary or
11 housebreaking, or a combination of both, or the entering or
12 remaining occurred in the nighttime.

13 If those allegations are established that would
14 establish burglary in the first degree. A conviction for
15 burglary in the first degree carries a potential sentence
16 of life imprisonment. It requires a mandatory minimum
17 sentence of not less than 15 years in jail.

18 Do you understand that charge and the potential
19 punishment?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you wish to enter a plea of guilty or
22 not guilty as to that charge?

23 THE DEFENDANT: Not guilty.

24 THE COURT: I also have Indictment 2017-0524.

25 It charges Steven Richard Lewis with the crime of

1 armed robbery, the state alleging in this indictment on May
2 the 22nd of 2015 you did rob Carey Mauldin and Casey
3 Scruggs at a residence on Highway 11 in Chesnee by the use
4 of force or intimidation while armed with a pistol, a
5 deadly weapon, and by taking from the person or presence of
6 Carey Mauldin and Casey Scruggs a Chrysler PT Cruiser,
7 electronics and other goods or personal property with the
8 intent to steal it.

9 If those allegations are proven that establishes armed
10 robbery. Armed robbery carries a potential sentence of 30
11 years in jail, requires a mandatory minimum sentence of not
12 less than ten years in jail.

13 Do you understand that charge and the potential
14 punishment?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you wish to enter a plea of guilty or
17 not guilty as to that charge?

18 THE DEFENDANT: Not guilty.

19 THE COURT: All right. Are y'all ready to proceed
20 with jury selection?

21 MR. BULSA: Yes, sir.

22 MR. SHEALY: Yes, sir.

23 THE COURT: All right. The jury panel is going to
24 come in.

25 (The following takes place in the presence of the jury

Jury qualification

1 venire.)

2 THE COURT: Thank you for your patience, ladies and
3 gentlemen.

4 We are ready to begin with jury selection in the first
5 case that's going to require some of your participation,
6 and the title of that case is the State vs. Steven Richard
7 Lewis.

8 Mr. Lewis has been accused by the prosecutor by way of
9 five separate indictments with having committed five
10 separate and distinct offenses, although they are alleged
11 to have arisen out of one particular event or a course of
12 events which the state alleges occurred back on May the
13 22nd of 2015.

14 Mr. Lewis is accused by the prosecutor of having
15 committed the crime of burglary in the first degree. The
16 indictment charging burglary in the first degree alleges
17 that Mr. Lewis did on May the 22nd of 2015 enter a dwelling
18 located at 3828 Highway 11 in Chesnee, South Carolina,
19 without consent of the owner and with the intent to commit
20 a crime therein and that during the course of that burglary
21 he was armed with a deadly weapon, or caused physical
22 injury to a person who was not a participant in the crime,
23 or used or threatened the use of a dangerous instrument, or
24 displayed what appeared to be a knife, pistol, revolver,
25 rifle, shotgun or other firearm, or the burglary occurred

Jury qualification

1 in the nighttime.

2 Mr. Lewis is also charged in a separate indictment
3 with the crime of murder. The state alleges in that
4 indictment that Mr. Lewis did on May the 22nd of 2015 here
5 in Spartanburg County wilfully and with malice aforethought
6 kill one Carey Mauldin by shooting Carey Mauldin and that
7 the victim died as a proximate result of that gunshot
8 wound.

9 Mr. Lewis is also charged in a separate indictment
10 with the crime of attempted murder. That indictment
11 alleges that Mr. Lewis did here in Spartanburg County on or
12 about May the 22nd of 2015 with malice aforethought attempt
13 to kill Casey Scruggs by shooting her with the intent to
14 kill the victim.

15 A separate indictment charges Mr. Lewis with the crime
16 of kidnapping. That indictment alleges that on May the
17 22nd of 2015 Mr. Lewis did unlawfully seize, confine,
18 inveigle, decoy, kidnap, abduct or carry away Casey Scruggs
19 without any authority allowed by law.

20 And the remaining indictment charges Mr. Lewis with
21 the crime of armed robbery. And that indictment alleges
22 that Mr. Lewis did here in Spartanburg County or on about
23 May the 22nd of 2015 commit the crime of robbery against
24 Carey Mauldin and Casey Scruggs. That crime was committed
25 by the use of force or intimidation and while he was armed

Jury qualification

1 with a pistol or other deadly weapon, and that he took,
2 stole and carried away from the person or presence of Carey
3 Mauldin and Casey Scruggs a Chrysler PT Cruiser, electronic
4 equipment and other goods with the intent to steal that
5 property.

6 Now, as to those allegations and as to each of the
7 charges contained in each of those separate indictments Mr.
8 Lewis has entered a plea of not guilty. That plea of not
9 guilty places upon the state the burden of proving the
10 allegations that they have made against the defendant, the
11 burden of proving each of the essential elements of each of
12 the crimes that are alleged against the defendant,
13 Mr. Lewis, and therefore the burden is upon the state to
14 establish his guilt as to each of those separate offenses
15 beyond a reasonable doubt before any verdict of guilty
16 could be returned as to any of the separate indictments.

17 Every person accused of a crime -- it doesn't matter
18 how serious the offense might be for which that person
19 stands charged -- every person accused of any type of
20 criminal offense is always presumed innocence, and that
21 presumption of innocence remains with any defendant, as it
22 does with this defendant, from the time that he is placed
23 under arrest and throughout the course of the criminal
24 process.

25 Right now Mr. Lewis is also presumed to be innocent of

Jury qualification

1 the charges. And, as I say, the state has brought these
2 accusations. They brought the charges. And it is their
3 burden to establish his guilt to the satisfaction of 12
4 jurors beyond a reasonable doubt.

5 Now, before we begin with jury selection in this case
6 I'm going to be introducing some folks to you. The purpose
7 of the introductions is to find out if you know anybody
8 that's involved in the trial of this case or who might be
9 called to testify during the trial of this case.

10 So as these folks are introduced to you should you
11 have any connection by blood or by marriage, a social
12 connection, an employment connection, a school connection,
13 a church affiliation, or you happen to know any of these
14 people in any capacity whatsoever, I'll ask that you please
15 stand so that we can determine what that connection or that
16 relationship is and whether or not it would have any
17 bearing upon your decision in the case if you were called
18 upon to serve as a juror.

19 First of all, as I told you, the defendant, the person
20 who is accused of having committed these offenses, is
21 Steven Richard Lewis.

22 Mr. Lewis, if you will, stand and face the jury panel
23 so that they may see who you are.

24 (Whereupon, the defendant stood.)

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Seated at the defense counsel's table with Mr. Lewis
2 is Matthew Shealy. Mr. Shealy is his lawyer. He'll be
3 assisting him in the trial of the case.

4 Mr. Shealy is employed by the Seventh Judicial Circuit
5 Public Defender's Office.

6 (Whereupon, Mr. Shealy stood.)

7 THE COURT: The persons who are alleged to have been
8 the victims of these offenses is Carey Mauldin who may have
9 some family members present. If you have Carey Mauldin's
10 family members present, if you will, please, stand and face
11 the jury panel.

12 And these are who, Solicitor?

13 MR. BULSA: Mother and father, Your Honor.

14 THE COURT: And their names are what?

15 MR. BULSA: Mike and Lynn.

16 THE COURT: Mike and Lynn Mauldin.

17 All right. And then we also have Casey Scruggs who is
18 also alleged to be a victim of some of these incidences.

19 MR. BULSA: She'll be here this afternoon, Your Honor.

20 THE COURT: All right. Casey Scruggs is the person
21 who's alleged to be the victim of the armed robbery, the
22 kidnapping, the burglary and the attempted murder.

23 And presenting the case on behalf of the state is the
24 Seventh Judicial Circuit Principal Deputy Solicitor,
25 Derrick Bulsa, and Assistant Solicitor Nick Sharpe. They

Jury qualification

1 will be presenting the case on behalf of the state.

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

3 THE COURT: Potential witness to be called during the
4 trial include the following, which I will list. All of
5 these may not necessarily testify, but they are all
6 potential witnesses. And so I'll list all of the potential
7 witnesses.

8 And, again, I need to find out if you have any
9 connection with any of these people. And of course, as you
10 know, Mr. Bulsa and Mr. Sharpe are employed with the
11 Seventh Judicial Circuit Public Defender's Office [sic].

12 Potential witnesses include Clifford Cash, Jason Cash,
13 Bridgette Nicole Cash, Emma Cooke, Alexis Jones, Tracy
14 Lanning, Casey Scruggs, Judson Paul Sizemore, Adam Stewart,
15 Tonya Stewart, Tony Turner, Austin Walters, Tim Green,
16 Mason Stevenson, Mike Dixon, Tyler McBee, Joshua Cote, Zach
17 Hubbard, Richard Batton.

18 And the next few witnesses are all employed by the
19 Spartanburg County Sheriff's Office: Courtney Burgess,
20 Richie Foster, Lathier Graham, Steven Horton, Nick
21 Hullinger, Sara Kruger, Andy Lawson, Levi Marlowe, Lindsey
22 McGraw, Paul Norris, Todd Ruffner, Greg Satterfield, Robert
23 Talanges and Nicholas Turner.

24 Employed by Guilford County, North Carolina, Sheriff's
25 Department include B.J. Elison, Brian Ezell, Chris Martin,

Jury qualification

1 Tracy Nelson and Bill Howell.

2 Also James Armstrong, employed by the Greenville Crime
3 Lab; Ivey K. Lawson; David Wren, Pathologist, Spartanburg
4 Regional Medical Center; Paul LePage, Pelham, Physician,
5 Pelham Medical Center; and Bradley Davis, physician,
6 Spartanburg Regional Medical Center. And Michelle
7 Chandler, a resident of North Carolina.

8 Does any juror on this panel know anybody who has just
9 been introduced to you, or do you have any connection with
10 anybody who's just been introduced to you? And not only
11 those who have been introduced to you, but also anybody
12 else who is employed in the Seventh Judicial Circuit Public
13 Defender's Office or the Seventh Judicial Circuit
14 Solicitor's Office.

15 Anyone have any connection with any potential witness,
16 any persons involved in the case or any other persons in
17 those two separate offices? If so, please stand.

18 All right. I'll start with you, ma'am, and I'll work
19 my way back. And then I'll jump the aisle and proceed with
20 the jurors on the other side.

21 Your name and number, please. Yes, ma'am.

22 JUROR NO. 6: I'm Hannah Bailey, Juror No. 6. I
23 personally don't know anyone, but my exboyfriend does, and
24 we currently live down the road from that. I was a
25 resident in that area when it happened.

Jury qualification

1 THE COURT: Okay.

2 JUROR NO. 6: I don't know if that would interfere
3 with anything.

4 THE COURT: All right. Well, I don't know. We'll
5 find out about that. But do you know anything about the
6 case? And don't tell me what you do know, but just yes or
7 no. Do you know anything about this case or any
8 allegations that were made other than what I read from the
9 indictments?

10 JUROR NO. 6: I mean, nothing like what you said, yes.
11 But I think my exboyfriend knows what happened.

12 THE COURT: Okay. All right. Well, have you talked
13 to him about it?

14 JUROR NO. 6: No. I have not.

15 THE COURT: Okay. And of course you understand you
16 cannot talk to him about it.

17 JUROR NO. 6: Yes, I do.

18 THE COURT: Have you heard anything about the
19 circumstances or facts that might relate to this case from
20 any other source other than your boyfriend?

21 JUROR NO. 6: No.

22 THE COURT: Okay. And is there anything that you've
23 heard from him --

24 JUROR NO. 6: No, sir.

25 THE COURT: -- that would affect your ability to be

Jury qualification

1 fair and impartial in this case if you were selected? And
2 you understand that if you were selected that you would not
3 in any way ever be able to discuss it with him.

4 JUROR NO. 6: Yes, sir.

5 THE COURT: Okay. So you believe you could be fair
6 and impartial if you are selected?

7 JUROR NO. 6: Uh-huh.

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

9 Yes, ma'am.

10 JUROR NO. 166: Jennifer Warner. I go to church with
11 Mr. Bulsa.

12 THE COURT: And your number?

13 JUROR NO. 166: 166.

14 THE COURT: And is there anything about that
15 connection that would impair your ability to be fair in
16 this case?

17 JUROR NO. 166: No, sir.

18 THE COURT: Thank you. Be seated.

19 Yes, ma'am.

20 JUROR NO. 176: No. 176, Alex Wolf. I was employed 22
21 years ago in the same office with Mr. Bulsa and five years
22 ago in the same office with Mr. Shealy.

23 THE COURT: All right. Is there anything about either
24 of those connections that would impair your ability to be
25 fair?

Jury qualification

1 JUROR NO. 176: No, sir.

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

3 Yes, ma'am.

4 JUROR NO. 29: Amber Childers, No. 29. I work at
5 Spartanburg Regional, so I know the physicians you named,
6 Bradley Davis and Dr. LePage.

7 THE COURT: Is there anything about that connection
8 that would impair your ability to be fair in the case?

9 JUROR NO. 29: No, sir.

10 THE COURT: Thank you. Be seated.

11 Yes, sir.

12 JUROR NO. 27: Nicholas Carracino, Juror No. 27. One
13 of the witnesses you named, he and his family are close
14 friends with my wife and I and have been for about ten
15 years.

16 THE COURT: All right. Which witness is that?

17 JUROR NO. 29: Marlowe, Levi Marlowe.

18 THE COURT: Oh, with the sheriff's department?

19 JUROR NO. 29: Yes, sir.

20 THE COURT: Okay. Is there anything about that
21 connection that would have any bearing in your decision?

22 JUROR NO. 29: No, sir.

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

24 Yes, ma'am.

25 JUROR NO. 170: Katherine Wiggins, Juror No. 170.

Jury qualification

1 THE COURT: 170?

2 JUROR NO. 170: 170. I know the public defender's
3 father who I believe used to be a public defender in
4 Cherokee County and was also the municipal court judge for
5 Gaffney city.

6 THE COURT: Is there anything about that connection
7 that would interfere with your ability to be fair and
8 impartial in this case?

9 JUROR NO. 170: No, sir.

10 THE COURT: Okay.

11 JUROR NO. 170: I also know one of the Spartanburg
12 County police officers -- Hullinger.

13 THE COURT: All right.

14 JUROR NO. 170: I'm just acquainted with him through
15 Boy Scouts of America.

16 THE COURT: Okay. And would that have any bearing in
17 your decision?

18 JUROR NO. 170: No, sir.

19 THE COURT: Thank you. Be seated.

20 All right. Yes, sir.

21 JUROR NO. 61: I'm Edwin Haskell, Juror No. 31 [sic].
22 Until July of 2011 I was the Spartanburg County attorney.
23 I represented the public defender's office, the solicitor's
24 office, also the sheriff's office. I have an acquaintance
25 with Mr. Bulsa. I've worked with he and Mr. Barnette in

Jury qualification

1 the past.

2 I also currently represent Spartanburg Regional in
3 some capacity and know Dr. David Wren.

4 I don't think any of these associations would have any
5 effect.

6 THE COURT: No bearing in your decision?

7 JUROR NO. 61: I don't think so.

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

9 Yes, ma'am.

10 JUROR NO. 31: Juror No. 31, Jennifer Cogdell. I
11 do --

12 THE COURT: Now, wait just a minute. You said 31?

13 JUROR NO. 31: Thirty-one.

14 THE COURT: Mr. Haskell, what did you say your number
15 was?

16 JUROR NO. 61: Sixty-one.

17 THE COURT: Sixty-one.

18 JUROR NO. 61: Yes, sir.

19 THE COURT: Thank you.

20 JUROR NO. 31: I recognize several names on the
21 witness list. I think I grew up near several of those
22 people.

23 THE COURT: Now, the names -- the beginning or later
24 on?

25 JUROR NO. 31: At the witness list.

Jury qualification

1 THE COURT: Well, all of these are witnesses but --
2 but were they sheriff's department people or other people?

3 JUROR NO. 31: No.

4 THE COURT: The individuals like the Cashes, Cookes,
5 Jones, Lanning, Scruggs?

6 JUROR NO. 31: Yes.

7 THE COURT: You know many of those?

8 JUROR NO. 31: I don't know them personally, but I do
9 know about them.

10 THE COURT: Okay. Is there anything about what you do
11 know --

12 JUROR NO. 31: No.

13 THE COURT: -- that would interfere with your ability
14 to be fair?

15 JUROR NO. 31: No, sir.

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

17 Yes, sir.

18 JUROR NO. 80: Juror No. 80, Jason Ketterman. I'm
19 friends and attend church with Detective Richie Foster you
20 named.

21 THE COURT: All right. Would that have any bearing in
22 your decision?

23 JUROR NO. 80: No, sir.

24 THE COURT: Thank you. Be seated.

25 Yes, ma'am.

Jury qualification

1 JUROR NO. 106: Juror No. 106, Bethany Morin. My
2 husband has worked with both of the attorneys, and I have
3 seen them in social situations.

4 THE COURT: All right. Would that have any impact
5 upon your decision?

6 JUROR NO. 106: No, sir.

7 THE COURT: Thank you. Be seated.

8 Yes, sir.

9 JUROR NO. 143: My name is Michael Russell. I'm 143.
10 I used to work in pathology at Mary Black Hospital where I
11 knew Dr. Wren.

12 THE COURT: And would that have any bearing in your
13 decision?

14 JUROR NO. 143: No, sir.

15 THE COURT: Okay. Thank you. You may be seated.

16 Now, these are cases, as I've told you, that arise out
17 of an event or a course of events which the indictments
18 allege occurred back on May the 22nd of 2015 at or near the
19 3828 Highway 11 in Chesnee, South Carolina, which is in
20 Spartanburg County.

21 Does anyone think that you have heard, seen or read
22 anything about the facts or circumstances that might relate
23 to these particular cases? In other words, have you been
24 exposed to any information about these cases from any
25 person or any other source? And that would include

Jury qualification

1 television, radio, newspapers or individuals. Have you
2 heard anything about the case?

3 Juror No. 6. Weren't you No. 6?

4 JUROR NO. 6: Yes.

5 THE COURT: All right. Juror No. 6 has already
6 responded.

7 Anybody else think you know something about the case
8 or heard something about the case? If so, please stand.

9 (No response.)

10 THE COURT: Is there anything about the nature of the
11 charges themselves -- that is what the defendant is accused
12 of having done -- is there anything about the nature of the
13 charges themselves that would prevent any juror from being
14 able to be fair and impartial if you were called upon to
15 serve in a case where these types of allegations were the
16 subject of the charges? Anyone think you could not be fair
17 and impartial simply based upon the nature of the
18 allegations? If so, please stand.

19 (No response.)

20 THE COURT: I'm going to ask you some questions about
21 yourselves, as well as about any members of your immediate
22 family. And I'm going to define an immediate family member
23 as a parent or a spouse or a child or a sibling -- a
24 parent, a spouse, a child or a sibling.

25 I need to know if you or any members of your immediate

Jury qualification

1 family have ever been the victim of any type of a violent
2 crime or criminal offense, as well as whether you or any
3 members of your immediate family as I defined it have ever
4 been accused of having committed any type of violent crime
5 or criminal offense.

6 And included in a violent-crime category would be the
7 crimes of murder, manslaughter, attempted murder, burglary,
8 armed robbery, criminal sexual conduct, kidnapping,
9 domestic violence of a high and aggravated nature,
10 common-law robbery, or any other similar type of an
11 offense.

12 Have you or any members of your immediate family ever
13 been the victims of such or ever been accused of having
14 committed such? If so, please stand.

15 All right. I'll start to my right, and I'll work my
16 back. I'll need your name and your number.

17 And when you respond to a question I'll ask you if it
18 was you or a family member, and then I'm going to ask you
19 about what the nature offense was.

20 If you don't want to answer the question standing
21 where you are now, feel free to step down here, and I'll
22 discuss it with you as private as I can.

23 But I'll start with you, ma'am. Your name and number?

24 JUROR NO. 47: My name is Jennifer Garrett. I'm
25 No. 47. My husband and I had a truck stolen from us last

Jury qualification

1 year.

2 THE COURT: All right. Is there anything about that
3 that would affect your judgment in this case?

4 JUROR NO. 47: No, sir.

5 THE COURT: Thank you. Be seated.
6 176.

7 JUROR NO. 176: Yes, Your Honor. Alex Wolf. My
8 brother was charged with lewd act on a minor, and my
9 husband has convictions for burglary.

10 THE COURT: And would either of those facts have any
11 bearing in your decision?

12 JUROR NO. 176: No, sir.

13 THE COURT: Thank you. Be seated.
14 Yes, ma'am.

15 JUROR NO. 123: Juror 123, Stephanie Bennett. My
16 brother was murdered five years ago.

17 THE COURT: And did that occur here in Spartanburg
18 County?

19 JUROR NO. 123: Yes, sir.

20 THE COURT: And has that case been resolved?

21 JUROR NO. 123: Yes, sir.

22 THE COURT: Is there anything about that fact or those
23 circumstances that would impair your ability to be fair and
24 impartial in this case if you were selected?

25 JUROR NO. 123: Absolutely, no, sir.

Jury qualification

1 THE COURT: Okay. Thank you, ma'am. You may be
2 seated.

3 Yes, ma'am.

4 JUROR NO. 170: Juror No. 170. My mother was a victim
5 of a home invasion and strong arm robbery.

6 THE COURT: Would that fact or that experience have
7 any bearing upon your decision in this case?

8 JUROR NO. 170: No, sir.

9 THE COURT: Thank you. Be seated.

10 Yes, sir.

11 JUROR NO. 34: Samuel Couch, 34. My brother was
12 accused of a C.D.V.

13 THE COURT: And would that have any bearing in your
14 decision?

15 JUROR NO. 34: No, sir.

16 THE COURT: Thank you. Be seated.

17 Yes, sir.

18 JUROR NO. 44: Forty-four, Michael Flynn. Father was
19 strong arm robbed.

20 THE COURT: Would that fact have any bearing in your
21 decision?

22 JUROR NO. 44: No, sir.

23 THE COURT: Thank you. Be seated.

24 Yes, ma'am.

25 MR. BULSA: What number?

Jury qualification

1 THE COURT: Forty-four.
2 JUROR NO. 39: I'm sorry?
3 THE COURT: I'm giving him the number.
4 Your number was 44, was it not?
5 JUROR NO. 44: Forty-four.
6 JUROR NO. 39: Thirty-nine. I'm sorry.
7 JUROR NO. 44: Mine was 44.
8 THE COURT: Right.
9 Okay. Yes, ma'am.
10 JUROR NO. 39: Thirty-nine, Amy Culletto.
11 THE COURT: 39?
12 JUROR NO. 39: Yes, sir.
13 THE COURT: All right.
14 JUROR NO. 39: My brother was shot during a robbery
15 last November.
16 THE COURT: And was that here?
17 JUROR NO. 39: In Spartanburg County.
18 THE COURT: Has that case been resolved?
19 JUROR NO. 39: Yes, sir.
20 THE COURT: Is there anything about that fact that
21 would impair your ability to be fair in this case?
22 JUROR NO. 39: No, sir.
23 THE COURT: Thank you. Be seated.
24 Yes, sir.
25 JUROR NO. 80: Jason Kettermann, Juror 80. My sister's

Jury qualification

1 home was broken into and ransacked a few years ago.

2 THE COURT: And would that fact have any bearing in
3 your decision?

4 JUROR NO. 80: No, sir.

5 THE COURT: Thank you. Be seated.

6 Yes, ma'am.

7 JUROR NO. 106: Juror No. 106, Bethany Morin. My
8 mother was the victim of domestic violence at the hand of
9 my brother-in-law.

10 THE COURT: And would that have any bearing in your
11 decision?

12 JUROR NO. 106: No, sir.

13 THE COURT: Thank you. Be seated.

14 Anybody else?

15 (No response.)

16 THE COURT: Has any member of the panel or any members
17 of your immediate family ever been employed as a law
18 enforcement officer of any kind, whether it be civilian or
19 military?

20 I need to know if you've been employed -- you or a
21 family member, immediate family member, has ever been
22 employed as any type of law enforcement officer -- any --
23 any department -- sheriff's office, town, municipal law
24 enforcement agency, state law enforcement division,
25 department of corrections, county detention facility,

Jury qualification

1 probation and parole, F.B.I., C.I.A. -- any type of law
2 enforcement department. If so, please stand.

3 All right. Your name and number.

4 JUROR NO. 5: Desare Bailey, No. 5. And my dad was in
5 the Air Force.

6 THE COURT: All right. Just remain standing for me,
7 please.

8 Yes, ma'am.

9 JUROR NO. 65: Sixty-five. I have a nephew that's a
10 state trooper, but it's up North.

11 THE COURT: All right. Remain standing.

12 Yes, ma'am.

13 JUROR NO. 42: No. 42, Heather Eravi. My father and
14 my brother back in Missouri were both in law enforcement.

15 THE COURT: All right. Remaining standing.

16 JUROR NO. 111: Juror No. 111. My father was in the
17 Army and my brother-in-law is a police officer.

18 THE COURT: All right. Remaining standing.

19 170?

20 JUROR NO. 170: 170. My father-in-law was in law
21 enforcement and my -- also in the Navy. My husband was in
22 the Navy.

23 THE COURT: All right.

24 And 123.

25 JUROR NO. 123: My father and my brother both served

Jury qualification

1 in the Army.

2 THE COURT: Okay.

3 JUROR NO. 60: Sixty.

4 THE COURT: Wait a minute. I got one in front of you.
5 Yes, ma'am.

6 JUROR NO. 42: I already -- No. 42.

7 THE COURT: Oh, I'm sorry.

8 Okay. Yes, ma'am.

9 JUROR NO. 60: No. 60.

10 THE COURT: All right.

11 JUROR NO. 60: My father and four of my uncles served
12 in the military.

13 THE COURT: Okay. And that's everybody on that row.
14 Next row.

15 JUROR NO. 34: Thirty-four, Samuel Couch. My brother
16 was a military police in the Marines.

17 THE COURT: Okay. Next.

18 JUROR NO. 27: Nick Carracino, No. 27. Former Air
19 Force Special Investigations, former Greenville County
20 deputy sheriff, former Pickens County deputy sheriff.

21 THE COURT: All right.

22 JUROR NO. 7: I'm Preston Bailey, No. 7. My mother
23 works for a federal probation office.

24 THE COURT: Okay.

25 JUROR NO. 139: My father works as a Spartanburg

Jury qualification

1 County officer.

2 THE COURT: Sheriff's department?

3 JUROR NO. 139: Yes, sir.

4 THE COURT: Okay.

5 JUROR NO. 104: No. 104. My dad was in Air Force.

6 THE COURT: All right. Now, those of you who are
7 standing indicated some connection with law enforcement.
8 So if that connection would have some bearing or impact
9 upon your decision in the case remain standing. If it
10 would have no bearing with your decision in this case you
11 may take your seats.

12 (Whereupon, all jurors were seated.)

13 THE COURT: Let the record reflect all jurors have
14 taken their seats.

15 Does any member of the jury panel belong to any type
16 of organization or do you contribute time or money to any
17 types of organizations that might be described as law
18 enforcement support or victims advocacy groups or victims
19 rights groups?

20 Such organizations might include Mothers Against Drunk
21 Drivers, Citizens Against Violent Crime, the honorary
22 sheriff's association, the police benevolence society, a
23 neighborhood watch group. Any type of organization that
24 might be characterized as victims or law enforcement
25 support, I would ask that you please stand.

Jury qualification

1 All right. Again, your name and number, and tell me
2 what organization it is, whether you're a member or you
3 contribute time or money to it.

4 JUROR NO. 169: David Whiteside, 169. I'm a volunteer
5 firefighter and I work with all of the different police
6 organizations in town.

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

8 Yes, ma'am.

9 JUROR NO. 47: No. 47. My name is Jennifer Garrett.
10 We own a garage here in town, and last year we donated
11 money to -- I believe it was Cherokee County Sheriff's
12 Department to provide food for the homeless.

13 THE COURT: Okay. Thank you.

14 JUROR NO. 170: Juror 170. I was a victim advocate
15 for ten years.

16 THE COURT: Thank you.

17 JUROR NO. 27: Nick Carracino, Juror 27. Fraternal
18 order of police and South Carolina Association of Legal
19 Investigators.

20 THE COURT: Thank you.

21 JUROR NO. 4: No. 4, Amy Arrington. I'm an employee
22 at 9-1-1.

23 THE COURT: Thank you.

24 JUROR NO. 127: 127, Margaret Powell. I donated to a
25 year long -- yearly luncheon or something that the

Jury qualification

1 chaplains have a breakfast. I usually help sponsor that.

2 THE COURT: Okay. Thank you.

3 JUROR NO. 107: No. 107, Chad Mueller. I have
4 volunteered for and worked for several different sexual
5 assault prevention education programs.

6 THE COURT: Okay. Thank you. You may be seated.

7 All right. I told you basically what the case is
8 about and I've told who the participants are and also the
9 potential witnesses I've listed for you.

10 Is there anything you know that has caused any person
11 to form an opinion as to how you think the case ought to be
12 decided or what you think the outcome ought to be? Have
13 you already formed an opinion or made up your mind as to
14 what the outcome ought to be based upon what you've heard
15 up to this point or based upon any other consideration?
16 Have you already made up your mind? If so, please stand.

17 (No response.)

18 THE COURT: Does any juror know of any reason
19 whatsoever why you personally think you could not be fair
20 and impartial if you were called upon to serve as a juror
21 in this particular case? Do you have any reason whatsoever
22 why you think you could not be fair and impartial if
23 selected to serve as a juror in the case? I would ask that
24 you please stand.

25 (No response.)

Jury qualification

1 THE COURT: None responding.

2 Any other questions requested by the state?

3 MR. BULSA: May we approach?

4 THE COURT: Yes.

5 (Bench conference held off the record.)

6 THE COURT: All right. Let me ask Juror No. 123 if
7 you will please step down here. I want to talk to you
8 about something.

9 (Bench conference held off the record with counsel and
10 Juror No. 123.)

11 THE COURT: All right. And I need to see Juror 39,
12 please.

13 (Bench conference held off the record with counsel and
14 Juror No. 39.)

15 THE COURT: All right. Any other questions requested
16 by the state?

17 MR. BULSA: No, Your Honor.

18 THE COURT: The defendant?

19 MR. SHEALY: No, Your Honor.

20 THE COURT: All right. We're going to select a jury.

21 Now, the way that's done is the computer selects your
22 names randomly from the number of you that are in the pool.

23 As your name is called you'll be asked to come
24 forward. The bailiff's going to be standing out here in
25 just a minute. You'll just stand next to the bailiff, look

Jury qualification

1 back toward your fellow jurors.

2 Each side has an opportunity to have you excused from
3 serving as a juror in the case. If either side asks that
4 you be excused from serving, you just go back and have a
5 seat where you are now.

6 If both agree to have you accepted for service in the
7 case you'll be having a seat in that jury box to your right
8 and to my left.

9 So please come forward as your name is called and
10 you'll be instructed if you're to be excused from service
11 in the case or accepted for service in the case.

12 THE CLERK: As I call your name, please come and stand
13 facing the attorneys' tables.

14 No. 6, Hannah Bailey.

15 What say the state?

16 MR. BULSA: Please present the juror.

17 THE CLERK: What says the defense?

18 MR. SHEALY: Please excuse this juror.

19 THE CLERK: No. 38, Taylor Crotts.

20 What say the state?

21 MR. BULSA: Please present the juror.

22 THE CLERK: What says the defense?

23 MR. SHEALY: Please seat this juror.

24 THE CLERK: No. 20, Katlyn Brock.

25 What say the state?

Jury qualification

1 MR. BULSA: Please present the juror.
2 THE CLERK: What says the defense?
3 MR. SHEALY: Please seat this juror.
4 THE CLERK: No. 178, Joshua Xiong.
5 What says the state?
6 MR. BULSA: Please present the juror.
7 THE CLERK: What says the defense?
8 MR. SHEALY: Please seat this juror.
9 THE CLERK: No. 140, Matthew Ross.
10 What says the state?
11 MR. BULSA: Please present the juror.
12 THE CLERK: What says the defense?
13 MR. SHEALY: Please excuse this juror.
14 THE CLERK: No. 116, Adam Patrick.
15 MR. BULSA: 116?
16 THE CLERK: 116.
17 What says the state?
18 MR. BULSA: Please present the juror.
19 THE CLERK: What says the defense?
20 MR. SHEALY: Please seat this juror.
21 THE CLERK: No. 166, Jennifer Warner.
22 What says the state?
23 MR. BULSA: Please present the juror.
24 THE CLERK: What says the defense?
25 MR. SHEALY: Please excuse this juror.

Jury qualification

1 THE CLERK: No. 25, Caleb Calsing.
2 what says the state?
3 MR. BULSA: Please present the juror.
4 THE CLERK: what says the defense?
5 MR. SHEALY: Please seat this juror.
6 THE COURT: No. 181, Stephanie Stockdale.
7 what says the state?
8 MR. BULSA: Please present the juror.
9 THE CLERK: what says the defense?
10 MR. SHEALY: Please excuse this juror from this case.
11 THE CLERK: No. 105, Shaun Moolman.
12 what says the state?
13 MR. BULSA: Please present the juror.
14 THE CLERK: what says the defense?
15 MR. SHEALY: Please seat this juror.
16 THE CLERK: No. 84, Anita Lupczak.
17 what says the state?
18 MR. BULSA: Please present the juror.
19 THE CLERK: what says the defense?
20 MR. SHEALY: Please seat this juror.
21 THE CLERK: No. 134, Jermaine Robinson.
22 what says the state?
23 MR. BULSA: Please present the juror.
24 THE CLERK: what says the defense?
25 MR. SHEALY: Please seat this juror.

Jury qualification

1 THE CLERK: No. 77, Duane Jones.
2 what says the state?
3 MR. BULSA: Please present the juror.
4 THE CLERK: what says the defense?
5 MR. SHEALY: Please excuse this juror.
6 THE CLERK: No. 104, Blas Miyares.
7 what says the state?
8 MR. BULSA: Please present the juror.
9 THE CLERK: what says the defense?
10 MR. SHEALY: Please seat this juror.
11 THE CLERK: No. 47, Jennifer Garrett.
12 what says the state?
13 MR. BULSA: Please present the juror.
14 THE CLERK: what says the defense?
15 MR. SHEALY: Please excuse this juror.
16 THE CLERK: No. 112, Danny Painter.
17 what says the state?
18 MR. BULSA: Please present the juror.
19 THE CLERK: what says the defense?
20 MR. SHEALY: Please seat this juror.
21 THE CLERK: No. 174, Chandler Wilson.
22 what says the state?
23 MR. BULSA: Please present the juror.
24 THE CLERK: what says the defense?
25 MR. SHEALY: Please seat this juror.

Jury qualification

1 THE CLERK: No. 92, Emma Lucas.

2 What says the state?

3 MR. BULSA: Please present the juror.

4 THE CLERK: What says the defense?

5 MR. SHEALY: Please seat this juror.

6 THE COURT: This will be for the first alternate.

7 THE CLERK: No. 86, Alice Langford.

8 What says the state?

9 MR. BULSA: Please present the juror.

10 THE CLERK: What says the defense?

11 MR. SHEALY: Please seat this juror.

12 THE COURT: This will be for the second alternate.

13 THE CLERK: No. 21, Breanca Brown.

14 What says the state?

15 MR. BULSA: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. SHEALY: Please seat this juror.

18 (whereupon, a jury was impaneled.)

19 THE COURT: Those you have been selected, please go
20 with a bailiff to a jury room, and I'll bring you back in
21 just a few minutes.

22 (The following takes place outside the presence of the
23 jury.)

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

Jury qualification

1 MR. BULSA: No, Your Honor.

2 THE COURT: The defendant?

3 MR. SHEALY: No, Your Honor.

4 (Whereupon, the remaining members of the jury venire
5 were excused.)

6 THE COURT: Bring the jury back, please.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: Ladies and gentlemen, we are going to
10 start the trial this afternoon. We'll do that at 2:30.

11 Let me caution you as you go. You're not to ever
12 discuss the case with anybody in any fashion whatsoever.
13 And that means you can't discuss it among your fellow
14 jurors either until and unless you are involved in jury
15 deliberations, and that won't happen until the end of the
16 trial after all of the evidence has been received and I've
17 instructed you on the law that's applicable. And when that
18 time comes, then of course you'll discuss the case. But
19 until that time comes you can't talk about it with anybody
20 whatsoever in any fashion whatsoever.

21 Also, you're not permitted to do any research or do
22 your own investigation into any issue that might arise
23 during the trial. You can't try to supplement your wealth
24 of knowledge about a case by conducting outside sources --
25 by consulting outside sources or talking to other people

Jury qualification

1 about it.

2 Also, you can't conduct any internet search, can't
3 read newspapers, can't consult anything to try to help you
4 know something more about the case.

5 Any time a jury is selected to decide a case you have
6 to base your verdict upon what you see and hear during the
7 trial. That's the way the system works. You have to base
8 your decision upon what's presented during the trial of the
9 case, and you can't supplement your knowledge by conducting
10 outside research or discussing with others.

11 okay. So with that caution in mind, do have a good
12 lunch. Please report to your jury room this afternoon at
13 2:30.

14 MR. BULSA: May we approach?

15 (Bench conference held off the record in the presence
16 of the jury but out of the hearing of the jury.)

17 MR. BULSA: We're missing one of the jurors.

18 THE COURT: We've got a juror missing.

19 (Pause.)

20 THE COURT: Sir, I am not sure why they had you locked
21 out, but, anyway, you're back in the fold.

22 what I was telling your fellow jurors, you're going to
23 be excused for lunch. We'll start back at 2:30.

24 In the meantime you're never permitted to discuss the
25 case with anybody -- family, friends, nobody, not even your

Jury qualification

1 fellow jurors. You can't discuss the case until you're
2 involved in jury deliberations, and that won't happen until
3 the end of the trial after the evidence has been received
4 and you've been instructed to begin deliberations.

5 Also, you've got to base your decision upon what you
6 see and hear during the trial, and you can't supplement
7 your wealth of knowledge by consulting outside resources or
8 talking to other people about the case. So no discussion,
9 no investigation, no research, no media exposure.

10 You can't go on the internet or read the newspaper or
11 listen to anything on the radio or watch anything on
12 television. You have to avoid any other information being
13 presented to you outside of the trial of the case.

14 Okay. So y'all have a good lunch. I'll see you at
15 2:30. Report to your jury room.

16 Sir?

17 JUROR NO. 104: Can I speak with you real quick?

18 THE COURT: Okay.

19 (The following takes place outside the presence of the
20 jury.)

21 (Bench conference held off the record with unidentified
22 juror.)

23 THE COURT: Will Mr. Cooke please stand?

24 JUROR NO. 104: I'm sorry. He was --

25 THE COURT: You're talking about the one in the back?

Jury qualification

1 You recognize somebody? You recognize one of those in the
2 back?

3 JUROR NO. 104: Yes, sir.

4 THE COURT: Neither one of them are a Cooke. What's
5 their connection? I mean, how do you know them?

6 JUROR NO. 104: Through family and church, something
7 like that.

8 THE COURT: What church?

9 JUROR NO. 104: St. Paul's Catholic.

10 Do you have any connection with St. Paul's?

11 UNIDENTIFIED PERSON: That would be me, yes, sir.

12 THE COURT: That's Mr. Welchel.

13 (Referring to Attorney Richard Welchel.)

14 UNIDENTIFIED PERSON: Mr. Welchel. I'm sorry.

15 THE COURT: Anything about your connection with him
16 that would impair your ability to be fair in this case?

17 JUROR NO. 104: No, sir.

18 THE COURT: Thank you. Have a good lunch.

19 Court is in recess until 2:30.

20 (Whereupon, a recess was taken.)

21 (Photographs marked State's Exhibits Nos. 1 through 38
22 for Identification; diagram marked State's Exhibit No. 39
23 for Identification; diagram marked State's Exhibit No. 40
24 for Identification; evidence key marked State's Exhibit No.
25 41 for Identification.)

1 THE COURT: All right. Anything we need to address
2 before the jury is sworn?

3 MR. BULSA: Not by the state.

4 MR. SHEALY: No, Your Honor.

5 THE COURT: Okay. Bring them in.

6 Ask Ms. Kupczak, that's Juror No. 84, Ms. Kupczak,
7 No. 11 on your list. Tell her to take the foreperson's
8 seat.

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

11 THE COURT: Let's move down one more on the back row.
12 Keep going all the way down.

13 Good afternoon, ladies and gentlemen. We are ready to
14 begin with the trial of the case for which each of you have
15 been selected.

16 Ms. Kupczak, I'm going to ask you to serve as the
17 foreperson of the jury. As the foreperson you've got three
18 duties that the other jurors don't have.

19 Number one, you're asked to serve as the spokesperson
20 for the jury, and that just means if something arises
21 during the trial that needs to be brought to my attention,
22 you'll be the person that will let me know of that issue.
23 You'll do it directly if you're in the courtroom or through
24 the bailiff if you're outside of the courtroom.

25 Secondly, you'll be called upon to preside over jury

1 deliberations when that time comes at the trial's
2 conclusion. When the jury goes back to begin deliberations
3 you will preside over that process in the jury room simply
4 to ensure that those deliberations are carried out in some
5 orderly fashion.

6 And, thirdly, you'll actually write the verdicts or
7 the decisions of the jury. You'll do that on verdict forms
8 that I'll provide you at the trial's conclusion when you go
9 back to deliberate. And those forms will be there for you
10 to indicate the jury's unanimous decision as it relates to
11 each of the separate charges.

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

19 Someone simply has to be delegated those
20 responsibilities that I've just indicated, and I have
21 delegated those to the forelady when I made her the
22 foreperson. But all of you jurors are equally important so
23 far as the ultimate decisions in this case are concerned,
24 because, as I've stated, the verdict has to be unanimous.
25 All 12 of you must be in agreement.

1 Ms. Langford and Ms. Brown, each of you have been
2 selected as alternate jurors, and the function of an
3 alternate juror is to take the place of one of the original
4 12 if during the trial one or two of these original 12
5 cannot continue to serve for some reason. And if they are
6 precluded because of circumstances from continuing to serve
7 as a juror, then one or both of you would take that juror
8 or those jurors' places. In that event you would become
9 the twelfth juror, and in that event you participate
10 throughout the trial including the jury deliberations at
11 the trial's conclusion.

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

18 But it is important that you pay just as careful
19 attention as we ask of all of the jurors in the case
20 because it does occur from time to time for one reason or
21 another one of these or two of these jurors may be unable
22 to continue, and in that event one or both of you would be
23 called upon to become the twelfth juror.

24 So we do appreciate your participation as alternate
25 jurors, just as we appreciate the participation of each of

Jury sworn

1 you jurors who have been selected for the purpose of
2 deciding the verdicts in this particular case.

3 You may swear the panel.

4 (whereupon, the jury was duly sworn.)

5 THE COURT: Ladies and gentlemen, as you know, you
6 have been selected to decide the verdicts in the case of
7 the State vs. Steven Richard Lewis.

8 As you know, Mr. Lewis has been accused by the
9 prosecutor by way of these documents which I referred to
10 earlier. They are the indictments. They're the charging
11 papers.

12 They are the documents that bring any defendant into
13 this court to stand trial on a particular charge. And of
14 course they serve to grant the Court jurisdiction to hear
15 the case, and they also serve to put a defendant on notice
16 as to what the state claims that they've done by way of the
17 commission of a criminal offense.

18 In this case there are five separate indictments.
19 There are five separate and distinct criminal offenses
20 alleged against the defendant. You'll be called upon to
21 render five separate and distinct decisions as it relates
22 to each of the separate indictments.

23 Depending upon your determination of fact and then
24 your application of the law, your verdicts may be the same
25 as they relate to each of the separate indictments, or they

1 may be different. That simply of course will depend upon
2 your determination of fact as it relates to the allegations
3 contained in that indictment and then your application of
4 the law as it relates to that particular charge.

5 Please understand however that these indictments are
6 not evidence of anything. They're not proof of anything.
7 They don't establish anything. They won't be introduced in
8 order to establish any element of an offense that the
9 defendant is charged with.

10 So they're not to be considered by you as any evidence
11 upon which you base a decision, but the indictments will be
12 in the jury room when you go back to begin deliberations
13 because the indictments will serve as the verdict forms.

14 So you'll have five separate indictments. You'll
15 render five separate and distinct decisions, and you'll
16 indicate, Madam Forelady, the jury's unanimous verdict on
17 the back of the particular indictment relating to a
18 particular charge.

19 Now, as you know, Mr. Lewis has been accused by the
20 prosecutor with having committed the crimes of burglary,
21 murder, attempted murder, kidnapping and armed robbery
22 arising out of an event or a course of events which the
23 state alleges occurred back on May the 22nd of 2015 at a
24 residence or near a residence at 3828 Highway 11 in
25 Chesnee, which is located in Spartanburg County.

1 Now, as to each of those charges the defendant has
2 entered a plea of not guilty. And, as I told you prior to
3 your selection, a plea of not guilty places upon the state
4 the burden of proving the allegations that they have made
5 by way of each of those indictments, the burden of proving
6 each of the essential elements of the crimes that the state
7 claims the defendant has committed; and therefore the
8 burden is upon the state to establish the defendant's guilt
9 as it relates to each separate charge beyond a reasonable
10 doubt before any verdict of guilty could be returned as it
11 relates to that particular charge.

12 Every person, as I told you, who is charged with a
13 crime is presumed to be innocent. That presumption of
14 innocence remains with any defendant, as it does with this
15 defendant, from the time that he is placed under arrest and
16 throughout the course of the criminal process and even
17 throughout the course of the actual trial in the case.

18 That presumption of innocence will be with Mr. Lewis
19 even as you go back into your jury room to begin with your
20 deliberations at this trial's conclusion, and that
21 presumption of innocence will be with him in that jury
22 room, and it'll be with him forever unless you 12 jurors,
23 after your consideration of the evidence and deciding the
24 facts and applying the law, determine that he's no longer
25 entitled to that presumption of innocence as it relates to

1 a particular charge.

2 In other words, after you've considered all of the
3 evidence, and from that evidence as it relates to these
4 allegations you determine the facts of the matter, after
5 you determine those facts as it relates to a particular
6 charge and you apply the law that I will have provided you,
7 if you 12 jurors unanimously determine that his guilt as to
8 that particular charge has been proven beyond a reasonable
9 doubt, then he would no longer be entitled to that
10 presumption of innocence. But it is only if, unless and
11 until you are satisfied of his guilt beyond a reasonable
12 doubt as it relates to a particular charge that he would no
13 longer be entitled to that presumption of innocence as it
14 relates to that charge.

15 Now, the way the trial is going to proceed is that in
16 a moment the lawyers are going to address you in what are
17 called opening statements.

18 There are two occasions in the trial of a case where
19 lawyers are permitted to address the jury directly. That
20 is at the beginning of the trial before any evidence has
21 been introduced, then again at the conclusion of the trial
22 after all of the evidence has been received.

23 But keep in mind, as I just indicated, the lawyers'
24 statements are not evidence, and you should not rely upon
25 their statements as being any evidence upon which you will

1 decide a fact or determine a verdict in this case. And
2 that's because the lawyers don't know anything about this
3 case of their own personal knowledge or perception like
4 witnesses will be testifying to when they take the witness
5 stand and testify before you.

6 The lawyers aren't going to take the witness stand.
7 They're not going to be placed under oath. They're not
8 going to be subjected to direct and cross-examination like
9 every witness will be that comes in to provide testimony.
10 So what they tell you in their statements is not to be
11 construed by you as any evidence upon which you will base
12 your decision. But you should listen to what they have to
13 say because those statements do serve a purpose.

14 The opening statements will serve to provide you with
15 a basic understanding as what this case is about from both
16 the perspective of the state, as well as of the defense, so
17 that you'll have some context in which to place the
18 evidence that we will be receiving shortly thereafter.

19 The closing statements occur after all of the evidence
20 has been received. And, again, while those statements are
21 not evidence, it does then afford the lawyers an
22 opportunity to discuss with you the evidence that you have
23 seen and heard during the course of the trial. And through
24 that discussion each will have an opportunity to try to
25 persuade you or to convince you that the evidence in the

1 case does or does not support a particular decision.

2 It's in between those opening and the closing
3 statements accomplished by the lawyers that we actually
4 receive the evidence upon which you will base your
5 decision.

6 As I told you, the state has the burden of proof, so
7 the state will go forward first in its presentation of
8 evidence.

9 Once the state has concluded with that presentation of
10 evidence any person charged with a crime has an opportunity
11 to testify or to call a witness or introduce other evidence
12 should he or she wish to.

13 But understand that a defendant in a criminal trial is
14 never under any obligation to take the witness stand and
15 testify, is never under any obligation to call any witness
16 to testify, to introduce any evidence, and that's because
17 the burden is not upon a person accused of a crime to prove
18 that they are not guilty or to prove that they are innocent
19 because in some cases that might not even be possible.

20 The burden is upon the state to establish a
21 defendant's guilt beyond a reasonable doubt because they
22 brought the charge, they made the accusation.

23 So during the trial of this case the defendant may
24 testify, or may not, may call a witness, or may not. If
25 the defendant does not testify or does not introduce any

1 evidence, that's not something that you can consider in any
2 way during your deliberations or in your determination as
3 to whether or not his guilt has been proven beyond a
4 reasonable doubt.

5 You couldn't allow such a fact, if he did not testify,
6 to weigh in the slightest degree against him, because your
7 obligation and duty is to determine whether or not his
8 guilt has been proven beyond a reasonable doubt from the
9 evidence that is introduced during the trial of the case,
10 and a defendant is never under any obligation to introduce
11 evidence. But, as I say, every defendant is afforded that
12 opportunity in the event he or she wished to do so.

13 So after the evidence has been received and after you
14 hear the final summations of the lawyers, I will then
15 instruct you fully on the law as it relates to the criminal
16 law generally and as it relates to these particular crimes
17 specifically.

18 Then you'll be asked to go back and to begin with your
19 deliberations. And you're going to be called upon through
20 the exercise of good judgment and common sense
21 conscientiously applied to the testimony and evidence
22 received during the course of the trial to determine, if
23 you can, what the facts are as they relate to the
24 allegations.

25 Once you determine those facts you'll apply the law

1 that I will have provided you, and you will determine
2 whether or not the defendant's guilt as to a particular
3 charge has been proven beyond a reasonable doubt.

4 If it has been so proven, then your verdict would be
5 guilty as to that particular charge. And if it has not
6 been so proven, then your verdict would be not guilty as to
7 that particular charge.

8 Now, all that we're going to ask for you to do is to
9 pay careful attention throughout the course of the trial.
10 There are going to be a number of witnesses that are going
11 to testify, and sometimes a witness' testimony is more
12 important than some other witness' testimony because some
13 facts are more material than are others.

14 Nevertheless, you have been called upon to perform a
15 very special duty, and that is to determine whether or not
16 someone has been proven guilty of a crime beyond a
17 reasonable doubt.

18 So you've got to pay careful attention throughout the
19 course of the trial. You've got to give every witness that
20 testifies the same degree of attention while they're
21 testifying from that witness stand.

22 That of course doesn't mean that you have to give
23 every witness' testimony the same degree of weight. You
24 will determine the credibility of witness testimony.
25 You'll decide what testimony to accept and, if any, to

1 reject.

2 But in order for you to be in a proper position to be
3 able to fairly evaluate a witness' testimony you've got to
4 give those witnesses careful attention while they testify
5 so that when you do go back you'll be in a proper position
6 to evaluate their testimony, just not comparing it to their
7 own testimony but to other testimony and other evidence
8 received during the course of the trial.

9 And of course it's also important that you keep an
10 open mind throughout the course of the trial, and that just
11 means that you are not to begin making up your minds or
12 formulating your opinions as to what you think the ultimate
13 decisions in this case ought to be until all of the
14 evidence has been received, until I have instructed you on
15 the law that's applicable in the cases and until you've
16 been asked to go back and to begin with your deliberations
17 at the trial's conclusion.

18 That is the process that has been designed over the
19 last 240 years to ensure that you will arrive at a fair and
20 impartial decision.

21 So I do want to thank you in advance for your
22 participation in the trial and also for your careful
23 attention. I would ask that you please give the lawyers
24 your attention now as they give you their opening
25 statements.

Opening statements

1 Mr. Sharpe.

2 MR. SHARPE: May it please the Court.

3 THE COURT: Yes.

4 MR. SHARPE: On May 22nd of 2015 in the early morning
5 hours Casey Scruggs is asleep in her bed in a house that
6 she shares with her boyfriend, Carey Mauldin.

7 There's a knock at the door. Carey gets up to go
8 answer it, where there are two men waiting at the front
9 door.

10 Now, Carey knows these two men. Their names are Drew
11 Cash and Steven Lewis. And Steven Lewis who Carey knew as
12 Scooter had, in fact, lived with Carey for a short time
13 before this incident.

14 The two men at the door tell Carey that they are there
15 to buy some drugs. Now, this is a lie. This is a trick in
16 order to get inside the house, because once inside the two
17 men pull a gun on Carey. He attempts to resist them, and
18 he's shot in the chest in his own home.

19 Casey hears this, hears their gunshot, wakes up out of
20 bed and hears Carey yelling, "Call the police, call the
21 police." But before Casey can do anything, before she can
22 call the police or call for help, Steven Lewis comes into
23 her bedroom, binds her hands and feet with duct tape,
24 covers her mouth and leaves her hogtied on her bed.

25 The two men then proceed into the house to ransack it,

Opening statements

1 take anything of value they can find, carry it outside to
2 their car.

3 while this is going on Carey -- Casey attempts to
4 escape. She manages to get a little free of that duct
5 tape, tries to run out of the house. But before she can
6 make it out she's caught and dragged back into her bedroom,
7 thrown on the floor and shot in the head. Now, by some
8 miracle the shot doesn't go through the skull, doesn't go
9 into Casey's brain. Instead it skims the side of her head
10 leaving her alive but terrified.

11 she lies there bleeding on the floor while the two men
12 continue to rob the place. And before they leave she hears
13 one last shot, that one last shot into Carey Mauldin's head
14 to ensure that he's dead before they leave.

15 Finally Casey gets up and is able to escape, runs out,
16 tries to find help from her neighbors. Her neighbors find
17 her bleeding, terrified, still partially bound up with duct
18 tape. And she says a name -- Scooter, Scooter -- over and
19 over.

20 Her neighbors call 9-1-1. Eventually help arrives.
21 Casey's taken to the hospital.

22 while on the ride to the hospital Casey says Drew Cash
23 and Steven Lewis are the men who did this, who shot me,
24 shot my boyfriend.

25 while this is going on Drew and Steven are fleeing to

Opening statements

1 North Carolina to Steven Lewis' house. The police are
2 eventually able to track them there. They go there to
3 arrest them.

4 Drew Cash when he sees the police pull up takes off
5 out the back door, runs into the woods. The police are
6 eventually able to track him down using canine units, and
7 he's arrested.

8 Mr. Lewis remains in the home, ignores multiple knocks
9 at the door, ignores multiple commands for him to come out.
10 And the sheriff's department in North Carolina is
11 eventually forced to blow his door off the hinges with
12 explosives in order to go in and finally apprehend him.

13 Ladies and gentlemen, you're going to hear from the
14 officers who first responded in this case, who processed
15 the scene, who collected evidence.

16 You're going to hear from the medics who Casey spoke
17 to right after she had been shot. You're going to hear
18 from the officers in North Carolina who conducted an
19 investigation and made an arrest. And you're going to hear
20 from Casey herself who is going to recall for you the night
21 as she remembers it.

22 Ladies and gentlemen, Mr. Lewis is charged with five
23 crimes -- the murder of Carey Mauldin, the attempted murder
24 of Casey Scruggs, armed robbery, burglary in the first
25 degree and kidnapping.

Opening statements

1 There is no doubt in this case that Carey Mauldin is
2 dead, shot to death in his own home. There is no doubt in
3 this case that Casey Scruggs was shot in the head. And
4 once you've heard all of the evidence in this case, heard
5 from all of the witnesses and seen all of the exhibits,
6 there will also be no doubt that Steven Lewis is the man
7 responsible. Thank you.

8 MR. SHEALY: May it please the Court.

9 THE COURT: Mr. Shealy.

10 MR. SHEALY: My name is Matthew Shealy. I'm with the
11 Spartanburg County Public Defender's Office. I represent
12 Mr. Lewis.

13 Now, obviously, we have a completely different version
14 of events to that. But I'm not going to go through that.
15 I believe that the testimony is going to develop a much
16 different version of the facts than what you just heard.

17 Now, they say there's no doubt of a number of things.
18 That's not the standard, but that's what they're saying
19 y'all ought to be able to find.

20 Hold them to their promise. They tell you there's not
21 going to be any doubt at all. I think there will. You're
22 going to hear that this case is a little more complicated
23 than what they say it is. It's going to involve a lot of
24 difficult things. It's going to involve a world that
25 probably most of y'all are not familiar with. It involves

Opening statements

1 the world of drugs, of stolen property, things of that
2 nature.

3 Now, Mr. Sharpe also said that Mr. Lewis fled to his
4 home in Greensboro, North Carolina. I believe the
5 testimony will be that that was his house. He lived there.
6 He did not flee. If you're going to flee, you don't go
7 home. It makes no sense.

8 Now, Mr. Cash takes off running. Mr. Lewis doesn't.
9 He stays in the -- in the house. And I believe you're also
10 going to hear testimony that will put Mr. Cash as trying to
11 wake my client up but not being able to, so he takes off.

12 So I think we are going to be able to dispute this he
13 didn't -- he-didn't-come-to-the-door business.

14 What y'all's job is is to listen to the witnesses and
15 determine their credibility. Everybody has a reason to
16 shade these things. Our Supreme Court, for instance, says
17 that police are engaged in the often-competitive art of
18 farding out property. They believe that they have fared
19 out the crime. They have a reason to shade.

20 Ms. Scruggs -- I believe you will hear -- has a reason to
21 shade. Everybody in this case has reasons to shade their
22 testimony.

23 All you can do and all we're asking you to do is pay
24 attention to them and get some ideas as to whether you
25 believe them or not.

Nick Hullinger
Direct examination by Mr. Bulsa

1 ultimately, this case is going to boil down to that
2 credibility in your determination of do you believe their
3 witnesses or not.

4 I don't think you're going to be able to believe their
5 witnesses, or at least I don't believe that you're going to
6 be able to believe them beyond a reasonable doubt. If the
7 facts -- you have a reasonable doubt about the facts, then
8 you cannot convict my client. If you have reasonable doubt
9 about how those facts go into the law, you cannot convict
10 my client. That's the oath y'all just took.

11 At the end of this trial I expect you to find my
12 client not guilty. Thank you.

13 MR. BULSA: The state calls Nick Hullinger.

14 NICK HULLINGER, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BULSA

17 Q Deputy Hullinger, please introduce yourself to the
18 jury.

19 A My name is Nick Hullinger, and I work at the
20 Spartanburg County Sheriff's Office.

21 Q How long have you been a police officer?

22 | A I've been there for 13 years now.

23 | Q what are your duties with them?

24 A Currently I'm assigned to the uniform patrol division,
25 and I'm assigned to the northeast corner of the county,

Nick Hullinger
Direct examination by Mr. Bulsa

- 1 which encompasses the Chesnee community.
- 2 Q Were those your duties back in May of 2015?
- 3 A Yes, sir.
- 4 Q Did you receive a call to go to 3828 Highway 11?
- 5 A Yes, I did.
- 6 Q Approximately what time?
- 7 A It was a little bit after 5:00. It was 5:17, is when
- 8 the call came in.
- 9 Q And that location is within your -- your area of
- 10 Spartanburg county?
- 11 A Yes, sir.
- 12 Q So that's in the county of Spartanburg.
- 13 A Yes, in Spartanburg County.
- 14 Q Would you describe to the jury what you observed when
- 15 you arrived?
- 16 A Yes. I -- I arrived on the scene. I observed several
- 17 people out in the driveway, and they were all motioning me
- 18 to come up the driveway. As I got up into the driveway
- 19 with -- with those folks they motioned towards the house.
- 20 There was one that kind of presented himself as the
- 21 spokesman of -- of that group and he said that --
- 22 MR. SHEALY: Objection, Your Honor. That's hearsay.
- 23 THE COURT: Don't testify to what somebody else said.
- 24 THE WITNESS: Yes, sir.
- 25 Q Okay. You spoke to these individuals. Then what did

Nick Hullinger
Direct examination by Mr. Bulsa

- 1 you do?
- 2 A Spoke to the individuals, and then from what they had
- 3 said I then went to the house and went into the house.
- 4 Q Okay. This was approximately what time?
- 5 A 5:00, you know, a little bit after 5:17 in the morning,
- 6 so maybe 5:20, 5:25.
- 7 Q Still dark outside?
- 8 A Yes, sir.
- 9 Q Okay. And the house you were directed to was 3828?
- 10 A Yes, sir.
- 11 Q Okay. Were there any lights on in the house?
- 12 A I don't know if I recall if there was lights on. I
- 13 remember using my flashlight as I went into the house
- 14 though.
- 15 Q Okay. And what was your purpose for going into the
- 16 house?
- 17 A I had been told -- can I say that? I had been told
- 18 that there was someone in the house and they were half way
- 19 on the couch and half way on the floor. And so at that time
- 20 there was one individual who also believed that there was
- 21 other people in the house. So I went into the house to
- 22 check on who was in the house and also to see if anyone else
- 23 was in the house.
- 24 Q Okay. So you went into this home. Did you find
- 25 anybody in the home?

Nick Hullinger
Direct examination by Mr. Bulsa

1 A Yes. As I walked in, immediately as I came into the --
2 kind of the main room right there, I observed a male laying
3 half way on the couch, half way on the ground. And he had
4 no signs of life.

5 Q Okay. And what did you do upon seeing him?

6 A After I saw him, then I moved through the house and
7 went room to room and cleared the small house to ensure that
8 no one was else in the home.

9 Q Okay. So did you not find a second person there.

10 A No. There was not.

11 Q What did you do once you cleared the house?

12 A When I was done clearing the house I came back out of
13 the house and then secured some crime scene tape and then
14 began running the crime scene tape to establish the crime
15 scene so that no one else would contaminate anything that
16 might be found there.

17 Q What, if anything, did you do with the neighbors that
18 had approached you?

19 A The neighbors, I separated the neighbors that were
20 there, moved them away from each other. And then as other
21 officers began arriving on scene, then I had them begin
22 taking statements from each of those individuals.

23 Q Why did you separate those people?

24 A As per our protocol, we want to separate any witnesses
25 to an event so that they don't have an opportunity to talk

Nick Hullinger
Direct examination by Mr. Bulsa

1 amongst themselves and maybe get their story straight. We
2 wanted an independent story from each of them, so we
3 separate them so that that can be achieved.

4 Q Okay. How long before other officers arrived?

5 A Oh, it was just moments. I mean, the next officer was
6 there right as I came out of the house. And then several
7 arrived over the course of the next, you know, five or ten
8 minutes.

9 Q Okay. So a pretty quick response?

10 A Yes, sir.

11 Q Did you learn whether there actually was a second
12 person there?

13 A There was. Shortly after coming back out of the
14 house -- well, no. Even before then dispatch had informed
15 me that E.M.S. had left with one of the victims prior to my
16 arrival. So I knew that someone else had been injured. But
17 they were not there at my arrival.

18 Q So E.M.S. actually arrived before you did.

19 A Yes, sir.

20 Q And took somebody away.

21 A Yes.

22 Q All right. Now, before I let you go I want to ask you
23 to look at some pictures. Get this set up.

24 (Pause.)

25 Q While that's warming up may I -- let me show you some

Nick Hullinger
Direct examination by Mr. Bulsa

- 1 pictures that have been marked, premarked, State's 1 through
2 5. Look through those and see if you can identify what's in
3 those photos.
- 4 A Yes, sir.
- 5 Q Do those show the crime scene?
- 6 A Yes, sir.
- 7 Q And they're showing in the daylight at the time.
- 8 A That is daylight photos, yes, sir.
- 9 Q When you arrived it was --
- 10 A It was still dark.
- 11 Q Pretty dark. Okay. Display these on the overhead. If
12 you would to give the jury some perspective, State's Exhibit
13 No. 1 is an aerial photograph. Please describe what we're
14 seeing.
- 15 A This is Highway 11 right here. And as I pulled in
16 right here to the driveway, this is where the folks were
17 congregated all in this area right here. And they were
18 motioning towards this home right here.
- 19 Q Okay. State's 2 another view of that home?
- 20 A So this is the residence that I was looking at when
21 they were motioning there. I observed this door right here,
22 and then I observed this little open area right here as
23 well.
- 24 Q Okay. And I've got a few other vantage points.
- 25 State's 3. That door we see open, is that the door you went

Nick Hullinger
Direct examination by Mr. Bulsa

1 in?

2 A Yes. That -- that door right there is the door that I
3 went in. When I came in, it comes into that main room, you
4 know, after you walk through that first little area.

5 Q There's a side door, State's 4. Did you have an
6 occasion to check that door?

7 A Yes, I did check that door, but it -- it was locked,
8 and I couldn't access that, so that's -- yeah. I did check
9 that one.

10 Q Looks like it's actually off the hinge.

11 A Yeah. Well, it was -- it was where I couldn't go in
12 there, yeah.

13 Q Okay. And State's 5. What is this showing us?

14 A That -- this is -- so right on this side is where the
15 victim was. This is the -- the complainant on my report.
16 That's where he lived. He lived in that. And then right
17 here is the house where the other folks -- well, some of the
18 other folks that were out there, where they lived.

19 Q And the complainant is who?

20 A Tony -- Tony Turner, yeah, Tony Turner. He lives here.

21 Q All right. Now, when you were inside did you have an
22 occasion to disturb anything?

23 A No. I -- I didn't -- I didn't touch anything or see,
24 you know. No. I didn't mess with anything. I did -- well,
25 I will say this. I did observe that there was a blanket on

Nick Hullinger
Cross-examination by Mr. Shealy

1 the -- on the victim that I then later found out that
2 Mr. Sizemore had put that blanket on him.

3 Q Okay. Now, what was -- we know you were looking for
4 other persons in the house. But what was the condition that
5 the furnishings were in?

6 A Oh, it was disheveled. I mean, it was -- yeah,
7 completely in disarray, looked like everything had been
8 thrown around and turned over.

9 Q Thank you. Answer any questions Mr. Shealy may have.

10 A Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. SHEALY

13 Q Officer -- it's Hullinger?

14 A Yes, sir. Hullinger.

15 Q Officer Hullinger, did you have -- so you went into the
16 house. Do you know if anybody had been in the house prior
17 to you being in the house, if somebody, a civilian, had gone
18 in there earlier?

19 A Yes. The -- the individual who I indicated was kind of
20 the leader of -- or the one, the spokesperson there, he did
21 indicate to me that he had gone in the house, that he was
22 a -- a volunteer with a fire department. And he had gone
23 into the house, saw the victim and then put that blanket on
24 him.

25 Q Okay. Did anybody else indicate that they had gone

Nick Hullinger
Cross-examination by Mr. Shealy

1 into the house?

2 A No, not to me.

3 Q Whenever you went into the house, you testified you
4 didn't know if there were lights on or not.

5 A Yeah. I -- you know what? I don't recall there being
6 lights. I do recall using my flashlight to go through, yes,
7 sir.

8 Q So even if lights had been on it would have been pretty
9 dark.

10 A Yes, sir.

11 Q You used your flashlight.

12 A Yes.

13 Q And did you have occasion to -- I guess there's going
14 to be some testimony about some bloody footprints. Did you
15 see any bloody footprints when you were there?

16 A I -- I did see blood on the floor. There was -- there
17 was blood on the floor. As I approached the door, I did see
18 blood on the floor there.

19 Q Were you able to avoid that?

20 A Yes, I -- yes, yes, sir.

21 Q Okay. And, Officer Hullinger, another question
22 regarding State's Exhibit 4.

23 Now, that door, even though it looks like it's off the
24 hinges, you're saying that it didn't open.

25 A Yeah. I was not able to access that from the outside.

Nick Hullinger
Redirect examination by Mr. Bulsa

1 Q But you did try.

2 A Yeah.

3 MR. SHEALY: Bear with me one minute, Judge.

4 (Pause.)

5 MR. SHEALY: I have no further questions.

6 REDIRECT EXAMINATION

7 BY MR. BULSA

8 Q officer Hullinger, do you remember which room you saw
9 the blood on the floor?

10 A There was blood as I walked into that first little
11 section right there. It appeared kind of where the blood
12 was in that first little area there and then maybe kinda
13 into the kitchen area right there.

14 Q I'm having a hard time picturing that. Blood in the
15 kitchen floor?

16 A Well, you know what? So as I walked -- well, maybe
17 there's a photo that would represent that.

18 Q Keep going. You can describe it.

19 A Yeah. So there was -- there was blood on the floor
20 right there as you walked across the threshold. It's kind
21 of like a -- like a hard floor, not carpet or anything, so
22 you could see there was footprints there. And there was
23 also blood right there as it kind of moved. And I just
24 stepped over that and went through.

25 Q Show you these two.

Nick Hullinger
Redirect examination by Mr. Bulsa

1 (Pause.)

2 MR. SHEALY: No objection, Your Honor.

3 Q These have been previously marked State's 16 and 18.

4 Let me start with 18. Can you tell what room that is?

5 A Yes. That -- that would be as -- if I recall
6 correctly, I'm coming in this way, like the door comes in
7 right there. And I would be off to my right as I walked
8 into the door.

9 Q Use that pointer if you would.

10 A Yeah. So the door would be right here, and as I walked
11 in if I looked to my right, then I would -- that's what I
12 would see. And then if you went straight, like into that
13 area, that's where that main room was, where the couch was.

14 Q So let me refer back to State's 3. The door you
15 entered would have entered into the kitchen. Is that what
16 you're telling us?

17 A Yes, into that kind of like -- yeah. That little
18 section there before.

19 Q Okay. Do you see a pool of blood there near the
20 refrigerator?

21 A Yeah.

22 Q All right. And State's 16 is a picture of what looks
23 to be a living room area?

24 A Yes, sir.

25 Q And that spot there towards the middle near the couch,

Nick Hullinger
Redirect examination by Mr. Bulsa

- 1 can you tell me what that is? Watch yourself. Can you tell
2 what that is?
- 3 A Yeah. That -- you know, and I don't know what angle
4 that is right there. But that -- that's the couch. That
5 spot on the floor is where he was, where he had -- yeah. As
6 I came in, that was the couch and that was the --
- 7 Q Okay. So that blood would have suggested that he had
8 at least laid there at some point in time.
- 9 A Yes, sir.
- 10 Q Okay. So that's right in front of the -- the threshold
11 between the living room and the kitchen?
- 12 A The vantage point of the camera. That's what you're
13 asking?
- 14 Q No. In -- in the location of that house, is that blood
15 near the threshold between the kitchen and the living area?
- 16 A You know what? I can't tell that. I don't know. I
17 don't know that.
- 18 Q That's fine. You didn't process the scene. You were
19 in there a short time.
- 20 A Yeah.
- 21 Q You don't remember.
- 22 A No.
- 23 Q So the point is, is there's blood in the kitchen, as
24 well in the living area.
- 25 A Yes. Oh, yeah, no. There was blood in the living room

Tony Turner
Direct examination by Mr. Bulsa

- 1 area, yes.
- 2 Q Okay. Thank you. Good. All right. Thank you.
- 3 MR. BULSA: That's all I have.
- 4 MR. SHEALY: I have nothing further, Judge.
- 5 THE COURT: You may step down.
- 6 MR. BULSA: Your Honor, we ask Officer Hullinger be
7 excused.
- 8 MR. SHEALY: No objection.
- 9 THE COURT: He may be.
- 10 (Whereupon, the witness was excused.)
- 11 MR. BULSA: The state calls Tony Turner.
- 12 TONY TURNER, having been first
13 duly sworn, testified as follows:
- 14 DIRECT EXAMINATION BY MR. BULSA
- 15 Q Mr. Turner, introduce yourself to the jury.
- 16 A Hello. My name is Tony Turner.
- 17 Q Where do you live, sir?
- 18 A 3826 Highway 11.
- 19 Q Which of those buildings is 3826?
- 20 A The small white building you saw in the pictures,
21 that's -- that's where I live.
- 22 Q That's State's Exhibit No. 5? In that white building?
- 23 A Yes, sir.
- 24 Q And how long have you lived there?
- 25 A Going on three years.

Tony Turner
Direct examination by Mr. Bulsa

- 1 Q Did you know your neighbors?
- 2 A Not too well.
- 3 Q Okay. Did you know their names?
- 4 A Yeah. Casey and Carey. I had -- I had, you know, run
- 5 into as I was moving in and they were -- and they were, you
- 6 know, nice passing.
- 7 Q Okay. Do you know if anybody stayed there with them?
- 8 A They often had company, but I don't know if anybody was
- 9 staying with them. I doubt it, I mean.
- 10 Q Do you remember the night of this incident?
- 11 A Yes, sir.
- 12 Q Okay. How long had you been home when something
- 13 happened?
- 14 A Not too long. I had been working a lot of extra hours
- 15 at work, and I had just barely gotten to sleep.
- 16 Q And where were you working at that time?
- 17 A Dish.
- 18 Q Dish?
- 19 A Yes. Dish.
- 20 Q Dish Network.
- 21 A Yes, sir.
- 22 Q Okay. So you arrived. You had gone to sleep. And
- 23 what awoke you?
- 24 A Banging at my door shortly after 5:00, right around
- 25 there.

Tony Turner
Direct examination by Mr. Bulsa

1 Q And what did you do?

2 A I put on a shirt quickly and I went to the door to see
3 what it was. When I opened it up I was confronted with my
4 neighbor covered in duct tape and blood.

5 Q And who was that neighbor?

6 A It was Casey.

7 Q Okay. Did you see where the blood was on her?

8 A It was coming profusely from her head.

9 Q How was her -- how was she acting?

10 A Erratic. She was in a panic. It was -- it was pretty
11 monstrous to behold. It didn't -- it's not something you
12 would expect to see opening your door at 5:00 in the
13 morning.

14 Q Was she saying anything?

15 A She was trying.

16 MR. SHEALY: Objection, Your Honor. That's hearsay.

17 THE COURT: She's going to testify, ain't she?

18 MR. BULSA: Yes, sir, she is, and this is clearly an
19 excited utterance, an exception to the hearsay rule.

20 THE COURT: All right. Overruled.

21 Go ahead.

22 Q Please tell us what she said in that condition.

23 A She tried to speak but still had duct tape around her
24 mouth.

25 I put the call in for the police and started unbinding

Tony Turner
Direct examination by Mr. Bulsa

1 her. She was telling me about Scooter, that they -- they
2 did this. And she was worried for her child and worried for
3 herself. Her child wasn't with her at the time, but just
4 the incident would make anybody scared for that.

5 Q So the one name she said to you was Scooter.

6 A Yes, sir.

7 Q Did you have any idea who she was referencing?

8 A I had no idea.

9 Q She used the word Scooter and she also used the word
10 they.

11 A Yes, sir.

12 Q Suggesting more than one person.

13 A Uh-huh.

14 Q Now, were you aware of what kind of vehicles that they
15 drove?

16 A Yeah. Carey had gone through a couple of vehicles in
17 the time that I had lived there. But at the time it was a
18 PT Cruiser. The -- the car that's in the pictures that you
19 have was stationary.

20 Q Let me show you State's No. 3.

21 A Yeah. That -- that car there was stationary and didn't
22 move. I think there was something wrong with it.

23 Q Okay. And when you got home that night was the PT
24 Cruiser there?

25 A Yeah, the PT Cruiser was there.

Tony Turner
Direct examination by Mr. Bulsa

1 Q And where would it have been parked?

2 A It would have been parked right about here.

3 Q Okay.

4 A And they kind of formed any kind of traffic around it.

5 Q Okay. And when you were assisting Casey when she came
6 to your door was the PT Cruiser there?

7 A No, it was not.

8 Q Okay. Now, you said you had gone to sleep. Did you
9 actually hear anything that was going on next door?

10 A I -- I didn't hear any gunshots or anything like that.
11 The first sound I heard was the banging on my door, but I
12 was pretty tired.

13 Q Okay. All right. And what did you do with Casey? You
14 said you placed the call.

15 A Yes.

16 Q To 9-1-1?

17 A Yes.

18 Q And then what did you do after that?

19 A I -- I started unbinding her hands and what not. I
20 think she had her feet free at that time because I know she
21 had run, but I think she might have still had some duct tape
22 left on her.

23 We moved it away from her mouth, but I left the duct
24 tape around her head not knowing how bad the injury was. I
25 didn't want to cause more bleeding or -- or stop it from

Tony Turner
Direct examination by Mr. Bulsa

- 1 being as -- as small it was. So I left that there.
- 2 Q Do you recall how long it took E.M.S. to arrive?
- 3 A It was -- it was fairly quick, not too long, maybe 10
- 4 or 15 minutes, maybe not even that long I'd think actually.
- 5 Q And what happened when they arrived?
- 6 A By that point in time she -- she was starting to calm
- 7 down. And they -- they got her into the ambulance. And not
- 8 too long after that they vacated.
- 9 Q Did -- where were you and she when you were waiting for
- 10 E.M.S.?
- 11 A We were right here at that concrete wall, cause when
- 12 she confronted me it was right here. And at first I didn't
- 13 know what was happening, and so I told her to stay there.
- 14 And then after figuring out everything we came out this way,
- 15 and that -- that's where the neighbors had came from to --
- 16 after all the commotion and stuff.
- 17 Q A lot of neighbors come out?
- 18 A Yeah, a pretty fair amount.
- 19 Q From that house and even across, from across, the
- 20 street?
- 21 A Yeah. The people -- the people who live here were
- 22 related to the people across the street.
- 23 Q Okay. All right. What did you do after Casey was
- 24 taken off?
- 25 A We were like -- like the officer had indicated before,

Tony Turner
Cross-examination by Mr. Shealy

1 we were all separated to where we didn't get our stories
2 mixed up by, you know, talking to each other.

3 I gave my report and was finally able to shower and
4 leave. I had a lot of blood on me, so it took a while. But
5 after -- after that I was able to leave my home and go.

6 Q So you had some of Casey's blood on you?

7 A Yes, sir.

8 Q And is that because -- how did you get it on you?

9 A Mostly splashing. She was bleeding so profusely from
10 the head that standing in one spot had -- had caused a
11 puddle, a large puddle. And it was on my hands from cutting
12 the bindings and on my feet from the splashing.

13 Q Thank you. Answer any questions Mr. Shealy might have.

14 A Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. SHEALY

17 Q Mr. Turner, you testified that there is a lot -- they
18 had a lot of company. What is -- what do you mean by that?

19 A People. People coming by to visit, different cars,
20 different times.

21 Q Did those cars stay for a particular length of time, or
22 were they there a short period of time, a long period of
23 time?

24 A I guess it kind of depends, but for the most part I --
25 I stayed in my home. I didn't converse too much with

Tony Turner
Cross-examination by Mr. Shealy

1 either, either sets of my neighbors, the ones that came out
2 or -- or her and Carey.

3 Q Okay. And you testified also that you cut her free.

4 A Yes, sir.

5 Q She -- so she did not have any duct tape on her legs?

6 A She -- she did. I think there was some dangling, and
7 that was what was found in the yard. But she had freed
8 herself from that to run.

9 Q All right.

10 A Her hands were still bound, and her head.

11 Q Okay. And where were her hands bound? Were they
12 behind her or in front of her?

13 A If I'm not mistaken, I think it was behind, but I'm not
14 too sure. I'm pretty sure it's behind though.

15 Q You testified E.M.S. got there really quickly
16 thereafter.

17 A Yes, sir.

18 Q Okay. And they had treated her or they had done
19 whatever it is they do.

20 A Yeah.

21 Q Gotten her in the ambulance and left before Deputy
22 Hullinger got there?

23 A Yeah, but he was -- he was none too far behind.

24 Q Okay. And when you got home was there any -- were
25 there any other vehicles in the driveway? Do you remember?

Tony Turner
Cross-examination by Mr. Shealy

- 1 A When I got home the night before the incident?
- 2 Q The night -- yeah. When you got home from work.
- 3 A There was another vehicle. I can't remember the make
- 4 and model, but there was another vehicle.
- 5 Q And whenever you got out of your house and done what
- 6 you could for Ms. Scruggs, did you see any lights on in the
- 7 house?
- 8 A If there was it was very dim. But -- from looking from
- 9 the outside -- I never got close. She was already at my
- 10 door, and that was pretty much where I needed to be.
- 11 Q Sure. Okay. And what was the lighting situation out
- 12 in that area, that little driveway area?
- 13 A Directly in front of the house like further that-a-way
- 14 there is a -- there's a street light that shines right there
- 15 on that -- that midsection where we were standing. We were
- 16 standing pretty fair in the light.
- 17 Q Okay. And just for clarity -- just to make sure I
- 18 understand the timeline -- when did you get home, or do you
- 19 remember?
- 20 A If I'm not mistaken, it was well after 8:00.
- 21 Q Okay.
- 22 A The -- the night before the incident.
- 23 Q All right. And when you got home you said that you
- 24 pretty much just went in and went to sleep.
- 25 A Yes.

Zach Hubbard
Direct examination by Mr. Bulsa

1 Q All right. And you've also testified that you didn't
2 hear any commotion or shots fired or anything because you
3 were asleep.

4 A Given -- given the nature of the incident I would
5 suspect to have heard gunshots or tires screeching, but I
6 didn't hear either of those things.

7 Q Didn't hear any of that.

8 MR. SHEALY: That's all that I have from this witness.

9 MR. BULSA: Your Honor, we ask that he be excused.

10 THE COURT: You may step down. You may also be
11 excused.

12 (Whereupon, the witness was excused.)

13 MR. BULSA: The state calls Zach Hubbard.

14 ZACH HUBBARD, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BULSA

17 Q Good afternoon, Mr. Hubbard. Please introduce yourself
18 to the jury.

19 A My name is Zach Hubbard. I'm a paramedic with
20 Spartanburg E.M.S.

21 Q How long have you been with E.M.S.?

22 A I've been with Spartanburg E.M.S. for just a little
23 over six years.

24 Q And what are your duties as a paramedic?

25 A My job as a paramedic is direct patient care. I also

Zach Hubbard
Direct examination by Mr. Bulsa

1 do on-shift training for new hires that are coming to work
2 with us.

3 Q On May the 22nd of 2015 did you have occasion to go to
4 a location on Highway 11?

5 A Yes, I did.

6 Q Who did you go there with?

7 A I went there with a new hire, Joshua Cote. He and I
8 responded to a call.

9 Q Okay. You are the paramedic. What was his duty?

10 A He was a new-hire. That was his second day on the job,
11 so he was going through training.

12 Q Do you recall about what time you got on the site?

13 A I believe we got there -- I think it was roughly about
14 5:00, 5:20 in the morning.

15 Q What do you recall observing when you arrived there?

16 A When we arrived I remember seeing the patient standing
17 in the -- in the driveway in a white shirt.

18 I can't exactly remember how many people were standing
19 around there, but there were other people out there in the
20 driveway with her.

21 Upon exiting the vehicle we noticed that she had a lot
22 of blood. Her clothes were pretty well drenched with blood.
23 And as I approached I noticed that she had some loose duct
24 tape around her wrists and she had duct tape going around
25 her head partially covering her mouth.

Zach Hubbard
Direct examination by Mr. Bulsa

1 Q Was she able to speak?

2 A She was trying to. She was panicking, pretty shaken
3 up. She had a hard time answering questions. She was very
4 nervous and very scared.

5 Q How long did you stay on the scene?

6 A We did not stay on scene. I think we were there maybe
7 two or three minutes.

8 Q Is that normal?

9 A It is not. We -- on the way to the call we were not
10 aware that we were going to a shooting.

11 We had cleared off from another call and went back to
12 the station. When this call went in we were only maybe five
13 to seven minutes from the location.

14 Once we arrived there we had asked what happened, and
15 we found out that she had been shot. For the safety of her
16 and the crew -- nobody seemed to be able to tell us where
17 the shooters were. So we put her on the stretcher and we
18 left immediately.

19 Q So you beat the police there?

20 A We did.

21 Q And you left from there, right?

22 A We did.

23 Q What was the lighting situation out there?

24 A I'm sorry?

25 Q What was the lighting conditions?

Zach Hubbard
Direct examination by Mr. Bulsa

1 A It was still very dark. The -- the only light we had
2 was what was coming off of our truck.

3 Q Now, as you were taking Ms. Scruggs away was there any
4 conversation?

5 A When we got her in the truck and we had left I was able
6 to converse with her. I did unbind the tape from around her
7 head. And she had told me that she had been shot in the
8 back of the head.

9 Q And did she identify by whom?

10 A She gave two names. Drew Cash and Steven Lewis.

11 Q How long was the ride to the hospital?

12 A Emerging traffic, if I had to guess, right around 15 to
13 18 minutes from that location.

14 Q What kind of treatment did you give her on the way?

15 A On the way in I put her on a -- on a non-rebreather. I
16 followed our trauma protocol. I put her on the cardiac
17 monitor, started an I.V. The wound to the occipital, the
18 back part of her head, at the time seem to be controlled.
19 So I did not go moving any -- any hair. I just put a
20 sterile bandage around it and wrapped it to stay in place.

21 Q Did you cut the tape from around the head?

22 A No. I was -- unwound it from the -- from her head.

23 Q You unwound it.

24 A I unwound it, yes.

25 Q Okay. All right.

Zach Hubbard
Direct examination by Mr. Bulsa

1 MR. SHEALY: Judge, if we may approach.

2 (Bench conference held off the record in the presence
3 of the jury but out of the hearing of the jury.)

4 MR. BULSA: Have these marked for identification.

5 (Photograph marked State's Exhibit No. 42 for
6 Identification; photograph marked State's Exhibit No. 43 for
7 Identification.)

8 Q Mr. Hubbard, let me show you two pictures marked
9 State's 42 and 43 for Identification. Can you identify
10 those?

11 A Yes. This first picture is me in the back of the
12 ambulance taking care of the patient; and the second picture
13 here is the tape that I had unwound from her head.

14 Q Are those accurate depictions of you giving service to
15 Casey Scruggs on that evening?

16 A Yes.

17 Q And that shows the tape that you cut off of her.

18 A Well, I --

19 Q Unwound, yes.

20 A Yes.

21 MR. BULSA: Your Honor, the state would offer these
22 into evidence.

23 THE COURT: What's the first number?

24 MR. BULSA: State's 42 is the one with the witness and
25 the victim.

Zach Hubbard
Cross-examination by Mr. Shealy

1 MR. SHEALY: Judge, I'm going to object to No. 42.

2 THE COURT: All right. Overrule the objection.

3 No objection to 43?

4 MR. SHEALY: No, Your Honor.

5 (Photograph marked State's Exhibit No. 42; photograph
6 marked State's Exhibit No. 43.)

7 Q Show you. She's pretty much covered up and has a mask
8 on her, but appears to be something wound around her head?

9 A Yes. The bandage you see there is what we call clinger
10 or Kerlix, and it's like a sterile-wrap bandage, and I just
11 put like a four by four gauze back there and then on around
12 just to try --

13 Q And her feet are clearly bloody. Is that -- is that
14 just descriptive of the rest of her?

15 A Yes. The shirt that she was wearing was white. And,
16 like I said, it was pretty well saturated. She had blood
17 from head down -- down to her feet.

18 Q State's 43. That's showing the duct tape that you
19 unwound from her head?

20 A It is.

21 Q Okay. If you would, please answer any questions
22 Mr. Shealy may have.

23 CROSS-EXAMINATION

24 BY MR. SHEALY

25 Q All right. Mr. Hubbard, you testified that you didn't

Zach Hubbard
Cross-examination by Mr. Shealy

- 1 know you were going to a shooting call. What did you think
2 you were going to?
- 3 A This call came out as a laceration or hemorrhage.
- 4 Q Okay. So when you were dispatched your understanding
5 is this was a laceration.
- 6 A Yes.
- 7 Q And who would have given that information to dispatch,
8 or how did you get that information?
- 9 A That information came across to us on the radio, as
10 well as our computer.
- 11 Q Okay. And who inputs that information?
- 12 A Dispatch does.
- 13 Q Okay. And they get that information from?
- 14 A A call, a 9-1-1 caller.
- 15 Q Okay. So whenever the 9-1-1 call came in it was for a
16 laceration.
- 17 A Yes.
- 18 Q Okay.
- 19 MR. SHEALY: And, Judge, I'm still objecting to
20 No. 42, but I do need to ask some questions about it.
- 21 Q Who took State's Exhibit No. 42?
- 22 A I don't know. When we opened up the back of the
23 ambulance I do remember there was law enforcement standing
24 at the back.
- 25 Q Okay. So you don't know if this was what she looked --

Zach Hubbard
Cross-examination by Mr. Shealy

1 if that was taken at the scene or at the hospital.

2 A That was taken at the hospital because that's our
3 blanket that's on, that's covering her.

4 Q Okay. Now, have you responded out to a number -- to
5 other scalp wounds or head lacerations?

6 A I'm sorry? What was that?

7 Q Have you responded to other calls about head
8 lacerations?

9 A I mean, I've responded to a lot of laceration calls.
10 It was not identified when the call came through where the
11 laceration was. It just said we had a laceration at that
12 address.

13 Q Sure, sure. I understand. But in your experience you
14 have responded to scalp wounds before.

15 A Yes.

16 Q Okay. And aren't those expected to bleed?

17 A They are.

18 Q Pretty profusely.

19 A Uh-huh.

20 Q They is just -- that's just the nature of scalp wounds?

21 A Yes.

22 Q And you testified that you unwound the duct tape.

23 A Yes.

24 Q So, and where did you unwind the duct tape from, again?

25 I'm sorry.

Zach Hubbard
Cross-examination by Mr. Shealy

- 1 A On the way to the hospital I unwound it. In the
2 picture there you can see where my gloves had still stuck to
3 the duct tape from unwinding it, so this is on the way to
4 the hospital.
- 5 Q And so this -- but the place that you were unwinding it
6 from was from her mouth in this area here?
- 7 A Yes. It was around the mouth, going around the back of
8 the head, and it was wrapped several times.
- 9 Q Okay. And was there any duct tape on her hands
10 whenever you got there?
- 11 A When we had got to the scene she had some duct tape
12 that was around her hands and it was not -- it was not tight
13 up. It did look like maybe somebody had undone it a little
14 bit, but there was still some stuck to her arms.
- 15 Q And so her arms were still together, were still bound,
16 just loosely bound.
- 17 A Yeah.
- 18 Q Is that fair?
- 19 A Yeah.
- 20 Q All right. And when you say that, were they bound in
21 front of her or behind her, or do you know?
- 22 A When we got there her hands were out -- out in front of
23 her.
- 24 Q In front of her.
- 25 A Uh-huh.

Zach Hubbard
Redirect examination by Mr. Bulsa

1 Q Okay. And did she have anything on her feet? Did you
2 notice?

3 A I -- I don't really remember if she did or not.

4 Q Okay. And you testified that it was very dark. You
5 didn't have any occasion to go inside the house, did you?

6 A No. We did not.

7 Q So you wouldn't know if lights were on in the house or
8 not.

9 A No.

10 Q And that -- I believe Mr. Turner had testified to the
11 street light that was out in that general vicinity. Was
12 that a powerful light, or was it still really, really dark?

13 A I don't really recall whether there was a bright light
14 or not. Our ambulances have L.E.D. box lights on them, so
15 they kinda light up wherever we are, so, yeah.

16 Q I can imagine so. Okay. If you'll bear with me just
17 one minute.

18 (Pause.)

19 MR. SHEALY: That's all I have for this witness.

20 MR. BULSA: Just briefly.

21 REDIRECT EXAMINATION

22 BY MR. BULSA

23 Q Mr. Shealy asked about the wound, and you responded it
24 was a laceration.

25 A Uh-huh.

Zach Hubbard
Redirect examination by Mr. Bulsa

- 1 Q Is the way it came in. When you actually observed it
2 could you tell what kind of wound it was?
- 3 A We could not initially. We didn't know really what had
4 happened until somebody there had said she'd been shot. And
5 then once in the truck we could look and see that it was a
6 laceration. It was more of a -- some type of object had
7 opened up a large portion of the flesh from her skull.
- 8 Q Was that consistent with a gunshot wound?
- 9 A In my past experience, yes.
- 10 Q Okay. Now, Mr. Shealy asked you where that photo was
11 taken. There wasn't anybody at the scene taking pictures
12 when you were there, was there?
- 13 A No.
- 14 Q And she was clearly upset, but was she alert and
15 cooperative?
- 16 A She -- she was, yeah. She was -- she was awake,
17 standing at the time. And when we made the decision to
18 move, she was able to walk to the stretcher and sit.
- 19 Q And when she gave you those two names, was it in a
20 clear manner?
- 21 A I'm sorry?
- 22 Q When she gave you the two names of the people was she
23 speaking in a clear manner?
- 24 A She -- she was, yes.
- 25 Q Okay. And you documented those names for the police in

Zach Hubbard
Recross-examination by Mr. Shealy

1 your statement?

2 A Yes, sir. I did.

3 Q Thank you. That's all I have.

4 MR. SHEALY: Just a couple more questions, Judge.

5 RECROSS-EXAMINATION

6 BY MR. SHEALY

7 Q When you say it's not consistent with a laceration or
8 it was more consistent with an object, what's the
9 distinguishing feature?

10 A Well, I'm not a ballistics expert, but between a
11 laceration and a laceration, you look for something more
12 that was a cut. And this injury did not fit a [sic] injury
13 typical of like a laceration from like a -- a knife or a
14 piece of glass.

15 Q Okay. But so instead something that looked to you like
16 some kind of impact wound?

17 A You -- you could clearly see where something had
18 penetrated the -- the barrier of the skin and the flesh.

19 MR. SHEALY: That's all I have of this witness.

20 MR. BULSA: Your Honor, we'd ask that he be excused.

21 THE COURT: Step down. You may also be excused.

22 We're going take a short break.

23 I'll ask the jury to please go to your jury room.

24 Don't discuss the case. I'll bring you back after that
25 break.

1 (The following takes place outside the presence of the
2 jury.)

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

4 (Whereupon, a recess was taken.)

5 THE COURT: All right. Before the jury returns,
6 Mr. Shealy, during the last witness' testimony an
7 Exhibit 42 was introduced. You objected.

8 Do you wish to expound on your objection as to the
9 basis for it?

10 MR. SHEALY: Judge, I do need to put the basis for it
11 on the record.

12 It's my belief that it's more prejudicial -- vastly
13 more prejudicial than it is probative, and it's not
14 probative for really anything, any of the elements or
15 anything that would go towards proving or disproving this
16 case. And the prejudicial effect is large given it's a
17 person in an ambulance. We would object to it on that
18 ground.

19 THE COURT: Well, you understand the state contends
20 she was in an ambulance because of your client's conduct.

21 MR. SHEALY: I understand that's their position, but,
22 again, it'd be our position that that's not probative to
23 anything.

24 THE COURT: Okay. Mr. Bulsa, do you want to respond
25 to it?

Adam Kelcey Stewart
Direct examination by Mr. Sharpe

1 MR. BULSA: Your Honor, the state offered that to
2 support Mr. Hubbard's testimony and to show the condition
3 she was in.

4 This is an attempted murder charge. So we have to
5 show the dire -- how dire the condition was towards her.

6 THE COURT: Do you want to respond to that?

7 MR. SHEALY: No, sir.

8 THE COURT: Okay. Are we ready for the jury now?

9 MR. BULSA: Yes, sir.

10 THE COURT: Bring them in.

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

13 THE COURT: All right. We'll continue with the
14 state's presentation of evidence.

15 MR. SHARPE: The state calls Adam Stewart.

16 ADAM KELCEY STEWART, having
17 been first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. SHARPE

19 Q Good afternoon, Mr. Stewart.

20 A Good afternoon.

21 Q Please introduce yourself to the jury.

22 A My name is Adam Kelcey Stewart.

23 Q And where do you live?

24 A I now live at 245 Peach Valley Drive.

25 THE COURT: Get a little bit closer to that

Adam Kelcey Stewart
Direct examination by Mr. Sharpe

1 microphone, please.

2 A I said I now live at 245 Peach Valley Drive.

3 Q And where did you live in May of 2015?

4 A 3822 Highway 11, Chesnee.

5 Q And did that make you a neighbor of Carey and Casey?

6 A Yes, sir. They -- I lived behind -- I lived the house
7 behind theirs.

8 Q I show you what's been premarked as State's Exhibit
9 No. 11. Can you identify that photo, please?

10 A That was the house that I was living in.

11 Q And is this a fair and accurate photo of that house?

12 A Yes, sir.

13 MR. SHARPE: Your Honor, I'd ask State's 11 be moved
14 into evidence.

15 MR. SHEALY: No objection.

16 THE COURT: It's admitted.

17 (Photograph marked State's Exhibit No. 11.)

18 Q This is your house --

19 A Yes, sir.

20 Q -- as it was May of 2015?

21 A Yes, sir.

22 Q And in this photo that was previously marked State's
23 Exhibit 1 -- if you will, grab that laser pointer right
24 there. Please indicate which house is yours.

25 A That house right there.

Adam Kelcey Stewart
Direct examination by Mr. Sharpe

- 1 Q And which house was Casey and Carey's?
2 A That one right there.
3 Q And how long had you lived there when this incident
4 occurred?
5 A I moved there in November of 2014.
6 Q Okay. Did you know your neighbors?
7 A I had met them a couple of times. I had a couple of
8 dealings with Carey. He was having car problems and I had a
9 shop behind my house, you know, like a garage and
10 everything. And I worked on cars here and there. And I had
11 worked on a car for him once or twice.
12 Q What kind of car was that?
13 A A PT Cruiser.
14 Q What color?
15 A Gray with primered -- the back quarter on it had been
16 primered where it had been shot. Prior to him getting it,
17 it had been shot.
18 Q Did you know Scooter or Steven Lewis?
19 A No.
20 Q And you said you worked on a PT Cruiser. So you would
21 recognize that as being Carey's car?
22 A Yes.
23 Q And do you recall the incident that happened on
24 May 22nd of 2015?
25 A Yes, sir. Sure do.

Adam Kelcey Stewart
Direct examination by Mr. Sharpe

1 Q Can you tell us about it a little bit?

2 A Well, right around 5:00 o'clock my oldest daughter, she
3 was -- been staying there with us. And she was in --
4 actually sleeping in the living room on the couch. And she
5 come running into my bedroom saying that somebody was
6 beating and banging on the door. And when we got up to go
7 see who it was, we didn't see anybody, but we heard a
8 commotion going on. And it was at the -- can I use the
9 pointer?

10 Q Yes, sir.

11 A It was at the -- approximately right in there around
12 that tree right there. And we went to go down there and see
13 what was going on, and the gentleman that lived in the white
14 block building there was actually taking the tape off of her
15 and everything. And she was hollering out that Carey had
16 been shot, Carey had been shot.

17 Q When you say her, you mean Casey Scruggs?

18 A Casey, yes.

19 Q I'm sorry.

20 A Yeah, yeah. Casey was hollering that Carey had been
21 shot.

22 And my oldest daughter proceeded to run across the
23 street where my youngest daughter and son-in-law were living
24 at that point in time to get them. And when we got the tape
25 off of her, you know, like I said, she just kept saying that

Adam Kelcey Stewart
Direct examination by Mr. Sharpe

1 Carey had been shot, Carey had been shot, he was dead, he
2 was dead.

3 Q Did she say who had shot him?

4 A She just kept saying Scooter as they was loading her
5 into the ambulance. She just kept saying Scooter, Scooter,
6 Scooter done it, Scooter done it.

7 Q And do you recall if Carey's PT Cruiser was there when
8 you saw Casey?

9 A No. It was gone.

10 Q It was gone.

11 A It was gone.

12 Q And how did Casey look when you saw her?

13 A She was distraught. She had -- you know, you could see
14 where the tape had been. Her hands, taped behind her back
15 and everything.

16 As a matter of fact, there was blood all over my front
17 porch. That's the reason they taped it off and everything
18 like that. And they was a blood trail going from her house
19 all the way up to the white block building because she'd
20 went to it first because it was closest. And couldn't get
21 that gentleman to the door, so she come kicking and beating
22 and banging on ours.

23 Q Just a moment.

24 (Pause.)

25 Q No further questions. Please answer any questions

Adam Kelcey Stewart
Cross-examination by Mr. Shealy

- 1 Mr. Shealy has.
- 2 A All right.
- 3 CROSS-EXAMINATION
- 4 BY MR. SHEALY
- 5 Q Mr. Stewart, you said that -- you testified that you
- 6 worked on his PT Cruiser?
- 7 A Yes, sir.
- 8 Q What was wrong with it?
- 9 A Head -- he'd had a blowed head gasket. And me and my
- 10 son-in-law put a new head gasket on it and done just a few
- 11 little other odds and ends because the motor was -- motor
- 12 was having -- he was having a lot of issues out of the motor
- 13 running hot and stuff like that.
- 14 Q Okay. Now, so you were able to get it running. It
- 15 didn't have to go to a --
- 16 A No, it didn't have to go.
- 17 Q -- radiator shop?
- 18 A No.
- 19 Q Okay. How much did he pay you for that?
- 20 A I think we charged him -- him buy the parts -- him
- 21 furnish all the parts, we charged him \$300 to do all the
- 22 labor.
- 23 Q Okay. Who?
- 24 A Me, myself, and my son-in-law, Austin Walters.
- 25 Q And did your son-in-law live with you at the time?

Adam Kelcey Stewart
Cross-examination by Mr. Shealy

1 A No. He lived across the street in a little mobile
2 home.

3 Q Now, were there any other vehicles at that house that
4 night?

5 A The night before that there was a -- a burgundy PT
6 Cruiser which I had seen down there several times, and there
7 was a white -- I think it was a Dodge Nitro. It was like a
8 SUV, like a Jeep looking thing.

9 Q Okay. And when was the last time you had managed to
10 see those things?

11 A Well, I would say it was between 11:00 and
12 12:00 o'clock that night.

13 Q Okay. You see --

14 A The night prior.

15 Q Did you see them leave?

16 A No.

17 Q Okay. But they weren't out there whenever you got down
18 to Mr. Turner's house?

19 A No. The only vehicle, was present, was a blue -- I
20 think it was a Buick or an Oldsmobile. It'd been -- it'd
21 been broke down for a while.

22 Q Okay. Did he have you work on that car?

23 A No. We had talked about it. And then when I got to
24 looking at it and everything, it had slung a rod through the
25 front of the block, so it had a cracked block. He was going

Adam Kelcey Stewart
Redirect examination by Mr. Sharpe

1 to have to replace the whole motor in it.

2 Q Now, Mr. Turner's testified regarding a lot of
3 vehicles. Did you see a lot of vehicles in and out of that
4 house?

5 A I seen some traffic in and out of there, yes, sir.

6 Q Okay. Do you have any idea what they were doing there?

7 A No idea.

8 MR. SHEALY: I believe that's all that I have for this
9 witness.

10 MR. SHARPE: Briefly.

11 REDIRECT EXAMINATION

12 BY MR. SHARPE

13 Q Mr. Stewart, just to clarify. You said Carey's gray PT
14 Cruiser was running after you were done working with it?

15 A Yes, sir. We changed the head gasket and everything on
16 it and got it to quit running hot and everything.

17 MR. SHARPE: No further questions.

18 THE COURT: You may step down.

19 MR. SHARPE: Ask that the witness be excused.

20 THE COURT: He may be.

21 (Whereupon, the witness was excused.)

22 MR. SHARPE: The state calls Ms. Tonya Stewart.

23

24

25

Tonya Stewart
Direct examination by Mr. Sharpe

1 TONYA STEWART, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. SHARPE

4 Q Good afternoon, Ms. Stewart. Please introduce yourself
5 to the jury.

6 A I'm Tonya Stewart.

7 Q And where do you live?

8 A Live at Peach Valley Road right now.

9 Q And where did you live in May of 2015?

10 A I lived on three -- I can't remember the address
11 exactly, but right up above from the house where the murder
12 happened at.

13 Q It's the brick house here marked in State's Exhibit
14 No. 1?

15 A Yes, yes.

16 Q Did you know your neighbors very well?

17 A No. I didn't associate with them that much. I stayed
18 by myself.

19 Q And you were there on the -- when this incident
20 occurred on May 22nd of 2015?

21 A Yes, sir.

22 Q Can you describe what you saw for us, please?

23 A We woke up to our daughter coming in and waking us up
24 with somebody beating and banging on the front door. And
25 when we opened -- she opened the front door. There was

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 blood on the porch and commotion down next to the block
2 house where the neighbor lived.

3 So I took out the side door and went down there, and I
4 seen Casey duct taped with her hands behind her back, duct
5 tape to her mouth, around her head. Her legs had been duct
6 taped.

7 She was pouring blood from her head. And they cut a
8 little bit from the mouth and all. She kept saying, well,
9 Scooter had shot her and Carey.

10 Q Thank you, ma'am. Please answer any questions
11 Mr. Shealy may have.

12 A Okay.

13 MR. SHEALY: I have no questions, Your Honor.

14 THE COURT: You may step down.

15 MR. SHARPE: Ask that the witness may be excused.

16 THE COURT: She may be.

17 (Whereupon, the witness was excused.)

18 MR. BULSA: State calls Robert Talanges.

19 MR. SHEALY: Judge, may we approach on this witness?

20 (Bench conference held off the record in the presence
21 of the jury but out of the hearing of the jury.)

22 ROBERT CHARLES TALANGES,
23 having been first duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. BULSA

25 Q Please introduce yourself to the jury.

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 A Robert Charles Talanges. Work for Spartanburg County
2 Sheriff's Office, forensics I.D. officer.
- 3 Q How long have you been an I.D. officer?
- 4 A Since about 1997.
- 5 Q What does that actually mean?
- 6 A Forensic I.D. officer, is we are crime scene
7 investigators. We process any and all crime scenes by
8 photographing, reports and documentation, collect any
9 evidence.
- 10 Q Do you do that by yourself?
- 11 A At this time we have -- our unit is comprised of eight
12 individuals, and each unit is divided, or our unit has
13 two -- two-team unit or two-team-person unit, is what it is.
- 14 Q Okay. So on May 22nd of 2015 were you called in the
15 case -- to a location on Highway 11?
- 16 A Yes, I was.
- 17 Q And did you document what time you would have arrived?
- 18 A Let me look at the report if you don't mind.
- 19 (Pause.)
- 20 A I know it was early morning hours because I got -- I
21 got a phone call to respond to that location.
- 22 Q Were other I.D. officers already there?
- 23 A Officer Graham was already on location. He works the
24 night shift. And once I responded and arrived he left the
25 scene after taking photographs of the incident location.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q Okay. So Graham was there. You arrived and another
2 I.D. officer, Steven Horton, arrived?

3 A Yes. He did.

4 Q And Officer Graham leaves, and then that leaves you and
5 Officer Horton.

6 A That is correct.

7 Q Okay. Now, when you process the scene do you take
8 multiple pictures?

9 A Yes, we do.

10 Q In fact, we've seen some of those pictures today.

11 A Yes. You have.

12 Q Okay. And do you also put it in a -- create a diagram
13 of sorts?

14 A Yes, we do.

15 Q Okay. Show you State's 39 through 41. Is that a
16 diagram and a legend that you created of this scene?

17 A Yes, it is.

18 Q Okay.

19 MR. BULSA: Your Honor, I move 39 through 41. I
20 believe they -- Your Honor, all of these photographs have
21 been marked as exhibits without objection, so I think
22 they're all already technically moved into evidence.

23 MR. SHEALY: No, Judge. They're not. They're subject
24 to objection regarding foundation and things of that
25 nature.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Now, if they lay that down in -- on those cases, those
2 exhibits there, but they've got to lay a foundation for all
3 of the other ones.

4 MR. BULSA: I'm just going to get them premarked.

5 MR. SHEALY: I mean, again, they have got to lay a
6 foundation.

7 THE COURT: What are those numbers?

8 MR. BULSA: Thirty-nine through 41.

9 THE COURT: Thirty-nine through 41. No objection?

10 MR. SHEALY: Not to those, no.

11 THE COURT: Okay.

12 (Diagram marked State's Exhibit No. 39; diagram marked
13 State's Exhibit No. 40; evidence key marked State's Exhibit
14 No. 41.)

15 Q So we're helping the jury understand what we're talking
16 about as we go through your photos. This is -- we have a
17 picture of the aerial photo in State's 1. Now we have your
18 diagram, State's 39.

19 A That is correct.

20 Q All right. Pretty -- pretty similar.

21 All right. Now, State's 40, we've got the interior of
22 the home where the victim was found.

23 A The victim was found right here in the living room.
24 This is the address of 3828 Highway 11 West.

25 Q Okay. And entry into that house was made by which

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 door?

2 A Well, there two entry doors, a door here which was
3 going to the sunporch, was actually knocked off the hinges.

4 The main entrance door is this porch between -- there
5 was like a garage type building and covered porch area. And
6 then right off the kitchen there was another entrance door.

7 Q Okay. And the entrance door -- the door used by you
8 and the other officers, was that the door off the kitchen?

9 A That was the only door used.

10 Q Okay. And then State's 41 is a legend that you created
11 to reference those?

12 A Yes. Every item that was collected is listed on there
13 from that location.

14 Q Okay. And those correspond to the numbers we see.

15 A That is correct.

16 Q Now, when you go into a scene like this you have no
17 idea what happened, do you?

18 A No. We don't.

19 Q You just know you've got a dead body. And you're
20 looking for what kind of evidence?

21 A Any and all evidence that will tie us to whoever had
22 committed this crime.

23 Q So sometimes you might collect things that later might
24 not have any significance, is that right?

25 A A lots of times we do that, that's correct.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q Okay. Let's talk about some of the things you did
2 find.

3 show you State's -- these are a little bit out of --
4 State's 12 through 15, plus State's 17. Do you recognize
5 those? Here is No. 16.

6 A Appear to be photographs of the living room area which
7 would be --

8 Q And was that the area where the victim was found?

9 A Right here, that's right. That area right there.

10 MR. BULSA: For the record, those are State's 12
11 through 17. Move those into evidence.

12 MR. SHEALY: No objection.

13 THE COURT: They're admitted.

14 (Photographs marked State's Exhibits Nos. 12 through
15 17.)

16 Q Let me start with State's No. 16. If you can, orient
17 the jury to what this picture shows us.

18 A This is looking back from -- if you'd slide that
19 over -- there you go -- there we go. It'd be looking this
20 way. From No. 25 it'd be showing this area here.

21 Q So the doorway we see is --

22 A From the bedroom towards the kitchen, a doorway.

23 Q Bedroom and kitchen. Okay. And what is that spot we
24 see on the floor?

25 A This spot here?

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 Q Yes, sir.
- 2 A That is a red mark, which is blood, which is a drag
3 mark, because the victim was found over in this area here.
- 4 Q Okay. And run through these other pictures.
5 State's 12. What does that show us?
- 6 A This is a couch that's in that room, and it had a -- a
7 yellow colored vase that was broken. We found multiple
8 pieces of that on the couch, and also on the floor.
- 9 Q And State's No. 13.
- 10 A Showing the couch with the cushions that are picked up
11 on it.
- 12 Q State's No. 14.
- 13 A This is the -- it'd be the -- entry into the room, be
14 the right corner. And this will be your bedroom area --
15 entrance door right here.
- 16 Q And State's 15.
- 17 A This is where -- trying to orientate myself. Yeah.
18 This is going to be another picture of where the victim was
19 lying in this area here.
- 20 Q Okay. These pictures were taken before you moved
21 anything?
- 22 A These?
- 23 Q Yes, sir.
- 24 A These were taken actually -- yes, they were. Moved
25 some items, but locating evidence, you have to move items to

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 identify what you need.
- 2 Q Okay. And when you look at an item you actually put a
3 number there, right?
- 4 A That's correct. If we deem it as evidence or possible
5 evidence.
- 6 Q Do we have pictures without those markers that suggests
7 they were taken before?
- 8 A Yes, we do.
- 9 Q So this looks like this place is trash.
- 10 A We call it ransacked, but yes.
- 11 Q Okay. State's No. 17.
- 12 A That's another area inside the -- the living room area.
- 13 Q Okay. All right. So it's pretty much ransacked.
- 14 All right. Now I'm going to show you State's No. 18.
- 15 A Inside the kitchen.
- 16 MR. BULSA: Your Honor, the state would move 18 into
17 evidence.
- 18 MR. SHEALY: That's without objection.
- 19 THE COURT: It's admitted.
- 20 (Photograph marked State's Exhibit No. 18.)
- 21 Q All right. That's the kitchen area?
- 22 A Yes, sir.
- 23 Q And that's referenced back to your diagram, State's
24 No. 40. Does this appear to be the location looking back
25 towards the sink?

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 A You'd be standing in about this location here. The
2 photograph was taken headed towards the sink, that's
3 correct.

4 Q Okay. And we see a large object there leaning up
5 against the wall. What is that?

6 A That is a flat-screen television.

7 Q Okay. And did it appear that that's where it would
8 normally be placed?

9 A I can't say if it belonged or not, but it was placed
10 there.

11 Q Okay. That's not where you usually would have a T.V.
12 though.

13 A Well, you would normally not have a T.V. there, that's
14 correct.

15 Q Okay. All right. Show you State's 6 through 10. What
16 do those show us?

17 A These are all photos of the master bedroom.

18 Q And show the jury where that location is on your
19 diagram.

20 A Coming off the living room area, it would be this --
21 pointer -- it'd be this area here.

22 MR. SHEALY: No objection, Your Honor.

23 THE COURT: They're admitted.

24 MR. BULSA: State's 6 through 10.

25 (Photographs marked State's Exhibits Nos. 6 through

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 10.)

2 Q Now, let's try to orient the jury with the vantage
3 point here, State's No. 6. Is that taken from the entryway
4 of the door going into the bedroom?

5 A Or stepping -- taking a few steps inside, because this
6 is your entrance to the bathroom.

7 Q Okay.

8 A Here is the master. There's the bed. And this is what
9 it looked like prior to any evidence numbers being placed
10 on. This is how ransacked the house was.

11 Q Okay. State's No. 7.

12 A Picture of the bed.

13 Q Okay. Kinda walk the jury around the room. State's
14 No. 8.

15 A There's the foot of your bed here, and these are just
16 items that are dumped in the center of the floor.

17 Q State's No. 9.

18 A Entertainment center or cabinet, and that's coming off
19 the -- the bed would be over towards on this side here.

20 Q And State's No. 10.

21 A Floor area. Yeah. Bedroom floor area.

22 Q All right. Show you what's been marked State's 19 and
23 20.

24 A Yes. Pictures of the bathroom.

25 Q All right.

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 MR. SHEALY: No objection.
- 2 THE COURT: They're admitted.
- 3 MR. BULSA: State's 19, State's 20.
- 4 (Photographs marked State's Exhibits Nos. 19 and 20.)
- 5 Q Are things even strown about the floor in the bathroom?
- 6 A That's correct.
- 7 Q Show you what's been marked State's 21.
- 8 A That's going to be the sunroom.
- 9 Q Okay.
- 10 MR. SHEALY: No objection.
- 11 THE COURT: Twenty-one is admitted.
- 12 (Photograph marked State's Exhibit No. 21.)
- 13 Q And the sunroom is where, what part of the state's
- 14 exhibit?
- 15 A Comes off -- it comes off the bedroom. There's another
- 16 door. And it's this location here. And it's -- the door
- 17 was knocked off the hinges there.
- 18 Q And that door we see to the end of this picture, 21.
- 19 Is that the door off the hinges?
- 20 A That's correct.
- 21 Q okay. All right. Now, let's take the jury through
- 22 some other pictures, State's 22 through 31.
- 23 THE COURT: What numbers did you say?
- 24 MR. BULSA: State's 22 through 31.
- 25 A Pictures taken in the living room and bedroom with

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 evidence items assigned to specific items.

2 Q Okay.

3 MR. SHEALY: No objection.

4 THE COURT: Twenty-two through 31 are admitted.

5 (Photographs marked State's Exhibits Nos. 22 through
6 31.)

7 Q Okay. Now, let me show you one, and then we'll
8 reference back to your State's 40 diagram.

9 State's Exhibit 22. We see a number, looks like a
10 placard, No. 12.

11 A That's correct.

12 Q And what is the purpose of that placard?

13 A That is a shell cartridge casing.

14 Q Okay. So that placard identifies a piece of evidence.

15 A No. 12. That's correct.

16 Q And that No. 12 would reference the No. 12.

17 A It's in the living room.

18 Q On State's 40, your diagram.

19 A That's correct.

20 Q All right. So it's a shell casing.

21 State's 23. What is that?

22 A That's item No. 14 on my sketch. It's going to be a
23 projectile or bullet.

24 Q Okay. And State's 24. What is that mark?

25 A It's evidence No. 15. It's swabs. Were taken off that

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 stuffed animal that's approximately where our victim was
2 lying at. And there's blood on it. And underneath it,
3 that's where we actually found a bullet hole in the floor
4 and recovered a projectile out of there, or bullet out of
5 the floor.

6 Q You said the victim was lying. You mean Ms. Scruggs?

7 A Yeah, Ms. Scruggs.

8 Q Okay. And State's 25. That actually has two placards
9 in it?

10 A Showing the bed. You're looking at a cell phone case
11 here. It's got a blue piece of latex glove on it, and as
12 well as a piece of latex glove there.

13 Q Okay. And there's a closeup of -- State's 26 a closeup
14 of 16?

15 A Yes, it is. Blue latex glove.

16 Q And State's 27.

17 A That's what I -- we was talking about earlier. When we
18 started sifting through the debris and moving items around
19 to find more evidence, that's what we found. That's where
20 the hole is where the projectile entered through the carpet
21 and into the floor.

22 Q And State's 28.

23 A From the duct tape in the bedroom.

24 Q And State's 29.

25 A That's item No. 19, which is going to be another piece

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 of a latex blue glove.

2 Q And State's 30.

3 A That's what we talked about on the bed earlier. It's a
4 cell phone, plus you got a piece of latex glove on it.

5 Q And State's 31. Is that the back side of that phone?

6 A Yes, sir, it's the back side.

7 Q Okay. Show you State's 32 through 34.

8 A I'm going to make a correction. I was wrong on that.
9 It's going to be No. 24 was the bullet.

10 This shows after we removed the carpet.

11 Q Just identify them first.

12 A Okay.

13 Q And I'll put them on the screen.

14 A Bedroom floor. It's the bedroom-floor area.

15 MR. BULSA: Move these into evidence, Your Honor, 32
16 through 34.

17 MR. SHEALY: No objection.

18 THE COURT: They're admitted.

19 (Photographs marked State's Exhibits Nos. 32 through
20 34.)

21 Q We'll do this. We're a little out of order with the
22 numbers here. But State's 33. That's a picture of 17 that
23 we already saw a closeup of, right?

24 A Correct.

25 Q And 17 was the shell casing.

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 A This here is a shell casing, that's correct.
- 2 Q And then State's 34 appears to be the rug that's on the
3 side.
- 4 A That is where we pulled the rug to the side, and that's
5 where we located the bullet hole, underneath.
- 6 Q That is underneath State's 17.
- 7 A Correct.
- 8 Q Item 17, State's 33. And then here is State's 32.
9 What does that show us?
- 10 A It's item No. 24. That's the projectile or bullet that
11 we located after digging out the debris. And located in the
12 floor.
- 13 Q Is this the area where you believe Ms. Scruggs would
14 have been in the bedroom?
- 15 A It was underneath where that item, evidence item 15,
16 was -- that dog. It was underneath there.
- 17 Q Okay. Where the blood on the stuffed animal was.
- 18 A Correct.
- 19 Q Finally, the last photos, State's 35 through 38.
- 20 A These were photographs taken in the kitchen area.
- 21 MR. SHEALY: No objection.
- 22 THE COURT: They're admitted.
- 23 (Photographs marked State's Exhibits Nos. 35 through
24 38.)
- 25 Q All right. State's 35. Looks like it shows a wall

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 where it meets the ceiling.

2 A That's correct. This is the living room area, and
3 behind you would have been the entrance area. There's a
4 cabinet, and next to the cabinet -- in front of your cabinet
5 you're going to have that little moped inside of there.

6 Q And State's 36.

7 A It's a bullet hole in the ceiling.

8 Q All right. Now just to carry it through, State's 37.

9 A That's a scaled picture showing the bullet hole in the
10 ceiling and giving it an evidence number, No. 28.

11 Q And State's 35 is --

12 A And that's what was recovered out of the ceiling, which
13 is a projectile or bullet.

14 Q So we have bullets recovered from the floor as well as
15 the ceiling in this house.

16 A That's correct.

17 Q Now, did you collect those bullets and shell casings?

18 A Yes, we did.

19 Q And what did you do with each of those?

20 A After collection of all of the evidence and leaving
21 that location, everything is packaged up and placed in
22 secure storage until we send it for analysis.

23 Q Okay. So those would have been secured and kept for
24 later processing.

25 A That is correct.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 Q Now, you yourself didn't do that processing. That
2 would have been sent to a lab?

3 A That is correct.

4 Q Okay. Now, was there any attempt to process for
5 fingerprints?

6 A Yeah. We process anything that was actually printable
7 surfaces, not like any cloth or textured surfaces. Anything
8 that was printable, we did try to attempt to process.

9 Q Did Officer Horton assist you in that area?

10 A Yes, he did.

11 Q Okay.

12 (Photograph marked State's Exhibit No. 46 for
13 Identification.)

14 Q Okay. Show you marked State's 46. Do you recognize
15 that?

16 A Yes, I do.

17 MR. BULSA: State's 46 moved into evidence.

18 MR. SHEALY: We have no objection so long as he can
19 testify as to where he picked it up and things like that.
20 In other words, they have not laid the foundation for what
21 this thing is other than he recognizes it.

22 THE COURT: Okay. Lay your foundation.

23 Q Okay. What is that?

24 A Brief case that was located inside the residence.

25 Q Okay. Was that an item that was processed for --

Robert Charles Talanges
Direct examination by Mr. Bulsa

- 1 A Yes, it is. It still has scaling tape on it where the
2 print was lifted from.
- 3 Q Okay. And the print is labeled A?
- 4 A Getting old. Yes, it is labeled A.
- 5 Q Okay. This was collected during the processing
6 timeframe.
- 7 A Yeah. The house was pretty ransacked, that's correct.
- 8 Q Okay.
- 9 MR. SHEALY: No objection.
- 10 THE COURT: It's admitted.
- 11 (Photograph marked State's Exhibit No. 46.)
- 12 Q All right. In fact, that's the item that was
13 processed. Okay. Do you know if latent A yielded any
14 results?
- 15 A Yes, I do.
- 16 Q Okay. We'll have an agent testify to that. Do you
17 know of any other prints that you have the results?
- 18 A No, I don't.
- 19 Q Okay. Now, Officer, were you asked to go to a location
20 on Flynn Road later in this case?
- 21 A Yes. I did.
- 22 Q Okay. Are you familiar with where that is located?
- 23 A Campobello-Landrum area if I recall. Responded there
24 on that --
- 25 Q Wait a minute. Let her mark these.

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 (Photographs marked State's Exhibits Nos. 47 through 50
2 for Identification.)

3 Q Show you what's been marked State's 47 through 50. Do
4 you recognize that location?

5 A Yes, I do.

6 Q And where is that location?

7 A 117 Flynn Road in Spartanburg County.

8 Q Okay. And you went to that location to look for
9 potential evidence involved in this case?

10 A A search warrant was executed over there. We were
11 looking for a PT Cruiser vehicle.

12 Q Okay.

13 MR. SHEALY: No objection, Your Honor.

14 THE COURT: Those numbers are what?

15 MR. BULSA: State's 47 through 50.

16 THE COURT: They're admitted.

17 (Photographs marked State's Exhibits Nos. 47 through
18 50.)

19 Q Okay. State's 47 shows the yard area of the house at
20 that location?

21 A Yeah. The house is pretty delapidated and abandoned,
22 and that's -- facing the house would be to the right.

23 Q Okay. State's 48. What does that show us?

24 A That shows a -- it's called an impact. It's made out
25 of foam. Bumper that goes underneath a plastic bumper on

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 the vehicle. And it's a Chrysler product.

2 Q Okay. State's 49. Is that a closeup of the picture?

3 A Yes, it is. And it's showing the -- the type of
4 vehicle or manufacture vehicle it came off.

5 Q Okay. State's 50. What does that show us?

6 A That's the area in question that we had where possibly
7 a vehicle was hidden. A lot of the grass or the vegetation
8 is high in that area, was actually -- you can see where it's
9 brown. So there was something that was covering and hid in
10 that area. That's what we were suspecting.

11 Q And is that -- you can actually see that area in
12 State's 48. Sort of in line with where that bumper piece
13 was found?

14 A Yes, sir.

15 Q Okay. So you didn't find the bumper -- you didn't find
16 the PT Cruiser but you found a piece of it.

17 A Found a piece of a vehicle, a Chrysler vehicle.

18 Q All right. And while you were at that location did you
19 find something else?

20 A There was a -- by looking around, there was a big pile
21 of just cloth in the yard. Well, I picked up the piece of
22 cloth and I found a set of keys underneath there.

23 (Photographs marked State's Exhibits Nos. 51 through 55
24 for Identification.)

25 Q Show you photographs marked State's 51 through 55. Do

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1 you recognize those?

2 A Yes, sir.

3 Q Okay. Fifty-one and 52 show the keys that you found.

4 A Yeah. It was a key ring with approximately 13 keys on
5 it.

6 Q Okay. And 53 and 54 and 55, those show portions of the
7 house back on Highway 11?

8 A That's correct. After location of those keys myself
9 and Investigator Norris responded back to the main incident
10 location on Highway 11 with the keys in hand. We actually
11 put them in the locks on the house, and they actually opened
12 the doors.

13 MR. SHEALY: No objection, Your Honor.

14 THE COURT: Fifty-one through 55 are admitted.

15 (Photographs marked State's Exhibits Nos. 51 through
16 55.)

17 Q State's 51. That's the cloth in the area?

18 A That's the cloth area, that's correct.

19 Q State's 52. Those are the keys found underneath the
20 cloth?

21 A Yes, sir.

22 Q State's 53. Bring us back to Highway 11?

23 A Yes. That would be the entrance door on your left and
24 a garage type building on the right on Highway 11.

25 Q And State's 55. Those are the keys in one of the door

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 handles?

2 A That's correct.

3 Q State's -- excuse me. That's State's 54. And this is
4 State's 55 showing another key in another door.

5 A That's correct.

6 Q Okay. Did you attend the autopsy of Mr. Mauldin?

7 A Yes, I did.

8 Q Did you recover any rounds?

9 A One projectile was recovered out of his arm area.

10 Q And would you have taken that and put it into evidence
11 as you did the other items recovered at the incident
12 location?

13 A Yes, I did.

14 Q All right. And you were later asked to examine another
15 vehicle, is that correct?

16 A A Mazda, that's correct.

17 Q And where was that Mazda recovered?

18 A North Carolina.

19 Q Okay. And it was brought back to South Carolina for
20 processing?

21 A Yeah, yes, sir. I processed it on May 27th of 2015.

22 Q No -- no rounds or anything was found in it, were
23 there?

24 A We were looking for any type of evidence for firearm,
25 ammunition, pistols, rifles, any type of firearm. The only

Robert Charles Talanges
Direct examination by Mr. Bulsa

1 thing we located was the little baggy that had something
2 like a drug paraphernalia in it, and that was it.

3 Q Do you know whose vehicle that was?

4 A Pardon me?

5 Q Do you know whose vehicle that was?

6 A I just know it was a Mazda.

7 Q Okay. All right. Now, you -- you basically collect
8 items, secure them, send them off for additional processing.
9 And then another actually -- analyst would have analyzed the
10 latent prints you lifted?

11 A That is correct.

12 Q Thank you. Answer any questions Mr. Shealy has.

13 THE COURT: We'll do cross-examination tomorrow.

14 Let me remind the jury of the caution I gave you
15 before lunch. No discussions about the case; no exposure
16 to any type of media coverage should there exist some; no
17 research; no investigation through internet or otherwise.

18 Have a good evening. Please report to your jury room
19 at 9:30 in the morning, at 9:30 in the morning. Have a
20 good evening.

21 Everybody else remain seated until the jury leaves the
22 courtroom.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: Mr. Talanges, you may step down. You

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1 cannot discuss your testimony during the overnight recess
2 with anyone. You're still on the witness stand.

3 Court is in recess until 9:30 in the morning.

4 END OF PROCEEDINGS MAY 22, 2017

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Robert Charles Talanges
Cross-examination by Mr. Shealy

1 (Proceedings May 23, 2017)

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

4 (Photographs marked State's Exhibits Nos. 56 through 74
5 for Identification. Photographs marked Defendant's
6 Exhibits Nos. 1 through 7 for Identification.)

7 THE COURT: Any matters to address before the jury is
8 brought in?

9 MR. BULSA: No, sir.

10 MR. SHEALY: No, Your Honor.

11 THE COURT: Okay. Bring them in, please.

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

14 THE COURT: Good morning, ladies and gentlemen.

15 As you know, when we recessed yesterday the state was
16 in the midst of their presentation of evidence.
17 Mr. Talanges had just undergone his direct examination by
18 the prosecutor.

19 So we will continue with the cross-examination of that
20 witness by defense counsel.

21 Deputy Talanges, if you will, resume your seat on the
22 witness stand, please, sir.

23 CROSS-EXAMINATION

24 BY MR. SHEALY

25 Q Officer Talanges, now, we did all of this yesterday and

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 we did it kind of quickly, so I want to make sure that I
2 follow what all you've testified to up to this point.

3 So you -- you processed, I believe, four scenes or four
4 different places?

5 A The first day you had three houses. Then there was a
6 vehicle. Then another location on Flynn Road. That's
7 correct. It'd be five.

8 Q Okay. And you also attended an autopsy and got a fired
9 bullet, is that correct?

10 A That's correct.

11 Q All right. Now, how many -- at the Highway 11, 3828
12 Highway 11, how many fired projectiles did you find?

13 A Location again?

14 Q How many -- at 3828 Highway 11, so at the scene of the
15 crime.

16 A Four -- excuse me -- three.

17 Q Three. And then you collected one at the autopsy.

18 A Correct. Total of four.

19 Q Okay. And how many shell casings did you find,
20 cartridge casings did you find?

21 A We found, we located, three at the Highway 11.

22 Q All right. Do you know what happened to that fourth
23 one?

24 A No, sir, I don't.

25 Q Okay. And, now, did you take any fingerprints from

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 those cartridge casings? Did you attempt to?

2 A No, we did not.

3 Q Did you attempt to?

4 A In the past dealing with fingerprints on cartridge
5 casings unless -- when a projectile is fired the casings get
6 so hot that it dissipates anything on the exterior or on the
7 metal, so basically burns them off.

8 Q Okay. So they wouldn't be there because they were
9 fired.

10 A Unless it was an etched print on the casing that's been
11 setting there for years and years and years.

12 Q What do you mean any etched print?

13 A Oils will make an etching into metal, and at that point
14 the print would be there. You could physically see it.

15 Q Okay. All right. And then let me see if I can turn on
16 this contraption. I may need somebody to help me. If you
17 will, bear with me just one minute, Investigator Talanges,
18 until we get that warmed up.

19 In the meantime, you testified that all of the entry
20 that you did was through that rear door.

21 A I call it the side door.

22 Q Okay. The side door.

23 A Yes.

24 Q But/and is that -- so did you ever try to go in through
25 the sunporch door?

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 A That door was off the hinges, and it still had a
2 padlock on the exterior.

3 Q Okay. When you say it's off the hinges, this is
4 State's Exhibit 4, and it's starting to resolve. It's
5 clearly off the hinges, at least at the bottom. But was it
6 at all manipulable? Could you open it a little bit, or did
7 you try?

8 A No. There's no way to open it.

9 Q Okay. And the -- so how was it fastened to the wall on
10 the left side?

11 A One side has a padlock on the exterior.

12 Q Correct.

13 A The left side. And then you had your hinges on the
14 right.

15 Q Okay. So the hinges were still grabbing it. It
16 just -- stopping it from opening?

17 A I guess one wouldn't show. The bottom hinge there is
18 loose and top hinge is still attached.

19 Q Okay. All right. Okay. And as you went through this
20 scene and took pictures did you see any footprints on that
21 side door, that rear side door?

22 A You're talking prints on the side door, or are you
23 talking on the porch?

24 Q No. On the porch, in that area.

25 A Yes, there were prints there.

Robert Charles Talanges
Cross-examination by Mr. Shealy

- 1 Q Okay. And did you take pictures of those?
- 2 A Yes, photos were taken of the prints.
- 3 Q Did you scale those?
- 4 A That would have been Investigator Horton, my partner.
- 5 That was the job that he was doing, was photographing those.
- 6 Q Okay. So you wouldn't have taken those photographs.
- 7 A No, sir.
- 8 Q If you'll bear with me, I'm going to pull out this
- 9 diagram so that -- I'm going to put State's Exhibit No. 4
- 10 up. So what I was asking is you saw prints here in this
- 11 area.
- 12 A Yes, sir.
- 13 Q All right. And that's where you went through the door,
- 14 correct?
- 15 A That was the only entrance door, that's correct.
- 16 Q And whenever -- so Investigator Horton was taking the
- 17 pictures. Did you determine how many different kinds of
- 18 footprints there were?
- 19 A No, I -- no, I did not.
- 20 Q All right. Is that part of your job?
- 21 A To determine how many sets of prints or how many prints
- 22 there are?
- 23 Q How many sets of prints, how many different footprints,
- 24 you can see.
- 25 A It would all have been photographed and scaled, is what

Robert Charles Talanges
Cross-examination by Mr. Shealy

- 1 we would have done.
- 2 Q Okay. All right. So you wouldn't have said, well,
3 that looks like a size six and that looks like a size ten or
4 anything like that, right?
- 5 A I would never estimate it like that.
- 6 Q Okay. Good deal.
- 7 Now, you've testified that at place -- item No. 15,
8 that that's where you -- that there was blood on a stuffed
9 animal, is that correct?
- 10 A Yes, sir, stuffed dog.
- 11 Q All right. And that number, I believe it's, 13 there
12 was a puddle of blood or there was blood on the carpet,
13 correct?
- 14 A On the carpet, correct.
- 15 Q Okay. And at 29 you said there was a puddle of blood
16 from the refrigerator.
- 17 A In the kitchen area.
- 18 Q Now, did y'all take any samples of that?
- 19 A Let me check the assignment sheet real quick.
- 20 (Pause.)
- 21 A We took samples from the residence next door, path
22 leading to.
- 23 Q And...
- 24 (Pause.)
- 25 A Swabs from the living room floor, No. 13. Yes, we did

Robert Charles Talanges
Cross-examination by Mr. Shealy

- 1 take swabs.
- 2 Q You did take swabs.
- 3 A Yes, sir.
- 4 Q Each of those locations?
- 5 A I know from the living room floor, we did.
- 6 Q Why don't I hand you State's Exhibit 41 and on -- if
- 7 you'll read what it says on No. 15, No. 13 and No. 29.
- 8 A Q-tip swab, blood, living room floor, drag mark area.
- 9 And No. 29 would be Q-tip swabs from the kitchen. That's
- 10 correct.
- 11 Q Do you know if those were -- did you do any tests on
- 12 those?
- 13 A We don't do tests for D.N.A. We're not capable of
- 14 doing that. We would submit them off.
- 15 Q But did you do any kind of tests to make -- to make
- 16 sure it was, in fact, blood?
- 17 A No, we did not.
- 18 Q You didn't. Do you have a way of doing that?
- 19 A You could do a field test, that's correct.
- 20 Q So you do have a field test to determine whether it's
- 21 blood, but y'all did not do that in this case.
- 22 A That's correct. We did not.
- 23 Q And to your knowledge was it sent off?
- 24 A To my knowledge, no, I don't know if it was.
- 25 Q You don't know. This is Exhibit No. -- State's Exhibit

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 No. 24. That's a picture. No. 15 is a picture of the swab
2 area of where you swabbed that blood?

3 A From -- from that right, there from the dog, that's
4 correct.

5 Q Right. Let me point out. Right there?

6 A That's correct, yes, sir.

7 Q All right. Again, we assume that it's blood because
8 that's just what we assume it is, is that correct?

9 A Well, the red substance and dealing with crime scenes
10 for so long, yes, I can assume it was blood.

11 Q Okay. Now, you've also testified -- and some of this
12 is going to be a little broken up -- but you've also
13 testified as to some latex gloves, No. 20 and No. 16. Do
14 you see that on this diagram?

15 A Yes. That's correct.

16 Q That you testified, I believe, State's Exhibit 25,
17 which has been entered into evidence, that you found a phone
18 at No. 20 and a piece of latex gloves at No. 16.

19 A That's correct.

20 Q And that's a closeup picture of 16, is that right?

21 A Yes, sir.

22 Q State's Exhibit No. 26.

23 Now, when you took Exhibit No. 20 apart, which is a
24 phone with a -- with a case on it, right? It's a black
25 phone with a blue case on it.

Robert Charles Talanges
Cross-examination by Mr. Shealy

- 1 A That's correct.
- 2 Q Did you have occasion to take the case off of it?
- 3 A Did I have?
- 4 Q Occasion to take the case off of the phone.
- 5 A I think we separated them. I think they are packaged
- 6 as one though if I'm not mistaken.
- 7 Q Let me show you what's been marked as Defense Exhibit
- 8 1. Actually, I'll show you all of them. It'll be Defense
- 9 Exhibits 1 through 4.
- 10 A Yep, did take the case apart.
- 11 Q And are these fair and accurate depictions of what you
- 12 found?
- 13 A Yes, sir, they are.
- 14 MR. SHEALY: Judge, I'd ask to move these into
- 15 evidence.
- 16 THE COURT: What are the numbers?
- 17 MR. SHEALY: Defense Exhibits 1 through 4.
- 18 MR. BULSA: No objection.
- 19 THE COURT: They're admitted.
- 20 (Photographs marked Defendant's Exhibits Nos. 1 through
- 21 4.)
- 22 Q First, it's just Exhibit No. 20 and 16 on that, is that
- 23 correct?
- 24 A That's correct.
- 25 Q And then you separated the cartridge case, and that's

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 Defense Exhibit 1, and you found -- presumably this is what
2 you found, correct?

3 A That is correct.

4 Q And would you describe that for the record?

5 A That is a cell phone case, cell phone with a -- a piece
6 of latex glove.

7 Q And it's inside of the cell phone case?

8 A If you look at the picture, I believe you can see a
9 corner that's sticking out.

10 Q Okay. But largely, the vast majority of it, is within
11 that cell phone case, is that correct?

12 A Yes, it is.

13 Q Let me show you State's or Defense Exhibit No. 2, which
14 is a close-up shot of that. If you could, describe that for
15 the jury, please.

16 A That's going to be your blue rubber case with the latex
17 glove on the inside.

18 Q Okay. And then Defense Exhibit No. 3. That's where
19 you take it out and give it its own evidence marker?

20 A Evidence number and separated, that's correct.

21 Q And then this is a closeup shot of that. Can you tell
22 which part of the latex glove that is?

23 A I can say it's not a finger area.

24 Q Okay. Did you in State's Exhibit No. 16 -- State's
25 Exhibit No. 26, is that a finger area?

Robert Charles Talanges
Cross-examination by Mr. Shealy

- 1 A I couldn't tell you.
- 2 Q You can't tell.
- 3 A I just know it's a piece of a latex glove.
- 4 Q All right. Now, did you do any kind of processing on
- 5 these latex gloves?
- 6 A No, we did not.
- 7 Q These pieces of latex gloves.
- 8 A No, sir.
- 9 Q But you did collect them.
- 10 A Yes, sir.
- 11 Q So if they needed to be sent somewhere, they could have
- 12 been.
- 13 A Latex gloves -- yes, sir, if we're going to collect
- 14 them if they needed to be sent off.
- 15 Q All right. Now, while you were there did you collect a
- 16 G.S.R. kit from the victim's hands?
- 17 A I --
- 18 MR. SHEALY: If I may approach the witness, Judge, it
- 19 might speed things up.
- 20 A It says that I did. I just don't recall what -- yeah.
- 21 It'd be evidence No. 30.
- 22 Q Okay. And, again, are you responsible for sending
- 23 things off, or not?
- 24 A What?
- 25 Q Are you responsible for deciding this needs to go to

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 SLED, this needs to go to Greenville, this needs to get
2 tested?

3 A We would discuss that with the lead investigator to see
4 what's going to be submitted and what's not going to be
5 submitted.

6 Q So that call is generally his to make.

7 A I guess it would be a joint venture, how we're going to
8 process and what we're going to process or submit for
9 processing.

10 Q Sure. And was that G.S.R. kit ever submitted for
11 processing to your knowledge?

12 A I don't recall if it was or was not.

13 Q Now, you were not at the hospital, is that correct,
14 when Ms. Scruggs was admitted there?

15 A No. I was not.

16 Q All right. Now, moving on, so you did collect a bullet
17 from the autopsy, correct?

18 A Yes, I did collect that.

19 Q And that was done the same day that this all happened?

20 A Later on that afternoon, I would say.

21 Q Okay. And then did you go -- so chronologically what
22 did you do next? Did you go and process the Mazda or did
23 you go to Flynn Road?

24 A After the autopsy we returned back to the scene.

25 That's when we were dusting for prints from items inside.

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 Chronological order, I'm looking at -- I believe it's going
2 to be the Mazda was done on 5/27. Five -- or 6/24 I
3 photographed a bunch of cell phones that were collected from
4 North Carolina for Detective Norris. On the 29th, took
5 aerial photos, and July 8th we went to Flynn Road.

6 Q Okay. So the next thing chronologically that you
7 processed would have been the Mazda.

8 A That's correct.

9 Q All right. And while you were at the scene -- you said
10 you went back to the scene and you dusted for prints. How
11 many fingerprints did you collect?

12 A Do you want a rough number or how many we lifted?

13 Q Just a number of how many prints did you find.

14 A I could not give you an exact number. I just know we
15 collected maybe 10 to 15 prints, if maybe more.

16 Q Are you sure it wasn't 26?

17 A It possibly could have been.

18 Q Okay. And you gave them each a number, is that right?

19 A They were given letters.

20 Q Letters?

21 A Letters, that's correct. We wouldn't correspond with
22 evidence numbers.

23 Q I believe that you took -- so you took actually A
24 through, I believe it's, Z, is that correct?

25 A If I recall, that'd be correct.

Robert Charles Talanges
Cross-examination by Mr. Shealy

- 1 Q And each of those went off to be processed within --
2 you have a fingerprint expert who processes those, correct?
3 A Yeah. We submit them to AFIS, which is located in our
4 agency.
5 Q Okay. You went and processed the Mazda. Now, do you
6 know whose Mazda this was?
7 A I just know it was the suspect's vehicle, and that was
8 all.
9 Q Okay. When you say suspect's, which suspect?
10 A I have no idea.
11 Q You don't know.
12 A No, sir.
13 Q Okay. And what was your understanding of what you
14 should look for specifically within this Mazda?
15 A Search warrant was drawn up on it, and I assume we were
16 just looking for cartridge casings, bullets and any other
17 type of evidence deemed as evidence.
18 Q Would one of those things be blood?
19 A Yes. Blood was checked for.
20 Q That would be a specific thing that you'd be looking
21 for, correct?
22 A That's correct. Blood or bodily fluids.
23 Q All right. So any kind of bodily fluid.
24 A That's right.
25 Q Are you aware of collecting any?

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 A We collected none at all.

2 Q All right. I'm going to hand you what are Defense
3 Exhibits 5, 6 and 7 for Identification. Do you recognize
4 those?

5 A Interior of the car, that Mazda.

6 Q So all three of those are from the inside of the
7 vehicle.

8 A That's going to be your driver's floor showing the
9 pedals, instrument area, steering wheel and a side view from
10 the driver's door open.

11 Q Okay.

12 MR. SHEALY: Now, Judge, I would move to admit those
13 as State's or Defense Exhibits 5, 6 and 7.

14 MR. BULSA: No objection.

15 THE COURT: They're admitted.

16 (Photographs marked Defendant's Exhibits Nos. 5, 6 and
17 7.)

18 MR. SHEALY: And I would ask to publish them.

19 Q All right. And I know you've already described them,
20 but this is Defense Exhibit 5 for the record. Would you
21 explain what that is?

22 A That's going to be the floor area of the driver's side
23 inside that Mazda.

24 Q Okay. And those are the foot pedals?

25 A Foot pedals are up towards the top and your carpet or

Robert Charles Talanges
Cross-examination by Mr. Shealy

1 floor mats on the bottom, that's correct.

2 Q All right. And when you processed the inside of this
3 you didn't find any blood.

4 A No, sir, didn't find blood.

5 Q This is going to be Defense Exhibit No. 6. Could you
6 describe that for the record?

7 A That'd be the driver's-compartment side showing the
8 steering wheel, instrument cluster and driver's seat.

9 Q All right. We don't see any blood in there, right?

10 A No, sir. We did not find any.

11 Q And this is going to be Defense Exhibit No. 7. Would
12 you describe that for the jury?

13 A That is going to be -- the driver's door is open
14 showing the driver compartment or interior compartment area.

15 Q And, again, no blood there.

16 A No blood was found, that's correct.

17 Q All right. When you responded to Flynn Road, do you
18 know who owned Flynn Road?

19 A I have no idea who owned Flynn Road. I know we were
20 going there on a search warrant.

21 Q All right. But so you don't know if that was connected
22 to Drew Cash or not?

23 A Connected to who?

24 Q Drew Cash.

25 A I could not say who it was connected to.

Robert Charles Talanges
Cross-examination by Mr. Shealy

- 1 Q Okay. Bear with me here.
- 2 MR. SHEALY: If I may have a moment, Judge.
- 3 (Pause.)
- 4 Q One last question for you.
- 5 Were you able to not walk in that blood that was at, I
- 6 believe, No. 13 on the diagram?
- 7 A What do you mean by not walk in it?
- 8 Q Were you able to avoid walking through it?
- 9 A Yes.
- 10 Q So it was not so big as to make it difficult.
- 11 A That's correct.
- 12 Q So you could skirt it if you wanted.
- 13 A You could -- you could avoid it, that's correct.
- 14 Q You could avoid it. I'm going to just for my
- 15 curiosity, No. -- State's Exhibit No. 12. Is there space
- 16 behind that couch? Do you know?
- 17 A Is there a safe behind it?
- 18 Q Is there a space? Or is it all the way flush against
- 19 the wall?
- 20 A Pushed against the wall.
- 21 Q Yeah. So it is pushed against the wall?
- 22 A Yes, sir.
- 23 Q All right.
- 24 MR. SHEALY: That's all I have for this witness.
- 25

Robert Charles Talanges
Redirect examination by Mr. Bulsa

1 REDIRECT EXAMINATION

2 BY MR. BULSA

3 Q Officer Talanges, how long have you been processing
4 scenes?

5 A Since 1997.

6 Q 1997?

7 A 1997.

8 Q Approximately about 20 years?

9 A About that, that's correct.

10 Q And in those 20 years is it unusual that you don't
11 collect every shell casing?

12 A Oh, yes.

13 Q Why is that?

14 A Sometimes they get carried away. They can get stuck in
15 people's clothing. It's just sometimes it just is -- like
16 this house was as ransacked as it was -- sometimes it goes
17 inside couch cushions. It could be anywhere.

18 Q And the blood that Mr. Shealy asked you about the three
19 specific locations -- the kitchen area, the living room area
20 and the bedroom -- was there any real question as to whose
21 blood that was?

22 A In the living room area, no, would be no question at
23 all because it was a drag. You could physically see how the
24 subject -- where he was laying at and seen the drag mark
25 coming all the way to its location where he was lying at.

Robert Charles Talanges
Redirect examination by Mr. Bulsa

1 The kitchen area all was this large puddle of blood.
2 well, large. I would say maybe size-wise, maybe 15 or
3 18 inches diameter.

4 Q Somebody had bled there.

5 A Somebody had bled there, that's correct.

6 Q And there's no doubt there was a bullet found in the
7 kitchen because you recovered one from the ceiling.

8 A That's correct.

9 Q So a shot was fired in the kitchen.

10 A Shots were fired in the kitchen and also in the living
11 room.

12 Q Okay. And how about the bedroom?

13 A Yeah. A shot fired there as well.

14 Q Okay. And the blood found in the bedroom was in close
15 proximity to where the bullet was found in the bedroom.

16 A That's correct.

17 Q You said you would have discussed with the lead -- lead
18 officer about submission of any other items that were
19 tested.

20 A Yeah. We'll discuss what's going to be submitted for
21 analysis or further testing, other -- other things that we
22 cannot test. We can do latent prints. We can do -- and we
23 can run AFIS. But for ballistics, D.N.A., we don't have
24 that capability.

25 Q And that discussion would have come sometime later in

Robert Charles Talanges
Redirect examination by Mr. Bulsa

- 1 the investigation.
- 2 A Yes, it would.
- 3 Q Okay. And you listed for the defense attorney, I
- 4 believe, five separate locations or items that you
- 5 processed.
- 6 A Five different scenes.
- 7 Q Okay. Three scenes. Three homes in the immediate
- 8 crime scene and at least the outside of two of them.
- 9 A That's correct.
- 10 Q Okay. And then the vehicle that was shown, and then
- 11 the Flynn Road property, and then also the autopsy. And
- 12 then we know that there was some information that was
- 13 obtained from North Carolina. Were you aware of that?
- 14 A Yes, I was.
- 15 Q Okay. So when having those discussions with your lead
- 16 officer this -- what was actually submitted for testing?
- 17 A I don't have the SLED paperwork with me. It would
- 18 be --
- 19 Q The lead officer would?
- 20 A Yeah. He should have the SLED paperwork, that's
- 21 correct.
- 22 Q And he would have done that after consultation with
- 23 you.
- 24 A Yes. We would discuss what's going to be submitted.
- 25 Q And the fingerprint processing, did you do that in

Robert Charles Talanges
Redirect examination by Mr. Bulsa

1 conjunction with Officer Horton?

2 A Yes, we did. We actually printed everything. Any
3 printable surface with inside that residence that we thought
4 was going to be touched, altered or moved. The house, as
5 you see in the photo, was pretty ransacked.

6 Q And of course the defense attorney pointed out that
7 there were 26 latent prints lifted. A through Z.

8 A Yes, sir.

9 Q Okay. And those would have been given to another
10 analyst at the sheriff's office?

11 A Yeah. They are packaged. They're submitted to AFIS
12 and the analysis -- the analyzer would get ahold of those.

13 Q All right. And what was the purpose of testing the
14 victim's hands for gunshot residue?

15 A To see if the victim had fired a weapon or a gun.

16 Q Was there any thought that he may have in this case?

17 A I can't say yes; I can't say no. It's just part of
18 standard procedure that we do.

19 Q So that was more standard procedure than anything else.

20 A Yes, sir.

21 Q So you basically swab all gunshot victims' hands.

22 A Yes, sir.

23 Q Thank you.

24 MR. BULSA: That's all I have.

25 MR. SHEALY: I have no further questions.

Steven Horton
Direct examination by Mr. Bulsa

1 THE COURT: You may step down.

2 MR. BULSA: The state calls Steven Horton.

3 We ask that Officer Talanges be excused.

4 MR. SHEALY: No objection.

5 THE COURT: He may be.

6 (Whereupon, the witness was excused.)

7 STEVEN HORTON, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. BULSA

10 Q Please introduce yourself to the jury.

11 A Steven Horton.

12 Q Who are you employed with?

13 A Spartanburg County Sheriff's Office Crime Scene.

14 Q How long have you been an officer?

15 A A little over six and a half years.

16 Q How long have you been with the crime scene unit?

17 A Around four and a half.

18 Q Do you work with Officer Talanges on a regular basis?

19 A Yes.

20 Q Were you sent to 3828 Highway 11 to assist him with the
21 case?

22 A Yes.

23 Q Did you assist him in processing the scene for latent
24 fingerprints?

25 A Yes.

Steven Horton
Direct examination by Mr. Bulsa

- 1 Q What was your purpose in that?
- 2 A To try to locate any fingerprints that may identify the
- 3 suspects or anyone else who had been in the house.
- 4 Q At the time you were processing that scene did you have
- 5 any information as to whether the perpetrators or the
- 6 assailants may have been wearing gloves?
- 7 A No, I did not.
- 8 Q Okay. You heard Officer Talanges testify about pieces
- 9 of latent, pieces of rubber gloves being found.
- 10 A Yes.
- 11 Q Did that -- is that what it appeared they were, pieces
- 12 of rubber gloves?
- 13 A Yes.
- 14 Q And those pieces were predominantly in the bedroom
- 15 area?
- 16 A Yes.
- 17 Q Where were the items that you processed? Just give us
- 18 an overview of where you focused your processing.
- 19 A Basically, all throughout the house. I remember we
- 20 started in the -- I started in the bathroom area and then
- 21 moved to the bedroom. I believe we were bringing items off
- 22 of the front porch, or I think they're calling it the
- 23 sunroom. Bringing those in. And then eventually to the
- 24 living room and kitchen.
- 25 Q Show you what's been marked State's Exhibit No. 44.

Steven Horton
Direct examination by Mr. Bulsa

1 It's actually signed by Talanges. But do you recognize
2 that?

3 A Yes.

4 Q Would that be an example of one of the prints you would
5 have lifted?

6 A Yes.

7 Q And was that print actually lifted from that residence?

8 A Yes, it was.

9 MR. BULSA: The state would offer that into evidence,
10 State's 44.

11 MR. SHEALY: No objection.

12 THE COURT: It's admitted.

13 (Fingerprint card marked State's Exhibit No. 44.)

14 Q So the other 25 latent prints, would they be similar to
15 that?

16 A Yes, they would.

17 Q So the jury can have an understanding, this appears to
18 be a piece of tape-like substance.

19 A Yes.

20 Q With the tab?

21 A Uh-huh. It's called a lifting tab.

22 Q Okay. And you would have secured all of those and
23 turned them into whom?

24 A The AFIS division.

25 Q Okay. Is Courtney Burgess one of those officers --

Steven Horton
Cross-examination by Mr. Shealy

1 A Yes.

2 Q -- or agents? would you have participated with
3 Mr. Talanges and the investigators about deciding what to
4 process after the -- after everything was collected, what
5 should be sent off for further analysis?

6 A No. I do not.

7 Q You would not have participated in that.

8 A No.

9 Q Okay. All right. Thank you. That's all I have.

10 Answer any questions Mr. Shealy has.

11 CROSS-EXAMINATION

12 BY MR. SHEALY

13 Q Two questions for clarity.

14 You testified that you were bringing items into the
15 sunporch or from the sunporch? What do you mean?

16 A Just we go out there. It was such a small place and so
17 cluttered up, we'd go out there. And anything that could be
18 processed, we'd bring it into the bedroom where -- that's
19 where we had all of our fingerprint -- the dust brushes and
20 things.

21 Q They would have been doing that after you had already
22 photographed --

23 A Yes, yes.

24 Q -- everything and given everything an item number and
25 that sort of thing, correct?

Courtney Burgess
Direct examination by Mr. Bulsa

1 A Yes.

2 Q You've also testified that the other 25 would be like
3 that. When you say that, you just mean they would be in
4 that format, correct?

5 A Yeah. They would be on a tab and be given a letter.

6 Q Not that they were necessarily the same person's
7 fingerprint.

8 A No.

9 MR. SHEALY: That's all I have of this witness.

10 MR. BULSA: Nothing further. We ask he be excused.

11 THE COURT: You may step down. You may also be
12 excused.

13 (Whereupon, the witness was excused.)

14 MR. BULSA: The state calls Courtney Burgess.

15 COURTNEY BURGESS, having been
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BULSA

18 Q Please introduce yourself to the jury.

19 A Courtney Burgess.

20 Q Who are you employed by?

21 A Spartanburg County Sheriff's Office as a latent print
22 examiner.

23 Q Are you a police officer?

24 A Yes, sir.

25 Q What kind of training do you have?

Courtney Burgess
Direct examination by Mr. Bulsa

1 A I have a bachelor of science in forensic identification
2 from West Virginia University, along with many courses in
3 latent print examination, science and technology of
4 fingerprints, advanced ridgeology, which is just an advanced
5 fingerprint comparison class, and as well as advanced latent
6 palm print training.

7 Q How long have you been employed with law enforcement?

8 A I've been employed since 2006. I worked nine years at
9 Spartanburg City Police Department as crime scene, and I've
10 been at Spartanburg County as an AFIS examiner, latent print
11 examiner, a little over two years now.

12 Q So did you go to Spartanburg city from college?

13 A Yes, I did.

14 Q So your whole career has been in law enforcement.

15 A It has been.

16 Q And in crime scene analysis.

17 A Correct.

18 Q Latent fingerprint analysis.

19 A Yes.

20 MR. BULSA: Your Honor, we offer Courtney Burgess as
21 an expert in the analysis of fingerprints.

22 MR. SHEALY: No objection.

23 THE COURT: She is so qualified.

24 Q Officer Burgess, how were you presented items to
25 process?

Courtney Burgess
Direct examination by Mr. Bulsa

1 A At the AFIS office or fingerprint office, whatever you
2 want to call it -- we typically just shorten it to AFIS --
3 we have a secure drop box in our office. It's kind of a
4 pass-through box.

5 The crime scene investigators if they get a
6 fingerprint, they'll put in it an envelope, mark it with the
7 pertinent information and drop it in that box. Only myself
8 and the other latent examiner has access to that.

9 Every morning we come in, open the box, log in what's
10 in the box and then begin examining it.

11 Q In this specific case how many items were submitted to
12 you?

13 A I received one envelope. It contained 26 fingerprint
14 cards or latent cards there were lifted from the crime
15 scene.

16 Q Okay. And they were labeled A through Z?

17 A Yes, I believe so. Each -- each card has, like you
18 saw, the tab that has the letter on it. Each card is
19 labeled -- labeled as such.

20 Q Okay. And what do you do with those items?

21 A Well, first, we examine each card to see if there
22 are -- first of all, to see if there are any fingerprints on
23 them. Just because we get a latent lift doesn't necessarily
24 mean that there's a fingerprint on there. It may just be
25 some smudges or, you know, just-left powder residue from the

Courtney Burgess
Direct examination by Mr. Bulsa

1 fingerprint powder.

2 When we do find a fingerprint we further look at that
3 fingerprint to see if it's actually got sufficient ridge
4 detail in there to make an identification.

5 You know, we may get a small portion of a fingerprint
6 that, you know, there may be some ridge detail there but
7 there's not enough to be able to make an identification from
8 that fingerprint.

9 So we -- we basically analyze each thing, each card, to
10 see how many prints are on it and if they're good enough to
11 even make an identification from.

12 Q So you basically sort them out and determine what you
13 can go forward with.

14 A Right.

15 Q And how many did you actually analyze that resulted in
16 an identification?

17 A I have to look at my notes.

18 There were a total of 13 identifications in this case
19 out of the 26 cards.

20 Q And what did you have to compare those prints with?

21 A Well, we entered them through the database. Each --
22 each print that we entered -- we entered a total of 18
23 fingerprints into the database. And, like I said, 13 were
24 identified.

25 Q Okay. Were any identified to the defendant?

Courtney Burgess
Direct examination by Mr. Bulsa

- 1 A Yes. Latent print 000, which is a number that we
2 assign to each print, was lift A, was identified as the
3 No. 6 finger of Steven Richard Lewis.
- 4 Q Okay.
- 5 MR. SHEALY: I have no objection to 45 and 44.
- 6 MR. BULSA: Forty-four has been entered.
- 7 (Fingerprint card marked State's Exhibit No. 45.)
- 8 Q And I'll show you State's 45. Would you describe what
9 that is?
- 10 A Okay. Forty-five is a chart that I prepared showing
11 the identification. It's got on the left side, it's got
12 a -- an image of the latent print that was found on the
13 crime scene. And on the right side it's got an image of the
14 actual inked fingerprint of Mr. Lewis.
- 15 Q Okay. Place State's 44 on the projector. It actually
16 has something written.
- 17 A Yes. Whenever we enter a fingerprint into the
18 database, even though crime scene investigators assigned it
19 a letter A, any print that we enter into the database, that
20 system assigns it a number. This was the first print that
21 was entered, so it starts at zero instead of one. But
22 whenever we enter the print and we see what number it's
23 assigned, we write that number on the card. That's the 000
24 that you see there on the card.
- 25 Q How about the name? Who wrote the name?

Courtney Burgess
Direct examination by Mr. Bulsa

- 1 A I wrote that after the identification was made.
- 2 Q Okay. And what does No. 6 reference?
- 3 A No. 6 is the No. 6 finger. In latent fingerprints we
- 4 assign each finger a number. You start with the right
- 5 thumb, is one, two, three, four, five. And then you start
- 6 over with the left hand, is the No. 6 finger, is the
- 7 thumb -- seven, eight, nine, ten.
- 8 Q Okay. Back to this card. That would have been already
- 9 filled in when it was provided to you.
- 10 A Correct.
- 11 Q Okay. And so it was taken from the brief case log?
- 12 A Yes. If you look -- typically when they draw a diagram
- 13 you can see the little X there on the -- on the -- right
- 14 there. There's an X indicating where the fingerprint was
- 15 lifted.
- 16 Q Okay. And now State's 45. Describe what that is.
- 17 A This is the chart I was speaking about on the left
- 18 side. This is the latent print. All of these lines that
- 19 are coming off of it are just indicating the points within
- 20 that print that were matched to the points within the inked
- 21 print over here. This is Mr. Lewis' left thumb.
- 22 Q Okay. How many points are matching?
- 23 A Within -- when we do analysis on a fingerprint we're
- 24 not just looking to see, okay, there's a bunch of lines
- 25 there that are making a pattern. We're looking for the

Courtney Burgess
Direct examination by Mr. Bulsa

1 details within those lines. The black lines we call ridges.
2 what we are looking for are...

3 THE WITNESS: Your Honor, do you mind if I step down
4 so I can that a little bit better?

5 THE COURT: No. That's fine.

6 But let me ask you when you do that -- do you see that
7 microphone hanging in front of you here?

8 THE WITNESS: Yes.

9 THE COURT: The one over here.

10 THE WITNESS: Right here.

11 THE COURT: If you'll stand beneath that --

12 THE WITNESS: Okay.

13 THE COURT: -- then we'll be able to hear you better.

14 (Whereupon, the witness left the stand.)

15 A We're looking for different points of identification or
16 minutiae within the prints.

17 You see right here. You see how that line is coming
18 along, and it just stops. That's called an ending ridge.

19 Right over here -- it's kind of hard to see on here.
20 I'm trying to find it. Right here. You see how this line
21 is moving, moving up. And it splits into two lines right
22 there. It's a single line that splits into two. That's
23 called a bifurcation.

24 So what we're looking for in the prints are the ending
25 ridges and the bifurcations.

Courtney Burgess
Direct examination by Mr. Bulsa

1 When we compare the latent print to the known print or
2 the inked print, we have to find those same points in both
3 prints and they have to be in the same location relative to
4 one another in both prints. And that's how we make our
5 identification.

6 The lines that I've drawn are just chart lines, and
7 they're just pointing out the different minutiae that
8 correspond with the known print.

9 Q Okay. And the defendant's known print was obtained
10 how?

11 A When he was arrested at the Spartanburg -- well, when
12 he was booked into the Spartanburg County Jail he would have
13 been fingerprinted, and that's -- that's where the
14 fingerprint card came from.

15 Q So it would have been a direct comparison with his
16 print to the latent print.

17 A Correct.

18 Q And in your expert opinion State's 45 is -- actually
19 it's State's 44 is the fingerprint of Steven Lewis?

20 A It is.

21 Q Okay. Thank you. You can have a seat.

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

23 Q I have no further questions. Answer any questions
24 Mr. Shealy may have.

25

Courtney Burgess
Cross-examination by Mr. Shealy

1 CROSS-EXAMINATION

2 BY MR. SHEALY

3 Q Officer Burgess --

4 MR. BULSA: Oh, excuse me.

5 CONTINUED DIRECT EXAMINATION

6 BY MR. BULSA

7 Q I meant to ask you this. You said 13 were identified.

8 This was one.

9 A Right.

10 Q What's with the other 12?

11 A There were -- nine prints were identified as
12 Mr. Mauldin, the victim, and another three were identified
13 as Casey Scruggs.

14 Q And those were residents.

15 A Correct.

16 Q Thank you.

17 MR. BULSA: Excuse me, Mr. Shealy. Now I'm finished.

18 CROSS-EXAMINATION

19 BY MR. SHEALY

20 Q Officer Burgess, so there were 13 different prints that
21 were not -- they just didn't have enough ridge detail, or
22 why didn't those result in --

23 A Different -- different reasons. Some were, like I
24 said, not enough ridge detail to make an identification
25 from. Like I said, I entered 18 total prints, and I only

Courtney Burgess
Cross-examination by Mr. Shealy

1 got matches to -- did I say 13?

2 Q I believe you said 13.

3 A Yes. I got matches to 13. There were actually five
4 that were entered into that did not identify to anyone. So
5 we don't know who those prints belonged to.

6 Q Okay. But you believe that those had sufficient ridge
7 detail but just they weren't -- those prints weren't in your
8 database?

9 A Correct. That's -- that's basically what that means.
10 It means the prints were not there.

11 Q Now, when you put them in the database and it spits out
12 the identification, what do you do next?

13 A It doesn't actually spit out an identification. When
14 we put -- we scan the image of a fingerprint into the
15 database. We mark all of those points of minutiae that we
16 see in the print, and then it's submitted.

17 What the system does is it kind of speeds things up for
18 us. Back in the old days you would have to go through rooms
19 and drawers of fingerprint cards searching manually, looking
20 for your fingerprint card that you think may belong to this
21 person. And then you would have to physically compare it.

22 That's basically what the machine does for you. It
23 does the searching for us. It sends us back a list of
24 possible candidates that it -- that may match that latent
25 print. We've actually got to go through that list and see

Courtney Burgess
Cross-examination by Mr. Shealy

1 if it actually matches any of those.

2 Q And when you see if it actually matches them, do you
3 have to do that microscopically with a microscope or do
4 you --

5 A Yes. We do a direct comparison. We can enlarge the
6 prints like you saw here, make them really big so that you
7 can see them better. Do it on the screen, mark the points.
8 And then we do the chart there. But we also do a physical
9 examination under a magnifying glass.

10 Q And none of these were -- you didn't find any prints
11 for my client's lower palm or anything like that. It was
12 just the left finger.

13 A Correct. Just the -- the left thumb.

14 Q Okay. The left thumb.

15 MR. SHEALY: That's all I have of this witness.

16 MR. BULSA: Nothing further. We ask that she be
17 excused.

18 THE COURT: You may step down.

19 MR. SHEALY: No objection.

20 THE COURT: She may be.

21 (Whereupon, the witness was excused.)

22 MR. SHARPE: The state calls Ms. Tracy Lanning.

23

24

25

Tracy Lanning
Direct examination by Mr. Sharpe

1 TRACY LANNING, having been
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. SHARPE

4 Q Good morning.

5 A Hi.

6 Q Would you please introduce yourself to the jury?

7 A My name is Tracy Lanning.

8 Q Where do you work, Ms. Lanning?

9 A I am self employed. I work for myself doing
10 housekeeping and caring for elderly.

11 Q And do you remember your whereabouts on May 22nd of
12 2015?

13 A Yes. I was -- went to Emma's that morning
14 approximately 7:00 o'clock to work for her.

15 Q And Emma is Drew Cash's grandmother, is that correct?

16 A Yes, sir.

17 Q And what did you remember seeing when you got there
18 that morning?

19 A Emma's house sets like this, and there's a building to
20 the side of it.

21 As I come up -- come down the street I was being
22 dropped off. Drew's car was backed up to the building, and
23 the door of the building was open, the passenger-side door
24 was open, the passenger-side seat was up.

25 Mr. Lewis was in that doorway of the car. It looked

Tracy Lanning
Direct examination by Mr. Sharpe

1 like he was either putting something in the car or in the
2 building, but I didn't actually see anything. I mean,
3 didn't see him move anything. Just, like I said, with the
4 doors open and the way he was standing, that was the
5 impression that I had.

6 Q Okay. And what did you do next?

7 A I got out of the truck, and me and Steven made eye
8 contact. And I don't know any better way to explain it
9 other than like I did that day. He just looked like I had
10 caught him doing something. I have five children, four
11 sons, and he just had that look.

12 But, like I said, I didn't actually see him like move
13 anything in and out of the building, so I didn't know why he
14 looked like that.

15 I kept eye contact with him. As I walked towards the
16 house I asked him where Drew was, and he said Drew was
17 inside.

18 I kept walking until I got to a point that we lost eye
19 contact. And when we lost eye contact -- there's a walkway
20 right in front of the door. There was a little black bag
21 laying there, and I scooped it up and kept on walking into
22 the house.

23 Q Can you describe that black bag a little bit?

24 A I just remember it was a little black bag. I assumed
25 that it was Emma's. And Emma's house is a tri-level. When

Tracy Lanning
Direct examination by Mr. Sharpe

1 you go in, you go upstairs or you go down.

2 I went up the stairs and woke Emma up and made her a
3 cup of coffee. When she got down to the living room I
4 showed her the bag. I told her that I had found it outside.
5 We opened it up. It had some jewelry in it, some like
6 little bottles and a piece of paper with names and like
7 numbers.

8 Q And was it Emma's bag?

9 A No.

10 Q Did you ask anyone else if it was their bag?

11 A Yes. I went downstairs. And you go -- like I said,
12 it's a tri-level, and you go down and you turn. And Drew's
13 bedroom was there.

14 I went downstairs into the bedroom, and Drew was
15 standing there, and I said, here, Drew, I found this. And I
16 tossed it to him. And I turned around and started back up
17 the stairs.

18 And then I heard him and Steven discussing, you know,
19 where I had found it, how I got it, where did it come from,
20 did I open it, did I look in it, you know. And I just kept
21 going back upstairs.

22 And about the time that I got up, you know, to the --
23 where you're supposed to be in the living room, Drew started
24 yelling for me to come back downstairs, that he needed to
25 talk to me, it was very important. So I turned around and

Tracy Lanning
Direct examination by Mr. Sharpe

1 come back downstairs and he wanted to know --

2 MR. SHEALY: Judge, I'm going to object. That's all
3 hearsay. It's Mr. Cash.

4 THE COURT: Sustained.

5 Q Now, Ms. Lanning, just describe how they were acting
6 when they were asking you about the bag.

7 A Nervous. They wanted to know did I look in it.

8 Q And you said this was about 7:00 o'clock in the
9 morning?

10 A I got there about 7:00. So this was between 7:00 and
11 7:30.

12 (Photographs marked State's Exhibits Nos. 75 and 76 for
13 identification.)

14 Q Ma'am, I'll show you what's been marked State's 75 and
15 76. Do you recognize these?

16 A Yes. That's the front of Emma's house and that's the
17 building where Drew's car was.

18 MR. SHARPE: Your Honor, we would ask State's 75 and
19 76 be moved into evidence.

20 MR. SHEALY: No objection.

21 THE COURT: They're admitted.

22 (Photographs marked State's Exhibits Nos. 75 and 76.)

23 Q Ma'am, so you're saying this is the front of Emma's
24 house?

25 A Yes.

Tracy Lanning
Direct examination by Mr. Sharpe

1 Q That's State's 75. And then State's 76, this is that
2 outbuilding you were describing?

3 A The small white one, yes.

4 Q And where was Drew's car in relation to that?

5 A Pulled up right at the doors.

6 Q Backed up to it?

7 A Yeah, pulled right up to it on the passenger side up
8 against the doors. And the door to the building was open
9 and the passenger side of Drew's car was open, and the
10 passenger-side seat was flipped up so you could get into the
11 back seat.

12 Q And last, Ms. Lanning, where was the purse in relation
13 to this bedroom?

14 A See the bench and the blue chair? That's a brick
15 walkway.

16 Q I'll get you to do that. Use this laser.

17 A I'm sorry.

18 Q You're okay.

19 A Like this is the road right here where I pulled up, and
20 I walked across like this, and it was laying approximately
21 right there.

22 Q So right by the front door.

23 A Yeah. That's why I said I -- and as I walked I broke
24 -- you know, Steven is over here. I broke -- the edge of
25 the house cut off our eye contact. That's when I looked

Tracy Lanning
Cross-examination by Mr. Shealy

1 down and seen it. And I just scooped it up and proceeded in
2 the door.

3 Q Thank you, Ms. Lanning. Please answer any questions
4 Mr. Shealy may have.

5 CROSS-EXAMINATION

6 BY MR. SHEALY

7 Q All right. Ms. Lanning, whenever you got to the house,
8 how many people were there?

9 A Steven, Drew, Nicole, Emma and me.

10 Q Okay. So Nicole was there as well?

11 A Yes.

12 Q All right. Now, you testified also that when you got
13 there -- and this may have already been asked of you. Where
14 did you park?

15 A I didn't park. I was dropped off.

16 Q By whom were you dropped off?

17 A My exmother-in-law.

18 Q Where were you dropped off at?

19 A Right here in front of the house, approximately right
20 here.

21 Q Okay. And you testified that Mr. Lewis was out here
22 somewhere.

23 A Yeah. He was -- like I said, Drew's car was pulled up
24 right here, and Steven was in between the building and
25 where -- you know, the door opened. Steven was inside the

Tracy Lanning
Cross-examination by Mr. Shealy

- 1 door. And he looked up as we slowed down. And that's, you
2 know -- like I said, he looked at me and I looked at him,
3 and he didn't know me and I didn't know him. And we kept
4 eye contact. But I knew it was Drew's car, and that's why I
5 asked where Drew was.
- 6 Q Okay. So you didn't know him.
- 7 A No.
- 8 Q You'd never met him before?
- 9 A I -- no.
- 10 Q Never seen him there?
- 11 A No.
- 12 Q Now, what were y'all doing that day?
- 13 A I was actually coming down. Going to Emma's to come
14 down here to Spartanburg to testify for Emma's son.
- 15 Q Okay. And was Emma -- did she have her car?
- 16 A Yes.
- 17 Q All right. And --
- 18 A That's Emma's car. On the other picture is Emma's car.
- 19 Q State's Exhibit 76?
- 20 A Yes.
- 21 Q That Toyota is Emma's car?
- 22 A Yes, right.
- 23 Q Now, you testified that you care for elderly people.
- 24 Is Emma one of those elderly people you take care of?
- 25 A I helped Emma, but her husband is who I took care of.

Tracy Lanning
Cross-examination by Mr. Shealy

- 1 Q Okay. And is her husband still alive?
- 2 A No. He died April 30th.
- 3 Q The 30th of this year?
- 4 A No, of 2015.
- 5 Q Okay.
- 6 A Approximately three weeks before this happened.
- 7 Q All right. So you had asked where Drew was. And
- 8 did -- were you directed inside or did you just go inside?
- 9 A I just walked in.
- 10 Q And then you testified that you went upstairs, or you
- 11 found this purse. Now, what did you do with the purse when
- 12 you found it?
- 13 A I walked upstairs, laid it down, went and told Emma I
- 14 was there, went back, made her a cup of coffee, set it down
- 15 in the living room and picked the purse back up and opened
- 16 it.
- 17 Q Okay. Was Emma there when you opened it?
- 18 A No. She come out right afterwards.
- 19 Q All right. And when she came down you asked if it was
- 20 hers, you said.
- 21 A Yes.
- 22 Q Did you ask Nicole if it was hers?
- 23 A No.
- 24 Q Okay. Now, were you present whenever the police got
- 25 there with a search warrant?

Tracy Lanning
Cross-examination by Mr. Shealy

1 A Yes. Coming back from court that day, Drew called me
2 on my phone.

3 Q Don't testify to what people --

4 A Pardon?

5 Q Don't testify to what people told you or a
6 conversation. I'm just asking you --

7 A Oh, yes.

8 Q -- if you were present when they were doing the search
9 warrant.

10 A Yes.

11 Q You were there.

12 A Yes.

13 Q And were they -- were the police able to get into those
14 buildings?

15 A Yes.

16 Q All right.

17 MR. SHEALY: That's all I have for this witness.

18 MR. SHARPE: Nothing further, Your Honor. We ask the
19 witness be excused.

20 THE COURT: You may step down. You may also be
21 excused.

22 (Whereupon, the witness was excused.)

23 MR. BULSA: The state calls Clifford Cash.
24
25

Clifford Cash
Direct examination by Mr. Bulsa

- 1 CLIFFORD CASH, having been
2 first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. BULSA
4 Q Mr. Cash, would you introduce yourself to the jury?
5 A I am Clifford Cash.
6 Q Make sure you speak up so we can hear.
7 A I'm Clifford Cash.
8 Q Are you the father of Drew Cash?
9 A Yes, sir.
10 Q What's Drew's formal name?
11 A Jason Andrew Cash.
12 Q Jason Andrew Cash. But he goes by Drew.
13 A Yes, sir.
14 Q And where did Drew live back in May of 2015?
15 A He lived my mother.
16 Q Was it at this residence that's shown in State's 75?
17 A Yes, sir.
18 Q Did you know a friend of his named Steven Lewis?
19 A I have never met him before.
20 Q Okay. So you didn't know of him?
21 A No.
22 Q And do you recall where your son was located on May
23 23rd of 2015?
24 A He was living with my mother.
25 Q Okay. Was he found in North Carolina?

Clifford Cash
Direct examination by Mr. Bulsa

- 1 A Yes.
- 2 Q Okay. You learned he was up there?
- 3 A Yes.
- 4 Q Did you know he was going there?
- 5 A No, sir.
- 6 Q He was eventually brought back to Spartanburg, correct?
- 7 A Yes, sir.
- 8 Q Let me show you what's been marked State's Exhibit 64.
- 9 Do you recognize that vehicle?
- 10 A Yes, sir.
- 11 Q Okay. Whose vehicle is it?
- 12 A My son's.
- 13 Q Okay. How long had he had that vehicle?
- 14 A Not long, maybe -- maybe a month, maybe.
- 15 Q Okay. Now, did you know the gentleman who was killed
- 16 in this case -- Carey Mauldin?
- 17 A No, sir.
- 18 Q Did you know the young lady who was wounded in this
- 19 case -- Ms. Scruggs?
- 20 A No, sir.
- 21 Q You did not.
- 22 Okay. Now, was your son fixing up some property on
- 23 Flynn Road?
- 24 A Yes, sir.
- 25 Q And how did he come to be in possession of that

Clifford Cash
Direct examination by Mr. Bulsa

- 1 property?
- 2 A My dad -- my dad told him that he was going to will it
3 to him when he passed away.
- 4 Q So you can identify -- identify that location from
5 State's 47. Is that the property?
- 6 A Yes, sir.
- 7 Q Okay. Did you have occasion to visit that property
8 after you learned your son was in North Carolina?
- 9 A Yes, sir.
- 10 Q And did you see anything on that property?
- 11 A Yes, sir.
- 12 Q What did you see?
- 13 A PT Cruiser.
- 14 Q PT Cruiser. Where did you see that PT Cruiser?
- 15 A It was back there behind that building right there
16 setting right in that area right there.
- 17 Q Let me show you State's 50. Parked beside that
18 building?
- 19 A Yeah. It was right there.
- 20 Q How was it? Was it setting out in the open?
- 21 A No, sir.
- 22 Q How was it setting?
- 23 A It was covered up with pallets and tarps.
- 24 Q Did you know your son to own that vehicle?
- 25 A No.

Clifford Cash
Cross-examination by Mr. Shealy

- 1 Q What did you do when you found that vehicle there?
- 2 A I -- I left.
- 3 Q Did you -- do you know if the police recovered it?
- 4 A No, sir.
- 5 Q Did you tell the police about it?
- 6 A I talked to them on the phone.
- 7 Q Did you later go up there when they were searching?
- 8 A No, sir.
- 9 Q You did not?
- 10 A No, sir.
- 11 Q Show you State's 48. Was that white object in that
- 12 picture there when you saw the PT Cruiser?
- 13 A No, sir.
- 14 Q So the PT Cruiser was in one piece at that point.
- 15 A Yes, sir.
- 16 Q So if it was moved do you have any idea how it got
- 17 moved?
- 18 A No, sir.
- 19 Q Okay. That's all I have, Mr. Cash. Answer any
- 20 questions Mr. Shealy may have.
- 21 CROSS-EXAMINATION
- 22 BY MR. SHEALY
- 23 Q Mr. Cash, do you remember testifying in a prior trial?
- 24 A Yes, sir.
- 25 Q Bear with me.

Clifford Cash
Cross-examination by Mr. Shealy

1 (Pause.)

2 Q You've testified today that your son was fixing up this
3 piece of property on Flynn Road.

4 A Yes, sir.

5 Q Did he actually inherit that property, do you know of?

6 A From -- from my understanding now when my father passed
7 away, he didn't.

8 Q So it was not actually willed to him.

9 A Right.

10 Q Okay. And, now, you've testified that you have kept
11 that property up, you were cutting the grass, things like
12 that.

13 A Yes, sir.

14 Q Okay. And, now, you've said you never met Mr. Lewis,
15 is that correct?

16 A That's correct.

17 Q Never seen him a day in your life.

18 A That's right.

19 Q So you don't if he's ever been to that property or not,
20 do you?

21 A That's right.

22 Q Okay. Now, was there some concern about whether this
23 car was actually on her property line or not?

24 A Yes. I don't -- I mean, I don't know where the
25 property line is, I mean.

Clifford Cash
Cross-examination by Mr. Shealy

1 Q So that car may not have even been on your -- this
2 piece of property.

3 A Right.

4 Q So it could have belonged to whoever. Who owned the
5 other piece of property?

6 A I -- I have no idea.

7 Q So it could have belonged to that person for all you
8 know.

9 A Right.

10 Q But whatever, wherever it was, whoever put it there,
11 you cannot place my client as ever having been at that -- at
12 this Flynn Road location.

13 A No, sir.

14 Q Now, is that off the beaten path some or is it easy to
15 get to?

16 A It's -- it's secluded.

17 Q It's back in the country?

18 A Right. Yes, sir.

19 Q So it's not something that you could just stumble upon.

20 A Right.

21 Q Were there any other cars out there when you went out
22 there?

23 A No, sir.

24 MR. SHEALY: That's all I have for this witness.

25 MR. BULSA: Nothing further from Mr. Cash.

Casey Scruggs
Direct examination by Mr. Bulsa

1 THE COURT: You may step down.

2 MR. BULSA: We ask he be excused.

3 THE COURT: He may be excused.

4 (Whereupon, the witness was excused.)

5 THE COURT: We'll take a short break before we go
6 further.

7 I'll ask the jury to please go to your jury room.
8 Don't discuss the case. I'll bring you back after that
9 break.

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

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

13 (Whereupon, a recess was taken.)

14 THE COURT: Who is the next witness?

15 MR. BULSA: Casey Scruggs.

16 THE COURT: Bring the jury in, please.

17 (The following takes place in the presence of the
18 jury.)

19 THE COURT: The jury is present. You may proceed.

20 MR. BULSA: The state calls Casey Scruggs.

21 CASEY SCRUGGS, having been
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BULSA

24 Q Casey, would you introduce yourself to the jury?

25 A I'm Casey.

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 THE COURT: The black microphone.
- 2 THE WITNESS: This one.
- 3 A I'm Casey Scruggs.
- 4 Q How old are you, ma'am?
- 5 A Thirty.
- 6 Q And where do you live?
- 7 A Right now I'm at 8716 Parris Bridge Road with my dad.
- 8 Q 8716 Parris Bridge Road is your father's address?
- 9 A Yes, sir.
- 10 Q Now, did you used to live at 3828 Highway 11?
- 11 A Yes, sir.
- 12 Q And what was your relationship with Carey Mauldin?
- 13 A He was my boyfriend.
- 14 Q How long had you known him?
- 15 A Four and a half years.
- 16 Q How long were y'all living at that location on Highway
- 17 11?
- 18 A About three months, four months.
- 19 Q Did he work?
- 20 A Yes, sir.
- 21 Q What did he do for a living?
- 22 A He was a bartender, slash, supervise trainer at the
- 23 Olive Garden.
- 24 Q Was that in Spartanburg or Cherokee?
- 25 A Gaffney, Cherokee County.

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 Q Did he also have a side job?
- 2 A Yes, sir.
- 3 Q What would he do?
- 4 A Odds and ends, you know, the -- you know.
- 5 Q Did he sell things on eBay?
- 6 A Yes, sir. Craigslist.
- 7 Q The Craigslist. Okay. Do you know the defendant?
- 8 A I -- I'm -- yes, sir, yes, sir.
- 9 Q How?
- 10 A He come to stay with us for about a month or so. My
- 11 boyfriend had met him at a store. And that's how I met him.
- 12 Q Okay. So as far as you know he -- your boyfriend
- 13 brings him over and lets him stay there.
- 14 A Yes, sir.
- 15 Q What did you know him by?
- 16 A Scooter.
- 17 Q And how long did you say he actually stayed with you?
- 18 A Two to three weeks. Maybe two.
- 19 Q Did you learn anything about him?
- 20 A No, sir.
- 21 Q Did you learn where he was from?
- 22 A Greensboro, North Carolina.
- 23 Q Did he have a vehicle?
- 24 A No, sir.
- 25 Q He didn't have a car?

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 A No, sir.
- 2 Q How did he get around?
- 3 A My boyfriend.
- 4 Q Now, did you know a man by the name of Drew Cash?
- 5 A Yes, sir.
- 6 Q How well did you know him?
- 7 A Not too well.
- 8 Q Had he visited your house before?
- 9 A Yes, sir.
- 10 Q And how would he get there?
- 11 A His car, his vehicle.
- 12 Q What kind of car did he have?
- 13 A A Mazda.
- 14 Q Was it the Mazda we saw on these pictures?
- 15 A Yes, sir.
- 16 Q Do you know if Mr. Lewis and Mr. Cash ever spoke or got
17 together?
- 18 A No, sir.
- 19 Q When did -- was Mr. Lewis living with you and your
20 boyfriend at the time of this incident?
- 21 A Yes, sir.
- 22 Q On May 22nd he was still living there?
- 23 A No. He had left.
- 24 Q Okay. Well, that's my question. When did he leave?
- 25 A On the 17th of May.

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 Q What day of the week was that?
- 2 A I think it was a Thursday.
- 3 Q You don't remember the day of the week. You remember
- 4 the date. How do you remember the date?
- 5 A Because I remember when we woke up that was still on
- 6 the 17th. We were -- you know, we were robbed. You know, I
- 7 was -- you know, our car was gone and I just -- you know,
- 8 that was six days until, you know, the 22nd. I just
- 9 remember it.
- 10 Q You said you were robbed. What do you mean?
- 11 A Well, Steven Lewis. We woke up and Steven was gone and
- 12 my boyfriend's -- his rental car was gone and...
- 13 Q Was anything else gone? What?
- 14 A Drugs.
- 15 Q Anything else?
- 16 A That was it.
- 17 Q How about a phone?
- 18 A And his -- yeah, his cell phone. And I think a toolbox
- 19 of some cologne, name brand cologne.
- 20 Q Okay. So you -- this jury -- you're telling this jury
- 21 that Mr. Lewis stayed with you, but a few days prior to your
- 22 boyfriend's death Mr. Lewis left and had taken some items of
- 23 yours.
- 24 A Yes, sir.
- 25 Q And Carey's. What kind of phone was -- did he take of

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 your boyfriend's?
- 2 A An LG Vista.
- 3 (Cell phone marked State's Exhibit No. 77 for
- 4 Identification.)
- 5 Q Let me show you what's been marked State's Exhibit 77.
- 6 Do you recognize this phone?
- 7 A Yes, sir.
- 8 Q From the outside appearance what does it appear to be?
- 9 A A cell phone.
- 10 Q Okay. Do you recognize it?
- 11 A Yes, sir.
- 12 Q How do you recognize it?
- 13 A I just remember it.
- 14 Q Is that the kind of phone --
- 15 A Yes. That's the kind of phone he had.
- 16 Q -- that your boyfriend had? Okay.
- 17 A Yes, sir.
- 18 Q Okay. Did your -- did Carey get another phone to
- 19 replace that one?
- 20 A Yes, sir.
- 21 Q What kind of phone did he get to replace it?
- 22 A An iPhone 5cs, the blue one.
- 23 (Cell phone marked State's Exhibit No. 78 for
- 24 Identification.)
- 25 Q I show you what's when marked State's Exhibit No. 78

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 for Identification. Does that phone look familiar?
- 2 A Yes, sir.
- 3 Q Is that the kind of phone your boyfriend bought to
- 4 replace the other one?
- 5 A Yes, sir.
- 6 Q Okay. Now, after Mr. Lewis left your place on the
- 7 17th, when is the next time you saw him?
- 8 A 22nd of May.
- 9 Q When?
- 10 A In the morning when he tied me up.
- 11 Q All right. Please describe to the jury what occurred
- 12 that evening -- that morning.
- 13 A I just remember waking up and seeing the living room
- 14 and kitchen light was on and I didn't -- I was on the edge
- 15 of the bed. And I heard him say, "Baby, call 9-1-1." And
- 16 then I just remember him running in the bedroom and flipping
- 17 the light on and getting on the bed and flipping me over
- 18 and --
- 19 Q Now, let me stop you. I want you to use names instead
- 20 of pronouns. Okay. So who told you to call 9-1-1?
- 21 A Carey.
- 22 Q Did you know where he was in that house at that time?
- 23 A In the kitchen.
- 24 Q All right. And after he said that, what happened?
- 25 A It happened so fast. He -- after Carey said, "Call

Casey Scruggs
Direct examination by Mr. Bulsa

1 9-1-1," I was reaching for the phone. And then I looked up
2 and then I seen Steven Lewis coming into the bedroom. And
3 that's when he tied me up. That's the first I'd seen him
4 since the 17th.

5 Q All right. And was he wearing anything on his hands?

6 A Purple latex gloves.

7 Q Okay. Did they appear to be the kind that we saw in
8 the pictures?

9 A Yes, sir.

10 Q Okay. And you were still on your bed?

11 A Yes, sir.

12 Q That phone we saw on the bed, was that what you were
13 trying to use?

14 A Yes, sir.

15 Q Were you able to make a call?

16 A No, sir.

17 Q You said Mr. Lewis came in and tied you up. How did he
18 do that?

19 A I think he was holding my hands and then taping my --
20 you know, all over my head and my hands behind my back --
21 hands behind my back. And then, you know, went to my
22 ankles.

23 Q What was he using to tie you up with?

24 A Gray duct tape.

25 Q Gray duct tape. Did he cover your mouth up?

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 A Yes, sir.
- 2 Q And how did he leave you?
- 3 A Like pretty much hogtied with my chin to the mattress
- 4 and my hands behind my back.
- 5 Q And what did you -- what did he do after he tied you
- 6 up?
- 7 A Continued ransacking the house.
- 8 Q Did you see anybody else in the house?
- 9 A Mr. Cash.
- 10 Q Anybody other than those two? Speak out loud.
- 11 A No, sir.
- 12 Q How long did it seem like they were in your house?
- 13 A Two hours.
- 14 Q Now, you saw the pictures that we showed to the jury of
- 15 your house. Do you normally keep house like that?
- 16 A No, sir.
- 17 Q Was everything strewn about as a result of what they
- 18 were doing?
- 19 A Yes, sir.
- 20 Q Do you know what items, if any, they took from your
- 21 house that day?
- 22 A The flat screen T.V. that was in the bedroom, a 32-inch
- 23 T.V., phones, cologne, jewelry, just whatever they could
- 24 find.
- 25 Q How about the --

Casey Scruggs
Direct examination by Mr. Bulsa

- 1 A And the PT Cruiser.
- 2 Q -- vehicle? PT Cruiser. Where was that parked?
- 3 A In the driveway.
- 4 Q Now, were you able to break free of your restraints?
- 5 A My legs. From being in -- tied up so long, you know,
- 6 with sweat, and that's how I got off the bed and went to the
- 7 side door.
- 8 Q Okay. You call it the side door. Is that the door in
- 9 the sunroom?
- 10 A Yes, sir.
- 11 Q And what were you trying to do?
- 12 A I was trying to kick it down with my legs, kick --
- 13 trying to get out. And that's why it was off the hinges.
- 14 Q Were you able to get out?
- 15 A No, sir.
- 16 Q Could you see outside?
- 17 A Yes, sir.
- 18 Q What did you see when you looked outside?
- 19 A I seen Drew standing outside by the car, by his Mazda,
- 20 loading stuff up.
- 21 Q So you saw Drew in his Mazda?
- 22 A Yes, sir.
- 23 Q He was loading it up. Do you know where Mr. Lewis was
- 24 at that time?
- 25 A He was coming back into the house. And then I heard

Casey Scruggs
Direct examination by Mr. Bulsa

1 him say I knew we couldn't trust this -- or something like
2 that -- and then he ran. That's when he seen me and drug me
3 back to the -- to the bedroom area.

4 Q who ran?

5 A Steven Lewis.

6 Q okay. And what happened when you dragged you back into
7 the bedroom?

8 A He -- that's when he threw me down in the bedroom. And
9 then it was just within seconds that he shot me in the back
10 of the head and then ran and shot him, Carey Mauldin, my
11 boyfriend, that was laying in the floor on his back. Shot
12 him again. And then they were gone.

13 Then I seen headlights, and I got up, and I was able to
14 hobble my way to the middle house, Mr. Turner's house, Tony
15 Turner.

16 Q what kind of wound did you sustain to your head?

17 A I had 14 -- I had 14 staples in the back of my head,
18 and the bullet -- luckily, it grazed my head.

19 Q Did you lay there for any length of time before you
20 tried to get up and get out of the house?

21 A No, sir.

22 Q So they pretty much left after they shot you and then
23 Carey.

24 A Yes, sir.

25 Q And you were able to leave and run to the neighbor's.

Casey Scruggs

Direct examination by Mr. Bulsa

- 1 Did you go to Tony's house, as well as the Stewarts' house?
- 2 A Yes, sir.
- 3 Q And do you remember the ambulance arriving?
- 4 A Not really, no, sir.
- 5 Q How long did you say in the hospital?
- 6 A I believe it was a day and a half. I left that Sunday,
- 7 I think.
- 8 Q Mr. Turner commented something about you saying
- 9 something about a child. What was that?
- 10 A My dog, Pricy, and my -- and I was worried about my
- 11 son. He wasn't -- he wasn't there.
- 12 Q Okay. Your son didn't live with you?
- 13 A No, sir.
- 14 Q What were you worried about your son?
- 15 A Just that I wasn't going to make it.
- 16 Q Is there any doubt in your mind that Mr. Lewis was the
- 17 person who was in your house and tied you up?
- 18 A No doubt.
- 19 Q Do you remember calling Scooter to the neighbor's?
- 20 A Yes, sir.
- 21 Q Do you remember telling the ambulance driver the two
- 22 names of the men?
- 23 A Yes, sir.
- 24 Q Is the defendant the person you know as Scooter?
- 25 A Yes, sir.

Casey Scruggs
Cross-examination by Mr. Shealy

1 Q Thank you Ms. Scruggs. Answer anything Mr. Shealy may
2 have.

3 CROSS-EXAMINATION

4 BY MR. SHEALY

5 Q Ms. Scruggs, would you -- what's your new address? You
6 said you live with your father.

7 A Yes, sir.

8 Q What's that address?

9 A 8716 Parris Bridge Road.

10 Q Okay. You've testified in a trial before in this case,
11 is that correct?

12 A Yes, sir.

13 Q All right. You testified in Mr. Cash's trial, is that
14 right?

15 Now, I want to make sure that we have -- we're on the
16 same page. So you've testified that Mr. Lewis took items on
17 May 17th, is that correct?

18 A Yes, sir.

19 Q All right. You said you think that that was a
20 Thursday. Would it surprise you that that was actually a
21 Sunday?

22 A No, sir, it wouldn't.

23 Q So it could have been that Sunday.

24 A Yes, sir.

25 Q And what all items did you say that he had taken?

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 A A -- the cell phone, name brand, some cologne, and a
2 safe with some drugs.
- 3 Q A safe with some drugs in it?
- 4 A Yes, sir.
- 5 Q Okay. Had he taken all of the drugs?
- 6 A Yes, sir. Well, the safe wasn't took. It was just --
7 just the -- left the safe -- left the safe.
- 8 Q So he'd opened the safe and gotten the drugs.
- 9 A Yes, sir.
- 10 Q All right. Was there money in the safe?
- 11 A I'm not sure. I don't know.
- 12 Q Okay. Did he take anything else?
- 13 A I don't believe so, no, sir.
- 14 Q All right. Because at the prior trial you had
15 testified that he had taken a Kil-Tec 9mm. So you're saying
16 he didn't do that?
- 17 A Yes, no, sir. I'm sorry. After -- yes, sir. The gun
18 was in the drawer because -- yes, sir.
- 19 Q So, and you testified that that was Nicole Cash's
20 pistol?
- 21 A Yes, sir.
- 22 Q Okay. All right. And also -- so you hear -- well,
23 Mr. Mauldin say call 9-1-1.
- 24 A Yes, sir.
- 25 Q About what time was that?

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 A Like 2:00 o'clock, 1:30, 2:00.
- 2 Q Because my understanding of the way the -- and, again,
- 3 let's back up a little further.
- 4 When did y'all lay down to go to bed?
- 5 A Around 12:30.
- 6 Q All right. And is that -- did Carey get a phone call
- 7 at that point?
- 8 A Yes, sir.
- 9 Q That phone call was from who?
- 10 A Drew Cash.
- 11 Q And it was your understanding that that phone call was
- 12 in order to arrange a sale of drugs?
- 13 A Yes, sir.
- 14 Q All right. And then sometime later -- about how long
- 15 later did you hear the knock at the door?
- 16 A I don't remember hearing the knock. I just remember
- 17 waking up and my boyfriend already being up in the living
- 18 room. I'm saying 30 minutes or so.
- 19 Q So 30 minutes after you get the phone call?
- 20 A Yes, sir.
- 21 Q Okay. So that would put all of this happening at
- 22 1:00 o'clock in the morning.
- 23 A Yes, sir.
- 24 Q All right. And then immediately after -- did you ever
- 25 hear gunshots?

Casey Scruggs
Cross-examination by Mr. Shealy

1 A Yes, sir.

2 Q When did you hear gunshots in relation to the, "Call
3 9-1-1"?

4 A After he said it, like, "Call 9-1-1," it was just two
5 gunshots.

6 Q So it was an immediate thing.

7 A It was -- it was real fast.

8 Q All right. Now, I'm going to show you so that we're
9 all on the same page the State's Exhibit No. -- State's
10 Exhibit 40. Let me just hand you State's Exhibit 40 and
11 make sure you're familiar with it. It's a diagram of your
12 house and various things that were connected to it. Does
13 that look accurate?

14 A Yes, sir.

15 Q If you will bear with us, it's got to warm up a little
16 bit.

17 (Pause.)

18 Q Okay. Now, my understanding of your testimony is you
19 were on the bed, correct?

20 A Yes, sir.

21 Q All right. And you were trying to use -- I believe
22 it's item No. 20 -- that cell phone to call 9-1-1.

23 A Yes, sir.

24 Q Okay. And they had come in this rear-porch entrance,
25 is that correct?

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 A Yes, sir.
- 2 Q All right. And apparently encountered Mr. Mauldin
3 somewhere in this area?
- 4 A Yes, sir.
- 5 Q Can you describe? Just how big was Mr. Mauldin? Was
6 he a big guy, a little guy?
- 7 A He was a pretty big guy. He was 6'2".
- 8 Q All right. And so immediately after he says, "Call
9 9-1-1," gunshots. You heard five gunshots, correct?
- 10 A Yes, sir.
- 11 Q All right. Now, in the last trial you had testified
12 that you had seen from the bed Mr. Cash somewhere -- and,
13 again, they didn't use the diagram -- on his knees asking,
14 and Mr. Cash was angry with him. Do you recall that?
- 15 A Yes, sir.
- 16 Q All right. And you still would have been on this bed,
17 correct?
- 18 A Yes, sir.
- 19 Q And, again, this diagram is accurate.
- 20 A Yes, sir.
- 21 Q So, now, but you didn't -- did you hear a gunshot after
22 they had him on his knees?
- 23 A No, sir.
- 24 Q You didn't hear a gunshot at that point. What was Drew
25 angry about, do you know?

Casey Scruggs
Cross-examination by Mr. Shealy

1 A I'm thinking he -- I guess might've thought my
2 boyfriend gave him some bad drugs or -- or something along
3 that line. I'm not sure.

4 Q Okay. And, again, through all of this you were tied up
5 on the bed.

6 A I was being tied up at that point.

7 Q You were being tied up at that point. So there -- so
8 how far between the gunshots and getting tied up? How long
9 did that process take? I mean, was that -- was he on you
10 just as soon as you heard the gunshots or was it --

11 A No, not as soon as I heard them. Like within 30 --
12 well, it was in a minute, within -- not even a minute. Like
13 60 seconds. It happened so fast it was like I heard two,
14 like pow, pow, you know, and then it was -- he ran into the
15 bedroom.

16 Q Okay. Now, you described your hands as being tied
17 behind your back.

18 A Yes, sir.

19 Q You described your ankles as being tied together.

20 A Yes, sir.

21 Q Were your -- your hands then bound to your legs?

22 A Uh-uh, no, sir.

23 Q No. All right. And then you testified that you got
24 your legs free. And how did you go about that?

25 A I was just moving them, you know, a little bit here and

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 there along the time that they were going through the house.
- 2 Q And you testified that you had been sweating?
- 3 A Yes, sir.
- 4 Q So they weren't over jeans or something. It was
- 5 directly on your skin.
- 6 A Yes, sir.
- 7 Q All right.
- 8 A I was in a t-shirt.
- 9 Q And at that point had they left or --
- 10 A No, sir.
- 11 Q Did you think they had left?
- 12 A Yeah, I thought they had left.
- 13 Q And so you ran to this sunporch door.
- 14 A I didn't run, but I was hobbling my way, yes, sir.
- 15 Q You said that you couldn't move your legs.
- 16 A Yes, sir.
- 17 Q Now, so your legs weren't completely free. They were
- 18 just loose?
- 19 A Uh-huh.
- 20 Q All right. Now, I'm going to show you -- I believe
- 21 it's State's Exhibit No. -- I don't believe it's up here.
- 22 It is State's Exhibit No. 4. Is that the door that you were
- 23 trying to get out of?
- 24 A Yes, sir.
- 25 Q Okay. And it's padlocked. My understanding is it was

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 padlocked from the outside.
- 2 A It's padlocked from the top.
- 3 Q From the top.
- 4 A Uh-huh, yes, sir.
- 5 Q Okay. But it's outside padlocked, right?
- 6 A The padlock was on the inside.
- 7 Q It was inside.
- 8 A Uh-huh. It was a little lock you buy from the store.
- 9 Q And when you say that it's padlocked from the top, I
- 10 don't know if you can use that laser pointer and point out
- 11 what you mean by that because that's not clear.
- 12 A He had like a little round, little lock up there that
- 13 hooked to the padlock, and it connected where it would --
- 14 Q The top.
- 15 A It -- yeah. Right in there somewhere, and I couldn't
- 16 open it -- the lock.
- 17 Q Sure. And you said you lived there for how long?
- 18 A Around three months.
- 19 Q Three months. And did he live there prior to you
- 20 moving there?
- 21 A No, sir.
- 22 Q So y'all moved into that house together.
- 23 A Yes, sir.
- 24 Q Now, again, in the previous trial you had been pretty
- 25 adamant that you knew that this exact -- that there was only

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 one gun used.
- 2 A Yes, sir.
- 3 Q All right. And at what point did the gun get pointed
- 4 at you?
- 5 A When I was -- after from being drug back from that
- 6 rear, from the -- when I was trying to get out when I was --
- 7 Q So when you were taken from here to there.
- 8 A Yeah. From -- I got from here to here, from being
- 9 drug. And he slung me down right here, and that's where he
- 10 was behind me and then -- and then --
- 11 Q So when you were tied up there wasn't -- Mr. Lewis
- 12 wouldn't have had a gun, is your testimony.
- 13 A No, sir. Drew Cash had a gun pointing it at my
- 14 boyfriend, but he had already been shot.
- 15 Q Okay. And then, again, I'm just trying to make sure
- 16 that I've got it all correct.
- 17 You were drug from here to there. During that
- 18 dragging -- again, your testimony last time was that you
- 19 were hit in the head with the pistol.
- 20 A Yes, sir.
- 21 Q Is that true?
- 22 A Yes, sir.
- 23 Q And you had been -- how many times were you hit?
- 24 A Once, twice. I'm not --
- 25 Q Just once?

Casey Scruggs
Cross-examination by Mr. Shealy

1 A I -- I really can't remember how many times, but
2 Mr. Lewis had a gun at that point.

3 Q Okay. Had you seen them swap guns?

4 A I didn't see them swap guns. He might've picked it up.
5 I --

6 Q And you said that you were on this bed for how long?

7 A It seemed like forever.

8 Q Sure.

9 A But two hours.

10 Q Roughly two hours?

11 A Roughly two hours.

12 Q All right. And Mr. Mauldin had already been shot and
13 had -- had probably passed at that point.

14 A He was still alive.

15 Q He was still alive?

16 A He was still alive.

17 Q Now, let me deal with your relationship with Mr. Cash.
18 You've testified you didn't know him all of that well.

19 A Yes, sir.

20 Q Okay. But, again, in the last trial you mentioned that
21 you had told him that you wished Carey would be more like
22 him. What does that mean?

23 A It wasn't nothing like -- I mean, I just...

24 MR. BULSA: Your Honor, I'm going to object to this.

25 I mean, that's hearsay. That's going into a prior

Casey Scruggs
Cross-examination by Mr. Shealy

1 conversation that's not relevant to this case.

2 MR. SHEALY: Judge, it's relevant as to her
3 relationship with a person, with the other codefendant.

4 THE COURT: Well, let me see y'all just a minute.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 THE COURT: I sustain the objection.

8 (Pause.)

9 MR. SHEALY: Judge, may I approach?

10 THE COURT: Yes.

11 (Bench conference held off the record in the presence
12 of the jury but out of the hearing of the jury.)

13 BY MR. SHEALY

14 Q Now, Ms. Scruggs, whenever you were -- you said, you
15 testified, that you looked out of this door or outside of
16 windows when you were at the sunporch.

17 A Yes, sir.

18 Q Okay. So there are two windows on either side of that,
19 correct?

20 A Yes, sir.

21 Q All right. But they look straight towards, I guess,
22 out this way, correct?

23 A Yes, sir.

24 Q All right. Now, were you able to see a vehicle at that
25 point?

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 A It was still dark. I -- I couldn't really tell.
- 2 Q Okay. So had the lights been turned on in the
- 3 sunporch, or not?
- 4 A No. It was dark.
- 5 Q Were lights turned on?
- 6 A No, sir.
- 7 Q So all of the lights were off?
- 8 A In the sunroom, yes, they're off.
- 9 Q I mean in the house.
- 10 A No. The -- the living room lights were on. The
- 11 kitchen was on. I mean, I don't know about the kitchen.
- 12 But the living room and the bedroom lights were on. Living
- 13 room and bedroom.
- 14 Q Okay. And then whenever you were able to get out of
- 15 the house --
- 16 A Yes.
- 17 Q -- you were able to leave the house. And were all of
- 18 the lights on at that point, or were they turned off?
- 19 A I thought they were turned on.
- 20 Q You thought they were turned on.
- 21 A I thought they were still on because I --
- 22 Q Now, were those lights pretty bright?
- 23 A Yes, sir.
- 24 Q So when Mr. or when Officer Hullinger responded and he
- 25 testified he had to use his flashlight, he was incorrect.

Casey Scruggs
Cross-examination by Mr. Shealy

1 MR. BULSA: Objection, Your Honor.

2 THE COURT: Sustained.

3 You can rephrase the question, but you can't pit one
4 against the other.

5 Q So was -- were the lights on or off?

6 A They were on when I got up and ran outta the house.

7 Q When you ran out of the house they were on.

8 A It -- I mean, it happened so fast, I mean, I was just
9 shot in the head. I...

10 Q So, ultimately, you don't remember.

11 A I mean, the lights were on when I -- when I was -- when
12 I got off the bed.

13 Q Now, did Mr. Mauldin provide you with any drugs?

14 A Yes, sir.

15 Q He did? What drugs?

16 A Methamphetamines and Suboxone.

17 Q And did those drugs have any effect on you?

18 A No, sir.

19 Q They didn't have an effect on you?

20 A No.

21 Q Then why would you be taking them?

22 A I mean, I guess it -- I guess it had effect on me.

23 Q Okay. And so had you been taking meth that day?

24 A Yes, sir.

25 Q All right. How long had you been on meth for that

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 period beforehand?
- 2 A Two or three days -- two days.
- 3 Q So had you been up that long, a week? That long?
- 4 A Yes, sir.
- 5 Q All right. Was there a security system in your house?
- 6 A No, sir.
- 7 Q There was no security system?
- 8 A No, sir.
- 9 Q There wasn't a closed camera.
- 10 A Oh, a video surveillance? I think like a camera, like
- 11 a -- yes. That kind of camera, there was, but not no like
- 12 for your house, like. I didn't -- I didn't know what kind
- 13 of camera you meant, a security camera.
- 14 Q There was a camera.
- 15 A Yeah, a surveillance camera. We could see who come in
- 16 and out.
- 17 Q All right. And did that -- where did that camera lead
- 18 to? Where was the monitor for that camera?
- 19 A It was right up in this area on a shelf.
- 20 Q Now, did you ever see anybody hit Mr. Cash -- or not
- 21 Mr. Cash -- Mr. Mauldin while all of this was going on? Did
- 22 you see anything other than a gunshot?
- 23 A No, sir.
- 24 Q You didn't see any other altercation?
- 25 A No, sir.

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 Q And the only place where the altercation was would have
2 been in that kitchen area and then right in this area over
3 No. 13, it is?
- 4 A Yes, sir. And then after -- I mean, the only -- you
5 know, when I was shot, you know, I heard him. You know, he
6 was -- you know, he was shot for the third time, yes.
- 7 Q Okay. How many phones did Carey have?
- 8 A About five.
- 9 Q He had five?
- 10 A Not of his own. He had one cell phone of his own that
11 was stolen on the 17th. Then he got that phone. That was
12 his.
- 13 Q Okay. So that's two. You testified to five.
- 14 A I mean -- I mean, he has had a bunch of phones. But do
15 you mean personal phones or just for sale?
- 16 Q So these were -- so he had three phones for sale?
- 17 A He had about five for sale.
- 18 Q Oh, so he had two personal phones.
- 19 A I can't remember exactly.
- 20 Q And those were?
- 21 A The iPhone 5cs was mine. His was coming in the mail,
22 FedEx, but it -- it never got to make it but...
- 23 Q Oh, okay. So the iPhone 5cs, I believe, that was
24 testified to, you had testified -- and I believe it's
25 State's Exhibit No. 78. That's actually your phone.

Casey Scruggs
Cross-examination by Mr. Shealy

- 1 A He got it for me. It was going to be mine.
- 2 Q All right.
- 3 A He paid for it.
- 4 Q Yeah. I understand that. But that was the phone that
- 5 you used.
- 6 A Yeah. He just got it that day.
- 7 Q But he didn't have a separate phone because --
- 8 A The Vista.
- 9 Q Just the Vista.
- 10 A Uh-huh.
- 11 Q And then that got gone on the 17th.
- 12 A Yes, sir.
- 13 Q And he didn't have a phone after that.
- 14 A Yes, sir.
- 15 Q All right. And so number -- it's -- my understanding
- 16 is that this iPhone here, that's your cell phone, correct?
- 17 A Yes, sir.
- 18 MR. BULSA: Your Honor, a phone hasn't been testified
- 19 to. There's other testimony that will identify that phone.
- 20 MR. SHEALY: Judge, she's testified that --
- 21 THE COURT: Well, I understand. You can ask her about
- 22 it if she knows anything.
- 23 MR. SHEALY: She's testified, Judge, that...
- 24 Q And is that -- the No. 20 -- I'm going to hand you
- 25 Defense Exhibit No. 1. Tell me about that phone.

Casey Scruggs
Redirect examination by Mr. Bulsa

1 A That's the Vista that was Mr. Mauldin's.

2 Q That's -- so that's actually State's Exhibit No. 77.

3 A Yes, sir.

4 MR. BULSA: Objection, Your Honor. He's tricking her.

5 MR. SHEALY: That's not a valid objection, Judge.

6 MR. BULSA: I object. May we approach?

7 THE COURT: Okay.

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 THE COURT: You may proceed.

11 BY MR. SHEALY

12 Q All right. So Defense Exhibit No. 1, that's item
13 No. 20 --

14 A Yes, sir.

15 Q -- you're telling me that that's this Vista phone here,
16 the Exhibit 77?

17 A Yes, sir.

18 Q At least that's your recollection. Okay. Now, do you
19 have -- so that was Carey's phone.

20 A Yes, sir.

21 MR. SHEALY: That is all I have of this witness.

22 REDIRECT EXAMINATION

23 BY MR. BULSA

24 Q Casey, you didn't go process the crime scene, did you?

25 A No, sir.

Casey Scruggs
Redirect examination by Mr. Bulsa

- 1 Q You didn't these pictures, did you?
- 2 A No, sir.
- 3 Q So you don't know. You just know this phone that you
- 4 were using to try to call 9-1-1 was LG Vista.
- 5 A Yes, sir.
- 6 Q You had an LG Vista yourself. Carey had an LG Vista.
- 7 A Yes, sir.
- 8 Q But Carey's got stolen before this incident, right?
- 9 A Yes, sir.
- 10 Q So you just know they were the same kind of phone,
- 11 right?
- 12 A Yes, sir.
- 13 Q And Carey got an iPhone to replace his Vista.
- 14 A Yeap, yes, sir, yes, sir.
- 15 Q And you don't know where these two were recovered, do
- 16 you?
- 17 A No, sir.
- 18 Q Because you weren't a part of the process of trying to
- 19 solve this crime, were you?
- 20 A No, sir.
- 21 Q You were the victim that got shot in the head.
- 22 A Yes, sir.
- 23 Q And left for dead.
- 24 A Yes, sir.
- 25 Q where was Carey when you were able to run out of the

Casey Scruggs
Redirect examination by Mr. Bulsa

- 1 house?
- 2 A Right in that area. I thought he was --
- 3 Q Was Carey alive at that point?
- 4 A I thought. I -- I thought he was right here between
- 5 there, but I guess my -- my adrenaline is up. But, yeah, he
- 6 was -- I mean, I thought he was.
- 7 Q He was in the living room.
- 8 A Yes.
- 9 Q Correct?
- 10 A Yes, sir.
- 11 Q And you recall maybe the lights were on, maybe they
- 12 weren't.
- 13 A I thought they was. They could have been off.
- 14 Q Okay. Now, you didn't go back in the house, did you?
- 15 A No, sir.
- 16 Q You ran and got help and stayed with Mr. Turner until
- 17 the ambulance arrived.
- 18 A Yes, sir.
- 19 Q How were you dressed that evening?
- 20 A I had a t-shirt on, and boxer underwear.
- 21 Q Is that the way you normally slept?
- 22 A Yes, sir.
- 23 Q Were you wearing any shoes?
- 24 A No, sir.
- 25 Q You saw a picture of you in the ambulance.

Casey Scruggs
Redirect examination by Mr. Bulsa

- 1 A Yes.
- 2 Q Now, when all of this was going on you weren't looking
3 at a clock, were you --
- 4 A No, sir.
- 5 Q -- clocking the time?
- 6 A No, sir.
- 7 Q Mr. Shealy asked you about a pistol that had been taken
8 also.
- 9 A Yes, sir.
- 10 Q How do you know that was Nicole's pistol?
- 11 A Because Drew Cash told me it was -- it was -- they were
12 talking about it.
- 13 Q So how did that pistol come to be in Carey's
14 possession?
- 15 A Drew pawned it to my boyfriend for some heroin and then
16 whenever I woke up that morning on the 17th the gun was gone
17 as well as the...
- 18 Q So your -- your understanding is Drew pawned it, and
19 yet Nicole is Drew's sister.
- 20 A Yes, sir.
- 21 Q And then it was taken when Mr. Lewis left.
- 22 A Yes, sir.
- 23 Q All right. Could you tell what kind of gun either man
24 held when they were committing this crime?
- 25 A No, sir. Kil-Tec 9. I know it was a Kil-Tec 9 because

Casey Scruggs
Recross-examination by Mr. Shealy

1 that's what -- I mean, I seen it with my own eyes, I mean.

2 Q When this crime was occurring could you tell what kind
3 of gun they had?

4 A It was a small gun.

5 Q Do you think it might have been the same gun?

6 A Yes, sir.

7 Q Thank you.

8 MR. BULSA: That's all I have.

9 RECROSS-EXAMINATION

10 BY MR. SHEALY

11 Q Just a few questions about this pistol. Now, you
12 testified that it was pawned to Carey.

13 A Yes, sir.

14 Q For some drugs.

15 A Yes, sir.

16 Q Was that an ordinary occurrence where people would pawn
17 things for drugs?

18 A No, sir.

19 Q Okay. Did people sell things to him for drugs?

20 A Yes, sir.

21 Q And some of -- do you know if those people had the
22 right to sell those things, or not?

23 A No, sir.

24 Q So, in fact, a lot of the property in here was stolen,
25 wasn't it?

Brian Ezell

Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q Now, you had testified actually, last trial, that you
3 had -- you were with Nicole when she bought it. Are you
4 saying now that you were not with Nicole when she bought it?

5 A I never said I was with Nicole when I bought the gun.

6 Q Yes, ma'am. I believe you did.

7 MR. SHEALY: Judge, we will just stick with that
8 answer. So I'm done.

9 MR. BULSA: Nothing further, Your Honor.

10 THE COURT: You may step down.

11 MR. BULSA: The state calls Brian Ezell.

12 MR. SHEALY: Judge, may we approach on this witness?

13 THE COURT: Yes.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 BRIAN EZELL, having been first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BULSA

19 Q Please introduce yourself to the jury.

20 A Corporal Brian Ezell with the Guilford County Sheriff's
21 Office.

22 Q Guilford County is in where?

23 A North Carolina -- Greensboro.

24 Q Okay. And how long have you an officer?

25 A Seventeen years.

Brian Ezell

Direct examination by Mr. Bulsa

1 Q Did you have an occasion to assist in an investigation
2 in Spartanburg County?

3 A Yes, sir.

4 Q And did you go to a location in Guilford County?

5 A Yes, sir.

6 Q What was that location?

7 A 5714 Old Randleman Road.

8 Q Were you looking for two specific individuals?

9 A Yes, sir.

10 Q Had you been given names that you were looking for?

11 A Yes, sir.

12 Q And what are your duties with the office?

13 A I'm a canine handler with the sheriff's office.

14 Q How many -- how many officers were sent to that
15 location?

16 A Initially, it was approximately 12 to 13, I believe.

17 Q What time of the day was -- did you y'all go there?

18 A Around 2:00 o'clock in the morning on May the 23rd of
19 2015.

20 Q What steps were taken when you got to that location?

21 A We -- we were assisted with -- by the Greensboro Police
22 Department, their violent crime apprehension team. And we
23 went there.

24 I believe they had originally gotten the call because
25 it was listed as a Greensboro address. They went to the

Brian Ezell
Direct examination by Mr. Bulsa

1 location and located the residence and determined it was in
2 the county. So they assisted us.

3 Our original plan was to just get a perimeter on the
4 house and then use a P.A. system and try to call the
5 subjects out of the house.

6 Q Okay. And is that what happened?

7 A No. As we pulled into the driveway, we went around to
8 the back of the house, and Mr. -- Mr. Cash ran out of the
9 back out of the -- out of the back of the residence.

10 Q Was he apprehended?

11 A Yes.

12 Q How?

13 A A short time -- I tracked him with my canine, and we
14 located him in the woods.

15 Q And what happened? Was there anybody in the house?

16 A Yes, sir. Mr. Lewis was in the -- in the residence.

17 Q Explain the attempts to get him out of the house.

18 A Approximately after -- after -- while I was tracking
19 Mr. Cash the other officers stayed on the perimeter around
20 the house and kept the house locked down, and nobody could
21 come in or go out. And the -- they happened to call him out
22 with the loud speaker. We started that at probably around
23 3:00 o'clock in the morning. And from 3:00 until about
24 5:00 or 5:30 attempts were made to call him out of the house
25 with the P.A. system.

Brian Ezell
Direct examination by Mr. Bulsa

1 Then they -- a search warrant was drawn up, and our
2 SERT guys began doing -- SWAT guys began doing stuff for the
3 house to make entry into the house.

4 Q How was entry obtained?

5 A They -- they put an explosive charge on the front door.
6 And after the front door was blown, then Mr. -- Mr. Lewis
7 came out and gave up.

8 Q Okay. So they actually had to blow the door off.

9 A Yes, sir.

10 Q While you were tracking Mr. Cash did you notice a
11 vehicle?

12 A Yes, sir, I did.

13 Q Where was that vehicle?

14 A It was parked behind a building at the back of the
15 property?

16 Q Okay. Was it behind the property in question or was it
17 behind the neighbor's?

18 A I believe it was attached to the property in question.

19 Q Okay. How far up the road do you recall that being?

20 A Probably about 150 yards or something like that to the
21 back of the residence from the road.

22 Q Was it visible from the road?

23 A No, not -- no.

24 Q Howso?

25 A It was -- it was parked behind a -- behind the shed.

Brian Ezell
Direct examination by Mr. Bulsa

- 1 Q I show you a portion of these photos, State's 56
2 through 63. Do you recognize what those photos are showing?
- 3 A Sir, that's the residence on Old Randleman Road and
4 then the pictures of the -- of the building in the back of
5 the property with the vehicle parked behind it.
- 6 Q Those pictures were taken in the daylight hours.
- 7 A Yes, sir.
- 8 Q It shows the area where you responded and then gave
9 chase?
- 10 A Yes, sir.
- 11 MR. BULSA: Your Honor, the state would move
12 State's 56 through 63 into evidence.
- 13 MR. SHEALY: No objection.
- 14 THE COURT: They're admitted.
- 15 (Photographs marked State's Exhibits Nos. 56 through
16 63.)
- 17 Q The house in question, State's 56, is that a mobile
18 home?
- 19 A I believe it -- yes. I believe it's a doublewide, yes,
20 sir.
- 21 Q State's 57.
- 22 A That's the end of the house, the north end of the
23 house.
- 24 Q Was that vehicle a police vehicle?
- 25 A No, sir. That was -- that was a vehicle that was

Brian Ezell
Direct examination by Mr. Bulsa

- 1 parked there at the -- at the house.
- 2 Q Okay. Was there plenty of parking space around that?
- 3 A Yes, sir.
- 4 Q State's 58.
- 5 A That's the -- that's the back of the house.
- 6 Q Okay. Looks like I've got two of the same picture.
- 7 THE COURT: Be careful of the microphone, please.
- 8 THE WITNESS: Oh, I'm sorry, sir.
- 9 Q State's 60.
- 10 A That's the -- that's -- back here in the back is the
- 11 building where the vehicle was behind.
- 12 Q Push that red button.
- 13 A Back here where the vehicle was behind. And this is
- 14 another outbuilding in the back yard of the -- of the house.
- 15 Q State's 61.
- 16 A That's the building, a closer up.
- 17 Q And 62.
- 18 A Another vehicle.
- 19 Q Can you -- if we're looking back towards -- do you see
- 20 the house back there?
- 21 A Right there.
- 22 Q Okay. And this is how it was parked behind that
- 23 building?
- 24 A Yes, sir.
- 25 Q State's 63.

Brian Ezell
Cross-examination by Mr. Shealy

1 Okay. Did you have any contact with Mr. Lewis
2 yourself?

3 A No, sir. I did not.

4 Q When he came out and gave up was he taken into custody?

5 A Yes, sir.

6 Q And transported to the county jail?

7 A Yes, sir.

8 Q Thank you. That's all I have. Answer any questions
9 Mr. Shealy may have.

10 CROSS-EXAMINATION

11 BY MR. SHEALY

12 Q All right. Officer Ezell, you were the canine officer?

13 A Yes, sir.

14 Q All right. So you chased Mr. Cash as he ran away?

15 A Well, yeah. Well, I tracked Mr. Cash after he ran
16 away.

17 Several of the other Greensboro guys gave foot chase,
18 and they lost him in the neighborhood that was behind the
19 residence. And I tracked him from there and located him in
20 the woods.

21 Q All right. My client wasn't with him.

22 A No.

23 Q He was still in the house.

24 A Yes.

25 Q All right. And we talked about these -- do you know

Brian Ezell
Cross-examination by Mr. Shealy

- 1 who owns all of this property?
- 2 A No, sir. I don't.
- 3 Q So it could all be owned by the same person, correct?
- 4 A It could be.
- 5 Q All of these houses may very well be linked somehow.
- 6 A Possibly. I have -- I have no idea.
- 7 Q Bear with me just one second.
- 8 (Pause.)
- 9 Q All right. I'm going to ask you on number -- State's
- 10 Exhibit No. 61. This area in front right in this area --
- 11 A Uh-huh.
- 12 Q -- it does appear that grass is growing there. Is that
- 13 basically a driveway?
- 14 A I have no idea.
- 15 Q I'm going to show you State's Exhibit No. 62. Again,
- 16 there's been some -- obviously, there have been some things
- 17 cut down, some trees cut down, and all of that. Now,
- 18 there's grass in the background, correct?
- 19 A Yes.
- 20 Q There's no grass in the foreground.
- 21 A Uh-huh.
- 22 Q That's all some kind of hard-packed sand, is that
- 23 right?
- 24 A I -- I can't -- I don't -- I can't tell you what it is.
- 25 I don't know. This picture was taken during the daylight,

Brian Ezell
Cross-examination by Mr. Shealy

1 and when I was there it was night.

2 Q Okay. And then that would lead us to No. 60.

3 A Yeah.

4 Q Now, you testified that all of these things fairly
5 accurately depict what you saw.

6 A Uh-huh.

7 Q So are you now saying that they don't fairly and
8 accurately depict what you saw?

9 A No. They do. This -- that building right there is the
10 building you just showed me pictures of.

11 Q Okay.

12 A It's the -- it's where the car was at.

13 Q All right. And this thing in the foreground, again,
14 that's another, apparently another, driveway.

15 A No. That's the back of the house.

16 Q Right.

17 A The house is right -- the back of the house is right
18 here. This is -- this is the back yard for the house. And
19 then there's a building right here. There's nothing that
20 appears to be a driveway around back into here.

21 Q You don't believe that these look like tire marks?

22 A Those are tire marks. Those are our tire marks where
23 we drove through the back yard when Mr. Cash ran out of the
24 back of the house.

25 Q Okay. So you're denying that that's a driveway.

Brian Ezell

Redirect examination by Mr. Bulsa

1 A It's not a driveway. It's the back yard.

2 Q Okay. And, again, you can't tell what that is?

3 A What is?

4 Q What this hard-packed area is.

5 A It just looks like a -- a dirt area around the
6 building. The house -- the house that we were at is
7 right -- is this house right there.

8 Q Okay. But, again, you've been asked about this
9 building and this car, correct?

10 A Yes.

11 Q Again, this is another shot of it. That's State's 61.
12 And, again, you're not confident in saying that's a
13 driveway.

14 A Well, I don't know if it's a driveway or not, yeah.

15 Q Okay. How many times did you knock on the door?

16 A I didn't knock on the door any. I went to the back,
17 and as soon as we pulled around to the back Mr. Cash ran out
18 the back and that's --

19 MR. SHEALY: That's all that I have for this witness.

20 REDIRECT EXAMINATION

21 BY MR. BULSA

22 Q You were a part of this overall investigation?

23 A Sir?

24 Q You were a part of the overall investigation?

25 A Yes.

Brian Ezell
Redirect examination by Mr. Bulsa

- 1 Q And how many officers were involved?
- 2 A On this particular night?
- 3 Q Yes, sir.
- 4 A We started off with probably 15 and ended up with close
- 5 to 40 out there.
- 6 Q Close to 40 officers?
- 7 A Yeah. By that time he was -- didn't come out and our
- 8 SWAT team was activated and all of that, it was probably
- 9 close to 40.
- 10 Q Now, Mr. Shealy was showing you State's 60. Let me
- 11 back the picture up a little bit to State's 59. Do you see
- 12 that white object to the side?
- 13 A Yes.
- 14 Q Is that the same --
- 15 A Yes, sir. That is that building there.
- 16 Q Okay. So that would place the location of Mr. -- of
- 17 that car to where?
- 18 A The car is -- that's the building, the white building
- 19 that you just showed me. The car is diagonally behind that
- 20 in those trees over there behind the -- in the trees.
- 21 Q Okay. All right. Thank you. That's all I have.
- 22 MR. SHEALY: I don't have anything else.
- 23 THE COURT: You may step down.
- 24 MR. BULSA: We ask he be excused.
- 25 THE COURT: He may be.

Tracy Nelson
Direct examination by Mr. Bulsa

1 (Whereupon, the witness was excused.)

2 MR. BULSA: The state calls Tracy Nelson.

3 TRACY NELSON, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. BULSA

6 Q Please introduce yourself to the jury.

7 A I'm Tracy Nelson.

8 Q Who do you work with?

9 A I work with the Guilford County Sheriff's Office in our
10 crime scene investigative unit.

11 Q And the pictures we've just seen, were those pictures
12 taken by you?

13 A Yes, sir.

14 Q Show you some other pictures. Were those pictures
15 taken by you?

16 A Yes, sir.

17 MR. BULSA: Your Honor, the state would offer
18 State's 64 through 74 into evidence.

19 Mr. Shealy, any objection?

20 MR. SHEALY: No objection.

21 THE COURT: They're admitted.

22 (Photographs marked State's Exhibits Nos. 64 through
23 74.)

24 Q I want to walk you through the rest of these pictures.

25 A Okay.

Tracy Nelson
Direct examination by Mr. Bulsa

1 Q Did you -- let me ask you this first. When did you
2 respond to the scene?

3 A I checked on for duty about 0600 hours. And when I
4 checked on at 6:00 a.m. our SERT team had been involved in
5 an incident, and the SERT commander requested I respond to
6 document the scene for purposes related to the Guilford
7 County Sheriff's Office.

8 Q So someone directed you to the location of the
9 vehicle --

10 A Yes, sir.

11 Q -- back behind the building.

12 A Yes, sir.

13 Q Okay. Investigator, here are some additional pictures
14 of the vehicle showing how it was parked -- State's 64,
15 State's 65, State's 66. It looks like it's pretty close to
16 that building and that tree.

17 A Yes, sir, yes, sir.

18 Q State's 67. Now, did you go into that vehicle at all?

19 A No, sir.

20 Q Did you seal it up for transport?

21 A Yes, yes, sir.

22 Q Okay. As far as you know it was taken back to
23 Spartanburg County?

24 A Yes, sir.

25 Q I'm going to show you some additional pictures of the

Tracy Nelson
Direct examination by Mr. Bulsa

1 house. State's 68. That's where the incident occurred,
2 correct?

3 A Yes, sir.

4 Q State's 69. That's a different view. What is that we
5 see on the front lawn?

6 A Which one? There's a few.

7 Q This rectangular looking.

8 A There's pieces -- there's pieces of glass, and then
9 that's a section. I believe that one's from the door. And
10 there's another one that's from the window.

11 Q Okay.

12 A The large one in the front, that one's from the door,
13 the front door.

14 Q State's 70. That's a view going up to the porch?

15 A Yes, sir.

16 Q Showing a window broken there to the right?

17 A Yes, sir.

18 Q Would that have occurred during the blast, do you
19 suspect?

20 A I'm not quite sure how SERT does their operations, but
21 usually when they have an extraction like that there's --
22 they break and break windows as they're doing stuff. So I
23 can't testify as to what order that happened.

24 Q Okay. So for all you know it could have been like that
25 before they got there.

Tracy Nelson
Direct examination by Mr. Bulsa

- 1 A No, sir. I know that they -- that damage was done
2 while SERT was on scene. I just don't know if it was before
3 or after they --
- 4 Q Okay. All right. Take a look at State's 71. That's a
5 closeup of the door?
- 6 A Yes, sir.
- 7 Q One direction. State's 72, State's 73. We actually
8 see the door itself.
- 9 A Yes, sir.
- 10 Q Okay. Would they have used that ax to help gain entry?
- 11 A I don't know if that ax was part of -- part of
12 something that was at the house. Our SERT guys wouldn't
13 have left.
- 14 Q Okay.
- 15 A Left an item like that there. But, again, I can't say
16 for certain.
- 17 Q And State's 74. This is from an inside view.
- 18 A Yes, sir.
- 19 Q All right. Did you have -- did you search the area at
20 all inside the house?
- 21 A I took overall pictures inside the house, and we didn't
22 do any in-depth searching. I was mainly there just to
23 document and stuff for the -- the sheriff's office.
- 24 Q Okay. And the operation was to apprehend the two men?
- 25 A Yes, sir.

Tracy Nelson
Cross-examination by Mr. Shealy

1 Q All right. Had Mr. Lewis already been transported from
2 the scene by the time you got there?

3 A There were two deputies on scene and the command staff
4 was clearing up. So nobody -- none of the defendants were
5 on scene.

6 Q Thank you, ma'am. That's all I have. Answer any
7 questions Mr. Shealy may have.

8 CROSS-EXAMINATION

9 BY MR. SHEALY

10 Q I want to ask you regarding -- show you State's
11 Exhibit 65.

12 A Yes, sir.

13 Q This building, did you have occasion to look at it, the
14 front and the back of it?

15 A Yes, sir.

16 Q Did it have a rolling door in front of it, in the
17 front?

18 A I didn't pay any attention to if there was a door. I
19 was just photographing the area.

20 Q So you don't know if it's got a roll-up door or not.

21 A No, sir, because I wasn't going in the building. I was
22 just photographing the vehicle.

23 MR. SHEALY: I've got nothing else for this witness.

24 MR. BULSA: Nothing further.

25 THE COURT: You may step down.

Ivy Lawson
Direct examination by Mr. Bulsa

1 MR. BULSA: Your Honor, we ask that she be excused.

2 THE COURT: She may be.

3 (Whereupon, the witness was excused.)

4 MR. BULSA: The state calls Ivy Lawson.

5 IVY LAWSON, having been first
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. BULSA

8 Q Good afternoon, Ms. Lawson. Thanks for coming down
9 here from North Carolina. Could you introduce yourself to
10 the jury?

11 A I'm Ivy Lawson.

12 Q What county do you live in?

13 A Randolph County of North Carolina.

14 Q Do you know Mr. Lewis?

15 A I do.

16 Q How do you know him?

17 A I dated his brother.

18 Q And his brother's name was who?

19 A Christopher McMasters.

20 Q Christopher McMasters. Does Mr. Lewis have a nickname?

21 A Scooter.

22 Q Okay. Now, did you have an occasion to meet with the
23 Guilford County Sheriff's Office and give them -- turn over
24 some properties to them?

25 A I did, but not knowing.

Ivy Lawson
Direct examination by Mr. Bulsa

1 Q I understand. What properties do you recall giving
2 them to them?

3 THE COURT: Will you get closer to that microphone,
4 please? That black microphone.

5 A There was a lot of things.

6 Q A lot of things?

7 A There was a lot of old cell phones.

8 Q Okay.

9 A And, I mean, I secured the property the day that all of
10 this went down.

11 Q You secured the property from where?

12 A On 5714 Randleman Road -- Old Randleman Road.

13 Q Is that the house we just saw on the pictures?

14 A Yes, sir.

15 Q Okay. How did you secure it?

16 A We boarded the door up so no one could enter the
17 property until the investigation was done by Spartanburg
18 police department.

19 Q Who is we?

20 A Christopher McMasters. We lived in the same home.

21 Q So you and Chris lived there with Mr. Lewis?

22 A At one time. We had since moved when this took place.

23 Q Okay. So do you recall the date being May 23rd of
24 2015?

25 A Around there.

Ivy Lawson
Direct examination by Mr. Bulsa

1 Q Okay. So, but the day the police were there and blew
2 the door down you were --

3 A We were not in the State of North Carolina at that
4 time.

5 Q Okay. So you had -- had you already moved away from
6 that house?

7 A We had.

8 Q So to your knowledge who was still staying at that
9 house?

10 A To my knowledge I didn't think anyone was staying
11 there. I had been by there to receive mail that was still
12 coming there.

13 Q Where was Mr. Lewis?

14 A We no longer have any contact.

15 Q So you didn't know that he was down in South Carolina?

16 A Uh-uh.

17 Q Answer verbally.

18 A Oh, I'm sorry. No, sir.

19 Q Okay. So who left first, you or him?

20 A As far as --

21 Q Left that house, stopped living at that residence.

22 A Christopher McMasters left before I did, a month before
23 I did.

24 Q Okay. How about Mr. Lewis?

25 A I left long before him.

Ivy Lawson
Direct examination by Mr. Bulsa

- 1 Q Okay. So when you and Mr. McMasters left that house,
2 Mr. Lewis was still living there.
- 3 A To my knowledge, yes.
- 4 Q Why did you have to go check the mail?
- 5 A I was still receiving mail at that address.
- 6 Q I got you. And when you would go receive the mail you
7 didn't notice him living there.
- 8 A No. I didn't notice anyone being there.
- 9 Q Okay. All right. I was just trying to clear that up.
10 All right. So how is it that you and Christopher
11 McMasters went to that house after the police blew the door
12 down?
- 13 A We got the phone call that Scooter had been arrested.
14 We still had no knowledge of what the situation was at the
15 time.
- 16 Q Okay.
- 17 A But we -- we were met -- with Guilford County Sheriff's
18 Department once we got to the property, and I had spoke to
19 someone earlier on our way back from Lawrenceville,
20 Virginia, to make sure we could secure the property. And
21 they witnessed it, us, putting everything up so no one could
22 come in the home and vandalize it or steal anything out of
23 the home.
- 24 Q And the items that you later turned over to the police
25 department, did you get those from the house on that

Ivy Lawson
Direct examination by Mr. Bulsa

1 occasion?

2 A Not on that occasion. We waited until after
3 Spartanburg detectives done their investigation before any
4 property was taken out of the home.

5 Q Okay. So do you remember about how long later that
6 was?

7 A Maybe a week. It was a Saturday.

8 Q Okay.

9 A No. Excuse me. It was a Sunday that we packed up
10 personal belongings that we assumed that Scooter would like
11 to keep.

12 Q Okay. And how is it that you came to turn that over to
13 the police?

14 A July 4th. There was a domestic violence incident
15 between me and Christopher McMasters. And Scooter's
16 property was in my vehicle, and law enforcement at that time
17 wanted to know what all I had that belonged to Chris'
18 brother. And so I unlocked the vehicle, and the bag of the
19 old cell phones was laying there.

20 I was asked if -- by one of the sheriff's deputies if
21 they could keep it. And Christopher over-spoke me and said
22 yeah. So at that point the sheriff's department kept it.

23 Q Okay. You certainly recall giving that to the
24 sheriff's office.

25 A Uh-huh.

Ivy Lawson
Direct examination by Mr. Bulsa

- 1 Q Was it a lot of items?
- 2 A There was a lot of old cell phones.
- 3 Q Okay. So they documented it as being June the 7th. Is
- 4 that accurate?
- 5 A It -- it could be. All of it kind of -- it's been
- 6 almost two years.
- 7 Q Yes, ma'am.
- 8 A This is details I --
- 9 Q I understand. The key information though is that you
- 10 turned them over, regardless of what they were.
- 11 A Yeah. I didn't --
- 12 Q You know didn't know if there was even a connection to
- 13 anything, right?
- 14 A Yeah.
- 15 Q Okay. All right. And did you ever have a conversation
- 16 with Scooter about those items?
- 17 A No, sir.
- 18 Q Okay. And you didn't actually inventory the items that
- 19 you gave.
- 20 A No, sir.
- 21 Q But you were present when the officer took them from
- 22 you?
- 23 A Yes, sir, from my new residence.
- 24 Q Okay. All right. And that's all I have. Answer any
- 25 questions Mr. Shealy may have.

Ivy Lawson
Cross-examination by Mr. Shealy

1 CROSS-EXAMINATION

2 BY MR. SHEALY

3 Q Ms. Lawson, you testified that you moved out much
4 later --

5 A January.

6 Q -- than you think he moved out.

7 A Uh-huh.

8 Q But did you ever see him move out?

9 A I did not. Just no one was ever at home whenever I
10 went by.

11 Q All right. How often would you go by?

12 A Every -- maybe once every couple of weeks just to check
13 the mail.

14 Q So if he worked out of town, for instance --

15 A Correct. I wouldn't have never known.

16 Q All right. And when he was there, where would he park?

17 A Normally right on the side of the house.

18 Q On the side of the house?

19 A Or directly behind the house.

20 Q So he would park behind the house.

21 A Uh-huh. That was just his parking spot.

22 Q Okay. Now, whenever you knew him was he working out of
23 town?

24 A Yes, he was.

25 Q So he did work out of town.

Ivy Lawson
Cross-examination by Mr. Shealy

- 1 A He did work out of town.
- 2 Q Fairly regularly?
- 3 A Uh-huh. The first two months that I -- I lived in that
- 4 home he was out of town working and...
- 5 Q Who owned this house, or do you know?
- 6 A I believe Scooter's father owned the house.
- 7 Q All right. And that is -- and so he still had a lot of
- 8 personal belongings in the home?
- 9 A Yes, sir.
- 10 Q And that's why y'all had to go get all of that stuff
- 11 out?
- 12 A Yes, sir. Things that maybe he had as a child,
- 13 sentimental things that we thought he may want to keep.
- 14 Q And also there's been some talk -- I think you were
- 15 here -- of all of these buildings on this property.
- 16 Did you know who owns the property that adjoins this
- 17 property?
- 18 A It was Scooter's grandfather's property.
- 19 Q So Scooter's grandfather's property is right next to
- 20 this property. So all of it is all kind of one piece.
- 21 A Family owned, yeah.
- 22 Q Right. It's all family area. And this blue building
- 23 that we've been talking about, can you describe what kind of
- 24 building that is?
- 25 A I never went over to it to physically see it. I just

Ivy Lawson
Redirect examination by Mr. Bulsa

1 knew there was several buildings setting on the
2 grandfather's property.

3 Q And this is State's Exhibit 65. So you don't know what
4 kind of doors were on this?

5 A Not exactly no, sir.

6 Q Or what it was used for?

7 A No, sir.

8 MR. SHEALY: That's all we've got of this witness.

9 REDIRECT EXAMINATION

10 BY MR. BULSA

11 Q Did the defendant own a vehicle himself?

12 A Last to my knowledge, he did. It was a white car.

13 Q Okay. Was that car at the house when you went to board
14 it up?

15 A No, sir.

16 Q State's 57. We see this looks like a SUV type vehicle.
17 Do you know whose that is?

18 A Yes, sir. That belonged to his brother at the time.

19 Q Whose brother?

20 A Mr. Lewis' brother, Scooter's brother.

21 Q Christopher McMaster?

22 A Uh-huh.

23 Q So your boyfriend.

24 A At -- not -- at that time of this picture and the
25 incident, yes.

Brandon Elison
Direct examination by Mr. Bulsa

1 Q So, now, this was taken by the police. Why was this
2 vehicle there?

3 A It was broke down.

4 Q Oh, broke down. Okay. Got you. Is that where he
5 normally parked his car -- Mr. Lewis -- if he parked?

6 A No. It would be straight in the driveway or back
7 behind the house.

8 Q State's 59.

9 A In the clear spot where used to be the swimming pool.

10 Q Okay.

11 A His car would be right in there.

12 Q Okay. But not way back in the woods.

13 A No.

14 Q Okay. Thank you, ma'am.

15 MR. BULSA: That's all I have.

16 MR. SHEALY: I have no further questions.

17 THE COURT: You may step down.

18 MR. BULSA: We ask that she be excused.

19 THE COURT: She may be.

20 (Whereupon, the witness was excused.)

21 MR. BULSA: State calls B.J. Elison.

22 BRANDON ELISON, having been
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. BULSA

25 Q Please introduce yourself to the jury.

Brandon Elison
Direct examination by Mr. Bulsa

- 1 A Brandon Elison.
- 2 Q Okay. And what is your position?
- 3 A I'm a senior deputy with the Guilford County Sheriff's
- 4 Office.
- 5 Q I'm a little hard of hearing, so speak up.
- 6 A I'm a senior deputy with the Guilford County Sheriff's
- 7 Office.
- 8 Q Okay. And how long have you been a deputy?
- 9 A Two and a half years.
- 10 Q All right. So you were fairly new back in May of 2015?
- 11 A I was training.
- 12 Q You were training.
- 13 Okay. Did you get a call to go to a residence on [REDACTED]
- 14 North Carolina 62 West in June?
- 15 A Yes, sir, I did.
- 16 Q Okay. And did you meet with an Ivy Lawson at that
- 17 location?
- 18 A Yes, sir.
- 19 Q Did Ms. Lawson turn over some properties to you?
- 20 A Yes, sir.
- 21 Q And did you inventory that property and then put it
- 22 into your evidence?
- 23 A I did.
- 24 MR. SHEALY: No objection.
- 25 (Confiscated property marked State's Exhibit No. 79 for

Brandon Elison
Direct examination by Mr. Bulsa

1 Identification.)

2 Q Show you State's 79. Look at that document. Does that
3 look familiar?

4 A Yes, sir.

5 Q Is that a copy of your inventory sheet?

6 A Yes, sir.

7 Q Does that have a front and back to it?

8 A It does.

9 Q Is that a complete listing of all of the items you
10 received from Ms. Lawson?

11 A To the best of my knowledge.

12 Q So your understanding, you received those items that
13 she had taken from the residence in question on Randleman
14 Road?

15 A Yes, sir.

16 Q Okay.

17 MR. BULSA: State offers 79 into evidence.

18 THE COURT: It's admitted.

19 (Confiscated property marked State's Exhibit No. 79.)

20 Q You identified them by description, is that right?

21 A Yes, sir.

22 Q Okay. And put serial numbers where you could. Did you
23 turn any of them on?

24 A I don't believe I did.

25 Q Okay. All right. You didn't have any -- did you have

Brandon Ellison
Cross-examination by Mr. Shealy

- 1 any involvement in the apprehension of Mr. Lewis?
- 2 A I stood by outside the residence.
- 3 Q When the SERT team went in to get him?
- 4 A Yes, sir.
- 5 Q How long had you been on that scene yourself?
- 6 A I don't remember.
- 7 Q Don't remember.
- 8 Okay. Was it -- was it difficult getting him out of
- 9 the house?
- 10 A It appeared they were having difficulty.
- 11 Q Thank you. Answer any questions Mr. Shealy may have.
- 12 CROSS-EXAMINATION
- 13 BY MR. SHEALY
- 14 Q Officer Ellison, you were in the room when Ms. Nelson
- 15 testified, weren't you?
- 16 A Yes, sir.
- 17 Q Okay. I understand her testimony. Now, I meant
- 18 Mr. Ezell, Officer Ezell. You were in while he testified,
- 19 right?
- 20 All right. My understanding of their testimony was
- 21 that they blew the door off. He came out and surrendered,
- 22 so.
- 23 A Yes, sir.
- 24 Q So is that -- I mean, so he wasn't fighting with them
- 25 at that point.

Brandon Ellison
Cross-examination by Mr. Shealy

- 1 A There was no physical altercation.
- 2 Q Okay. And you've testified that you were on that scene
- 3 for some period of time.
- 4 A A little bit of time, yes.
- 5 Q And when y'all went in and arrested him was there any
- 6 search done at the house?
- 7 A Not immediately that I can recall.
- 8 Q Was there ever a search done?
- 9 A Yes, sir.
- 10 Q So y'all searched the -- I guess the house. Did you
- 11 search the building?
- 12 A I was not involved in the building search.
- 13 Q Okay. Did you see them searching the building?
- 14 A Not that I can recall.
- 15 Q So, but you can recall nobody ever searched these
- 16 places, correct?
- 17 A I know they were searched. I was just not physically
- 18 there.
- 19 Q And these things were recovered from a Ms. Lawson
- 20 several weeks after?
- 21 A That I was told.
- 22 Q What do you mean that you were told?
- 23 A She told me they were recovered from the house.
- 24 Q But I'm asking you when you got these items from
- 25 Ms. Lawson several weeks after the arrest of Mr. Lewis.

Casey Scruggs (In-camera)
Cross-examination by Mr. Shealy

1 A Yes, sir.

2 Q Okay.

3 MR. SHEALY: That's all I have of this witness.

4 MR. BULSA: Nothing further.

5 THE COURT: Step down.

6 MR. BULSA: We ask he be excused.

7 THE COURT: He may be.

8 (Whereupon, the witness was excused.)

9 THE COURT: We're going to break for lunch.

10 Let me remind the jury not to talk about the case. No
11 research, no investigation, no media exposure.

12 Have a good lunch. Report to your jury room at 2:30,
13 2:30 this afternoon.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Ms. Scruggs, I need for you to come back
17 around and take the witness stand. There are some
18 additional questions that are going to be asked of you.
19 You are still under oath.

20 CASEY SCRUGGS, having been
21 previously duly sworn, testified as follows:

22 CONTINUED CROSS-EXAMINATION BY MR. SHEALY

23 Q All right. Ms. Scruggs, did you know Mr. Cash, Drew
24 Cash?

25 A Yes, sir.

Casey Scruggs (In-camera)
Cross-examination by Mr. Shealy

- 1 Q Okay. For how long had you known him?
- 2 A Right at -- right at a month.
- 3 Q And had y'all used drugs together?
- 4 A Yes, sir.
- 5 Q All right. What kind of drugs did y'all use together?
- 6 A Methamphetamines.
- 7 Q Okay. And so y'all stayed up awake together?
- 8 A Yes, sir.
- 9 Q All right. Was there ever a time when he was alone in
- 10 your house with you?
- 11 A Yes, sir.
- 12 Q How often?
- 13 A Not very often. One time, like once.
- 14 Q Just once?
- 15 A Once.
- 16 Q Are you sure?
- 17 A Yes, sir.
- 18 Q Okay. Now, the -- you testified -- you've testified
- 19 that you used methamphetamines. Have you ever used Subutex?
- 20 A Yes, sir.
- 21 Q All right. And what's -- when you take this -- when do
- 22 you take Subutex in reference to the methamphetamine, before
- 23 or after?
- 24 A In the mornings.
- 25 Q In the morning. Why do you do that?

Casey Scruggs (In-camera)
Cross-examination by Mr. Shealy

1 A Because if I didn't I would be sick.

2 Q So the Subutex stops you from getting sick from the
3 methamphetamine?

4 A Morphine pills and pain pills.

5 Q From pain pills.

6 A That I used to take.

7 Q Okay.

8 THE COURT: Excuse me just a minute.

9 Now, Mr. Shealy, I didn't -- there was no objection
10 and I did not sustain any objection to you asking her
11 questions about drug usage.

12 what you told me at the bench and the side bar was
13 that you wanted to ask her about her relationship with
14 Mr. Cash.

15 MR. SHEALY: Yes, sir. And I'm getting there.

16 THE COURT: Okay.

17 MR. SHEALY: I mean, I -- I was asking her the extent
18 of her drug use, and I have asked her about the drug use
19 with Mr. Cash.

20 THE COURT: Okay. Well, I'm just saying these
21 questions you're asking now were not objected to, nor were
22 they offered. But she did testify during the examination
23 as to drug usage, but not necessarily to what you're asking
24 her right now.

25 MR. SHEALY: Right, because it was objected to as to

Casey Scruggs (In-camera)
Cross-examination by Mr. Shealy

1 what she was using with Mr. Cash.

2 THE COURT: Okay. Go ahead.

3 BY MR. SHEALY

4 Q All right. So there were times when you were alone
5 with Mr. Cash in your house.

6 A At once or twice.

7 Q Okay. In fact, you had him go check the yard for you
8 once, didn't you?

9 A Yes, sir.

10 Q And how would you describe your relationship with
11 Mr. Cash?

12 A He was just a friend of mine.

13 Q He was just a friend of yours. Was your boyfriend
14 okay --

15 A No.

16 Q -- with him being in your house alone with you?

17 A My boyfriend knew. As a matter of fact, Carey and
18 Scooter was gone together while I was there alone with
19 Mr. Cash.

20 Q And they were okay with it.

21 A Yes, sir.

22 MR. SHEALY: That's all I have.

23 THE COURT: Okay. Thank you. You may step down.

24 MR. BULSA: Your Honor, my next witness will be the
25 officer from North Carolina who recorded the jail calls.

William S. Howell (In-camera)
Direct examination by Mr. Bulsa

1 THE COURT: Okay. Let's hear the calls.

2 Mr. Shealy, as I understand these jail calls, the
3 authentication is not in question or objected to. Simply
4 the substance of them?

5 MR. SHEALY: Well, Judge, I don't know who is going to
6 authenticate them and how --

7 THE COURT: Oh, I thought y'all had already discussed
8 that.

9 MR. SHEALY: Authenticate them. I mean, they're going
10 to have to get someone testify. This north Carolina
11 officer is going to have to testify as to how he can say
12 that it's my client.

13 THE COURT: I understand. But I thought y'all already
14 knew the answer to those questions.

15 MR. SHEALY: Well, again, I don't know if he's going
16 to testify. I mean, he's going to testify to it, Judge.

17 MR. BULSA: I'll call him.

18 THE COURT: Okay.

19 (C.D. marked State's Exhibit No. 80 for
20 Identification.)

21 WILLIAM S. HOWELL, having been
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BULSA

24 Q Will you please state your name for the record?

25 A William S. Howell. I'm a retired deputy with the

William S. Howell (In-camera)
Direct examination by Mr. Bulsa

1 Guilford County Sheriff's Office, currently working part
2 time as a hire-back with that department.

3 Q Okay. And do you routinely listen to jail phone calls?

4 A Yes, sir. That's my -- my current duty station.
5 That's all I do.

6 Q How do you select who to listen to?

7 A Normally they're high-profile cases or cases that are
8 referred to me by detectives. But I'm given leeway to
9 listen to any calls by Greensboro Police Department or any
10 other agencies that have high-profile cases.

11 Q And how is it that you selected to listen to Steven
12 Lewis' cases?

13 A He was arrested in our jurisdiction and was
14 incarcerated in the Guilford County Sheriff's Detention
15 Center.

16 Q How do you determine which calls were his?

17 A Well, at the beginning of each call the inmate will
18 identify himself. And he also -- after they leave the
19 booking area and get up to the general population area they
20 have to enter a code that identifies them as -- as the
21 caller.

22 Q And did you listen to some calls -- what did you do
23 when you listened to any of these calls? If they were of
24 substance, what did you do to them?

25 A Generally will forward them to the detective or whoever

William S. Howell (In-camera)
Direct examination by Mr. Bulsa

1 would have the -- have that case.

2 Q Okay. And as far as you know those would have been
3 sent to the appropriate agency.

4 A Yes, sir.

5 Q Did you listen to three phone calls that you recorded
6 when you came here in preparation for your testimony?

7 A Several calls, but the three that I think are in
8 question here.

9 Q Okay. And did you listen to redacted portions of those
10 calls?

11 A Yes, sir.

12 Q Were those redacted portions accurate portions taken
13 from those three complete phone calls?

14 A Yes, sir.

15 Q Is there any question that the phone calls that you
16 basically directed to the officer were those made by Steven
17 Lewis?

18 A No, sir.

19 Q Okay.

20 MR. BULSA: Your Honor, I would now offer the redacted
21 portions.

22 THE COURT: The last question, ask that question
23 again.

24 THE WITNESS: He asked if there was any doubt, and I
25 said, no, there was no doubt.

William S. Howell (In-camera)
Direct examination by Mr. Bulsa

1 THE COURT: Okay.

2 Q So you're confident that the person whose calls you
3 recorded were Steven Lewis.

4 A Yes, sir.

5 MR. BULSA: Your Honor, I would offer this redacted
6 portions of --

7 THE COURT: Okay. Mr. Shealy, do you want to ask him
8 about the authentication?

9 MR. SHEALY: No, sir.

10 THE COURT: Okay.

11 BY MR. BULSA

12 Q While we're getting the computer ready, did these phone
13 calls have dates on them -- references?

14 A Normally at the end of the phone call the -- when the
15 call is disconnected a timestamp is put on them.

16 Q Okay.

17 MR. BULSA: Your Honor, for the record, Your Honor,
18 I've identified these calls by date. There's one on June
19 the 1st of 2015, and then there's two on June the 11th.
20 I've titled one June 11th and one June 11th, number two.
21 This is the June 1st call.

22 (Whereupon, the C.D. was played for the court.)

23 MR. BULSA: It is kind of hard to hear.

24 THE COURT: Put that microphone on it.

25 MR. BULSA: This would be the first.

1 (Whereupon, the C.D. was played for the Court.)

2 MR. BULSA: Your Honor, those are the three calls
3 redacted.

4 I have no further questions at this time.

5 THE COURT: Have you got anything to ask him?

6 MR. SHEALY: I don't have anything to ask him.

7 THE COURT: You can step down.

8 Do you object?

9 MR. SHEALY: I do.

10 THE COURT: State your objection.

11 MR. SHEALY: Judge, I don't believe that any of those
12 are relevant to this particular case.

13 As for the -- I believe it was the first call,
14 June 1st of 2015, he says that there is a phone, a blue one
15 with a black or -- it's either black or blue case, or blue
16 with black case. I apologize. I can't remember which.
17 There's nothing that shows that that iPhone is somehow
18 involved in this case. There's no -- at least there isn't
19 one, any link that I've heard testified to.

20 All he's saying is he had to get rid of that
21 particular phone -- to get rid of that particular phone.
22 It has no bearing on this case. It has no -- there's no
23 tie to this case. As for the --

24 THE COURT: We'll take them one at a time.

25 Mr. Bulsa.

1 MR. BULSA: Your Honor, that phone is the one that was
2 turned over to the police by Ms. Lawson. That was actually
3 premarked as one of the state's exhibits -- State's
4 Exhibit 78.

5 THE COURT: Okay.

6 MR. SHEALY: Judge --

7 THE COURT: And this connection with this case is
8 what?

9 MR. BULSA: When it was examined, it's going to show
10 that it was Carey's phone, and it was activated May the
11 19th of 2015.

12 THE COURT: All right.

13 MR. SHEALY: Again, Judge, I don't think that there's
14 been sufficient proof to link these two or that -- the
15 phone that he is speaking of to any of these other phones.
16 All he says is that there is a phone.

17 Judge, there are millions of iPhone 5s's, and millions
18 of them are black with a blue case.

19 There is no evidence, no evidence at all, that says
20 the one that he's talking about here is the one that
21 Ms. Lawson may have turned over to Guilford County.

22 THE COURT: Okay. Overrule your objection.

23 The next one.

24 MR. SHEALY: As to June 11th of 2015, Judge, I point
25 out that that's hearsay within hearsay, comes on, says that

1 it's found, that he found out some news.

2 So there is nothing. He doesn't, one, name anybody;
3 but, two, more importantly, it's based on apparently
4 information that he received from some other source. May
5 have been his lawyer, may have been somebody he was
6 transported with, something like that, which makes it
7 hearsay. And hearsay within hearsay, if it doesn't all
8 conform with the hearsay rule, has to be kept out.

9 Also, Judge, he doesn't -- there's nothing in there
10 that suggests he procured anybody to be killed, anybody to
11 be unavailable, anything like that. In his view that
12 that's the only evidence against him.

13 Goes to show nothing. I mean, it shows -- it can show
14 his perception of the case, but, I mean, it doesn't make
15 him more or less guilty. It doesn't show guilty mind-set.
16 It doesn't -- it just shows that that's what he thinks that
17 they have, is a person has picked him out and said you did
18 the murder or you committed this crime. And if that person
19 is unavailable to testify, then that makes the case a
20 difficult one to prosecute.

21 So I don't see how it's relevant to anything. I think
22 it's also hearsay, again. And it doesn't go to show any
23 mind-set of my client.

24 MR. BULSA: We of course dispute that. It does show
25 his mind-set and his perception of the evidence.

1 And it's not being offered as hearsay. It's not being
2 offered for the truth of the matter asserted. It's merely
3 offered to show what his knowledge is and how he connects
4 that knowledge to his charge.

5 MR. SHEALY: Judge, what knowledge? I mean, he got
6 this information. He got some news. And he says I found
7 out some news.

8 His evaluation of his case, I don't see how that is
9 admissible. If he thinks it's -- his evaluation of how
10 that piece of evidence would fit into his defense, it's
11 just not relevant. It doesn't go to show that he was
12 guilty of anything. It doesn't go to show that he thought
13 he was guilty of anything.

14 It goes to him thinking that maybe they don't have a
15 very good case. But I don't see how that's -- I mean, that
16 is just not relevant to anything. What he thinks of their
17 case is not relevant to anything. Either this happened, or
18 it didn't.

19 And I'd also argue that it's not probative to
20 anything. It's vastly outweighed by its prejudicial effect
21 because of the language that is used.

22 THE COURT: Well, what -- what -- I'm not sure I heard
23 all of that call. But what language are you referring to
24 in that call?

25 MR. SHEALY: Well, I mean, it's simply talking about

1 somebody having killed her and things like that.

2 THE COURT: Oh, I thought you mentioned it's an
3 inappropriate --

4 MR. SHEALY: I don't believe that there was foul
5 language in that particular one.

6 THE COURT: Right. Okay.

7 MR. SHEALY: Although I may be wrong.

8 THE COURT: Well, I don't recall there being in that
9 particular phone call.

10 There was no -- no denial in that phone call, was
11 there?

12 MR. SHEALY: No denial?

13 THE COURT: No denial on behalf of your client as to
14 the charges.

15 MR. SHEALY: I don't know that in that -- in that the
16 phone call that they intend to play that he said I didn't
17 commit this crime, no.

18 THE COURT: Well, what I'm referring to is he's
19 talking about knowledge of the charge against him, but he's
20 not denying the charge, is that true, in that phone call?

21 MR. SHEALY: Judge, again, it's redacted. I don't
22 believe that he ever says, no, I did not commit this
23 charge, but again --

24 THE COURT: But you don't know what the other parts of
25 the phone call are?

1 MR. SHEALY: I've listened to the other parts. I
2 have.

3 THE COURT: Well, that's what I figured, you had.

4 MR. SHEALY: And, again, he never says I didn't commit
5 this charge, or that I'm aware of. He doesn't say I didn't
6 do it.

7 THE COURT: Okay.

8 MR. SHEALY: But, again, I don't know how that would
9 be relevant to this, the determination as to whether or not
10 this part of the call should come in.

11 THE COURT: Okay. All right. Mr. Bulsa, anything
12 else on that one?

13 MR. BULSA: Your Honor, only he coupled the -- his
14 language with his tone of voice and his emotions, clearly
15 showed a -- I would argue it's almost an admission.

16 MR. SHEALY: It's certainly not that.

17 THE COURT: Well, not clearly.

18 Okay. Overrule the objection.

19 Third phone call.

20 MR. SHEALY: Well, Judge, then if you're going to let
21 the first one in, then the second one is duplicative,
22 because, again, it has the same information within it.

23 Now, he doesn't say I found out some news. It does
24 say they ain't got nothing on me, she ain't alive no more.

25 I believe that one he's asked what do you mean. He

1 says I don't know, I don't know what happened to her, but
2 that's just what I'm told.

3 Now, there is some foul language in that one. But,
4 again, I think that makes it more prejudicial. But, again,
5 Judge, I think that all of those should be excluded because
6 they're simply not relevant.

7 THE COURT: All right. Mr. Bulsa.

8 MR. BULSA: All right. Your Honor, the second call on
9 the 11th is similar to the first call on the 11th. It just
10 reinforces his position.

11 THE COURT: All right. Overrule the objection. Note
12 your exceptions.

13 Court is in recess until 2:30.

14 (Whereupon, a recess was taken.)

15 THE COURT: All right. As counsel has been made
16 aware, one of the jurors has had an accident during the
17 lunch recess and is not able to return.

18 I understand there's no objection to the first
19 alternate selected taking the -- that juror's place and
20 becoming the twelfth juror.

21 Is that true?

22 MR. SHARPE: That's correct, Your Honor.

23 MR. SHEALY: Yes, Your Honor.

24 THE COURT: Okay. Are we ready for the jury?

25 MR. BULSA: Yes, sir.

William S. Howell
Direct examination by Mr. Bulsa

1 MR. SHEALY: Yes, Your Honor.

2 THE COURT: Bring them in. Oh, and tell -- tell
3 Ms. Langford that she's now the twelfth juror.
4 Ms. Langford.

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

7 THE COURT: Good afternoon, ladies and gentlemen.

8 As you have been made aware, one of your fellow jurors
9 is unable to return.

10 And therefore, Ms. Langford, you have now become the
11 twelfth juror, and so you're one of the primary jurors now.

12 And, Ms. Brown, you're still serving as an alternate.

13 The state was in the midst of their presentation when
14 we recessed for lunch, so we'll continue with that this
15 afternoon.

16 Mr. Bulsa.

17 MR. BULSA: The state calls William Howell.

18 WILLIAM S. HOWELL, having been
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BULSA

21 Q Good afternoon. Would you please introduce yourself to
22 the jury?

23 A Yes. My name is William Howell. I'm a retired deputy
24 with the Guilford County Sheriff's Department, and I am now
25 working part time as a hire-back with that department.

William S. Howell
Direct examination by Mr. Bulsa

1 Q Okay. And as some of your duties do you review jail
2 phone calls?

3 A Yes.

4 Q Those are phone calls that inmates make to persons --

5 A That's correct.

6 Q -- in the community. And did you have an occasion to
7 review some of Mr. Lewis' phone calls?

8 A Yes, sir.

9 Q Okay. And did you provide those to officers involved
10 in this case?

11 A Yes, sir.

12 Q And have you listened to those phone calls and the
13 redacted portion of those phone calls in preparation for
14 your testimony?

15 A Yes, I have.

16 MR. BULSA: Your Honor, at this time I'd move State's
17 Exhibit 80 into evidence as those redacted phone calls.

18 MR. SHEALY: Judge, I'm going to renew my objection to
19 those phone calls.

20 THE COURT: All right. The objection is overruled.
21 They are admitted.

22 (C.D. marked State's Exhibit No. 80.)

23 Q Do you recall the dates of the phone calls that are in
24 question here?

25 A If memory serves there -- there was one from June the

William S. Howell
Direct examination by Mr. Bulsa

1 1st of 2015 and one from -- or two from June the 11th of
2 2015.

3 Q okay. Were the individuals notified when they make
4 these phone calls that they're being recorded?

5 A Yes, sir.

6 Q Is there a prompt on the phone itself?

7 A It's a recording at the beginning of every phone call
8 that shows it is being recorded and can be monitored.

9 Q Is there a date stamp at the end of each call?

10 A Yes, sir.

11 (Whereupon, the C.D. was played for the jury.)

12 Q Okay. Mr. Howell, are those accurate recordings from
13 the -- taken from the calls you downloaded?

14 A Yes.

15 Q Okay. Thank you.

16 MR. BULSA: That's all I have.

17 MR. SHEALY: I have got no questions for this witness.

18 THE COURT: You may step down.

19 MR. BULSA: We would ask he be excused.

20 THE COURT: He may be.

21 (Whereupon, the witness was excused.)

22 MR. BULSA: The state calls Paul Norris.
23
24
25

1 PAUL NORRIS, having been first
2 duly sworn, testified as follows:

4 | Q Please introduce yourself to the jury.

7	Q	In what capacity?

10 | Q And did you formerly investigate homicides?

12 | Q And when were you made sergeant?

14 | Q How long did you investigate homicides?

16 | Q Was this your case to investigate?

18 | Q Did you go to this scene on the day of the incident?

21 Q Did you participate in the processing of that scene?

24 Q Okay. You left that to them. And did you speak with
25 witnesses?

Paul Norris
Direct examination by Mr. Bulsa

- 1 A There were no witnesses there that I remember speaking
2 with, no, sir.
- 3 Q What was your next role in this?
- 4 A After leaving the scene with Investigator Talanges and
5 Foster, I went back to the office with Sergeant Bryant who
6 was the sergeant over homicide at the time to try to
7 identify one of the subjects that was mentioned, possibly a
8 suspect in this case.
- 9 Q Okay. So you had received information that Casey had
10 named two people?
- 11 A Yes. I was informed by Investigator Ruffner at the
12 time that she had mentioned an Andrew Cash and a Steven
13 Richard Lewis as possible suspects.
- 14 Q Okay. So you began trying to locate those individuals?
- 15 A Yes, sir. That's correct.
- 16 Q Okay. Did you determine Mr. Cash lived in Spartanburg
17 County?
- 18 A Yes, sir. Spoke with Investigator Lawson who works for
19 the sheriff's office. He was familiar with Mr. Cash
20 basically through dealings through his S.R.O. when he was an
21 S.R.O. at Chapman High School.
- 22 Q That is a school resource officer?
- 23 A Yes, sir.
- 24 Q And he was able to tell you where he lived?
- 25 A Yes, sir. We was able to obtain an address. I believe

Paul Norris
Direct examination by Mr. Bulsa

1 it's 343 -- 343 Woodland Avenue in Inman.

2 Q And did you go to that scene?

3 A Yes, sir, we did.

4 Q What did you find there?

5 A I went later on. Several others investigators went
6 earlier. After we obtained the search warrant I went there.

7 Investigator Ruffner, Lieutenant Hutchins who was a
8 lieutenant at the time. There was a Lieutenant Woodcock was
9 on the scene. And another investigator, Nick Turner, was
10 already there when I arrived.

11 Q And did you speak with Mr. Cash's sister?

12 A I did. It was Nicole -- Bridgette Nicole Cash.

13 Q Okay. And based on information she gave you what did
14 you do?

15 A Ended up having an interview with her. After
16 interviewing her we ended up searching the house, and some
17 items located in the house that was collected.

18 Q Okay. Was Officer Ruffner in charge of that?

19 A Yes, sir, him and Investigator Turner.

20 Q Okay. When did you learn that the defendant was in
21 North Carolina?

22 A I believe it was the following morning, the 23rd. I
23 believe I even got a call from Sergeant Bryant that Guilford
24 County had located him or had located him in a residence in
25 Guilford County, North Carolina, outside of Greensboro.

Paul Norris
Direct examination by Mr. Bulsa

1 Q Okay. Were you notified when he was apprehended?

2 A Yes, sir.

3 Q Did you have occasion to go to Greensboro to pick up
4 any items of evidence that had been secured?

5 A Yes, sir.

6 Q Okay. And did you collect the items listed on
7 State's 79?

8 A Yes, sir. I believe those were -- I went up around
9 June the 24th and collected those items if I recall
10 correctly.

11 (Photographs marked State's Exhibits Nos. 81 through 83
12 for Identification.)

13 Q Let me show you State's Exhibits 81 through 83. Can
14 you identify the objects in those pictures?

15 A Yes, sir. This is a box that I recovered from the
16 Guilford County Sheriff's Office with those items in it.

17 MR. BULSA: Your Honor, the state would move
18 State's 81 through 83 in evidence.

19 MR. SHEALY: No objection.

20 THE COURT: They're admitted.

21 (Photographs marked State's Exhibits Nos. 81 through
22 83.)

23 Q Did they put the whole box into this, is how they were
24 packaged?

25 A Yes, sir. That's correct.

Paul Norris
Direct examination by Mr. Bulsa

- 1 Q Okay. And this was the label on it?
- 2 A Yes, sir.
- 3 Q State's 82. Showing Ivey Lawson, collected by B.J.
- 4 Elison?
- 5 A Yes, sir.
- 6 Q And on the interior of that box, State's 83?
- 7 A Yes, sir.
- 8 Q All right. Now, we previously introduced -- actually
- 9 had these identified as State's 77 and 78. Did you take
- 10 these? Were those -- were those in this box contained in
- 11 State's 83?
- 12 A Yes, sir. These two phones come out of this box. As
- 13 you can see, there's multiple phones up against --
- 14 Q Okay.
- 15 MR. BULSA: Your Honor, I would move State's 77 and 78
- 16 into evidence.
- 17 MR. SHEALY: I believe they've already been moved in.
- 18 I have no objection.
- 19 THE COURT: They were I.D., 77 and 78.
- 20 MR. BULSA: Yes, sir.
- 21 THE COURT: They are admitted.
- 22 (Cell phone marked State's Exhibit No. 77; cell phone
- 23 marked State's Exhibit No. 78.)
- 24 Q Did you have an occasion to meet with Ms. Scruggs to
- 25 see if she could identify any of these phones?

Paul Norris
Direct examination by Mr. Bulsa

- 1 A Yes, sir, we did or I did.
- 2 Q And did she identify State's 77 and 78?
- 3 A She did. She told me that the LG Vista was a phone
4 that Carey had owned prior to being robbed and the blue one
5 was a phone that he -- the blue/black one there was a phone
6 that he had gotten after the robbery.
- 7 Q Okay. And is State's 78 a blue iPhone 5c with a black
8 cover?
- 9 A Yes, sir.
- 10 Q Did you ask for anyone to try to analyze or process
11 these phones?
- 12 A Yes, sir. Our computer forensics specialist, Lindsey
13 McGraw. I requested that he look at the phones.
- 14 Q Okay. What was the purpose for that?
- 15 A To try to identify the owners of the phones.
- 16 Q That would have been June 24th, is when you collected
17 those items?
- 18 A Yes, sir, if I recall correctly, yes, sir.
- 19 Q And did later learn that there might be some evidence
20 at a location on Flynn Road?
- 21 A Yes, sir.
- 22 Q And what did you do with that information?
- 23 A I obtained a search warrant for -- I believe it was 117
24 Flynn Road, which is in the Campobello-Landrum area of
25 Spartanburg County.

Paul Norris

Direct examination by Mr. Bulsa

1 Q What were you specifically looking for?

2 A We were looking for the PT Cruiser that was -- that
3 belonged to Mr. Mauldin, Carey Mauldin.

4 Q Was one found?

5 A No, sir, it was not one found.

6 Q What was found?

7 A There was -- which I believe you've already seen -- an
8 impact bumper. It's a little styrofoam piece. It's got --
9 basically, if you look at the model number it comes back to
10 your roughly year model. It was a PT Cruiser. And also a
11 set of keys that we were able to determine actually belonged
12 to Mr. Mauldin.

13 Q And you went with Deputy Talanges to check those keys
14 and the box.

15 A Yes, sir. We went back to the residence. We tried all
16 three locks. When I say all three, so you got to the back
17 door that you've seen that everybody's called it side or
18 back. There's a little shop if you want to call it that.
19 We tried that door that goes to the shop. It opened.

20 We did not try the -- that back entrance, and the
21 reason being that was a brand new lock. The owner of the
22 house had changed that lock. So that was a brand new lock.
23 So you couldn't try it.

24 So we go around to the front or to the side. You've
25 seen the door that's been off the hinges everybody's talked

Paul Norris
Direct examination by Mr. Bulsa

1 about. Tried that door. You could actually lock it. You
2 could close it to latch and everything. You can push it and
3 lock it. Tried that key. Tried the key there, and it
4 unlocked that one.

5 Q All right. Now, you've heard Officer Talanges testify
6 and get cross-examined on the multiple items that were
7 recovered. As lead officer did you direct the shell casings
8 and spent rounds to be examined?

9 A Yes, sir.

10 Q And where did you direct those to be examined?

11 A The Greenville County Forensics Lab, firearm-forensics
12 lab.

13 Q What were you trying to determine?

14 A Trying to determine the make of the firearm that
15 actually fired the weapon.

16 Q Was the weapon ever recovered?

17 A No, sir. It was not.

18 Q Did you have a suspicion as to what kind of weapon was
19 used?

20 A Through the investigation it was our suspicion it was
21 actually a Kil-Tec 9. It was 9mm casings that were
22 recovered. And we was also trying to determine the
23 projectiles that were recovered, what caliber those were as
24 well.

25 Q That's all I have at this time. Answer anything

Paul Norris
Cross-examination by Mr. Shealy

1 Mr. Shealy may have.

2 CROSS-EXAMINATION

3 BY MR. SHEALY

4 Q Officer Norris, now, were you -- you were the lead
5 investigator on this case.

6 A Yes, sir.

7 Q So you were the one that made the ultimate decisions --

8 A Yes, sir.

9 Q -- about how the investigation would go, is that fair?

10 A Yes, sir.

11 Q Now, my understanding is there were pictures taken of
12 the footprints that were outside, the people who testified
13 to. Were those sent to Greenville --

14 A No, sir.

15 Q -- for any kind of analysis?

16 A No, sir.

17 Q No. But Greenville does that kind of analysis, right?

18 A I think. I've never sent anything to Greenville in
19 reference to footprints.

20 Q Okay. So you don't know if they do that.

21 A No. I do not.

22 Q Did you send -- where would you ordinarily send gunshot
23 residue kits?

24 A It usually goes to SLED. That's the only place in the
25 state that does G.S.R.

Paul Norris
Redirect examination by Mr. Bulsa

1 Q Okay. Did you send those?

2 A No, sir.

3 Q Did you have -- now, I understand Mr. Talanges or
4 Officer Talanges testified he got a G.S.R. kit from Mr.
5 Mauldin. Did you or anybody at your direction get one from
6 Ms. Scruggs?

7 A No.

8 Q No. Now, as to the latex gloves, did you -- and
9 sometimes I know it's -- television is different from real
10 life. Can you get a print off the inside of a latex glove?

11 A I wouldn't think so. I'm not -- I'm not familiar with
12 that. That's not a specialty of mine. I couldn't tell you.

13 Q Okay. So, but you didn't have anybody look at those
14 latex gloves to try to find a print off them.

15 A No, no, sir.

16 Q Or do any other analysis on those gloves.

17 A No, sir.

18 Q That's all the information that I have for him -- all
19 of the questions I have for him.

20 REDIRECT EXAMINATION

21 BY MR. BULSA

22 Q Why was G.S.R. done on Mr. Mauldin?

23 A It is the standard thing that the crime analysis guys
24 do a lot in reference to -- that's something they've always
25 done is do -- when a victim is shot. A victim like that, a

Paul Norris

Recross-examination by Mr. Shealy

Redirect examination by Mr. Bulsa

1 shot victim, someone that's been involved, they always do a
2 G.S.R.

3 Q Was there any suggestion in your investigation that he
4 ever handled a gun?

5 A No. Throughout the investigation there was only -- per
6 the witnesses and stuff -- only one gun was involved in
7 this.

8 Q All right.

9 MR. SHEALY: Judge, I do have one follow-up question.

10 RECROSS-EXAMINATION

11 BY MR. SHEALY

12 Q How many witnesses were there to this?

13 A I'm sorry. To -- to?

14 Q Okay. Thank you.

15 REDIRECT EXAMINATION

16 BY MR. BULSA

17 Q I didn't hear that. Was that an answer or a question
18 about that?

19 A I'm asking him which, in reference to what witnesses is
20 he referring to what.

21 MR. SHEALY: I thought he answered that there were two
22 witnesses.

23 RECROSS-EXAMINATION

24 BY MR. SHEALY

25 A No, no, no, no. I'm asking you what are -- what

Lindsey McGraw
Direct examination by Mr. Bulsa

1 witnesses are you referring to -- to.

2 Q The information that you gathered. You gathered that
3 from Ms. Scruggs.

4 A Yes. That's correct.

5 Q Is that accurate?

6 A Yes, sir. That's correct.

7 Q That's what I was thinking.

8 A Yes, sir.

9 THE COURT: You may step down.

10 MR. BULSA: The state calls Lindsey McGraw.

11 LINDSEY MCGRAW, having been
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. BULSA

14 Q Please introduce yourself to the jury.

15 A My name is Lindsey McGraw. I'm a retired detective
16 from the Spartanburg County Sheriff's Office. I retired
17 March 31st of this year.

18 During that time I was the assigned computer forensics
19 investigator.

20 Q And did that also involve investigating cell phones?

21 A Yes, sir. I'm sorry. A computer forensics
22 investigator will do a digital examination of cell phones,
23 computers, G.P.S. devices, any type of electronic media.

24 Q Okay. How long had you been doing that?

25 A Since 2006.

Lindsey McGraw
Direct examination by Mr. Bulsa

1 Q Does it require any certain expertise?

2 A It does.

3 Q What kind of training did you receive?

4 A I received specialized training from the U.S. Secret
5 Service at the National Computer Forensics Institute. I've
6 also received training from the Department of Homeland
7 Security at FLETC and various private vendors.

8 Q Have you testified in court as an expert in this field
9 before?

10 A I have.

11 Q Approximately how many times?

12 A About three.

13 Q Have you been declared as an expert in those cases?

14 A I was.

15 MR. BULSA: Your Honor, the state would offer
16 Investigator McGraw as expert in the field of forensic
17 computer analysis and iPhone phone analysis.

18 MR. SHEALY: Is that for all phones or --

19 MR. BULSA: Yes, sir. Cell -- smart phone.

20 MR. SHEALY: I have no --

21 MR. BULSA: We have a smart phone in this case.

22 MR. SHEALY: -- objection.

23 THE COURT: He so qualified.

24 Q Did you have an occasion to examine these two phones
25 marked State's Exhibits 77 and 78?

Lindsey McGraw
Direct examination by Mr. Bulsa

1 A Is it all right if I take the backs off them to verify
2 the numbers?

3 Q Sure.

4 A I was requested by Sergeant Norris to examine three
5 phones on February 1st of this year. I examined this LG
6 Vista model LG D631 and this Apple iPhone model 5c.

7 Q Let's first talk about the LG Vista. Were you able to
8 determine whose phone that was?

9 A Based on the content of the data that I pulled it
10 appeared that the owner of the phone was a Carey Mauldin.

11 I wasn't able to pull a telephone number off this phone
12 because the SIM card, the subscriber identity module card,
13 had been removed or wasn't present.

14 Q Okay. Now, let's talk about the iPhone 5c. Were you
15 able to identify whose phone that was?

16 A Yes, sir. Based on the data I was able to recover from
17 that phone the device name on this phone was Carey's iPhone.
18 And I was also able to recover the U.D.I.D., which is the
19 unique device identifier which is unique to Apple devices.

20 Q Were you able to pull the phone number from that phone?

21 A Well, not from the phone exactly. I had to remove the
22 SIM card. There was an AT&T SIM card contained within the
23 phone. And bear with me just a second.

24 (Pause.)

25 A I was able to determine the phone number assigned to

Lindsey McGraw
Cross-examination by Mr. Shealy

1 that SIM card, was (864)431-5309.

2 Q (864)431-5309?

3 A Yes, sir.

4 (AT&T information marked State's Exhibit No. 84 for
5 Identification.)

6 Q Show you what's been marked State's Exhibit 84 for
7 Identification. Does that document have the phone number
8 you just read into evidence on it?

9 A Yes, sir, it does.

10 Q Is that titled, "subscriber information"?

11 A Yes, sir. The document's entitled "subscriber
12 information", and under user information there's a phone
13 number M.S.I.D.M., is (864)431-5309.

14 Q Thank you, Officer. That's all I have. Answer any
15 Mr. Shealy has.

16 MR. SHEALY: Just briefly.

17 CROSS-EXAMINATION

18 BY MR. SHEALY

19 Q These SIM cards, what are those?

20 A The SIM card is a -- it's a subscriber identify module
21 card. It's a card that's used to identify the user on the
22 network. Basically for billing purposes.

23 Q Okay. So if you bought a cell phone you would need to
24 put the SIM card in it.

25 A It depends. If it's a G.S.M. phone, yes, sir. If it's

Lindsey McGraw
Cross-examination by Mr. Shealy

1 a C.D.M.A. phone, no.

2 Q So if had bought it -- if you'd bought it just from
3 somebody else, it's a pretty easy thing. You just take the
4 SIM card out and then that other person puts his SIM card
5 in?

6 A In some cases, yes, that's possible.

7 Q And you said that the SIM card was removed on the LG
8 Vista, correct?

9 A Yes, sir. The SIM -- well, I don't know that it was
10 removed. It didn't contain a SIM card or a micro S.D. card
11 when I examined it.

12 Q So that means it wasn't present.

13 A It wasn't present when I did the examination, yes, sir.

14 Q Okay. So it was removed at some point then.
15 Ordinarily, phones come with one, right?

16 A Well, not when new, not necessarily. They have to be
17 provisioned. I mean, out of the box, they don't.

18 Q So that phone may have been brand new?

19 A No. There was data on this phone. The LG phone is the
20 one we're talking about, correct?

21 Q Yes.

22 A Yes, sir. There -- there was data on the LG phone.

23 Q Okay.

24 MR. SHEALY: That's all I have.

25 MR. BULSA: Nothing further.

Tyler McBee

Direct examination by Mr. Bulsa

1 THE COURT: You may step down.

2 MR. BULSA: I would ask he be excused.

3 THE COURT: You may be.

4 (Whereupon, the witness was excused.)

5 MR. BULSA: The state calls Tyler McBee.

6 TYLER MCBEE, having been first
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BULSA

9 Q Please introduce yourself to the jury.

10 A My name is Tyler McBee. I am a sales manager and
11 custodian of records for AT&T.

12 Q Do you work here in Spartanburg?

13 A I do.

14 Q Do you work at one of the stores?

15 A I do.

16 Q And were you contacted to testify in this case about
17 some subscriber information?

18 A I was.

19 Q Show you what's been marked State's Exhibit 84. Do you
20 recognize that document?

21 A I do.

22 Q What is it?

23 A It is the subscriber information for this particular
24 account number and phone number.

25 MR. BULSA: Your Honor, the state would move

Tyler McBee
Direct examination by Mr. Bulsa

1 State's 84 into evidence.

2 MR. SHEALY: No objection.

3 THE COURT: It's admitted.

4 (AT&T information marked State's Exhibit No. 84.)

5 Q Now, you heard the officer read in the phone number.

6 A Uh-huh.

7 Q Does that also identify whose phone that -- or who that
8 number belonged to?

9 A It does.

10 Q And who is that?

11 A The name on the account was Carey M. Mauldin.

12 Q Okay. And does that document show when that account --
13 excuse me -- when that phone number was activated?

14 A It does under the M.S.I.S.D.N. active line.

15 Q What is that date?

16 A It is May 19th of 2015 through June 16th of 2015.

17 Q Okay. And you don't know anything about this case, do
18 you?

19 A I do not.

20 Q Does it show how long he's had an account with AT&T?

21 A It shows the account this number was attached to was
22 active since November 7th of 2014.

23 Q Okay. And for some reason on May 19th he had to get a
24 different phone number. Is that what this document is
25 telling us?

Tyler McBee
Cross-examination by Mr. Shealy

1 A It shows that the 5309 number was activated on that
2 account on May 19th, yes, sir.

3 Q All right. Thank you, sir. That's all I have. Answer
4 any questions Mr. Shealy may have.

5 MR. SHEALY: Briefly.

6 CROSS-EXAMINATION

7 BY MR. SHEALY

8 Q So you've testified that the 431-5309 that we've
9 already heard -- 431-5309 -- was listed to the iPhone, is
10 that correct, or do you know?

11 A From the sheet I do not know.

12 Q Okay. And when does it say that that phone number was
13 no longer active?

14 A June 16th of 2015.

15 Q June 16th of 2015.

16 A Uh-huh.

17 Q All right. And you've testified about a new number.
18 Where on that sheet does it say that there's a new phone
19 number?

20 A It shows that the 5309 was activated on 5/19/2015.
21 That's all I can state as far as a new number.

22 Q Okay. So you don't know if there was an old number.

23 A This account was previously active prior to that date.
24 The account itself was active since November 17th --
25 November 7th of 2014. Sorry.

Tyler McBee
Redirect examination by Mr. Bulsa
Recross-examination by Mr. Shealy

1 Q Thank you, sir.

2 REDIRECT EXAMINATION

3 BY MR. BULSA

4 Q Just do you know what would have caused the number to
5 the account to be deactivated?

6 A There's various situations. There's no way to know
7 exactly why.

8 Q Okay. How about the death of someone?

9 A It can.

10 MR. SHEALY: Objection, Your Honor. Speculating.
11 He's just speculating as to why a new number might be.

12 THE COURT: He's asking how that occurs. He's not
13 asking necessarily in this case but what are the
14 circumstances.

15 Go ahead.

16 MR. BULSA: Yes, sir.

17 Q Is the death of someone a reason for a deactivation?

18 A It is a reason, yes.

19 Q Thank you.

20 RECROSS-EXAMINATION

21 BY MR. SHEALY

22 Q Is getting a new phone a reason to get a new number?
23 Does that happen?

24 A It can, sure.

25 Q Okay. So there are any number of reasons somebody may

Tyler McBee
Redirect examination by Mr. Bulsa
Recross-examination by Mr. Shealy

1 have gotten a phone number, right?

2 A Yes, sir.

3 Q Thank you.

4 THE COURT: Step down.

5 MR. BULSA: Thank you. We ask he be excused.

6 THE COURT: He may.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness was excused.)

9 MR. BULSA: May we approach, Your Honor?

10 THE COURT: Yes.

11 (Bench conference held off the record in the presence
12 of the jury but out of the hearing of the jury.)

13 THE COURT: All right. We're going to take a short
14 break.

15 I'll ask the jury to please go to your jury room.
16 Don't talk about the case. I'll bring you back after that
17 break.

18 (The following takes place outside the presence of the
19 jury.)

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

21 (Whereupon, a recess was taken.)

22 (Photographs marked State's Exhibits Nos. 85 through 93
23 for Identification.)

24 THE COURT: All right. Bring the jury in, please.

25 (The following takes place in the presence of the

Todd Ruffner
Direct examination by Mr. Bulsa

- 1 jury.)
- 2 THE COURT: All right. Mr. Bulsa.
- 3 MR. BULSA: The state calls Todd Ruffner.
- 4 TODD RUFFNER, having been
- 5 first duly sworn, testified as follows:
- 6 DIRECT EXAMINATION BY MR. BULSA
- 7 Q Please introduce yourself to the jury.
- 8 A My name is Todd Ruffner. I'm a special agent with the
- 9 South Carolina Law Enforcement Division.
- 10 Q Did you formerly work for the Spartanburg County
- 11 Sheriff's Office?
- 12 A Yes, sir, I did.
- 13 Q And how long were you with the sheriff's office?
- 14 A I was with the sheriff's office approximately 14 and a
- 15 half years.
- 16 Q What were your duties with the sheriff's office?
- 17 A When I left I was assigned to the investigative
- 18 division as a detective.
- 19 Q And when did you leave?
- 20 A October of 2015.
- 21 Q Okay. So was this one of your last cases that you
- 22 worked?
- 23 A Yes, sir.
- 24 Q Did you have occasion to meet Casey Scruggs in the
- 25 hospital?

Todd Ruffner
Direct examination by Mr. Bulsa

- 1 A Yes, sir, I did.
- 2 Q And what was her condition when you met her?
- 3 A When I met her she was obviously very upset, but she
- 4 was in the trauma bay in the emergency room after having
- 5 suffered a gunshot wound to the head. The trauma staff was
- 6 working on her as we tried to get as much information as we
- 7 could.
- 8 Q Were you able to obtain the names of her assailants?
- 9 A Yes, sir.
- 10 Q Who were they?
- 11 A She told us that she had been tied up and shot by Carey
- 12 Mauldin and a Drew Cash. And she referred to one as
- 13 Scooter.
- 14 Q You said Carey Mauldin? That's the name of the
- 15 deceased.
- 16 A Or not Carey Mauldin. I'm sorry. I didn't mean that.
- 17 Steven Lewis is who she called -- she said was Scooter, said
- 18 he looked like Chad Kroeger from "Nickelback".
- 19 Q Okay. I don't know what that means. But did you have
- 20 an occasion to look for either of those men?
- 21 A I wasn't involved in looking for them. I just obtained
- 22 as much information about them as I could and forwarded that
- 23 information to the lead detective who was Paul Norris.
- 24 Q Were you directed to go to a location in Inman?
- 25 A Yes. I was requested to come to 343 woodland Avenue in

Todd Ruffner
Direct examination by Mr. Bulsa

1 Inman to assist with a search warrant.

2 Q Did you learn that that was the home that Drew Cash was
3 believed to have lived at?

4 A After I arrived there, I was told that.

5 Q Okay. And did you come into contact with anyone there?

6 A I met with Lieutenant Hutchins and Lieutenant Woodcock.
7 And there were some patrol officers there as well.

8 Q Were you working the forensic I.D. unit at that time?

9 A At that time, no, I was not.

10 Q Had you previously done that?

11 A I was previously assigned to the forensics division,
12 probably 2004-2005 area.

13 Q So awhile ago.

14 A Yes.

15 Q We've heard about a multiple number of scenes and items
16 and locations that were processed. Was an I.D. unit sent to
17 this residence?

18 A No. They were not.

19 Q Why not?

20 A They were tied up processing the main scene, and that
21 had been a particular busy on-call week. I believe we had
22 some other scenes going on at the time.

23 Q Okay. So they basically left it in your hands because
24 you had some experience?

25 A Yes, for photographs.

Todd Ruffner

Direct examination by Mr. Bulsa

1 Q Okay. Let me show you what's been marked State's
2 Exhibits 85 through 93. Are those some of the photographs
3 you took that day?

4 A Yes, sir, they are.

5 Q Let me show you what's already been introduced
6 State's 75 and 76. Are those exterior pictures of that
7 location?

8 A Yes, sir, they are.

9 Q Okay.

10 MR. BULSA: Your Honor, I would move 85 through 93
11 into evidence at this time, Your Honor.

12 MR. SHEALY: I have no objection.

13 THE COURT: They're admitted.

14 (Photographs marked State's Exhibits Nos. 85 through
15 93.)

16 Q So we can bring the jury back to this scene, State's 75
17 should be this house.

18 A That's the front of 343 Woodland Avenue.

19 Q Now, is 85 -- is that as you enter in the front door?

20 A Yes, sir, it is. It's a split-entry house.

21 Q Okay. Is the main living area as you go up?

22 A Yes. The main living area is up -- up in this area,
23 and this goes down to a bathroom, like a bedroom, living
24 room, a storage area and then like a -- maybe a little porch
25 area that's covered from the deck above.

Todd Ruffner
Direct examination by Mr. Bulsa

- 1 Q Okay. State's 86. Is that looking through the doorway
2 to the downstairs area?
- 3 A Yes. That's looking to the right at the bottom of the
4 steps.
- 5 Q Okay. Is that -- appears to be a living area. Here is
6 State's 87. It has a bed?
- 7 A Yes, sir.
- 8 Q Okay. State's 88 is a dining area?
- 9 A Yes, sir.
- 10 Q To include State's 89, a couch?
- 11 A Yes, sir.
- 12 Q And State's 90. It appears that there's a -- some
13 doors that go out from the -- entrance from the outside.
- 14 A Yes.
- 15 Q Okay. And particularly in that picture there's a --
16 appears to be a filing cabinet of sorts in the corner.
- 17 A Yes. Over in that area.
- 18 Q Okay. Did that have some significance to this case?
- 19 A Yes. Lieutenant Hutchins or Lieutenant Woodcock asked
20 me to take photographs of some latex gloves or rubber gloves
21 that were in a drawer.
- 22 Q Okay. All right. And State's 91. Is that that
23 picture of those gloves in that filing cabinet?
- 24 A Yes, it is.
- 25 Q And this, once again, is in that downstairs area of

Todd Ruffner
Direct examination by Mr. Bulsa

1 this house.

2 A Yes, sir.

3 Q Okay. And when you processed or looked upstairs and
4 took photos did you find additional gloves?

5 A Yes, sir, in a bedroom off of the right of the hallway,
6 but I do not -- I don't know whose room it was. I just know
7 that it was a bedroom.

8 Q Okay. State's 92. Does that show that bedroom?

9 A Yes, sir, it does. That's the glove box there.

10 Q Okay. And State's 93 shows the box of gloves.

11 A Yes, sir. That's correct.

12 Q There were gloves of this nature both upstairs and
13 downstairs.

14 A Yes, sir, there were.

15 Q Thank you.

16 was Officer Norris there meeting with Ms. Cash, Nicole
17 cash, while you were processing the scene?

18 A I didn't see him much because he was interviewing
19 somebody. I don't know who he was interviewing, no.

20 Q So he was there, but he was off interviewing somebody
21 everywhere.

22 A Yes, sir.

23 Q Thank you. That's all I have. Answer any questions
24 Mr. Shealy may have.

25

Todd Ruffner
Cross-examination by Mr. Shealy

1 CROSS-EXAMINATION

2 BY MR. SHEALY

3 Q Officer Ruffner, would you look at the second page of
4 your incident report? And that's a continuation paragraph.
5 Isn't it true that Casey told you that she believed Drew
6 shot her in the head?

7 A Yes, sir, she did state that she believed Drew shot
8 her.

9 Q And in that first full paragraph, would you give the
10 description that you were given for Steven?

11 A The -- which page?

12 Q Same page, same page. It's that -- the first full
13 paragraph.

14 A Well, mine may be a different page, depending on how
15 it's printed.

16 Q I can just hand you what I have got. The paragraph
17 starts, "Casey stated Steven."

18 A Okay. Then it's on a different page for me. "Casey
19 stated Steven goes by the nickname Scooter." And is
20 described as a white male 30 to 35, 6'1" to 6'4", 170 to
21 200 pounds.

22 Q So 170 to 200 pounds?

23 A Yes, sir.

24 Q Is that what you testified to?

25 (No response.)

1 MR. SHEALY: That's all I have for this witness.

2 MR. BULSA: Nothing further.

3 THE COURT: You may step down.

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

5 MR. SHEALY: No objection.

6 THE COURT: He may be.

7 (Whereupon, the witness was excused.)

8 THE COURT: Ladies and gentlemen, I've got some other
9 matters I've got scheduled for this afternoon that we're
10 going to have to deal with before we can get back to this
11 case. So we'll recess this case for the afternoon. We'll
12 resume with the trial in the morning at 9:30.

13 Keep in mind no discussions, no research, no
14 investigation, no exposure to any type of media coverage
15 that might relate to the case.

16 Do have a good evening. Please report to your jury
17 room at 9:30 in the morning, 9:30 in the morning.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: Any matters that we need to address before
21 we recess?

22 MR. BULSA: No, sir.

23 MR. SHEALY: No, Your Honor.

24 THE COURT: Court's in recess until 9:30 in the
25 morning.

1 END OF PROCEEDINGS MAY 23, 2017

2 (Proceedings May 24, 2017)

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

5 (Firearms report marked State's Exhibit No. 94 for
6 Identification; diagram marked State's Exhibit Nos. 95 for
7 Identification; wound chart marked State's Exhibit No. 96
8 for Identification.)

9 THE COURT: Ready for the jury?

10 MR. BULSA: Your Honor, if we could wait for Ms. Cash.
11 I think she's using the restroom.

12 (Pause.)

13 THE COURT: Bring them in.

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

16 THE COURT: Good morning, ladies and gentlemen.

17 As you have been made aware, one of your fellow jurors
18 has been involved in an accident and will not be able to
19 continue to participate.

20 Ms. Brown, that means you have now become the twelfth
21 juror. And you will participate throughout the trial
22 including jury deliberations.

23 As you know, when we recessed yesterday the state was
24 still in the midst of its presentation of evidence. So we
25 will continue with that presentation this morning.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 MR. BULSA: The state calls Bridgette Nicole Cash.
2 BRIDGETTE NICOLE CASH, having
3 been first duly sworn, testified as follows:
4 DIRECT EXAMINATION BY MR. BULSA
5 Q Ms. Cash, please introduce yourself to the jury.
6 A I'm Bridgette Nicole Cash.
7 Q Pull up a little closer and make sure we can hear you.
8 Use that black microphone.
9 A Bridgette Nicole Cash.
10 Q And how old are you, ma'am?
11 A Twenty-four.
12 Q And are you the sister of Jason Andrew Cash?
13 A Yes, sir.
14 Q Where do you live?
15 A 343 Woodland Avenue.
16 Q Who do you live there with?
17 A My grandmother.
18 Q Okay. Were you raised by your grandmother?
19 A Yes, sir.
20 Q Was -- is Clifford Cash your father?
21 A Yes, sir.
22 Q You and Drew are full brothers and sisters?
23 A Yes.
24 Q Do you know the defendant, Mr. Lewis?
25 A Yes.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 Q How do you know him?
- 2 A Through Carey Mauldin.
- 3 Q Okay. Explain that relationship a little bit.
- 4 A What -- what relationship? To who?
- 5 Q How you know him through Carey.
- 6 A Drugs.
- 7 Q Okay. Would you see him over at Carey's house?
- 8 A Yes, sir.
- 9 Q Were you aware that he lived with Carey and Casey at
- 10 some point?
- 11 A Yes, sir.
- 12 Q How long did you know him?
- 13 A About two months.
- 14 Q Were you aware that he left Casey's or Carey's house
- 15 before this incident?
- 16 A Yes, sir.
- 17 Q About how long before?
- 18 A About a week.
- 19 Q Okay. And during that week do you know where he lived?
- 20 A No, sir.
- 21 Q Did he stay at your place any of the time?
- 22 A Probably like one night maybe -- two nights.
- 23 Q Okay. When were those two nights in relation to this
- 24 case?
- 25 A The two days before.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 Q Okay. And the day this incident happened was he at
2 your house?
- 3 A Yes, sir.
- 4 Q Okay. And was he visiting with -- well, tell us.
5 where was he in the house? What was going on?
- 6 A He was downstairs.
- 7 Q Okay. And who stayed downstairs?
- 8 A My brother.
- 9 Q Did you have a room?
- 10 A No, sir.
- 11 Q Where was your room?
- 12 A I didn't have one at the time, so I stayed downstairs.
- 13 Q Okay. Your brother and you stayed together?
- 14 A Yes, sir.
- 15 Q Okay. All right. Show you what's been -- pictures
16 that have been introduced, State's 75 and 76. Are those the
17 exterior of the house, the house and the yard?
- 18 A Yes, sir.
- 19 Q Okay. And then 85 is an entryway?
- 20 A Yes, sir.
- 21 Q And we have these kinda orange colored pictures. Is
22 that the downstairs area?
- 23 A Yes, sir.
- 24 Q So there's a bed, plus some chairs and a couch?
- 25 A Yes, sir.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 Q All right. Okay. Is that downstairs area where y'all
2 were at the night this happened?
- 3 A Yes, sir.
- 4 Q Okay. Who all was down there?
- 5 A My brother, Steven and myself.
- 6 Q Okay. Did the defendant have a car?
- 7 A No, sir.
- 8 Q Okay. What kind of car did your brother drive?
- 9 A A Mazda.
- 10 Q And did you own a pistol?
- 11 A Yes, sir.
- 12 Q What kind?
- 13 A Kil-Tec 9mm.
- 14 Q And how long had you owned that?
- 15 A I purchased it April the 30th of 2015.
- 16 Q Okay. And did you have it on May 22nd of 2015?
- 17 A No, sir.
- 18 Q Why not?
- 19 A I couldn't get it -- I couldn't get it back and
20 returned in my possession.
- 21 Q Okay. Where was it?
- 22 A In Steven's possession.
- 23 Q Okay. And how do you know that?
- 24 A Because I was at the house, my house, and he
25 wouldn't -- yeah.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 THE COURT: You're going to speak up, please, and use
2 that microphone. I'm having a hard time hearing you.
- 3 THE WITNESS: I'm sorry.
- 4 Q The question was why couldn't you get your gun back.
- 5 A He wouldn't give it back to me.
- 6 Q So he had your gun on May 22nd --
- 7 A Yes, sir.
- 8 Q -- downstairs in Drew's room?
- 9 A Yes, sir.
- 10 Q Do you know how he came to be in possession of that
11 gun?
- 12 A He had robbed Carey. I think it was like maybe that
13 Monday. He had my pistol and my receipt. I asked for it
14 back. He asked me to sell it to him. I said no. So he
15 held on to it.
- 16 Q Let me stop you there and then ask you this question.
17 So as far as you know he took that pistol when he left
18 Carey's house.
- 19 A Yes, sir.
- 20 Q Okay. And he had it out during this conversation.
- 21 A Yes, sir.
- 22 Q Okay. And what was the conversation about?
- 23 A He wanted me to sell my pistol to him.
- 24 Q Okay. And what did you say?
- 25 A I refused.

Bridgette Nicole Cash
Direct examination by Mr. Bulsa

- 1 Q Why?
- 2 A Because I didn't want nobody owning a gun that was in
3 my name, registered in my name.
- 4 Q Okay. And were you successful in convincing him to
5 give it back to you?
- 6 A No, sir.
- 7 Q What took place?
- 8 A He told me that he was holding on to it.
- 9 Q What was the other conversation about?
- 10 A We had an argument over it the night -- I think it was
11 that Friday night. And I wanted to get my pistol back, and
12 he still held on to it.
- 13 Q Okay. Was there talk about Carey, I mean, Drew and
14 Scooter going to Carey's house?
- 15 A Yes, sir. I think.
- 16 Q Okay. By what name did you know the defendant?
- 17 A That's Steven?
- 18 Q Yes. What name did you know him by?
- 19 A Scooter.
- 20 Q Scooter?
- 21 A Yeah.
- 22 Q Okay. So did Scooter and Drew have a conversation
23 about going to Carey's house that night?
- 24 A Yes, sir.
- 25 Q Tell us what that conversation was about.

Bridgette Nicole Cash (In-camera)
Direct examination by Mr. Bulsa

1 MR. SHEALY: Objection. That's hearsay.

2 THE COURT: Well, I think the question was what was it
3 about.

4 You can tell him what the conversation was about.

5 MR. BULSA: I would like to be heard on that issue
6 also, Your Honor.

7 THE COURT: Okay. Well, let me see y'all.

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 THE COURT: All right. Ladies and gentlemen, I've got
11 one matter I'll need to address first before we can go
12 further.

13 So please go to your jury room. Don't discuss the
14 case. I'll bring you back in just a few minutes.

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

17 THE COURT: All right. Mr. Bulsa, proffer the
18 testimony that's the subject of the objection.

19 MR. BULSA: Yes, sir.

20 BY MR. BULSA

21 Q Okay. Nicole, tell us what the conversation was about.

22 A Steven was planning on --

23 THE COURT: You're going to have to speak up.

24 A Steven was planning on robbing Carey again.

25 Q Okay. And specifically what was being said?

Bridgette Nicole Cash (In-camera)
Direct examination by Mr. Bulsa

1 A He was wanting to go and rob them, but my brother had
2 said something about that he didn't want to rob his only
3 heroin dealer or whatever. And I can't really remember
4 because I was under the influence at the time.

5 Q Okay. Now, we played the tape recording for you when
6 we met, and you remembered it. You said it was accurate.
7 Do you recall that?

8 A Yes, sir.

9 Q Okay. Now, what was being said?

10 MR. SHEALY: Objection, Your Honor.

11 She's testified that, apparently that that, tape
12 recording was not accurate. She's just testified to what
13 she remembers or what she tells us she remembers.

14 THE COURT: Well, clear that up.

15 What's the tape recording?

16 MR. BULSA: The tape recording is her interview with
17 Officer Norris.

18 THE COURT: All right. You had an interview with
19 Officer Norris?

20 THE WITNESS: Yes, sir.

21 THE COURT: Do you remember when that was?

22 THE WITNESS: I can't remember.

23 THE COURT: Well, do you remember how soon after this
24 event on May the 22nd of 2015 that that interview took
25 place?

Bridgette Nicole Cash (In-camera)
Direct examination by Mr. Bulsa

1 THE WITNESS: I'm -- it's hard for me to remember a
2 little bit, but I did have an interview with Mr. Detective
3 Norris.

4 THE COURT: Do you remember the interview?

5 THE WITNESS: A little bit, yes, sir.

6 THE COURT: All right. And it was recorded?

7 THE WITNESS: Yes, sir.

8 THE COURT: And Mr. Bulsa says you've listened to the
9 recording.

10 THE WITNESS: Yes, sir.

11 THE COURT: After listening to the recording did it
12 refresh your recollection, or do you still not remember
13 what you told?

14 THE WITNESS: That I remember, yes, sir, a little bit.

15 THE COURT: You remember a little bit?

16 THE WITNESS: Yes, sir.

17 THE COURT: All right. Well, you can examine her
18 about what she remembers.

19 MR. BULSA: Yes, sir.

20 BY MR. BULSA

21 Q What part do you remember?

22 A My brother was talking about how he was going to put
23 both of them on their knees and shoot -- shoot them in the
24 head.

25 Q Okay. And that was during the course of the robbery he

Bridgette Nicole Cash (In-camera)
Direct examination by Mr. Bulsa

1 was intending to do that?

2 A Do what, now?

3 Q He was going to do that during the course of the
4 robbery?

5 A I don't know.

6 Q Okay. Well, was Mr. Lewis in the room when that was
7 being said?

8 A Yes, sir.

9 Q Okay. And was he in agreement with that?

10 A I -- I'm not sure.

11 Q Okay. Did all of this conversation -- was about the
12 robbery of Carey Mauldin, correct?

13 A Yes, sir.

14 Q And during that robbery they were going to shoot him in
15 the head.

16 A Yes, sir.

17 Q Is what they were talking about.

18 A Yes, sir.

19 Q Okay. And I believe you told --

20 THE COURT: Excuse me just a minute, but she said
21 that's what Drew Cash said.

22 MR. BULSA: Yes, sir. I'm getting there, Your Honor.

23 THE COURT: Okay.

24 BY MR. BULSA

25 Q Now, in the course of the interview you said that

Bridgette Nicole Cash (In-camera)
Direct examination by Mr. Bulsa

1 Steven did not want to shoot him in the head.

2 MR. SHEALY: Again, he's arguing the course of the
3 interview.

4 THE COURT: Well, just ask her the question and not
5 refer to the interview. Ask her what she does remember, or
6 does not.

7 BY MR. BULSA

8 Q All right. What did Mr. Lewis say about the robbery?

9 A That they should go about it a different way.

10 Q Okay. Was he in agreement with the robbery?

11 A Yes, sir. He was the one that mainly preferred, like
12 preferred, it.

13 Q Was he doing something with the gun?

14 A He was wiping bullets off.

15 Q Okay. All right. Now this conversation about shooting
16 someone in the head, did that occur during the course of
17 that discussion about the robbery?

18 A Yes, sir.

19 Q Okay. And how did Mr. Lewis respond when Mr. Cash was
20 talking about shooting people in the head?

21 A He said something about going about it a different way
22 or something. I can't really remember. I'm sorry.

23 Q That's fine.

24 Okay. But he didn't say we shouldn't go rob anybody,
25 did he?

Bridgette Nicole Cash (In-camera)
Direct examination by Mr. Bulsa

1 A Yeah. He -- he wanted to go rob Carey, yes.

2 Q Okay. All right. So he never said, no, let's not go
3 rob him.

4 A No. He never said that.

5 MR. BULSA: Your Honor, that would be the state's
6 showing as to that, the specifics of that conversation.

7 THE COURT: All right. Well, am I understanding what
8 you propose to ask her about in front of the jury relates
9 solely to the agreement to go commit a robbery and no
10 discussions about what Drew Cash said in the presence of
11 this defendant regarding shooting him in the head?

12 MR. BULSA: I would like to ask that because I still
13 think that's part of the whole conversation in discussion
14 of the robbery.

15 Now, whether he agrees with doing it or not to me is
16 not -- not pertinent to whether it should be admissible or
17 not. He can get out of her what Mr. Lewis said, but clear
18 fact is, is they were both shot in the head.

19 THE COURT: Well, apparently she doesn't remember all
20 of that. She's just -- that's the problem with it. She
21 doesn't really have a memory of what was said apparently to
22 those -- to that degree. And that clearly is prejudicial
23 to the defendant. And the probative value is obviously
24 substantially outweighed by the danger of unfair prejudice
25 when she -- you're putting words in her mouth because you

Bridgette Nicole Cash (In-camera)
Cross-examination by Mr. Shealy

1 know what she said before. But she's saying she can't
2 remember those things. And then this jury is supposed to
3 be able to rely upon that. I think that's clearly
4 inappropriate.

5 MR. BULSA: And we would like to play her interview as
6 a prior inconsistent statement based on her lack of memory.

7 MR. SHEALY: Judge, it's not an inconsistent statement
8 if she doesn't remember.

9 THE COURT: Well, I understand. That's -- I'm afraid
10 that's going to create a real problem.

11 She can testify about those things that she remembers,
12 and outside of that her testimony will be limited.

13 Do you wish to ask her anything?

14 MR. SHEALY: I do so that I can understand what she's
15 testified today, or what she's going, or what she has
16 testified to.

17 CROSS-EXAMINATION

18 BY MR. SHEALY

19 Q My understanding, Ms. Cash, of what you just testified
20 to is that Drew Cash did not want to commit a robbery?

21 A Right.

22 Q So there was no agreement to commit a robbery?

23 A I don't think so.

24 Q So there wasn't an agreement to commit a robbery.

25 A Well, I mean, Steven was talking about it. Okay. And

Bridgette Nicole Cash (In-camera)
Cross-examination by Mr. Shealy

1 my brother didn't want to. He wanted to take him back to
2 his house, wherever he lived in Greensboro. He wanted to
3 get his fix on the way and --

4 THE COURT: When you're referring to he --

5 THE WITNESS: My brother, Drew.

6 THE COURT: You need to say who -- what the names of
7 these people are.

8 THE WITNESS: Okay.

9 A Drew wanted to go and get, you know, a fix before he
10 went and took Steven home. He wanted Steven to stay in the
11 car while he went and got -- went in and got whatever he,
12 you know, needed or whatever.

13 Q And you weren't there for all of that.

14 A No, sir.

15 Q So you have no personal knowledge of that.

16 A No, sir. But that -- that's what was said.

17 Q Okay. Thank you.

18 THE COURT: Okay. What's your objection?

19 MR. SHEALY: Judge, I was -- there is apparently no
20 agreement to commit a robbery either, so there's no
21 conspiracy, so it doesn't fall within that hearsay.

22 THE COURT: Well, this is a statement of the
23 defendant, not of Mr. Cash. She says the defendant is the
24 one that said he wanted to commit the robbery. That's his
25 statement. That's not Mr. Cash's statement.

1 It's not coming in as a coconspirator. It's coming in
2 as a statement by the defendant implicating himself in this
3 crime. It's a statement against his own interest.

4 MR. SHEALY: Okay. Well, I just want to make sure
5 that anything that Mr. Cash said is not -- it's not
6 admissible for the truth asserted within that statement.

7 THE COURT: I'm not certain what statement you're
8 referring to.

9 MR. SHEALY: Well, Mr. Bulsa keeps asking her what
10 Drew Cash said.

11 THE COURT: Well, I know, but I've already said I'm
12 limiting that.

13 She's going to testify to what this defendant
14 testified to, and I'll hear Mr. Bulsa on anything else that
15 he proposes to offer but --

16 MR. BULSA: Your Honor, I still think it's an
17 inconsistent statement, because she says that Drew was
18 going to rob him and said something about shooting Carey in
19 the head.

20 All of this is part and parcel of that conversation,
21 and it's actually the defendant who says, no, we shouldn't
22 shoot him in the head, we should do something else. That
23 actually benefits the defendant, but it's still part of
24 that overall conversation to commit the robbery.

25 THE COURT: Well, we have her testimony preserved from

1 the last trial, don't we?

2 MR. SHEALY: Yes, sir.

3 MR. BULSA: Yes, sir. And the last trial we had to
4 impeach her with her statement.

5 (Pause.)

6 THE COURT: We're going to have to take a short break.
7 Let's take about 15 minutes.

8 I need to speak with the lawyers in chambers. If you
9 have copies of the transcript, bring that with you.

10 Ms. Cash, you can step down. You can't discuss your
11 testimony during this break.

12 (Whereupon, a recess was taken.)

13 THE COURT: All right. I understand from my
14 discussions that the prosecutor has agreed to limit the
15 testimony that he'll be eliciting from Ms. Cash, and it
16 will not reference the portion of the conversation about
17 Mr. Cash suggesting that anyone be shot during the course
18 of the event. Is that a fair statement?

19 MR. BULSA: Yes, sir.

20 MR. SHEALY: Yes, sir.

21 THE COURT: Okay. All right. Ms. Cash, come back and
22 take your place on the witness stand.

23 I have got to have the jury.

24 (The following takes place in the presence of the
25 jury.)

Bridgette Nicole Cash
Continued direct examination by Mr. Bulsa

- 1 THE COURT: Mr. Bulsa.
- 2 CONTINUED DIRECT EXAMINATION BY MR. BULSA
- 3 Q Okay. Ms. Cash, we were talking about the pistol, and
- 4 I had asked you a question about was there a discussion
- 5 about committing a robbery.
- 6 A Yes, sir.
- 7 Q What was their discussion about?
- 8 A Steven was wanting to go rob --
- 9 THE COURT: You're going to have to speak up so we can
- 10 hear what your testimony is.
- 11 A Steven was wanting to go rob Carey twice, the second
- 12 time.
- 13 Q All right. And who was he telling that to?
- 14 A Drew.
- 15 Q Okay. Were you participating in that discussion?
- 16 A No, sir.
- 17 Q Were you in the room?
- 18 A Yes, sir.
- 19 Q Okay. Why were you not discussing it with them?
- 20 A I was under the influence, and I was too much worried
- 21 about my "X" stalking me that night.
- 22 Q Okay. Now, while they were talking about this robbery,
- 23 committing this robbery, did Mr. Lewis still have your gun?
- 24 A Yes, sir.
- 25 Q What was he doing? Was he doing anything with it?

Bridgette Nicole Cash
Continued direct examination by Mr. Bulsa

- 1 A Yes, sir.
- 2 Q What was he doing?
- 3 A He was wiping off bullets.
- 4 Q Okay. And how did that make you feel?
- 5 A Nervous.
- 6 Q Why?
- 7 A I thought he was going to flip out and use the weapon.
- 8 Q Okay. Now, did you see them leave together that night?
- 9 A No, sir, but I heard them leave together.
- 10 Q Okay. You didn't see them but you heard them.
- 11 A Yes, sir.
- 12 Q So did you stay downstairs --
- 13 A Yes, sir.
- 14 Q -- in that living space?
- 15 A Yes, sir.
- 16 Q Which door would they have went out?
- 17 A Either the front door or the -- there's a sliding glass
- 18 door too as well downstairs.
- 19 Q Okay. When did you next see them?
- 20 A I never seen them but I heard them.
- 21 Q When did you next hear them?
- 22 A Early that morning.
- 23 Q Okay. Do you have any concept of the timing of all of
- 24 this?
- 25 A Maybe about 7:00 a.m.

Bridgette Nicole Cash
Continued direct examination by Mr. Bulsa

1 Q Okay. And the discussion about the robbery was around
2 what time?

3 A Was maybe 1:00 or 2:00 a.m.

4 Q Okay. All right. And when they came back and you
5 heard them, what was going on?

6 A One of them was saying that we've got to go back.

7 MR. SHEALY: Objection, Your Honor. That's hearsay.

8 I'm not sure who him is.

9 THE COURT: Who? Who made the comment?

10 THE WITNESS: I'm not sure.

11 THE COURT: You don't know?

12 THE WITNESS: No, sir.

13 THE COURT: Sustained.

14 BY MR. BULSA

15 Q Okay. So you heard a conversation. You can't -- you
16 don't know who was saying what?

17 A No, sir.

18 Q Okay. Did you get the impression that they were fixing
19 to leave Spartanburg?

20 A Yes, sir.

21 Q Did you know where they were going?

22 A No, sir. As far as I know that they was going -- Drew
23 was going to take Steven home in North Carolina.

24 Q Okay. Had you ever been to that house in North
25 Carolina?

Bridgette Nicole Cash
Continued direct examination by Mr. Bulsa

- 1 A No, sir.
- 2 Q When, if at all, did you next hear from either one of
- 3 these men?
- 4 A That morning right before the police had -- had arrived
- 5 at the house.
- 6 Q And what happened?
- 7 A I woke up. I called my brother, asked him where he was
- 8 at, and he told me he was in Greensboro, North Carolina.
- 9 Q And who was he with?
- 10 A Steven.
- 11 Q Did you hear Steven in the background?
- 12 A Yes, sir. He had told my brother to put it on speaker
- 13 phone so he could listen.
- 14 Q This is all while the police were knocking on the door?
- 15 A No, sir. This was a few minutes prior.
- 16 Q Okay. Were you still on the phone when the police
- 17 knocked on the door?
- 18 A Yes, sir.
- 19 Q All right. And what took place then?
- 20 A My brother was telling me to go to the door, and I
- 21 overheard Steven saying don't go to the door. I finally
- 22 went to the door, and they asked me about if I had -- if I
- 23 owned a pistol.
- 24 Q Okay. What did you tell them?
- 25 A Yes.

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

- 1 Q All right. And did you give it to them?
- 2 A I didn't have it.
- 3 Q Did you tell them that?
- 4 A Yes, sir.
- 5 Q Okay. Did you tell them where it was?
- 6 A No, sir.
- 7 Q Why not?
- 8 A Because I thought I would get in trouble for not
- 9 reporting it.
- 10 Q Okay. Did you meet with Detective Norris that same
- 11 morning?
- 12 A Yes, sir. I spoke with him early that afternoon.
- 13 Q Okay. You told him what you knew about this case?
- 14 A Yes, sir.
- 15 Q Thank you. Answer anything Mr. Shealy may have.
- 16 CROSS-EXAMINATION
- 17 BY MR. SHEALY
- 18 Q All right. Ms. Cash, how well did you know my client?
- 19 A Not -- not well at all but --
- 20 Q Not very well?
- 21 A No, sir.
- 22 Q How many times do you think you've met him?
- 23 A Maybe about seven or eight times.
- 24 Q Seven or eight times?
- 25 A I'm not too sure.

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

- 1 Q Do you remember testifying in a prior trial?
- 2 A Yes, sir.
- 3 Q Do you remember at that trial you said you had only met
- 4 him twice?
- 5 A I was kind of under the influence.
- 6 Q You were under the influence when you were
- 7 testifying --
- 8 A Yes, sir.
- 9 Q -- at that hearing?
- 10 A Yes, sir.
- 11 Q Okay. Were you under the influence on the day that
- 12 this all allegedly happened?
- 13 A Yes, sir.
- 14 Q How long had you been under the influence when this all
- 15 allegedly happened on May 22nd?
- 16 A The whole time.
- 17 Q The whole time?
- 18 A Yes, sir.
- 19 Q When you say that, you mean for a week, two weeks?
- 20 Give me a ballpark figure.
- 21 A Ten years.
- 22 Q You've been under the influence for ten years.
- 23 A Yes, sir.
- 24 Q Okay. And what were you using?
- 25 A Pills, methamphetamine, pretty much anything.

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

- 1 Q Okay. Prior to May 22nd when you were put to -- when
2 you went to bed, laid down and were going to sleep -- right?
- 3 A Yes, sir.
- 4 Q How long had you been awake?
- 5 A Probably about five or six days, taking like short naps
6 in between.
- 7 Q Okay. And what were you using at that point?
- 8 A Pills, methamphetamine, heroin. That's it.
- 9 Q And where were you getting those drugs?
- 10 A Carey and -- that was it.
- 11 Q So Carey Mauldin was giving you all of those drugs?
- 12 A Yes, sir.
- 13 Q Was he selling them to you?
- 14 A Yes, sir.
- 15 Q Okay. You've testified that you remember these, some
16 of these, conversations, and some of these things you don't
17 remember. But let's try to do it chronologically. You
18 testified that Mr. Lewis showed up at your house when with
19 this pistol?
- 20 A That Monday.
- 21 Q That Monday.
- 22 A Yes, sir.
- 23 Q And he told you -- did he tell you at that point that
24 he had the pistol?
- 25 A He showed it to me.

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

- 1 Q Okay. And you asked for it back, you said, you
2 testified to, correct?
- 3 A Yes, sir.
- 4 Q And what happened then?
- 5 A He wanted me to sell it to him.
- 6 Q So he wanted you to take money from him to get a gun
7 that was already in his possession.
- 8 A Yes, sir.
- 9 Q And then later do you remember taking him to Charlotte?
- 10 A Earlier that day.
- 11 Q Earlier that day?
- 12 A Or that Thursday, I think.
- 13 Q So Thursday you took him to Charlotte.
- 14 A Yes, sir.
- 15 Q Driving what?
- 16 A My brother's car.
- 17 Q Okay. Why did you take him to Charlotte?
- 18 A To work.
- 19 Q Okay. And what happened? Did you try to just drop him
20 off and come back?
- 21 A Yes, sir.
- 22 Q What happened?
- 23 A I choked down and -- he, Steven -- had came and got me.
- 24 Q Okay. So you choked down. The transmission had shut
25 off because you --

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

- 1 A Yes, sir.
- 2 Q Because you can't drive a stick shift.
- 3 A Right.
- 4 Q But you had made it all the way from Spartanburg to --
- 5 well, Inman -- excuse me -- to Charlotte.
- 6 A Yes, sir.
- 7 Q You just weren't able to make it back from Charlotte to
- 8 Inman?
- 9 A Right.
- 10 Q Again, you didn't know him very well?
- 11 A No, sir.
- 12 Q Okay. You didn't know if he -- now, you've testified
- 13 Drew was going to take him home in North Carolina that
- 14 Saturday.
- 15 A Yes, sir.
- 16 Q Was that an ordinary occurrence?
- 17 A Excuse me?
- 18 Q Did he take him back home from time to time to
- 19 Greensboro?
- 20 A I don't know.
- 21 Q You don't know. Y'all were living in the same house,
- 22 correct?
- 23 A Yes, sir.
- 24 Q Now, when the police came to your residence they asked
- 25 you about a pistol, is that correct?

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

1 A Yes, sir.

2 Q And you said that Drew was on the phone and it was a
3 speaker phone.

4 A Yes, sir.

5 Q And you had left it on.

6 A Yes, sir.

7 Q Is that correct?

8 A Yes, sir.

9 Q Now, I'm going to -- now, during that phone call was
10 Steven an active participant in that phone call?

11 A What do you mean?

12 Q Was he talking to you too?

13 A No, sir. All I heard him say was put it on speaker
14 phone. I heard him in the background, but I'm not sure what
15 he was saying.

16 MR. SHEALY: Bear with me, Your Honor. I need to
17 approach the witness.

18 (Pause.)

19 Q Do you remember who came to the door, what police
20 officer came to the door?

21 A No, sir.

22 Q You don't remember if it was Investigator Hutchins?

23 A I don't remember.

24 Q Okay. And you don't remember that when he asked you if
25 you had a Kil-Tec 9mm you told him that it was in a chest in

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

- 1 your room?
- 2 A Yes, sir.
- 3 Q You did tell them that?
- 4 A Yes, sir.
- 5 Q Then y'all went and looked in the chest in your room?
- 6 A Yes, sir.
- 7 Q And it turned out it wasn't there.
- 8 A Yes, sir.
- 9 Q Okay. But you testified you knew it was in Steven's
- 10 possession the whole time.
- 11 A Yes, sir.
- 12 Q So why would you go this rigmarole of going to your
- 13 closet to see if it was there?
- 14 A Like I said, I was scared that I was going to get in
- 15 trouble for it not being in my possession.
- 16 Q Now, also whenever you were speaking with Mr. Hutchins
- 17 or Officer Hutchins did at some point you tell Officer
- 18 Hutchins that you had the phone on speaker?
- 19 A Yes, sir.
- 20 Q And you told him that Mr. Cash was putting pressure on
- 21 you to say that Mr. Cash was there all night but Steven
- 22 Lewis was not?
- 23 A No pressure.
- 24 Q He was not putting you on pressure --
- 25 A No, sir.

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

1 MR. BULSA: Your Honor, he's asking hearsay questions
2 or hearsay statements from Mr. Cash, but he's objecting to
3 my trying to do it.

4 THE COURT: Sustained.

5 MR. SHEALY: Judge, I'm not offering those for the
6 truth of the matter asserted.

7 THE COURT: Sustained.

8 BY MR. SHEALY

9 Q But y'all were on the phone.

10 A Yes, sir.

11 Q Now, also when you were speaking with -- I guess this
12 would have been with Mr. -- with Officer Norris -- at the
13 very beginning of your discussion with him do you recall
14 telling him that you and Drew had gotten into a fight over
15 that gun?

16 A No, sir.

17 Q You don't remember that?

18 A No, sir.

19 MR. SHEALY: Judge, if I may approach the witness.
20 This is a transcript of that conversation.

21 Q Would you read at P.N., the very first?

22 THE COURT: Show that to Mr. Bulsa, please.

23 MR. SHEALY: Sorry.

24 MR. BULSA: May we approach on this?

25 (Bench conference held off the record in the presence

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

- 1 of the jury but out of the hearing of the jury.)
- 2 Q All right. Ms. Cash, I'm going to just refresh your
3 recollection with page two of the transcript. Do you
4 remember having the conversation that is referenced there at
5 the very top?
- 6 A I don't remember.
- 7 Q You don't remember having a fight with him --
- 8 A No, sir.
- 9 Q -- over the gun? But apparently you did tell
10 Mr. Norris that or Officer Norris that.
- 11 A Yes, sir.
- 12 Q All right. Ms. Cash, now, up to on Friday you said
13 that you had -- or Thursday you said you took Mr. Lewis up
14 to Charlotte, and then y'all drove back down.
- 15 A Yes, sir.
- 16 Q To Inman that same day?
- 17 A Yes, sir.
- 18 Q Okay. Did you have any -- did you overdose on Friday?
- 19 A I don't remember what day it was.
- 20 Q Okay. So you don't remember what day, but you did
21 overdose?
- 22 A Yes, sir.
- 23 Q Okay. And did you have -- who gave you the drugs that
24 you overdosed on?
- 25 A Carey.

Bridgette Nicole Cash
Cross-examination by Mr. Shealy

1 MR. SHEALY: Bear with me, Judge.

2 (Pause.)

3 Q I'm still a little confused about your sleeping
4 arrangements.

5 Did you have a room in this house or did you not have a
6 room in this house?

7 A No, sir. I didn't.

8 Q You did not. So when you took them to a closet and
9 said that the gun was in there, where was it? Where was
10 this closet?

11 A In my old room.

12 Q In your old room?

13 A Yes, sir.

14 Q So you did have an old room. You just weren't staying
15 there at the time?

16 A I got kicked out, so all of my stuff was at my new
17 house.

18 Q Okay. And where were you living then?

19 A I went to a detox center, so I was staying there.

20 Q Okay. Now, there's been some testimony about some
21 small items, perfumes and other things like that. Were
22 those given to you as gifts?

23 A Yes, sir.

24 Q They were given to you as gifts?

25 A Yes, sir.

Bridgette Nicole Cash (In-camera)
Cross-examination by Mr. Shealy

1 Q When were they given to you as gifts?

2 A That Monday.

3 Q That Monday.

4 MR. SHEALY: Judge, I have a matter I need to approach
5 on.

6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)

8 THE COURT: All right. Let me ask the jury to please
9 go to your jury room. I've got one matter to address.

10 I'll bring you back in just a few minutes.

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

13 THE COURT: All right. Mr. Shealy.

14 BY MR. SHEALY

15 Q All right. Ms. Cash, you are currently housed in pod
16 one, is that correct, at the jail?

17 A Yes, sir.

18 Q All right. And what cell are you in?

19 A Ten.

20 Q Cell ten. Are you aware that Ms. Scruggs is in cell
21 13?

22 A Yes, sir.

23 Q Have y'all spoken at all about this case?

24 A No, sir.

25 Q Have y'all spoken at all about any of these incidents?

Bridgette Nicole Cash (In-camera)
Cross-examination by Mr. Shealy

1 A No, sir.

2 MR. SHEALY: Judge, that would be what I would ask
3 her.

4 MR. BULSA: I apologize, Your Honor. I was talking
5 with the detective.

6 THE COURT: Her responses were, no, that she's had no
7 conversations with Ms. Scruggs.

8 MR. BULSA: I find it's not a relevant question.

9 THE COURT: Do you want to ask her about it,
10 notwithstanding her response?

11 MR. SHEALY: I do. I don't know that a jury is going
12 to believe her.

13 THE COURT: Well, do you have other evidence that you
14 would present on that issue?

15 MR. SHEALY: No, sir.

16 THE COURT: All right. The objection is sustained.
17 Do you have any other questions for this witness?

18 MR. SHEALY: No, Your Honor.

19 THE COURT: All right. Bring the jury back.

20 (The following takes place in the presence of the
21 jury.)

22 THE COURT: Mr. Shealy.

23 MR. SHEALY: Thank you, Your Honor. I think that is
24 all that I have for this witness.

25

Bridgette Nicole Cash
Redirect examination by Mr. Bulsa

- 1 REDIRECT EXAMINATION
- 2 BY MR. BULSA
- 3 Q Nicole, are you a drug addict?
- 4 A Yes, sir.
- 5 Q Have you tried to get some treatment?
- 6 A Yes, sir.
- 7 Q What kind of treatment have you tried?
- 8 A Detox center.
- 9 Q Okay. Are you under the influence today?
- 10 A No, sir.
- 11 Q When is the last time you used drugs?
- 12 A February 28th.
- 13 Q That's because you --
- 14 A Have been incarcerated, yes.
- 15 Q Okay. All right. So you've had a few months off the
- 16 drugs.
- 17 A Yes, sir.
- 18 Q Do you have plans to stay off it?
- 19 A Yes, sir.
- 20 Q Mr. Shealy commented about, something about, giving
- 21 gifts of perfume.
- 22 A Yes, sir.
- 23 Q Who gave you some perfume?
- 24 A Steven.
- 25 Q Steven Lewis?

Dr. John David Wren
Direct examination by Mr. Bulsa

1 A Yes, sir.

2 Q That would have been the Monday that he came over after
3 he left Casey's and Carey's?

4 A Yes, sir.

5 Q Okay. Do you where that perfume came from?

6 A Carey.

7 Q Is that some of the items that he stole from Carey?

8 A Yes, sir.

9 Q And do you remember the day of the week that the
10 shooting would have happened?

11 A That Friday, I think.

12 Q Friday.

13 A Yeah.

14 Q So that was Friday, the 22nd. So Monday would have
15 been the 18th.

16 Okay. Thank you, ma'am. That's all I have.

17 THE COURT: You may step down.

18 MR. BULSA: The state calls Dr. Wren.

19 DR. JOHN DAVID WREN, having
20 been first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BULSA

22 Q Good morning, Dr. Wren.

23 A Good morning.

24 Q Would you introduce yourself to the jury?

25 A My name is John David Wren.

Dr. John David Wren
Direct examination by Mr. Bulsa

1 Q What is your occupation, sir?

2 A I'm a medical doctor with a specialty in anatomic and
3 clinical pathology.

4 Q Are you an expert in that area?

5 A Yes. I hope so.

6 MR. BULSA: We would offer Dr. Wren as an expert in
7 forensic pathology.

8 MR. SHEALY: No objection.

9 THE COURT: He so qualified.

10 Q Dr. Wren, did you have an occasion to perform an
11 autopsy on Carey Mauldin?

12 A Yes, I did. I did an autopsy on Carey Michael Mauldin
13 on March -- I'm sorry -- May the 22nd of 2015 beginning at
14 approximately 4:05 p.m. in the Spartanburg Medical Center
15 Autopsy Room.

16 Q Okay. And did -- what wounds did he have?

17 A He had seven gunshot wounds to the body.

18 Before I talk about those, he also had three -- four
19 incised type wounds in his hair predominantly along the left
20 side. Some -- one was horizontally oriented. The other
21 three were pretty much vertically oriented.

22 The longest one was about one and three -- one and a
23 third inches in length. It didn't extend real deep into the
24 tissues. The shorter one was less than a half-inch. Those
25 were noncontributory to his cause of death.

Dr. John David Wren
Direct examination by Mr. Bulsa

1 He also had --

2 Q Dr. Wren, let me ask a question about that head wound.

3 A Sure.

4 Q In your expert opinion what -- what do you believe
5 caused those wounds?

6 A I thought it was probably from a knife-like object.

7 Q Okay.

8 A Any more questions?

9 Q What other wounds did he have?

10 A Okay. He had a couple of abrasions on his body,
11 nothing specific, mostly about his knees.

12 He also had seven gunshot wounds to the body -- three
13 entrances, three exits and one reentry.

14 The -- he had one that entered just anterior and medial
15 to his right ear and came out the back of his head. It was
16 not very much hemorrhage there. It was a close-contact
17 gunshot wound but -- I mean, a close-range gunshot wound.
18 But it was not obviously contact. And he had very little
19 hemorrhage there. I thought it was done pretty much after
20 he'd lost blood pressure.

21 The other more insignificant gunshot wound was a
22 reentry wound in his -- the -- just above -- below the
23 elbow. It broke the ulnar, which is the bone.

24 There are two bones in the forearm. One's called the
25 ulnar, which if your palm's out it's on the inside. The

Dr. John David Wren
Direct examination by Mr. Bulsa

1 radius is on the outside. And it actually shatter -- broke
2 that bone. And I recovered a bullet from there. I will
3 talk about that in a few minutes.

4 He had two gunshot wounds pretty much to his right side
5 and back and exits on his left side. One of them was a
6 little bit higher and anterior to -- the armpit is called
7 the axilla, and it's divided into three general locations.

8 One is the front of the armpit, is called the anterior
9 axillary line if you drop a vertical from there. The back
10 is called the posterior. And of course the midportion is
11 called the midaxillary line.

12 One of the -- the gunshot wound that came out a little
13 bit lower in his abdomen was in the anterior axillary line.
14 The other one was -- went through his lungs and came out the
15 back of his chest at the posterior axillary line.

16 The entrances were essentially contact, and they were
17 along his right side. No bullets were recovered from those.

18 The one a little bit higher in his right abdomen was
19 three and a half inches to the right of the midline and
20 28 inches from the top of his head.

21 He was 6'3" in length. And we always measure from the
22 top of the head. As I said, it was three and a half inches
23 to the right of midline.

24 The other one was six and a half inches lower, and it
25 was almost overlying the hipbone there. And it went up.

Dr. John David Wren
Direct examination by Mr. Bulsa

1 Both of them were going upwards, slightly backward and to
2 the right.

3 The one that went through his -- the higher one
4 actually went partially through his right kidney, lacerated
5 vessels adjacent to the liver, went partially through the
6 liver, partially through the head of the pancreas and then
7 went through the diaphragm and came out the lung field, left
8 lung, before it exited the body.

9 The other one went through multiple loops of small
10 intestine and came out the -- the left side toward -- like I
11 said, toward the anterior axillary line. Either one of
12 those were pretty much quickly fatal.

13 Q Dr. Wren --

14 A The bullet -- the bullet --

15 Q Let me ask you a question first.

16 A Sure.

17 Q You actually preserved those wounds on a chart, is that
18 correct?

19 A Yes.

20 Q Show you State's 95 and 96. Are those copies of your
21 chart?

22 A Yes. I prepared the -- the gunshot-wound diagram and
23 the bullet-wound chart listing all of the characteristics of
24 those wounds.

25 Q Before we get to the round --

Dr. John David Wren
Direct examination by Mr. Bulsa

1 A Okay.

2 Q -- I want to show this to the jury so they can get a
3 clear understanding.

4 MR. SHEALY: I've got no objection.

5 MR. BULSA: The state would move 95 and 96 into
6 evidence.

7 THE COURT: They are admitted.

8 (Diagram marked State's Exhibit No. 95; wound chart
9 marked State's Exhibit No. 96.)

10 Q Dr. Wren, the wounds to Mr. Mauldin's body, could they
11 have been caused during a struggle?

12 A The two in his abdomen could have been. The one in his
13 head probably wasn't, more than likely wasn't.

14 Q Okay. While that's warming up I'll let you go ahead
15 and tell us about the bullet that you recovered.

16 A Okay. The bullet I recovered, as I said, was in the
17 left ulnar. I may have pointed to my right arm, but it
18 actually had gone through the body. And I think his arm was
19 adjacent to the -- one of the exits.

20 And then it reentered into his -- into the -- the
21 little-finger side of his forearm, broke the bone. And I
22 recovered a bullet from there. And the bullet was described
23 as a lead bullet with gold-colored tip containing lands and
24 grooves.

25 And it measured -- I got a measurement of .337, which

Dr. John David Wren
Direct examination by Mr. Bulsa

1 is almost thirty-four hundredths of an inch in diameter, the
2 base. And it was 56.5 hundredths or a little over half-inch
3 in length and had some distortion of the nose indicating
4 that it had hit something and flattened the nose in one
5 area.

6 And I labeled that with a last number of the autopsy,
7 which was a nine in this case. And I put a Greek letter,
8 delta, on it and forwarded it to Officer Robert Talanges of
9 the Spartanburg County Police Department.

10 Q Okay. Dr. Wren, I'm now going to show the jury the
11 chart that you created, State's 95. We essentially see
12 three gunshot wounds through and through.

13 A That's correct.

14 Q The two to the body, the torso, appear to be in an
15 upward angle?

16 A Yes. They were pretty much going in the same plane.
17 The one in the -- the lower -- the two in the abdomen were,
18 as I said, a little bit more anteriorly, and they were, I
19 thought, contact because the shirt that he had on had
20 been -- had a big hole blown in it. And that usually
21 doesn't happen with a distant gunshot wound.

22 The gasses expanding out of the barrel after the shot
23 is fired usually tears the clothing before it enters the
24 body. And it actually made the wounds less recognizable as
25 contact.

Dr. John David Wren
Direct examination by Mr. Bulsa

1 The exits were over there as I showed. And, now, I
2 have to explain why there's only one in the back there. And
3 what -- what you do when you draw these diagrams is if you
4 were standing there and somebody shot you at that, like
5 that -- when you see the dotted lines, you couldn't see it
6 if you were following the path of the trajectory.

7 So the bullet comes in on the right side. It comes in
8 where you could see it. Then it goes through the body. And
9 when it exits -- if you could see the gunshot itself, you
10 put a circle. Both of those -- all four of those are
11 circles there indicating that you could see those
12 essentially if you were looking.

13 Now, the one in the --

14 Q Go ahead.

15 A Okay. The one here is pretty far posterior, but,
16 nevertheless, I did indicate it as I could see it.

17 Now, I didn't do the one, the higher one, here on the
18 back chart because everything would have been in the front,
19 and all I would have had is dotted lines and dotted circles.
20 So the other one came in just above, slightly almost at the
21 lateral border of his posterior axillary line and went up
22 and came out of the back on the posterior axillary line, and
23 then it kept going.

24 Now, the one -- and both of those exits had tissue
25 protruding from them. One can tell if -- most of the time

Dr. John David Wren
Direct examination by Mr. Bulsa

1 as a bullet leaves the body it will actually -- it doesn't
2 bore itself out. It just sort of tears itself out, because
3 its loss some velocity. And it also tears the tissue away.
4 And unless the tissue is up against something it will
5 leave -- the hole where it exits can be re-approximated
6 together, and tissue will actually be protruding from it.
7 So if you push the tissue back you can actually sew it up.

8 The entrances around are more -- are oval or blown
9 apart if they're actually contact. But they cannot be
10 sutured together without a puckered area, because they've
11 taken the tissue out where they entered.

12 The other gunshot wound was just in front of his right
13 ear. It went through the -- actually through the
14 oropharynx -- and I'm sorry. It didn't go through the
15 oropharynx. It went into his skull and went backwards and
16 came out where I have it indicated and kept going.

17 Q What was the ultimate cause of death?

18 A I assigned the cause of death as internal and external
19 hemorrhage secondary to gunshot wounds to the abdomen.

20 I didn't think this did anything but add on to a -- I
21 mean, that was a make-sure-he's-dead type gunshot, and it
22 didn't have any hemorrhage in the brain which you would see
23 if it had a blood pressure when that was happening. So he
24 had lost most of his blood pressure from bleeding when
25 that -- when this one was inflicted, maybe probably as an

Dr. John David Wren
Cross-examination by Mr. Shealy

1 afterthought.

2 Q Thank you, Doctor. Answer any questions Mr. Shealy may
3 have.

4 CROSS-EXAMINATION

5 BY MR. SHEALY

6 Q Dr. Wren, you testified that --

7 A Pardon?

8 Q I said you testified that these two, the two lower,
9 wounds were quickly fatal.

10 A Yes.

11 Q What do you mean by that?

12 A Well, I meant that if somebody was standing there he
13 wouldn't have survived.

14 Q Okay. But would it -- I mean?

15 A I mean, he had too much injuries to where he actually
16 bled out. And I can't tell you how fast somebody bleeds,
17 because they're not bleeding when we do the autopsy. So you
18 can't, a lot of times you cannot, identify the vessels that
19 are -- that are lacerated.

20 Q Okay.

21 A And these in his abdomen actually had spilled gastric
22 contents into his abdomen. And if he even had survived
23 those he would have probably gotten a peritonitis and died,
24 and that would have been potentially fatal if they'd have
25 gotten him sewn up and stopped the bleeding.

Dr. John David Wren
Cross-examination by Mr. Shealy

1 Q Okay. And when you say that they're essentially
2 contact wounds --

3 A Yes.

4 Q -- was there any kind of stippling to them? Or how did
5 you determine they were contact wounds or no-contact wounds?

6 A Well, the -- the gunshot wounds are described. There
7 are three general types.

8 There's distant, which means that there's no indication
9 of the -- how far away the gun was. With handguns it's
10 usually anywhere from, depending on the caliber of the
11 gunshot -- of the bullet and the load in it, it's anywhere
12 from maybe six to eight inches up to as far as the bullet
13 will go. We can only say it was distant because we don't
14 see any evidence that it was contact.

15 Now, from there -- the other is contact. You have two
16 types of contact gunshot wounds.

17 One is called tight contact. So if I walk up to one,
18 to someone, and stick the gun in their side or anywhere, as
19 the bullet goes in the soot that comes out of the barrel,
20 and burning powder and the gasses that come out, will be
21 dispelled into the tissues. And if it's tight enough, then
22 it'll blow -- blow apart the tissues. So you get a stellate
23 wound. It'll be irregular.

24 If you have a wound that's -- beneath a hard portion
25 like a bone, then it will actually tear much worse than --

Dr. John David Wren
Cross-examination by Mr. Shealy

1 than a loose contact one. And loose contact means it's
2 close enough to where you don't see any soot and powder and
3 stippling. But it -- nevertheless, you don't see any
4 intermediate range.

5 Now, intermediate range is what the counsel is talking
6 about, and intermediate range, as I've said, depends on the
7 burning powder and the -- how much powder is loaded into
8 that actual cartridge.

9 And as it -- as the bullet fires the gasses and burning
10 powder and soot, if there's any soot present -- in smaller
11 caliber gunshot wounds you usually don't have much powder at
12 all, I mean, soot at all.

13 Now, if it's a shotgun or something like that, you
14 will. But as that happens the -- the -- it's like a cone
15 starting to expand. And if you're real close the -- the
16 cone will be only a small distance around there where it'll
17 tattoo the -- it will actually burn little dots into the
18 skin. The soot you can see usually if it's -- if it's
19 there.

20 And what one can do is you can take the gun with the
21 supposed cartridges, and you can send those to SLED if you
22 have a pattern of an intermediate range. And they can take
23 the gun and they can take a white piece of paper or poster,
24 and they can put the gun right up against it and shoot it
25 and keep shooting it as they come back. And they can tell

Dr. John David Wren
Cross-examination by Mr. Shealy

1 how far it away is if it's perpendicular.

2 Now, if you have a body that's curved like this, like
3 this piece of paper, of the side of a person and you shoot,
4 you can tell quite readily that this part, the part over on
5 this side, is closer than that part back there. So it'll be
6 an oval wound.

7 So you have to know a little bit about the way the hole
8 that was produced -- and we can't tell exactly how far away
9 it is. We have to have the ballistics tested to tell
10 exactly how far away it was.

11 But the reason I didn't see any were twofold. One was
12 I could tell it was contact or close to contact, essentially
13 contact in that the shirt that he had on had been blown
14 apart. So that meant gasses expanded back out.

15 The hole was pretty round, so it wasn't tight contact.
16 It could have been loose contact. And I didn't see any
17 stippling, but that doesn't happen sometimes, particularly
18 if there's clothing in the way. Okay?

19 Q Okay. And can you tell me what an eggshell fracture is
20 in your autopsy?

21 A Well, you've cracked an egg before, right?

22 Q I have.

23 A Okay. Basically, an eggshell fracture is when the --
24 when the bone fractures it shatters rather than having a
25 hole in it or radiating lines from it. It'll shatter and

James Armstrong
Direct examination by Mr. Bulsa

1 make what look like -- what's generally referred to as an
2 eggshell fracture.

3 Q Okay. And all right. That's all I have.

4 MR. BULSA: Nothing further.

5 THE COURT: You may step down.

6 MR. BULSA: We ask that Dr. Wren be excused.

7 THE COURT: He may be.

8 (Whereupon, the witness was excused.)

9 MR. BULSA: The state calls James Armstrong.

10 JAMES ARMSTRONG, having been
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BULSA

13 Q Good morning.

14 A Good morning.

15 Q Please introduce yourself to the jury.

16 A My name is James Armstrong. I'm with the Greenville
17 County Department of Public Safety Forensics Division Crime
18 Laboratory.

19 Q And how long have you been with the crime laboratory?

20 A I've been employed with the crime lab for over 21 and a
21 half years.

22 Q All in Greenville County?

23 A The 21 and a half years in Greenville County. I had
24 two and a half years prior experience in law enforcement in
25 Laurens County.

James Armstrong
Direct examination by Mr. Bulsa

1 Q Okay. What kind of training do you have?

2 A I have a bachelor of science degree in chemistry from
3 Erskine College. I've trained in the area of firearm
4 identification approximately two years as an apprenticeship
5 training program under the direction of a retired firearms
6 examiner from the Philadelphia P.D.

7 I've attended numerous instrument -- I mean, excuse
8 me -- actually attended 13 different firearm manufacturing
9 facilities to see how firearms are manufactured from raw
10 materials to finished product.

11 I've attended five different armors schools to learn
12 how to work on various firearms. I attended four different
13 ammunition manufacturing facilities to see how ammunition is
14 manufactured from raw materials to finished product as well.

15 I'm a member of the Association of Firearm and Toolmark
16 Examiners. And I've testified in at least 53 cases as an
17 expert in the area of firearm identification.

18 Q Does that also include toolmark identification?

19 A Yes, sir, it does.

20 Q And part of your -- what you've -- what you examined
21 are firearms and shell casings to determine if certain
22 weapons fired certain rounds?

23 A That's correct.

24 Q Can you also compare rounds and shell casings to each
25 other?

James Armstrong
Direct examination by Mr. Bulsa

- 1 A Not yet, no, sir. That's not quite there yet.
- 2 Q That's not quit there.
- 3 A Yeah.
- 4 Q The way it works.
- 5 MR. BULSA: Your Honor, I would offer the witness as
- 6 an expert in the area of firearms and toolmark
- 7 identification.
- 8 MR. SHEALY: No objection.
- 9 THE COURT: He so qualified.
- 10 Q Officer Armstrong, let me show you what's been marked
- 11 State's Exhibit No. 94.
- 12 A Yes, sir.
- 13 Q Is that a copy of your report?
- 14 A Yes, sir, it is.
- 15 Q okay.
- 16 MR. BULSA: The state would offer 94 into evidence.
- 17 MR. SHEALY: No objection.
- 18 THE COURT: It's admitted.
- 19 (Firearms report marked State's Exhibit No. 94.)
- 20 Q okay. I'm not going to show it on that screen, but I
- 21 want you to reference it. Use the one I've marked. Do you
- 22 often work with officers from Spartanburg County?
- 23 A Yes, sir, I do.
- 24 Q Do they submit items to you for examination?
- 25 A Yes, sir.

James Armstrong
Direct examination by Mr. Bulsa

1 Q In this case in particular did they submit to you some
2 cartridges and fired bullet specimens?

3 A Yes, sir, they did.

4 Q How many of these did they submit to you?

5 A They submitted three fired cartridge casings and four
6 fired bullet specimens.

7 Q And what tests were asked for you to perform?

8 A Wanted me to examine the fired cartridge cases to
9 determine if they were fired in the same firearm or how many
10 firearms may have been used and try to determine as well if
11 the fired bullet specimens were fired from the same firearm
12 and give them an idea what type of firearm they may be
13 looking for.

14 Q Okay. And what were your findings, sir?

15 A I was able to determine that the items which are on my
16 report as items 9, 12 and 17 -- they're fired cartridge
17 casings -- that they were fired in the same firearm. And
18 the items 14, 24, 28 and 37 fired bullet specimens bear
19 similar but insufficient microscopic marks to prevent an
20 identification to each other.

21 Q So you can't say whether they were fired by this same
22 gun?

23 A Can't really say they were, but can't say they were not
24 either.

25 Q Were they the same caliber?

James Armstrong
Cross-examination by Mr. Shealy

1 A They're the same caliber. And then I was able to
2 determine that the -- the general rifling characteristics
3 that are on the fired bullet specimens are consistent with a
4 variety of different firearms.

5 Q Okay. Are the cartridge casings the same caliber as
6 the fired bullet specimens?

7 A They are consistent with each other, yes, sir.

8 Q Okay. And is a Kil-Tec 9mm one of the weapons that
9 could have fired those?

10 A That is one in the list that I provided, yes, sir.

11 Q You have a large number of potential firearms, but
12 Kil-Tec is one of them.

13 A Yes, sir. It is.

14 Q Okay. Thank you. Answer any questions Mr. Shealy may
15 have.

16 CROSS-EXAMINATION

17 BY MR. SHEALY

18 Q Okay. Officer Armstrong, so you were only submitted or
19 they only submitted three fired cartridge casings but four
20 fired bullets, correct?

21 A Correct.

22 Q And when you examined them you can't tell that this
23 bullet came from this cartridge casing, can you?

24 A No, sir. I cannot.

25 Q All right. And in your conclusion that the general

James Armstrong
Cross-examination by Mr. Shealy

1 rifling characteristics of these bullets are consistent with
2 the firearms, you've got a list. It looks like of 25
3 different firearms manufacturers, is that correct?

4 A Yes, sir, that's correct.

5 Q And then at the end you say "and others".

6 A That's correct.

7 Q So --

8 A There can't --

9 Q Any idea what others, how many others there are?

10 A The reason we -- we put the others, they're
11 manufacturing different firearms every day, and we may not
12 know every firearm that's out there.

13 This list is provided to me by A.T.F. and F.B.I., and
14 we -- we do not know all of the firearms that are
15 manufactured and even companies that are making after-market
16 barrels.

17 Q Okay. So all you can really tell is that these are 9mm
18 bullets.

19 A That's correct.

20 MR. SHEALY: I have no further questions.

21 MR. BULSA: Nothing further, Your Honor.

22 THE COURT: You may step down.

23 MR. BULSA: Your Honor, we ask that he be excused.

24 THE COURT: He may be.

25 (Whereupon, the witness was excused.)

James Armstrong
Cross-examination by Mr. Shealy

1 MR. BULSA: May we approach, Your Honor?

2 (Bench conference held off the record in the presence
3 of the jury but out of the hearing of the jury.)

4 MR. BULSA: Your Honor, at this time the state would
5 rest its case.

6 THE COURT: Ladies and gentlemen, that is all of the
7 testimony or evidence to be offered by the state, at least
8 in their case in chief.

9 Before we go any further I've got a couple of matters
10 I'll need to address, and then we'll resume with the trial.

11 As you go back, keep in mind you still can't discuss
12 the case. I'll address those matters and bring you back in
13 just a few minutes.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Do y'all want to look at the exhibits?

17 (Pause.)

18 THE COURT: All right. Mr. Shealy, any motions?

19 MR. SHEALY: Thank you, Your Honor.

20 I make a motion for a directed verdict on all of these
21 counts based on the fact that the state has failed to
22 produce sufficient evidence to prove him guilty.

23 I also would ask for that directed verdict based on my
24 prior objections, and renew those objections at this time,
25 particularly proffered testimony of Ms. Scruggs. I believe

1 that wasn't admissible.

2 THE COURT: All right. Those motions are denied.

3 Is the defendant going to testify?

4 MR. SHEALY: I don't believe so, Judge, but I'd ask
5 that you inquire.

6 But first we would -- if Ms. Chandler is here we would
7 call her as a witness. Let me go and see if she is here.

8 (Pause.)

9 MR. SHEALY: Judge, I don't believe that she is here.

10 THE COURT: All right. Mr. Lewis, when you're charged
11 with a crime you have an absolute right to remain silent.
12 Nobody can require that you testify during your trial;
13 nobody can require that you make any statement; no one can
14 require that you answer any questions that relate to the
15 charges that have been brought against you, because the
16 constitution provides that you have an absolute right to
17 remain silent and to require the state to come into court
18 with sufficient evidence to establish your guilt to the
19 satisfaction of a jury beyond a reasonable doubt. And you
20 don't have to assist them in their efforts to prove you
21 guilty by you taking the stand or making statements or
22 answering questions that might tend to prove your own
23 guilt.

24 At the same time, if you wish to provide this jury
25 with any additional testimony or evidence, now is the only

1 time and opportunity that you will have to do that.

2 If you choose to take the witness stand you'll have to
3 answer not only your lawyer's questions but you'll also
4 have to answer the questions put to you by the prosecutor
5 to the extent that they're relevant even if the responses
6 to those questions might tend to prove you guilty of some
7 crime the state claims you have committed.

8 Do you understand your right to testify, as well as
9 not to testify?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And have you and Mr. Shealy discussed your
12 right to testify and not testify?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Have you and he discussed the advantages
15 and the disadvantages of your testifying, as well as not
16 testifying?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. And do you appreciate what those
19 advantages and disadvantages are?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And have you had time to reflect upon your
22 decision as to whether or not you will testify?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And have you made a decision?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And what is that decision?

2 THE DEFENDANT: I'm not going to testify, sir.

3 THE COURT: Is that a decision that you've made of
4 your own free will and accord?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Did you make that after careful
7 consideration and reflection?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are you satisfied with that decision?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. You may be seated.
12 Are there any instruction requests?

13 MR. BULSA: Yes, Your Honor. The state has some. I
14 believe they are your standard charges, but I would offer
15 up some language.

16 MR. SHEALY: We don't have any special ones, Judge.
17 We just ask for your ordinary charges.

18 THE COURT: Okay. Let's do this. I am going to let
19 you take the jury lunch order.

20 MR. BULSA: Okay. We are going to close right now?

21 THE COURT: Well, in 10 or 15 minutes.

22 MR. BULSA: Okay. I just want to print something off.

23 MR. SHEALY: Judge, I'd ask that the state be required
24 to open in full according to the State vs. Baynes. They
25 have to open in full on the law and the facts.

1 THE COURT: Well, you've introduced evidence.

2 MR. SHEALY: I've introduced evidence, yes, sir.

3 THE COURT: Okay. I'm sorry.

4 Okay. All right. We'll be at ease for 15 minutes.

5 (Whereupon, a recess was taken.)

6 THE COURT: Are you ready for the jury?

7 MR. BULSA: Yes, sir.

8 MR. SHEALY: Yes, sir.

9 THE COURT: Bring them in.

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

12 THE COURT: Ladies and gentlemen, as you know, the
13 state has rested in their presentation.

14 Mr. Shealy, does the defendant wish to present any
15 additional evidence?

16 MR. SHEALY: No, Your Honor.

17 THE COURT: All right. That is all of the testimony
18 and evidence to be offered in the trial of this case. What
19 remains to be done are the lawyers' final summations, after
20 which I'll instruct you on the law. And then you can begin
21 with your deliberations.

22 So please give the lawyers your attention now as they
23 give you their final summations.

24 Mr. Bulsa.

25 MR. BULSA: Thank you, Your Honor.

Closing arguments

1 Almost afternoon. Good morning, ladies and gentlemen.
2 Thank you for your participation in this case and your
3 attention to everything.

4 Scooter. Scooter was one of the first words that
5 Casey Scruggs said when she ran for help to her neighbors.
6 She identified Scooter as being one of her assailants.
7 Common sense should tell you Scooter is guilty.

8 We spent a lot of time at the beginning of this case
9 bringing up the officers and the neighbors. We showed you
10 a lot of pictures. It might even have gotten boring at
11 times. The reason was to show you that this was not the
12 crime of one person. More than one people -- persons were
13 involved in this crime. Casey clearly identified both of
14 them.

15 But this was not the act of one man. If it were,
16 first man she named was Scooter. But she clearly told
17 paramedic, Mr. Hubbard, names Steven Lewis and Andrew Cash.
18 Clearly knew those men.

19 They spent a lot of time in that house, hours it
20 seemed like to her. They ransacked every room in the
21 house. She was face to face with them as she was duct
22 taped and dragged back into the bedroom and shot in the
23 head.

24 The men clearly tried to hide their identify by
25 covering their hands with gloves, but they chose to kill or

Closing arguments

1 try to kill the people so they would not be identified
2 officially. That is what gunshots to the head should
3 suggest. That should leave you firmly convinced that the
4 men went there to make sure they weren't going to get
5 caught.

6 Dr. Wren said the blow to Mr. Mauldin's head was kind
7 of a shot to make sure he was dead.

8 That's exactly what they did to Casey. She tried to
9 escape. They realized they had to kill her too, and that's
10 what a shot to the head is. She is by -- a miracle she's
11 not deceased.

12 Now, when the men left they thought they were dead.
13 They ditched the car. They load up and go to North
14 Carolina. And you heard how they acted in North Carolina.
15 Mr. Cash chooses to flee and try to outrun them. Mr. Lewis
16 chooses to stay and try to outwait them.

17 It's kind of shocking to hear the officer say that 40
18 people arrived to try to apprehend him. That's how
19 dangerous they thought the situation was.

20 Ladies and gentlemen, the judge will charge you on the
21 law in this case, and there's a principle of law that says
22 the hand of one is the hand of all.

23 We don't have to prove to you who pulled that trigger.
24 We may never know. It doesn't matter. If they went there
25 and acted in concert with each other to commit a robbery

Closing arguments

1 and as a natural and probable consequence, which carrying a
2 weapon, a loaded weapon, somebody will be injured or
3 killed, it's very logical and thoughtful. Both men are
4 guilty of the crime. Both men are guilty of all of these
5 crimes.

6 Solicitor, why is this a burglary? We heard the stuff
7 about drug dealing and stolen property. Yeah. Mr. Mauldin
8 didn't lead a clean life, but he was trying to work. He
9 had a legitimate job as well. It doesn't discount his life
10 any more than anybody else.

11 Sure, Casey's got a drug problem. Somebody in
12 everybody's family probably has a drug problem. That
13 doesn't diminish her life any more than anybody else's.

14 Carey let them in under the premise of them buying
15 some drugs. The judge will charge you on the law of
16 burglary. If they gain entry by deception or trickery,
17 misrepresentation, that's gaining entry without consent.
18 You can't trick your way into a house, deceive your way
19 into a house.

20 They went there with the intention of robbing them.
21 We heard Nicole Cash, Drew Cash's sister, a friend of the
22 defendant, almost, I guess, a want-to-be girlfriend. He
23 gave her perfume that he stole from Carey, stole from the
24 man who had given him a place to stay when he came down
25 here. She told on her brother and she told on her friend.

Closing arguments

1 The defense will probably submit to you that she's not
2 a reliable witness. But she's also got a drug problem.
3 That's the sad fact of this case, but it does not diminish
4 her ability to recall and remember and tell because she
5 told the officer the day this happened. She told on her
6 own brother and she told on her own friend.

7 It's clearly consistent with Casey saying it was
8 Steven Lewis and Drew Cash. That's not a mere coincidence
9 that Nicole also says they planned this. They had my gun,
10 I tried to get my gun back, he wouldn't give it to me, he
11 was wiping the bullets off. She clearly feared something
12 bad might happen. We're here today as a result of that
13 happening.

14 Please use your common sense. The evidence all lines
15 up together. The defendant is one of those two men that
16 went into this house to rob Casey and Carey. Carey fought
17 back. Two shots to the torso. They wanted to make sure he
18 was dead. A final shot to the head.

19 I submit to you that the crimes are clear. I don't
20 know what the defense's argument is going to be. He did
21 hit upon some forensics. I don't know if he's going to
22 play C.S.I. where you have the police didn't do this, they
23 didn't do that.

24 The police certainly found a fingerprint at the house.
25 How did they find a fingerprint? Because they had gloves.

Closing arguments

1 well, you saw. The gloves were torn apart most likely when
2 he was taping Casey up. So he wound up with one hand at
3 least ungloved. So he leaves his fingerprint there.

4 You can directly link the PT Cruiser to property of
5 Drew Cash. Had to be two people. Somebody drove there in
6 a car, and they drove away in the second car. They drove
7 the PT Cruiser to the property on Flynn Road that Drew was
8 fixing up, thought he was going to inherit it. And they
9 leave it there covered up, and then they go to North
10 Carolina.

11 Then we put the property of Carey, the phone, in his
12 possession via Ms. Lawson's testimony. She and Christopher
13 went in and got the box of phones from the house that the
14 door was blow off of, the phone that was activated Tuesday,
15 the 19th, because his previous one was stolen Sunday, the
16 17th. Clearly Carey's phone. That's not a mere
17 coincidence.

18 You heard him in his own words, how upset he was that
19 the phone was found. He was afraid it was going to get
20 turned on. The blue iPhone with the black case. This
21 comes off. So that's sort of a case.

22 I submit to you that conversation was about this phone
23 that was recovered by his friend. And you learned about it
24 via that phone call. And he told them they had to get rid
25 of it.

Closing arguments

1 You'll have this tape, I mean, this C.D. in evidence.
2 You can listen to those phone calls again. Listen to how
3 he reacts, talks to the lady about believing Casey is dead.
4 He sounds kind of giddy to me. Excited. He even used the
5 word that's the way it's gotta be for me to get out of
6 this. He knew that she could identify him.

7 Ladies and gentlemen, justice should be the concern of
8 every good citizen. Every citizen deserves justice.
9 Please don't attach the lifestyle to your decision.

10 I submit to you the evidence should leave you firmly
11 convinced two men committed this crime. Two men were
12 clearly identified right after the crime had happened. I
13 submit to you that should be enough.

14 But we then have property in their possession stolen
15 from the crime scene; we have the corroboration from one of
16 their sisters that the robbery had been planned; and we
17 have their conduct in North Carolina when they were finally
18 caught; and we hear his words when he realized he's going
19 to be linked to some evidence. The evidence should leave
20 you firmly convinced. Please convict him of all charges.

21 Thank you for listening closely to the defense
22 attorney's argument. He is -- and I'll come back when he
23 sits down, and then the judge will charge you with the law
24 of this case. Thank you.

25 THE COURT: Mr. Shealy.

Closing arguments

1 MR. SHEALY: May it please the Court, Your Honor.

2 Hi, ladies and gentlemen. You've obviously heard Mr.
3 Bulsa's take on everything.

4 And I told you at the beginning of all of this the
5 witness shaved this. And I don't know if you noticed
6 whenever the officer testified and Mr. Bulsa would ask them
7 a question, they remembered everything. They gave clear
8 answers and they continued to answer the way you wanted
9 them to. When I asked questions, I can't remember, I don't
10 know, I'm not sure, don't know what you mean.

11 I would submit to you that, again, all of these
12 witnesses have a reason to shade their testimony. And when
13 we're involved in the criminal law the hardest thing to do
14 is to not accept, what I called not accepting the premise.

15 The premise of this case, the premise that the police
16 officers went on that night, was that Casey Scruggs was a
17 victim and that everything she said was true. That's what
18 they decided. They decided that she was the victim and
19 everything she says was true.

20 The problem though is that when she testified she
21 wasn't particularly clear as to what all happened. But she
22 crafted a narrative that night. And, again, everybody has
23 gone based on that narrative and made these arguments, made
24 these decisions, made decisions as to what G.S.R. to send
25 down, what G.S.R. not to send down, what footprints to have

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1 analyzed, what blood to have analyzed, all of those things.

2 But it couldn't have happened the way that she says it
3 happened. She says that she was shot at close range. But
4 you've not heard any testimony of any sooting; you've not
5 heard any testimony of stippling in the wound; you've not
6 heard of anything that would suggest that she was shot at
7 close range, which is what she testified to. And you've
8 not heard from any emergency room doctors; you've not heard
9 from any other person other than her who said it was a
10 gunshot wound.

11 Now, Mr. Hubbard testified that it looked like an
12 object had penetrated the skin, but that's it. He couldn't
13 diagnose it as a gunshot wound because he's not a doctor.
14 He doesn't diagnose things. And I was very careful to ask
15 him how did you know it was a gunshot wound. She told me.
16 And it looked like an object had penetrated the skin.

17 Now, further there is all of this testimony that there
18 was a great deal of bleeding. And you've heard testimony
19 that State's Exhibit 24, if you'll bear with me, is where
20 they believe that she was shot. They've got it marked as
21 evidence marker No. 15.

22 Now, these will be in the jury room. You'll be able
23 to look at them closely. But that is not a copious amount
24 of blood. There's blood on the stuffed animal, but that is
25 not what everyone testified to, that there was a copious

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1 amount of blood, that she was drenched in blood, things of
2 that nature.

3 Further, she testified when she got her legs free, she
4 hobbled. And I'll show you State's Exhibit No. 39, or,
5 excuse me, State's Exhibit No. 40. This is a diagram of
6 the house. She testified that she hobbled to the sunporch
7 door. That was this door. And attempted to get out.

8 Now, you've heard testimony from numerous people that
9 that was not an accessible door. Officer Talanges couldn't
10 get it open. Nobody could get it open. She said she tried
11 to kick on it. But that was not an accessible door.

12 She testified she thought they were gone and when that
13 happened she went to an inaccessible door. It makes no
14 sense. It did not happen the way she says that it
15 happened.

16 Mr. Bulsa would like you to believe that they all --
17 that there were gloves involved and so all of this -- I
18 believe it's State's Exhibit -- I'll show you -- Defense
19 Exhibit No. 1 which shows a piece of latex glove. And he
20 wants you to believe that the people who came in had latex
21 gloves on, that Mr. Lewis ripped his latex glove and left a
22 fingerprint on a brief case.

23 Now, there are several problems with that. This is a
24 palm area according to Mr. Talanges or Officer Talanges, a
25 palm of a blue latex glove.

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1 The other problem is it's inside of a case. And there
2 are pictures that this case was on the phone. So unless a
3 burglar for some reason stripped down the phone, put it
4 back and in trying to put it back he ripped his glove, this
5 was not part of this robbery.

6 And I would also point out to you that Mr. Lewis lived
7 in that house for a period of time. So it is not strange
8 that you would find a fingerprint. But he had not lived
9 there for some period or a little while before. So that's
10 why you don't get 10, 15, 20, because surely they wiped
11 some of this stuff down.

12 So it's not surprising that they found a fingerprint
13 inside of this house. It would be surprising if they
14 didn't find a fingerprint inside of this house.

15 Now, she's also -- Ms. Scruggs also testified. It was
16 very confusing -- and Mr. Bulsa objected because I was
17 being tricky -- about this phone. I believe it was State's
18 Exhibit No. 77, was testified that it was on the bed in
19 this picture.

20 Now, they've also testified that it was found in North
21 Carolina. I don't know. I can't tell you. I can just
22 tell you that she's testified that this phone is No. 77,
23 because I showed it to her, and I asked her is this the
24 phone, and she said yes.

25 Further, when she testified about the gloves she

Closing arguments

1 testified they were purple. None of the gloves found in
2 this case were purple. That one is not purple; the
3 state's' evidence No. 16, I believe, is not purple. That's
4 the tip of a glove.

5 The gloves found at 343 Woodland Avenue, which I
6 believe Officer Ruffner testified to, were not purple.
7 They are, again, pictures of those. Feel free to look at
8 them. They're all blue. And blue and purple are --
9 they're just different colors.

10 Then finally she's testified -- well, again, it was
11 confused because some people testified that her hands were
12 bound behind her back. Other people testified they were
13 bound in front of her. Now, that's a fairly important
14 detail. And it's pretty easy to remember that, or it
15 should be. Yet the testimony is all over the place.

16 Now, when Officer Hullinger arrived on the scene, he
17 testified that he had to use a flashlight. It was by
18 then -- and it was exceedingly dark -- well, he believes it
19 was dark because he had to use a flashlight.

20 Now, again Casey testified that she thought the lights
21 were on, but she also testified that those lights are
22 bright, that all of those lights -- the living room light
23 is on. You know about it.

24 Hullinger wouldn't have needed his flashlight if they
25 were on, which leads to the question why would burglars and

Closing arguments

1 murderers turn off the lights when they did. It just
2 doesn't make sense.

3 She's testified, ladies and gentlemen, that she could
4 see what happened to Mr. Mauldin, she could see all sorts
5 of things happening in the living room. Again, if you'll
6 look at this diagram, there's a wall. There's a wall
7 between the bed and where all of this stuff was happening.

8 There is no way she could have seen inside of the
9 kitchen. In fact, she couldn't have seen the majority of
10 the living room. She just wouldn't have been able to see
11 it.

12 And, again, this is the state's, Exhibit No. 4. I
13 didn't draw this diagram. They did. They put this diagram
14 into evidence. I didn't.

15 You'll also remember Mr. Turner testifying that he
16 didn't hear any gunshots. He didn't hear any tires
17 squealing, anything like that. So it's very difficult to
18 place this at a certain time, because, again, Ms. Scruggs
19 says that they laid down at 12:30, received a phone call.
20 Maybe half an hour later somebody, Mr. Cash, showed up and
21 then all of this happened. She was tied up for about two
22 hours.

23 The shooting in the head happened, and then they were
24 gone. Well, that leaves at least one hour of time period,
25 at least one hour unaccounted for.

Closing arguments

1 Now, she's not looking at a clock, and I understand
2 that, and this is a traumatic event and that kind of thing.
3 But that's still a problem, and the reason it's a problem
4 is because we also have heard about other cars being at
5 this residence. You've heard about a lot of traffic in and
6 out of this residence.

7 We've heard that there was a Dodge Nitro and a
8 burgundy PT Cruiser at this residence when other people got
9 home and it wasn't -- they weren't there at 5:00 a.m., that
10 they weren't there when the police showed up.

11 We know nothing about those two cars. We don't have
12 plates, numbers. We don't have who owned those cars. We
13 don't know because nobody investigated them. Nobody
14 bothered to say, well, what about these two cars. That
15 very easily could have been the people who did this. It's
16 because she crafted a narrative for them, and,
17 unfortunately, they just didn't bother to investigate
18 anything that didn't fit that narrative.

19 Now, again, there was -- and then during the
20 investigation they took gunshot residue from Mr. Mauldin
21 and didn't send it off. They apparently did not take
22 gunshot residue from Ms. Scruggs or send it off, because,
23 again, they just were going with her narrative. She was a
24 victim. We don't need to investigate these things.

25 They did do a search warrant though. They did a

Closing arguments

1 search warrant at 343 Woodland Avenue. You heard about
2 that.

3 They also searched the house in Guilford County,
4 Greensboro. They testified to that.

5 And Ms. Lanning even testified that they were up
6 against, or that my client and a Mazda were up against, a
7 building as though they were unloading something, though
8 she didn't see anybody unload anything.

9 Well, where is all of this stuff that was stolen?
10 This robbery. They've said there was a previous robbery
11 where there was perfume bottles taken and things of that
12 nature. But nobody said anything about anything in that
13 box other than a cell phone, a single cell phone.

14 There wasn't -- there weren't any big-screen T.V.s.
15 She testified there was a 32-inch flat screen T.V. I don't
16 know that that's a big screen. But she testified a 32-inch
17 T.V. was gone. Where is it?

18 They were on this residence that morning. They were
19 in Guilford, I think, a day later. Where is this stuff?
20 And why would he, Mr. Lewis, need to ransack a house he
21 lived in for three or four hours, particularly if you
22 believe what they've said that he'd already taken the money
23 and the drugs and all of the stuff on Sunday? You don't go
24 back to the well. It doesn't make any sense.

25 They also, I would point out, did not send any

closing arguments

1 footprint evidence down. They didn't get any elimination
2 footprints. They didn't do any of that work because,
3 again, they believed her narrative.

4 Now, Nicky testified. She just testified. And she's
5 testified that she's been high for ten years, which is
6 unfortunate. So it's difficult to tell what she should
7 remember and what she shouldn't remember.

8 She also testified that she had been O.D.'d on drugs
9 given to her by Mr. Mauldin or sold to her by Mr. Mauldin.

10 And she gives a story that Mr. Lewis had her pistol,
11 wanted to buy her pistol from her. When she refused, he
12 kept it.

13 There are two problems with that. One, why wouldn't
14 she call the police? I suppose because she's a drug addict
15 and she doesn't want to get involved with the police. But,
16 two, why would somebody who has possession of a thing offer
17 to buy that thing from you? They wouldn't. I mean, it
18 just doesn't make any sense.

19 If he's going to give her money, he just would have
20 given her money if this was, in fact, a would-be
21 girlfriend. He would have just given her money. He would
22 have. Or drugs or whatever it is that she wants.

23 Now, we don't bear any burden. I can't -- and the
24 reason that the defense doesn't bear any burden is because,
25 one, we don't have the sheriff's department. We just

Closing arguments

1 have -- it's me and two investigators -- or three
2 investigators and an assistant. That's basically the
3 manpower that I do use. So we can't investigate these
4 things.

5 We also don't get involved until after somebody has
6 been arrested. I'm not calling. I can't tell officer
7 Norris you ought to investigate this, you ought to
8 investigate that.

9 We also can't prove necessarily that a thing didn't
10 happen. It's very difficult to prove a negative. You
11 can't prove that something doesn't exist by saying it
12 doesn't exist. So that's why we don't have a burden to
13 tell you what actually happened here.

14 Now, so I don't know what happened. But I will point
15 your attention to State's Exhibit No. 12. Now, Ms. Scruggs
16 has testified that she heard Mr. Mauldin ask for her to
17 call 9-1-1 and almost immediately thereafter there were
18 gunshots. At least that's my recollection of the
19 testimony.

20 I would submit to you that Evidence No. 12 here shows
21 a broken vase right here and shards of that broken vase.
22 Now, we know that that broken vase couldn't have broken
23 because it fell on the couch, because the couch has
24 cushions in it.

25 I'd submit to you that what may have happened is

Closing arguments

1 Ms. Scruggs hit Mr. Mauldin over the head with this.
2 That's where those incised wounds came from. Those are
3 from an edged source. That's what Dr. Wren testified to.
4 He said that those were from an edged source.

5 They got into a fight. Ultimately, he hit her; she
6 hit him; she shot him. That could have happened.

7 Or Mr. Cash, who had known that Mr. -- or that
8 Ms. Cash had been O.D.'d on drugs from Mr. Mauldin, got
9 angry, came over here, and in an altercation that went far
10 beyond just a simple shooting that involved a broken vase
11 upside the head, involved tearing up a house, ransacking a
12 house, because the altercation went throughout -- and
13 you've heard testimony that Mr. Mauldin was a pretty big
14 guy. And in that altercation Mr. Cash shot him ultimately
15 in the kitchen and then may have shot Ms. Scruggs. I don't
16 know.

17 Unfortunately, I believe that there would have been --
18 I believe that there was a relationship between Ms. Cash --
19 or Mr. Cash and Ms. Scruggs. And I would submit to you
20 that may have played into this as well.

21 Ladies and gentlemen, I don't know what happened that
22 night. I submit to you that y'all don't know what happened
23 that night. And if you can't come to a reasonable -- if
24 you can't come to a version of facts beyond a reasonable
25 doubt, then you must find my client not guilty. If you

Closing arguments

1 cannot come to a verdict beyond a reasonable doubt, a
2 not-guilty or a guilty verdict beyond a reasonable doubt,
3 then you are required by that oath you took to find my
4 client not guilty.

5 And I expect that when y'all go back and deliberate
6 you're going to find my client not guilty, because all we
7 have is a narrative constructed by a woman who is not
8 particularly reliable, who did not testify at all
9 consistent, and a police department that essentially
10 investigated based on that flawed narrative. Thank you.

11 MR. BULSA: Turn those on, please.

12 (Pause for lights.)

13 MR. BULSA: As I said, ladies and gentlemen, I didn't
14 see that one coming. The defense is Casey did it? Wow. I
15 should just have to say two words. Common sense. That is
16 ridiculous. I thought maybe mistaken identity. Casey did
17 this, shot him and then duct-tapped herself up, shot
18 herself in the head?

19 Remember there was a bullet in the bedroom floor. She
20 left right after they left, so she's bleeding as she's
21 running and talking to the neighbors. The paramedic
22 certainly says she was drenched in blood. You'll see the
23 picture. You've seen it. Her feet were even covered in
24 blood.

25 My gosh. Casey did it, or maybe Drew came over and

Jury charge

1 shot Carey and then shot Casey and then tied her up. Wow.

2 He, conveniently, didn't talk about the phone in his
3 possession, the calls he made to his friend in North
4 Carolina, the door having to be blown off the hinges to get
5 him out of the house.

6 He's right. They don't have to prove anything. We
7 don't have to prove motive. I submit to you the motive is
8 murder. Committed this armed robbery, and then as a result
9 the murder happened.

10 shading of testimony. Casey shaded this, put out this
11 narrative. She was shot in the head. She thought she was
12 going to die.

13 He even suggested the neighbors apparently shading
14 their testimony when they talked to her and she's saying it
15 was Scooter. Is he suggesting some conspiracy between
16 Casey and Nicole because Nicole is saying Scooter and Drew
17 were planning this robbery and it just so happened?

18 He's telling you that it wasn't even a burglary,
19 wasn't even a robbery, it was merely a domestic dispute.

20 I submit to you, ladies and gentlemen, please, please
21 use your common sense. Use your common sense. Please
22 listen to the judge. He's going to give you the law.

23 THE COURT: Madam forelady and ladies and gentlemen of
24 the jury, you of course have heard and seen all of the
25 evidence in the case.

Jury charge

1 You've now heard the final summations of the lawyers;
2 and therefore now it becomes my duty and obligation to
3 instruct you on the law that's applicable in this case.
4 Then you'll go back and begin your deliberations. And
5 through that process you'll examine the evidence, decide
6 the facts, apply the law and arrive at fair and just
7 decisions, whatever those decisions may be.

8 It is your exclusive prerogative to determine what the
9 facts are as they relate to the allegations made in these
10 indictments.

11 You do that through your own common-sense examination
12 and evaluation of all of the testimony and other evidence
13 received during the course of this trial.

14 You 12 jurors alone will decide what weight, value and
15 effect to give to any particular witness' testimony or
16 other evidence in the case. Your sole objective is to
17 simply render a fair and impartial decision based upon the
18 evidence, or lack of evidence, and your application of the
19 law as I will have provided it to you before you go back to
20 begin deliberations.

21 Now, in this case, as you know, the defendant has been
22 accused of five separate and distinct offenses, although
23 they are each alleged to have arisen out of one particular
24 event or course of events which the state alleges occurred
25 back on May the 22nd of 2015. But, as I told you, there

Jury charge

1 are five separate charges, five separate indictments.

2 You will be called upon to render five separate and
3 distinct decisions in this case. And, as I've said,
4 depending upon your determination of the facts from your
5 view of the evidence, those decisions may be the same or
6 they may be different. That obviously will depend upon
7 your determination of fact and then your application of the
8 law as it relates to that particular charge.

9 But the defendant in this case is accused of having
10 committed the crimes of burglary in the first degree,
11 murder, attempted murder, kidnapping and armed robbery.

12 The allegations setting forth those charges are set
13 forth in each of these indictments. As I previously told
14 you, these indictments are not evidence in the case. They
15 don't prove anything; they don't establish anything.

16 They will be in the jury room, but they're there
17 solely to serve as the verdict forms, because it is on the
18 back of each indictment, Madam Forelady, that you're going
19 to be asked to indicate the jury's decision as it relates
20 to the charge set forth in that indictment. But other than
21 serving as the verdict forms, the indictments serve no
22 purpose so far as you jurors are concerned.

23 Now, as to the allegations set forth in each of those
24 indictments and to the charges contained therein the
25 defendant has entered a plea of not guilty.

Jury charge

1 And, as I've told you, that plea of not guilty has
2 placed upon the state the burden of proving the allegations
3 that they have made against the defendant, the burden of
4 proving each of the essential elements of the crimes
5 alleged against the defendant; and therefore the burden is
6 upon the state to establish the defendant's guilt as it
7 relates to each separate charge to your satisfaction beyond
8 a reasonable doubt before any verdict of guilty could be
9 returned.

10 The burden is never upon a defendant or a person
11 accused of a crime to prove that they are not guilty or to
12 prove that they are innocent.

13 The burden is always upon the state because they've
14 made the accusation, they brought the charge, to establish
15 the defendant's guilt beyond a reasonable doubt.

16 You are instructed that it is a vital, important and
17 cardinal rule of law that every defendant in a criminal
18 trial, no matter how serious the offense might be for which
19 that person stands charged, that person shall always be
20 presumed innocent of that charge.

21 That presumption of innocence remains with any
22 defendant, as it does with this defendant, from the time
23 that he is placed under arrest and throughout the course of
24 the criminal process and even throughout the course of the
25 actual trial in this case.

Jury charge

1 As I told you, that presumption of innocence will be
2 with Mr. Lewis even as you go back into your jury room to
3 begin with your deliberations in this case. And that
4 presumption of innocence will be with him in that jury
5 room, and it'll be with him forever unless you 12 jurors
6 determine that he's no longer entitled to that presumption
7 of innocence as it relates to a particular charge.

8 In other words, after you've considered all of the
9 evidence, and from that evidence you've determined the
10 facts where you can, and after determining those facts you
11 apply the law that I will have provided you, if you 12
12 jurors unanimously determine that his guilt as to a
13 particular charge has been proven beyond a reasonable
14 doubt, then he would no longer be entitled to the
15 presumption of innocence as it relates to that particular
16 charge. But it is only if, unless and until you are
17 satisfied of his guilt as to a charge beyond a reasonable
18 doubt that the presumption of innocence would no longer be
19 applicable.

20 Now, while the state does have the burden of proving
21 the defendant's guilt to your satisfaction beyond a
22 reasonable doubt, that doesn't mean that the state has to
23 prove his guilt beyond all doubt or beyond any possible
24 doubt. But it does require the state to prove his guilt to
25 your satisfaction beyond a reasonable doubt.

Jury charge

1 The term reasonable doubt should be given its plain
2 and ordinary meaning. A reasonable doubt is the kind of
3 doubt that would cause a reasonable person to hesitate to
4 act upon the information provided.

5 Proof beyond a reasonable doubt is proof that leaves
6 you firmly convinced of the defendant's guilt. There are
7 very few things in this world that we know with absolute
8 certainty.

9 And in criminal cases the law does not require proof
10 that overcomes every possible doubt. If, based on your
11 consideration of the evidence in this case, you are firmly
12 convinced that the defendant is guilty of a crime for which
13 he stands charged, then you should find the defendant
14 guilty of that crime.

15 And if, on the other hand, you think there is a real
16 possibility that the defendant is not guilty of a crime for
17 which he stands charged, then you must give him the benefit
18 of that doubt and return a verdict of not guilty as it
19 relates to that particular charge.

20 Now, the same law that provides that you are the
21 judges of the facts also provides that I am the judge of
22 the law. And that simply means that nobody is going to
23 tell you how to arrive at your determination of fact in
24 this case. As I've already stated, you do that through the
25 exercise of good judgment and common sense conscientiously

Jury charge

1 applied to the testimony and the evidence received during
2 the course of this trial.

3 You must however under your oath as a juror accept the
4 law as I provide it to you as being the law that you are to
5 apply in the case.

6 In other words, you're not to concern yourself with
7 what you thought the law was before you came to serve as a
8 juror this week or what you think the law ought to be.

9 You must simply under your oath accept the law as I
10 provide it to you as being the law that you are to apply in
11 the case. And then you take that law and you apply it to
12 the facts as you 12 jurors determine those facts to be from
13 your consideration of all of the evidence received during
14 the trial.

15 Now, as I told you, you are the sole judges of the
16 facts in this case, and you therefore necessarily the sole
17 judges of the credibility, that is the believability, of
18 each witness that has testified during the course of this
19 trial.

20 You 12 jurors alone will decide what weight, value and
21 effect to give to any particular witness' testimony or
22 other evidence in the case. But there are several factors
23 which you should consider in arriving at your assessment or
24 your evaluation as to a particular witness' credibility,
25 and I'm going to list those factors for you.

Jury charge

1 You should consider the demeanor of the witness, that
2 is how the witness appeared to you as the witness testified
3 from that witness stand.

4 Was the witness straightforward in responding to
5 questions, or was the witness hesitant or evasive in
6 responding to questions that were asked of a particular
7 witness.

8 Simply put, did the witness appear to you to be
9 telling the truth and to have knowledge of the facts to
10 which that witness has testified.

11 You should also consider whether or not the testimony
12 of a witness is consistent, or is it inconsistent with that
13 witness' own testimony provided here in court or consistent
14 or inconsistent with other statements made by that same
15 witness, whether it be in court or outside of court. And
16 you should also consider whether or not the testimony of a
17 witness is consistent or is it inconsistent with other
18 testimony or other evidence received during the course of
19 the trial.

20 You should also consider how the witness came to know
21 the facts to which that witness has testified. In other
22 words, what was a particular witness' opportunity and
23 ability to perceive the existence of those facts to which
24 that witness has testified by having previously used his or
25 her senses, and then what is that witness' ability to be

Jury charge

1 able to come into court and to accurately recollect to you
2 as to what they have previously perceived.

3 You should also consider any bias or prejudice or
4 interest that you find a witness might have with respect to
5 a case.

6 In other words, do you find some reason that a
7 particular witness would come into court and would testify
8 one way or another to help or hurt one side or the other.
9 And you may consider any interest that a witness might have
10 in the outcome of a case if you determine that a witness
11 does have such an interest and you find that that interest
12 would bear upon that particular witness' credibility.

13 You should also consider whether or not the testimony
14 of a witness is strengthened, or is it weakened by other
15 testimony or other evidence received during the course of
16 the trial.

17 Now, you as the finders of the fact and you as the
18 judges of the credibility of each witness that has
19 testified during this trial are permitted to believe as
20 much or as little of what a witness has testified to as you
21 deem is appropriate.

22 That would also include any expert witness that is
23 called to testify. When a person testifies as an expert I
24 have to determine if they are able to testify as an expert
25 based upon their qualifications. But that doesn't mean

Jury charge

1 that you have to accept their testimony any more than you
2 do any other witness' testimony.

3 You have to judge the credibility of an expert witness
4 just as you do any other witness. And if you find that a
5 particular witness that was qualified as an expert doesn't
6 have the requisite training or experience or skill or did
7 not properly consider the facts that relate to this
8 particular matter, then you could reject that expert's
9 opinion in its entirety just like you can any other
10 witness.

11 So you may believe what any witness has testified to
12 in its entirety; you may reject it in its entirety; or you
13 may believe some portion of a witness' testimony and reject
14 some other portion of that same witness' testimony.

15 Your sole objective, again, is to simply render a fair
16 and impartial decision, and you do that by carefully
17 considering all of the evidence, considering the
18 credibility of witness testimony, deciding the facts,
19 applying the law, and arrive at that fair and just
20 decision.

21 Now, in this case, as you know, the defendant is
22 charged with five separate and distinct offenses. So I'm
23 going to instruct you on the law as it relates to each of
24 the separate crimes.

25 Those are burglary, murder, attempted murder,

Jury charge

1 kidnapping and armed robbery. And I'm going to give the
2 instruction to you in that order, but there's no
3 significance to that order. I just have to pick one, and
4 that's the way I pick it.

5 Burglary -- and each of these crimes are statutory
6 offenses. And that just means they're described in the
7 South Carolina Code of Laws, which are these blue volumes
8 you'll see over here to my left.

9 The legislature passes laws during their assembly each
10 year, and some of those crimes are criminal penalty
11 statutes. That just means that the legislature defines a
12 crime, prohibits us from engaging in that conduct. And
13 where we are found to have engaged in conduct in violation
14 of a statute, then it subjects us to some form of
15 punishment or penalty as a result.

16 But please keep in mind that you're never to be
17 concerned with any punishment or penalty that might result
18 from your decision. Your sole obligation and duty is to
19 determine whether or not the defendant has been proven
20 guilty of a crime, and you do that without any
21 consideration being given to any consequence of that
22 decision.

23 First crime that I'll address is the indictment for
24 burglary in the first degree.

25 Burglary in the first degree is set forth in Section

Jury charge

1 16-11-311 of the Code of Laws of South Carolina, and that
2 statute provides in its relevant parts a person is guilty
3 of burglary in the first degree if that person enters a
4 dwelling without consent and with the intent to commit a
5 crime in the dwelling and one of the following additional
6 circumstances is established beyond a reasonable doubt:
7 That when in effecting entry or while in the dwelling or in
8 immediate flight therefrom the defendant or another
9 participant in the crime is armed with a deadly weapon, or
10 causes physical injury to a person who is not a participant
11 in the crime, or uses or threatens the use of a dangerous
12 instrument, or displays what is or appears to be a knife,
13 pistol, revolver, rifle, shotgun, machinegun or any other
14 firearm, or the entering or the remaining occurs in the
15 nighttime.

16 So based upon the foregoing statute, before you could
17 find the defendant to be guilty of the crime of burglary in
18 the first degree it would be necessary that the evidence in
19 this case has established to your satisfaction beyond a
20 reasonable doubt the following four elements: First, it
21 must be established that the defendant entered a dwelling.
22 Entry is an indispensable element in the crime of burglary.
23 And an entry is simply the act of going into the dwelling.

24 It is not necessary in order to be guilty of the crime
25 of burglary that actual physical force be used to

Jury charge

1 accomplish the entry, nor does any door, window or other
2 barrier have to be opened or removed in order to effect an
3 entry. There simply has to be an entry into a dwelling.

4 A dwelling is defined as a building or structure which
5 is used or normally used for sleeping, living or lodging by
6 any person.

7 Secondly, there must be an entry of a dwelling without
8 consent. Entering without consent means to enter a
9 dwelling without the actual consent of the owner or person
10 otherwise in lawful possession of the premises. The term
11 entering without consent also refers to entering a dwelling
12 by using deception, artifice, trick or misrepresentation in
13 order to gain or to obtain consent to enter the dwelling
14 from the owner or person in lawful possession.

15 Thirdly, there must be an entry of a dwelling without
16 consent and with the intent to commit a crime in the
17 dwelling. There must be an intent to commit a crime,
18 whether or not the crime is actually committed or completed
19 or accomplished.

20 The mere entering of a dwelling without an intent to
21 commit a crime does not constitute burglary. It is only
22 when there is an entering of a dwelling without consent
23 accompanied with an intent to commit a crime therein that
24 the crime of burglary is completed. And a crime of any
25 grade or severity is sufficient to satisfy this particular

Jury charge

1 element of the crime of burglary.

2 Intent simply means the state of a person's mind which
3 directs his actions towards a specific object or goal.

4 The entry of a dwelling without consent and with the
5 intent to commit a crime therein completes the crime of
6 burglary.

7 Before the crime of burglary would be proven to be
8 burglary in the first degree there has to be that fourth
9 essential element. There has to be some additional
10 circumstance in order to make the crime of burglary a
11 burglary in the first degree.

12 And the fourth element necessary to establish a
13 burglary in the first degree is either that when in
14 effecting entry or while in the dwelling or in immediate
15 flight therefrom the defendant or another participant in
16 the crime was armed with a deadly weapon, or did cause
17 physical injury to a person who was not a participant in
18 the crime, or used or threatened the use of a dangerous
19 instrument, or displayed what appeared to be a knife or
20 pistol, revolver or other firearm, or the entering or the
21 remaining occurred in the nighttime. And nighttime is
22 defined in the law as that period between sunset and
23 sunrise, that period of darkness when a person's facial
24 features are not discernable by light from the sun.

25 The next indictment that I'll address is the

Jury charge

1 indictment charging the defendant with the crime of murder.

2 Murder is defined in Section 16-3-10 of the Code of
3 Laws of South Carolina as the killing of any person with
4 malice aforethought, either expressed or implied.

5 In order for you to find the defendant to be guilty of
6 the crime of murder it would be necessary that the evidence
7 in this case has established to your satisfaction beyond a
8 reasonable doubt that the defendant or an accomplice -- and
9 I'll describe accomplice liability to you during the course
10 of this instruction.

11 But it must be shown that the defendant or an
12 accomplice did commit some act or acts which proximately
13 caused the death of the decedent -- in this case Carey
14 Mauldin -- and that the killing was done with malice
15 aforethought.

16 Malice aforethought is an essential element of the
17 crime of murder. The term malice as an essential element
18 of the crime of murder is a state of mind connoting an ill
19 will and having the intent to do harm.

20 Intent refers to the state of a person's mind which
21 directs his actions towards a specific object or goal. And
22 intent would include those consequences which represent the
23 very purpose for which an act is done, as well as those
24 consequences which are known to be substantially certain to
25 result whether actually intended or not.

Jury charge

1 Malice is a technical term importing wickedness and
2 excluding just cause or legal excuse. It is something
3 which springs from depravity, from a heart devoid of social
4 duty and fatally bent on mischief. It is a state of mind
5 indicating an extreme disregard for or an extreme
6 indifference human life.

7 Malice may be likewise defined as a state of mind of a
8 person which indicates a formed purpose and design to do a
9 wrongful act under circumstances that exclude any legal
10 right to do it.

11 And the words expressed or implied malice do not mean
12 different kinds of malice but merely the manner in which
13 malice may be shown to have existed. That is to say either
14 by direct evidence establishing malice or by circumstantial
15 evidence from which malice may be reasonably inferred.

16 And an inference simply being a deduction of fact
17 which may logically and reasonably be drawn from the proof
18 of some other fact or set of facts. In other words, you
19 may infer that a particular event occurred or that a
20 particular fact exists based upon the proof of sufficient
21 factual circumstances which would reasonably warrant your
22 arriving at a particular conclusion.

23 Malice in this case of murder, as an essential element
24 of the crime of murder, does not necessarily require any
25 proof of an ill will or a hatred towards a particular

Jury charge

1 individual who is killed, nor does it necessarily require
2 proof of an actual or a specific intent to take human life,
3 but rather it means a state of mind accompanying conduct
4 signifying a general malignant recklessness and an extreme
5 disregard for or an extreme indifference to human life.

6 The state is required to prove malice, just as it must
7 prove any other essential element of the crime charged.
8 And it is for you 12 jurors to determine whether or not the
9 evidence in this case establishes malice beyond a
10 reasonable doubt.

11 It is also essential that there exist not only malice
12 but that it be malice aforethought. The law does not
13 require that malice must be shown to have existed for any
14 appreciable length of time before the commission of an act
15 proximately causing the fatal result. Indeed, it may have
16 been conceived at the very moment that the fatal act is
17 committed.

18 It is sufficient in the law so long as the state does
19 prove beyond a reasonable doubt both the existence of
20 malice and the commission of an act or acts which
21 proximately caused the fatal result.

22 You must determine whether or not malice aforethought
23 existed based upon your consideration of all of the
24 evidence introduced in the trial of this case and any
25 reasonable inferences that might be drawn from that

Jury charge

1 evidence.

2 Now, while the state must prove beyond a reasonable
3 doubt that a killing did occur accompanied by malice
4 aforethought in order to establish the crime of murder, it
5 is not necessary that the state prove any motive for that
6 killing. Motive is not an essential element of the crime
7 of murder which has to be proven, although there may be
8 evidence relating to that fact introduced during the trial
9 of the case.

10 The next indictment that I will address is the
11 indictment charging the defendant with attempted murder.
12 And while attempted murder may sound logically to you like
13 it's an attempt to commit the crime I just described,
14 attempted murder actually has different elements than does
15 the crime of murder.

16 Section 16-3-29 of the South Carolina Code of Laws
17 provides that a person who with intent to kill attempts to
18 kill another person with malice aforethought, either
19 expressed or implied, commits the offense of attempted
20 murder.

21 In order for you to find the defendant guilty of the
22 crime of attempted murder it would be necessary that the
23 evidence in this case has established to your satisfaction
24 beyond a reasonable doubt that the defendant or an
25 accomplice, where the defendant is shown to have acted in

Jury charge

1 concert with another, did with malice aforethought and a
2 specific intent to kill commit some overt act or acts in an
3 attempt to kill Casey Scruggs.

4 An attempt is the commission of an overt act or acts
5 done in furtherance of the intent to do a specific thing
6 which tends towards the accomplishment of the intended goal
7 but which falls short of completion.

8 An attempt to commit a crime means an effort towards
9 or the doing of an act or acts which directly move toward
10 the completion of the commission of the crime intended.
11 And in this case that would be the crime of murder.

12 As I have stated, malice aforethought is defined as an
13 element of the offense of murder. And the same malice
14 aforethought and the same definition for malice
15 aforethought applies to the commission of the crime of
16 attempted murder.

17 Unlike the crime of murder, the crime of attempted
18 murder does require a specific intent to kill. A specific
19 intent to kill is an essential element of the crime of
20 attempted murder, and that means that the defendant
21 consciously intended the commission of the acts that
22 constitute the attempt to commit murder.

23 The element of the intent to kill may be inferred from
24 acts, declarations and conduct of the defendant, as well as
25 from any other circumstances established by the evidence in

Jury charge

1 this case from which you might reasonably infer such an
2 intent, as often a person's intent may only be established
3 by circumstantial evidence and circumstances from which you
4 might infer that intent.

5 Therefore, in order to establish the crime of
6 attempted murder it would be necessary that the evidence in
7 this case establishes that the defendant did with malice
8 aforethought and a specific intent to kill commit some
9 overt acts in the attempt to kill Casey Scruggs without
10 justification or legal excuse.

11 The next indictment I'll address is the indictment
12 charging the defendant with the crime of kidnapping.

13 The crime of kidnapping is also a statutorily defined
14 crime, and that is set forth in Section 16-3-910 of the
15 Code of Laws of South Carolina. And that statute provides
16 in its pertinent parts that whosoever shall unlawfully
17 seize, confine, inveigle, decoy, kidnap, abduct or carry
18 away any other person by any means whatsoever without the
19 authority of law is guilty of the crime of kidnapping.

20 In order for the defendant to be found guilty of a
21 violation of this particular statute it would be necessary
22 that the state has proven to your satisfaction beyond a
23 reasonable doubt each of the essential elements of the
24 crime of kidnapping.

25 And the essential elements of the crime of kidnapping

Jury charge

1 are the following: First of all, that the defendant did
2 seize or confine or kidnap or abduct or carry away any
3 person by some means or method and that one or more of the
4 above acts was done without authority of law.

5 The term seize means to take hold of suddenly and
6 forcibly. The term confine means to imprison or to
7 restrain or to restrict a person's freedom in any
8 significant way. The terms inveigle and decoy mean to
9 lure, entice or lead astray by false representations or
10 promises or other deceitful means. The term abduct means
11 to take a person away against her will and without consent.

12 The term kidnap means to carry a person away through
13 the use of force and against her will and without authority
14 of law.

15 And the term without authority of law simply means
16 that the conduct engaged in was not permitted, sanctioned,
17 condoned, allowed or justified under the law.

18 Now, in order for the defendant to be found guilty of
19 a violation of this particular statute the state does not
20 have to prove each of the terms -- seize, confine,
21 inveigle, decoy, kidnap, abduct or carry away. Proof of
22 any one or more of those prohibited acts is sufficient so
23 long as at least one was done without authority of law and
24 without the consent of the person alleged to have been
25 kidnapped.

Jury charge

1 And the remaining indictment that I will address is --
2 charges the defendant with the crime of armed robbery.

3 Again, armed robbery is a statutory offense, and that
4 crime is set forth in Section 16-11-330 of the Code of Laws
5 of South Carolina.

6 That statute provides that a person who commits the
7 crime of robbery while armed with a pistol, dirk,
8 slingshot, metal knuckles, razor or any other deadly
9 weapon, or while alleging, either by action or words, that
10 he is armed while using a representation of a deadly weapon
11 or any object which a person present during the commission
12 of the robbery reasonably believed to be a deadly weapon is
13 guilty of the crime of armed robbery.

14 Robbery is defined as a larceny by force or the threat
15 of the use of force. Robbery is defined in the law as the
16 taking, the stealing and the carrying away of the person's
17 property, another person's property, with intent to steal
18 it from that person or the presence of that person by the
19 use of force or violence or by the threat of the use of
20 force or violence, that is by way of intimidation in order
21 to accomplish the theft.

22 And a thing is deemed to be in the presence of a
23 person with respect to the crime of robbery when the
24 property is so within his or her reach, observation or
25 control that he or she could, if not overcome by violence

Jury charge

1 or prevented by fear, retain possession of it.

2 A robbery is the forcing of a person to surrender
3 property with the intent to steal it by the use of force or
4 violence or by threatening a person with the use of force
5 or violence in order to accomplish the theft.

6 A robbery becomes an armed robbery when the person --
7 excuse me -- a robbery becomes an armed robbery when the
8 robbery is accomplished through the use of a pistol or
9 other deadly weapon.

10 You are further instructed that with regard to any
11 crime one who is charged with the commission of a crime may
12 be convicted as the principal offender or as an accomplice.

13 An accomplice is one who knowingly and voluntarily and
14 with a common intent with the principal offender unites
15 with that principal offender in the commission of a crime.
16 An accomplice is often referred to as an aider or abettor
17 in the commission of the crime.

18 In this case the state alleges that the defendant is
19 guilty of the crimes alleged in each of these indictments
20 as either a principal offender or as an accomplice.

21 The legal theory of accomplice liability may be
22 applicable in this case depending upon your determination
23 of the facts as you consider the evidence.

24 You are instructed that where two or more persons act
25 together with a common intent and purpose and they combine,

Jury charge

1 conspire, plan or otherwise agree to the commission of a
2 crime, each person who is present to aid, abet, assist or
3 otherwise participate in the commission of that crime is
4 equally guilty.

5 The act of one is deemed to be the act of all, and any
6 person who joins with another or others to accomplish an
7 illegal purpose is held to be criminally responsible for
8 everything that done by any other person which occurs as a
9 natural and probable consequence of the acts done pursuant
10 to and in furtherance of the common plan and purpose.

11 And therefore where two or more persons are acting
12 together and they are aiding, abetting, assisting and
13 participating with each other in committing a crime, the
14 acts of one become the acts of all. The hand of one
15 becomes the hand of all. And all are equally guilty of any
16 crime which is accomplished by those joint efforts.

17 In order for the defendant to be found guilty of a
18 crime under the legal theory of aiding and abetting it must
19 be proven beyond a reasonable doubt that the defendant was
20 present at the scene of the crime with the intention of
21 aiding, abetting, assisting or participating in the common
22 plan or scheme which culminates in the commission of the
23 crime.

24 Under a theory of accomplice liability two or more
25 people may be guilty of an unlawful homicide, even though

Jury charge

1 only one person actually commits the act which is directly
2 responsible for the death of another.

3 Therefore, when two or more persons combine, conspire
4 or agree to the commission of a felony such as a burglary
5 or a robbery, and then in the commission of criminal acts
6 done in furtherance of that crime a homicide is committed
7 by one of the participants which is a natural and probable
8 consequence of those acts done in furtherance of the common
9 plan, all who are present and participating in those
10 criminal acts are equally as responsible as the one who
11 actually commits directly the fatal act.

12 The common purpose may not have been to kill anyone at
13 all, but if during the commission of a felony a homicide is
14 committed by one of the participants which is a natural and
15 probable consequence of the acts done in furtherance of the
16 common plan, then each person who is present aiding,
17 abetting, assisting and participating in that common design
18 are equally guilty of the homicide, just as the principal
19 offender himself or herself.

20 Ladies and gentlemen, I further instruct you, and I
21 emphasize to you, that the fact that a defendant during the
22 trial of a criminal case does not take the witness stand
23 and testify during that trial is not a circumstance that
24 may be considered by you in any way during your
25 deliberations or in your determination as to whether or not

Jury charge

1 his guilt has been proven beyond a reasonable doubt, and
2 you may not allow such a fact to weigh in the slightest
3 degree against a defendant.

4 As I've already stated, the burden is always on the
5 state to prove the defendant guilty because they brought
6 the charge, they made the accusation. The burden is never
7 upon a defendant to prove that he or she is not guilty or
8 to prove that he or she is innocent because in some cases
9 that might not be possible.

10 And therefore you shall not reach any conclusion nor
11 draw any inference from the fact that a defendant does not
12 testify during the trial, nor may that fact even be
13 discussed by you while you are engaged in your
14 deliberations in this case.

15 Now, during your deliberations there may come a time
16 where you have a question about the facts or evidence in a
17 case.

18 I am never permitted to answer questions that relate
19 to issues of fact. You have to resolve those issues based
20 upon your consideration of the evidence or lack of evidence
21 in a case. And I'm never permitted to give you any
22 guidance on your determination of factual issues. So don't
23 inquire of me as to any issue of fact.

24 Also, no additional evidence can be introduced now
25 that the case is closed and you're going back to begin

Jury charge

1 deliberations.

2 So even if there's something out there that you think
3 might be of benefit to you, to help you, if it was not
4 introduced during the trial it cannot be received now.

5 If you have a question about a witness' testimony, I
6 do not have transcripts of the testimony. But if you would
7 like to have a witness' testimony replayed in whole or in
8 part, we can bring you back into the courtroom to have a
9 witness' testimony reheard if that will assist you.

10 If you ever have a question about the law that is
11 applicable, I am always permitted to answer those
12 questions. So should you require a reinstruction or you
13 simply need an explanation or a clarification on some point
14 of law that I provided, then I'll be happy to answer those
15 questions and provide that reinstruction, clarification or
16 explanation.

17 Madam Forelady, if at any time during your
18 deliberations something arises that needs to be brought to
19 my attention, if you'll write it on a piece of paper, give
20 it to the bailiff, he or she will provide that to me and I
21 will respond accordingly.

22 If we have smokers on the jury, you can smoke during
23 deliberations, but you can't smoke in the courthouse. You
24 have to go outside to accomplish that purpose. So if
25 anybody wants to smoke, let the bailiff know. He or she

Jury charge

1 will take you outside.

2 You are however instructed that if any juror is absent
3 for any authorized purpose the deliberations have to stop,
4 and they may only resume when all 12 jurors are present so
5 that all may participate.

6 Now, Madam Forelady, along with the evidence that has
7 been introduced you will have the indictments which will
8 serve as the verdict forms.

9 On the back of each indictment in the lower left-hand
10 corner you'll see the word verdict, and it's beneath that
11 word that you're going to indicate the jury's decision as
12 it relates to that particular charge.

13 As to each of the separate indictments -- and there
14 are five -- there are two potential verdict forms relating
15 to each. Those two potential verdict forms are guilty and
16 not guilty.

17 So whatever that decision is as it relates to that
18 particular charge, please indicate it in the space
19 provided, sign your name as the foreperson and place the
20 appropriate date, which is today, the 24th of May.

21 You're the only juror that needs to sign the verdict
22 form, so you'll be the only person that signs.

23 Once you have -- you and your fellow jurors have
24 reached those unanimous decisions and you have indicated
25 those decisions on the indictments as requested, you'll

Jury charge

1 notify the bailiff by knocking on the jury room door.

2 Let the bailiff know that you have reached those
3 decisions, and we'll bring you back into the courtroom to
4 receive your verdicts.

5 while -- after -- once you have reached those
6 decisions and you notify the bailiff, you may give the
7 bailiff the evidence that was introduced during the trial,
8 but you will hold on the verdict forms. I will receive
9 these verdict forms from the foreperson after you have come
10 back into the courtroom. So you maintain possession of the
11 verdict forms.

12 As far as your lunches go, it's already been ordered
13 and it should be here, I'm guessing, now. If not, it will
14 be here shortly.

15 So as you go back -- I'll send you word when to
16 deliberate, but when you get your lunches if you want to
17 stop deliberations and eat lunch and then resume, that's
18 fine. I'll leave that up to you. You can deliberate while
19 you eat if you prefer to do that. That's your decision.

20 Before you can begin deliberations I've got matters
21 I'll need to address with the lawyers. If I don't need to
22 bring you back for any reason, then I'll simply send word
23 by way of the bailiff that you may begin your
24 deliberations.

25 In that event he or she will bring to the jury room

Jury charge

1 all of the exhibits which have been introduced, as well as
2 the indictments which will serve as the verdict form.

3 And if I do need to bring you back for some reason,
4 then I'll do so.

5 But, in any event, don't begin deliberations until you
6 are instructed to begin those deliberations by the bailiff.

7 Okay. So please retire to your jury room and await my
8 instruction as to when to begin.

9 (Whereupon, the jury retired to deliberate at
10 1:15 p.m.)

11 THE COURT: Are there any exceptions taken to the
12 instruction or requests for additions to the instruction by
13 the state?

14 MR. BULSA: No, Your Honor.

15 THE COURT: By the defendant?

16 MR. SHEALY: No, Your Honor.

17 THE COURT: Let me ask y'all to verify the exhibits,
18 please, before they go back.

19 (Pause.)

20 THE COURT: All of the exhibits are accounted for?

21 MR. BULSA: Yes, sir.

22 MR. SHEALY: Yes, sir.

23 THE COURT: Let me see y'all, please.

24 (Bench conference held off the record.)

25 THE COURT: All right. Tell the jury to begin

Verdict

1 deliberations and notify us when they've concluded.

2 we'll be at ease while they are deliberating.

3 (Whereupon, the exhibits were submitted to the jury at
4 1:20 p.m.)

5 (Whereupon, a recess was taken.)

6 (D.V.D. of Guilford County Jail telephone call marked
7 Court's Exhibit No. 1; D.V.D. of Guilford County Jail
8 telephone call marked Court's Exhibit No. 2; D.V.D. of
9 Guilford County Jail telephone call marked Court's Exhibit
10 No. 3.)

11 THE COURT: I'm told the jury has reached a decision.
12 Are we ready to receive it?

13 MR. BULSA: Yes, sir.

14 MR. SHEALY: Yes, sir.

15 THE COURT: Okay. Bring them in.

16 (Whereupon, the jury returned to the courtroom at
17 2:12 p.m. to report its verdict.)

18 THE COURT: Madam Forelady, have you and your fellow
19 jurors reached unanimous decisions as it relates to each of
20 the separate indictments?

21 THE FOREPERSON: Yes, we have.

22 THE COURT: And have you reflected those decisions on
23 the back of those respective indictments?

24 THE FOREPERSON: Yes, I have.

25 THE COURT: Did you sign your name and date it?

Verdict

1 THE FOREPERSON: Yes.

2 THE COURT: Okay. If you will, please, hand those up
3 by way of the bailiff.

4 You may publish the verdicts.

5 THE CLERK: The State of South Carolina, County of
6 Spartanburg, Indictment No. 2017-GS-42-0523, in the Court
7 of General Sessions, the State vs. Steven Richard Lewis,
8 indictment for burg first, we, the jury, find the defendant
9 guilty.

10 The State of South Carolina, County of Spartanburg,
11 Indictment No. 2015-GS-42-3789, Court of General Sessions,
12 the State vs. Richard Steven Lewis, indictment for murder,
13 we, the jury, find the defendant guilty.

14 The State of South Carolina, County of Spartanburg,
15 Indictment No. 2015-GS-42-3790, the Court of General
16 Sessions, the State vs. Steven Richard Lewis, indictment
17 for attempted murder, we, the jury, find the defendant
18 guilty.

19 The State of South Carolina, County of Spartanburg,
20 Indictment No. 2017-GS-42-0524, the Court of General
21 Sessions, the State vs. Steven Richard Lewis, indictment
22 for armed robbery, we, the jury, find the defendant guilty.

23 The State of South Carolina, County of Spartanburg,
24 Indictment No. 2015-GS-42-3788, the Court of General
25 Sessions, the State vs. Steven Lewis, indictment for

Verdict

1 kidnapping, we, the jury, find the defendant guilty.

2 signed by the foreperson on 5/24/2017.

3 Ladies and gentlemen of the jury, if this is your
4 verdict and still your verdict, please raise your right
5 hand.

6 (Whereupon, all responded in the affirmative.)

7 THE CLERK: So say y'all.

8 THE COURT: Does the defendant wish to have the jury
9 polled?

10 MR. SHEALY: Yes, Your Honor.

11 THE COURT: All right. Poll the jury, please, ma'am.

12 THE CLERK: Ladies and gentlemen of the jury, I will
13 pose a question to you; after which I will ask you to stand
14 and individually respond to my question, the question being
15 is this your verdict and still your verdict.

16 Juror No. 38, Taylor Crofts.

17 THE JUROR: Yes.

18 THE CLERK: Juror No. 178, Joshua Xiong.

19 THE JUROR: Yes.

20 THE CLERK: Juror No. 116, Adam Patrick.

21 THE JUROR: Yes.

22 THE CLERK: Juror No. 25, Caleb Calsing.

23 THE JUROR: Yes.

24 THE CLERK: Juror No. 105, Shaun Moolman.

25 THE JUROR: Yes.

Verdict

1 THE CLERK: Juror No. 84, Anita Kupczak.

2 THE JUROR: Kupczak. Yes.

3 THE CLERK: Juror No. 134, Jermaine Robinson.

4 THE JUROR: Yes.

5 THE CLERK: Juror No. 104, Blas Miyares.

6 THE JUROR: Yes.

7 THE CLERK: Juror No. 112, Danny Painter.

8 THE JUROR: Yes.

9 THE CLERK: Juror No. 174, Chandler Wilson.

10 THE JUROR: Yes.

11 THE CLERK: Juror No. 92, Emma Lucas.

12 THE JUROR: Yes.

13 THE CLERK: Juror No. 21, Breanca Brown.

14 THE JUROR: Yes.

15 THE CLERK: The jury has been polled.

16 THE COURT: Are there any other matters to be
17 addressed with the jury present?

18 MR. BULSA: No, sir.

19 MR. SHEALY: No, sir.

20 (Whereupon, the trial jury was excused.)

21 THE COURT: All right. Any matters to be addressed
22 prior to the imposition of sentence?

23 MR. BULSA: No, sir.

24 MR. SHEALY: Judge, we move for a -- we would renew
25 our prior objection. We would also move for a new trial

Sentence

1 based on those prior objections.

2 THE COURT: All right. That motion is denied.

3 MR. SHEALY: That's -- those were my motions.

4 THE COURT: And they are denied.

5 MR. SHEALY: Thank you.

6 (Pause.)

7 THE COURT: Okay. Anything further on behalf of the

8 state?

9 MR. BULSA: Your Honor, Mr. Mauldin's parents would

10 like to address the Court.

11 THE COURT: Okay.

12 MIKE MAULDIN: My name is Mike Mauldin. This is my

13 wife Lynn. Hardest thing in the world is to bury a son.

14 We lost a son. Chris and Holly lost a brother. Jackson

15 and Hannah lost an uncle. He will be truly missed.

16 We ask that you consider the maximum penalty under

17 South Carolina law for each indictment. Thank you.

18 THE COURT: Thank you.

19 MR. BULSA: Nothing further, Your Honor.

20 THE COURT: All right. Any history?

21 MR. BULSA: No, sir.

22 THE COURT: All right. Mr. Shealy.

23 MR. SHEALY: Thank you, Judge.

24 Mr. Lewis is 31 years old. He has a twelfth grade

25 education.

Sentence

1 He's been in jail since he was arrested on this
2 charge. That is 731 days.

3 He does build cell phone towers and basically worked
4 for -- worked for himself but as a contractor for various
5 people, sometimes in Boiling Springs and other places
6 around the Southeast.

7 Your Honor, obviously he's still denying that he had
8 any part in this. He staunchly denies that. Having said
9 that, we would ask that you be as lenient as you can.

10 He does not have any prior record. There is no
11 evidence that this is his character. So we would ask you
12 be as lenient as you can.

13 THE COURT: All right. Mr. Lewis, anything you want
14 to add to what your lawyer has told me?

15 THE DEFENDANT: No, sir.

16 THE COURT: On Indictment 2015-3789 -- that's an
17 indictment for murder -- wherein you have been found guilty
18 by the jury for that offense, the Sentence of the Court is
19 that you, Steven Richard Lewis, be confined to the
20 Department of Corrections for the balance of your natural
21 life.

22 Indictment 2015-3790, attempted murder, wherein you
23 have been found guilty by the jury for that offense, the
24 Sentence of the Court is you be confined to the South
25 Carolina Department of Corrections for a period of 30

Sentence

1 years.

2 That sentence is consecutive to that sentence imposed
3 on 2015-3789.

4 Indictment 2017-523, an indictment for burglary in the
5 first degree, wherein you have been found guilty by the
6 jury for that offense, the sentence is you be confined to
7 the South Carolina Department of Corrections for the
8 balance of your natural life.

9 Indictment 2017-524, an indictment for armed robbery,
10 wherein you have been found guilty by a jury for that
11 offense, the Sentence of the Court is you be confined to
12 the South Carolina Department of Corrections for a period
13 of 30 years.

14 As to Indictment 2015-3788, you having been found
15 guilty by a jury for the offense of kidnapping, the
16 sentence is not imposed pursuant to Sections 16-3-910 and
17 16-3-20.

18 Mr. Lewis, you have a right to appeal the verdicts of
19 the jury and the Sentence of the Court. You must file any
20 notice of your intent to appeal those decisions within ten
21 days of today's date.

22 END OF REQUESTED TRANSCRIPT OF RECORD

23

24

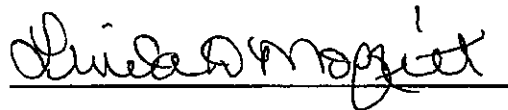
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 22nd, 23rd and 24th days of May 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

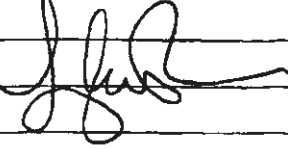
August 18, 2017

A handwritten signature in cursive script, reading "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

WITNESSES

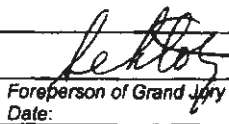
Sheriff's Office



ARREST WARRANT NUMBER

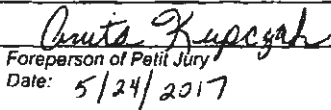
Direct Indictment

ACTION OF GRAND JURY



AUG 21 2015

VERDICT

Foreperson of Petit Jury

Date: 5/24/2017

DOCKET NO

15-00-02-3788

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 24 2015 TERM

THE STATE
vs.

Steven Lewis

Indictment for
KIDNAPPINGSC Code: 16-03-910
CDR Code: 0095
Class FEL-A

1. SENTENCE MADE
2. REPORT ENDBO
3. CARD PULLBO
- INDEXED
5. CHECKED WARRANTS
4. CHECKED SIGNATURE
7. ASSESSMENT AND FINE CARD MADE
8. TRAFFIC VIOLATION COPY

COMPUTER

COMPUTER

2015 AUG 25 PM 2:14
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

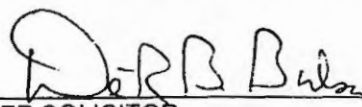
INDICTMENT

At a Court of General Sessions, convened on AUG 21 2015, the
 Grand Jurors of Spartanburg County present upon their oath:

KIDNAPPING

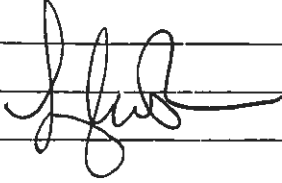
That Steven Lewis did in Spartanburg County on or about May 22, 2015 unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away Casey Scruggs without authority of law, in violation of §16-3-910, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such
 case made and provided.


 DEP SOLICITOR

WITNESSES

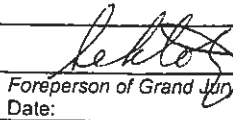
Spartanburg County Sheriff's Office



ARREST WARRANT NUMBER

2015A4210101866

ACTION OF GRAND JURY


AUG 21 2015
Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

15-GS-42-3789

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 24 2015 TERM

THE STATE

vs.

Steven Richard Lewis

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 AUG 25 PM 2:14
M. HOPE BLANCHLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

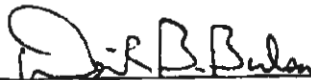
AUG 21 2015

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

MURDER

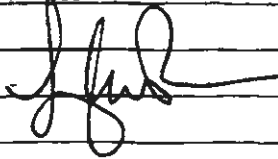
The Defendant, Steven Richard Lewis, did in Spartanburg County on or about May 22, 2015, feloniously, willfully, and with malice aforethought, kill one [REDACTED] by shooting the victim and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


Deputy Solicitor

WITNESSES

Sheriff's Office



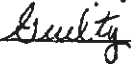
ARREST WARRANT NUMBER

2015A4210101864

ACTION OF GRAND JURY


 Foreperson of Grand Jury
 Date:

VERDICT



 Foreperson of Petit Jury
 Date:

5/24/2017

DOCKET NO.

15-GS-42-3790

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 24 2015

TERM

THE STATE
vs.

Steven Richard Lewis

Indictment for
ATTEMPTED MURDERSC Code: 16-3-0029
CDR Code: 3410
Class FEL-A

- 1. SENTENCE MADE
- 2. REPORT ENTERED
- 3. CARD PULLED
- INDEXED
- 4. CHECKED WARRANTS
- 5. CHECKED SIGNATURE
- 7. ASSESSMENT AND FINE CARD MADE
- 8. TRAFFIC VIOLATION COPY

COMPUTER

COMPUTER

 2015 AUG 25 PM 2:14
 M. HOPE BLACKLEY

a62

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

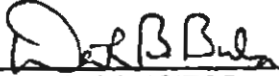
AUG 21 2015

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED MURDER

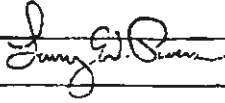
That Steve Richard Lewis did in Spartanburg County on or about May 22, 2015,
with malice aforethought attempt to kill [REDACTED] by shooting her, with the intent to
kill the said victim, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH
CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


DEPUTY SOLICITOR

WITNESSES

SCSO



ARREST WARRANT NUMBER

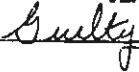
Direct Indictment

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: FEB 24 2017

VERDICT



Foreperson of Petit Jury

Date: 5/24/2017

DOCKET NO.

17-GS-42-0523

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 2 2017

TERM

THE STATE
vs.

Steven Richard Lewis

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-6311

CDR Code: 0079

Class: FEL/EXM (V)

1. SENTENCE MADE

REPORT ENTERED

2. CARD PULLED

INDEXED

3. CHECKED WARRANTS

4. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

COMPUTER

COMPUTER

2017 FEB 16 PM 4:38

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

FEB 24 2017

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Steven Richard Lewis did in Spartanburg County on or about May 22, 2015 did enter a dwelling located at 3828 Hwy 11, Chesnee, SC without consent and with intent to commit a crime in the dwelling, and either:

(1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

(a) is armed with a deadly weapon or explosive; or

(b) causes physical injury to a person who is not a participant in the crime;

or

(c) uses or threatens the use of a dangerous instrument; or

(d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or

not applicable } ~~(2) the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or~~

(3) the entering or remaining occurs in the nighttime,

In violation of §16-11-311, Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

Jimmy W. Owens

ARREST WARRANT NUMBER

Direct Indictment

ACTION OF GRAND JURY

A. Evans
Foreperson of Grand Jury
Date: FEB 24 2017

VERDICT

*Guilty**Antia C. Kappach*
Foreperson of Petit Jury
Date: 5/24/2017

DOCKET NO.

17-GS-42-0524

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 2 2017

TERM

THE STATE
vs.

Steven Richard Lewis

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)
CDR Code: 138
Class FEL/A

1. SENTENCE MADE

2. REPORT ENDED

3. CARD FULL

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

COMPUTER

COMPUTER

FILED
COURT
2017 MAY 24 PM 3:27
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

FEB 24 2017

At a Court of General Sessions, convened on _____ the Grand
 Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That Steven Richard Lewis did in Spartanburg County on or about May 22, 2015, rob
 [REDACTED] and [REDACTED] at 3828 Hwy 11, Chesnee, SC by means of force or
 intimidation, while armed with a pistol, a deadly weapon, by feloniously taking from the
 person or presence of [REDACTED] and [REDACTED] a Chrysler PT Cruiser,
 electronics, and other goods, with intent to deprive the owners permanently of such
 property, in violation of §§16-11-330 (A), *THE CODE OF LAWS OF SOUTH
 CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case
 made and provided.



 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Steven Richard Lewis

AKA:

Race: WHITE Sex: M Age: 31

DOB: [REDACTED] SS#: [REDACTED]

Address: 1403 Circle Drive

City, State, Zip: N. Myrtle Beach, SC

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Kidnapping

INDICTMENT/CASE#: 2015GS4203788

A/W#: 2015GS4203788

Date of Offense: 5/22/2015

S.C. Code § : 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Derrick B. Bulsa 15264 [Signature] [Signature] 77727
BULSA, DERRICK SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of _____ 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 the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code:

Sentence Date:

_____ days/hours Public Service Employment

Obtain 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 Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS.
Steven Richard Lewis

AKA:

Race: WHITE Sex: M Age: 31

DOB: [REDACTED] SS#: [REDACTED]

Address: 1403 Circle Drive

City, State, Zip: N. Myrtle Beach, SC

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: MurderIN THE COURT OF GENERAL SESSIONS **COMPUTER**

INDICTMENT/CASE#: 2015GS4203789

A/W#: 2015A4210101866

Date of Offense: 5/22/2015

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: B. R. B. Bulsa 15264 [Signature] [Signature] 77727
BULSA, DERRICK SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. or Job Corp. Recipient: May serve W/E beginning *Fine: Substance Abuse Counseling ☐§ 14-1-206 (Assessments 107.5 %) Random Drug/Alcohol testing ☐§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ pmts. of \$ beginning § 56-5-2995 (DUI Assessment) \$12 \$ \$ paid to Public Defender Fund§ 56-1-286 (DUI Breath Test) \$25 \$ Other: Proviso 61.6 (Public Def/Probation) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114 (DUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ 3.75TOTAL: \$ 128.75Clerk of Court/ Deputy Clerk C. PooleCourt Reporter: C. Moffitt

SCCA217 (07/2016)

Presiding Judge

Judge Code: 2053Sentence Date: 2015

SCANNED

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Steven Richard Lewis

AKA:

Race: WHITE Sex: M Age: 31

DOB: [REDACTED] SS#: [REDACTED]

Address: 1403 Circle Drive

City, State, Zip: N Myrtle Beach, SC

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

IN THE COURT OF GENERAL SESSIONS

COMPUTER

INDICTMENT/CASE#: 2015GS4203790

A/W#: 2015A4210101864

Date of Offense: 5/22/2015

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BULSA, DERRICK

SC Bar# 15264

Defendant

Attorney for Defendant

SC Bar# 77721

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed 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 the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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 \$100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$3.75

TOTAL \$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 2053

Sentence Date:

PTUP days/hours Public Service Employment

Obtain 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 Fund

Other:

☐ Appointed PD or appointed other counsel. Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2053

Sentence Date:

COMPUTER

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Steven Richard Lewis

AKA:

Race: WHITE Sex: M Age: 31

DOB: [REDACTED] SS#: [REDACTED]

Address: 1403 Circle Drive

City, State, Zip: N. Myrtle Beach, SC

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary (After June 20, 1985) - First degree

INDICTMENT/CASE#: 2017GS4200523

A/W#: 2017GS4200523

Date of Offense: 5/22/2015

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 w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: B. B. Bulsa 15264 [Signature] 77727
BULSA, DERRICK SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life 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 the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 56-1-286 (DUI Breath Test)	\$25 \$
Proviso 61.6 (Public Def/Probation)	\$500 \$
§ 14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150 \$
§ 50-21-114(BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk C. PooleCourt Reporter: L. Moffitt

SCCA/217 (07/2016)

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.Presiding Judge [Signature]Judge Code: 205.3Sentence Date: July 24, 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COMPUTER

COUNTY OF SPARTANBURG
STATE VS.

Steven Richard Lewis

AKA:

Race: WHITE Sex: M Age: 31

DOB: [REDACTED] SS#: [REDACTED]

Address: 1403 Gentle Drive

City, State, Zip: N. Myrtle Beach, SC

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

INDICTMENT/CASE#: 2017GS4200524

A/W#: 2017GS4200524

Date of Offense: 5/22/2015

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

BULSA, DERRICK

SC Bar# 15264

Defendant

Attorney for Defendant

SC Bar# 77724

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ 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 the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

_____ days/hours Public Service Employment

Obtain 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 Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code: 2053

Sentence Date: 2017

SCANNED

STATE OF SOUTH CAROLINA)

COUNTY OF Spartanburg)

Steven Richard Lewis #372728)

Plaintiff(s))

vs.)

State of South Carolina)

Defendant(s))

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2019-CP-42-02014

(Please Print)

Submitted By: Steven R. Lewis

Address: L.C.I. Stone-B-51

P.O. Box #205

Ridgeville, S.C. 29472

SC Bar #:

Telephone #:

Fax #:

Other: Pro-se

E-mail:

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint ☐ NON-JURY TRIAL demanded in complaint
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts	Torts - Professional Malpractice	Torts - Personal Injury	Real Property
☐ Constructions (100)	☐ Dental Malpractice (200)	☐ Assault/Slander/Libel (300)	☐ Claim & Delivery (400)
☐ Debt Collection (110)	☐ Legal Malpractice (210)	☐ Conversion (310)	☐ Condemnation (410)
☐ Employment (120)	☐ Medical Malpractice (220)	☐ Motor Vehicle Accident (320)	☐ Foreclosure (420)
☐ General (130)	Previous Notice of Intent Case #	☐ Premises Liability (330)	☐ Mechanic's Lien (430)
☐ Breach of Contract (140)	20-CP-_____	☐ Products Liability (340)	☐ Partition (440)
☐ Other (199)	☐ Notice/ File Med Mal (230)	☐ Personal Injury (350)	☐ Possession (450)
	☐ Other (299)	☐ Wrongful Death (360)	☐ Building Code Violation (460)
		☐ Other (399)	☐ Other (499)
Inmate Petitions	Judgments/Settlements	Administrative Law/Relief	Appeals
☒ PCR (500)	☐ Death Settlement (700)	☐ Reinstate Driver's License (800)	☐ Arbitration (900)
☐ Mandamus (520)	☐ Foreign Judgment (710)	☐ Judicial Review (810)	☐ Magistrate-Civil (910)
☐ Habeas Corpus (530)	☐ Magistrate's Judgment (720)	☐ Relief (820)	☐ Magistrate-Criminal (920)
☐ Other (599)	☐ Minor Settlement (730)	☐ Permanent Injunction (830)	☐ Municipal (930)
	☐ Transcript Judgment (740)	☐ Forfeiture-Petition (840)	☐ Probate Court (940)
	☐ Lis Pendens (750)	☐ Forfeiture-Consent Order (850)	☐ SCDOT (950)
	☐ Transfer of Structured Settlement Payment Rights Application (760)	☐ Other (899)	☐ Worker's Comp (960)
	☐ Other (799)		☐ Zoning Board (970)
			☐ Administrative Law Judge (980)
Special/Complex /Other			☐ Public Service Commission (990)
☐ Environmental (600)	☐ Pharmaceuticals (630)		☐ Employment Security Comm (991)
☐ Automobile Arb. (610)	☐ Unfair Trade Practices (640)		☐ Other (999)
☐ Medical (620)	☐ Out-of State Depositions (650)		
☐ Other (699)	☐ Sexual Predator (510)		

Submitting Party Signature: _____

Date: 5/29/19

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Spartanburg)

Steven Richard Lewis #372738
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2019 CP42 02014

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber Correctional Institution
2. Name and location of Court which imposed sentence General Sessions Spartanburg
3. Name(s) of co-defendant(s) (if any) Drew Cash
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-42-0523 Burg. 1st, life, 2017-GS-42-524 Armed Robbery, 30 yrs.
 - (b) 2018-GS-42-3790 Att. Murder, 30 yrs., 2015-GS-42-3789 Murder, life
 - (c) 2015-GS-42-3788 kidnapping no sentence pursuant 16-3-910, 16-3-20
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) May 24, 2017 3789 life and 3790 30 yrs. consecutive
 - (b) 0523 life and 0524 30 yrs
3788 0 yrs.

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed / Appeal Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. May 1, 2019
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2019-UP-155
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

2019-UP-155

(a) SEE ATTACHMENTS

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) SEE ATTACHMENTS

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? Yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Direct Appeal, Anders brief and Pro-se brief

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Affirmed

ii. _____

iii. _____

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- iv. _____
- (d) the date of each such disposition:
- i. May 1, 2019
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. Unpublished Opinion No. 2019-UP-155
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
No
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) All grounds in 10 are properly under ineffective assistance of counsel
- (b) Appellate briefs grounds are trial court and prosecutorial issues
- (c) _____
17. Were you represented by an attorney at any time during the course of:

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- (a) your arraignment and plea? Yes
- (b) your trial, if any? Yes
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Matthew William Shealy Esq., Spartanburg Public Defender
 - ii. Robert M. Dulek, Office of Appellate Defense
 - iii.
- (b) the proceedings at which each such attorney represented you:
 - i. Arraignment, trial, Sentencing
 - ii. Appeal
 - iii.

19. State clearly the relief you seek in filing this application:

Vacate conviction Remand for new trial

20. Are you now under sentence from any other court that you have not challenged?

No

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STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

I, S.R.L., being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 29th
day of May, 2019

 (L.S.)
Notary Public

My Commission Expires: 6-20-26

2019 MAY 4 PM 5:13

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, SRL, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

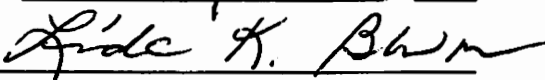
- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.



Applicant

SWORN or affirmed to and subscribed before me this

29th day of May, 2017.



Notary Public

My Commission Expires: 6-20-26

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Attachment

10(a): Applicant was denied the right to effective assistance of counsel - guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution - during the guilt-or-innocence phase of his jury trial.

11(a): Supporting facts: Trial counsel's performance during the guilt-or-innocence phase was both unreasonable and prejudicial. See Strickland v. Washington, 466 U.S. 668 (1984). Counsel's acts or omissions included, but are not limited to, the following:

A. Defense counsel's performance fell below an objective standard of reasonableness where counsel failed to move to dismiss two superseding indictments.

The superseding indictments, 17-GS-42-0523, 0524 violated 18 U.S.C. § 3161 when the original indictments in the original complaint were filed on August 24, 2015, the superseding indictments were filed on February 2, 2017 stemming from the original complaint, but were omitted.

Counsel's failure to move to dismiss the Armed Robbery and the Burglary First counts constituted ineffective assistance of counsel.

B. Ineffective assistance of counsel for failure to challenge the multiplicitous indictments.

The Applicant asserts that the Armed Robbery and Burglary 1st were separate, counts of gun related offenses that relied on same conduct in one instance. Counsel's failure to object fell below an objective standard of reasonableness under prevailing professional norms.

C. Trial counsel ineffective assistance for failing to object to the severance of a joint trial allowing the prosecution to gain a tactical advantage from the delay, violating due process.

On the day of trial prosecution learned that applicant's codefendant would renege on a proffer for leniency by providing testimony favorable to the State. This resulted in separate trials with no opposition from the defense. This allowed the prosecution to impair both the efficiency and the fairness of the criminal justice system by requiring a case of alleged joint crime to be brought separately, co presenting the same evidence again and again, requiring victims and witness's to repeat the inconvenience of testifying.

The prosecution gained an unfair advantage in two different ways:

(1.) The State charged "hand of one is the hand of all" which creates a mandatory presumption that the Applicant is guilty because his codefendant was convicted of the same crimes and not because the jury found the elements existed. (2.) The State used the statement of the codefendant resulting from the proffer for probable cause in two additional indictments. The proffer was rejected and the statement inadmissible. Trial counsel's deficient performance relieved the State from the burden of proving all the elements charged.

D. Ineffective assistance of counsel for failure to object to the prosecutions excessive use of leading questions.

A review of the trial transcript shows that the Assistant Solicitor repeatedly asking leading questions of the states witnesses. Trial counsel failed to object at anytime during the testimony. Eventually, the Court stepped in:

THE COURT: Well, apparently she doesn't remember all of that. She's just -- that's the problem with it. She doesn't really have a memory of what was said apparently to those -- to that degree. And that clearly is prejudicial to the defendant. And the probative value is obviously substantially outweighed by the danger of unfair prejudice when she -- you're putting words in her mouth because you know what she said before. But she's saying she can't remember those things. And then this jury is supposed to be able to rely upon that. I think that's clearly inappropriate.

App. 310, 11. 19-25, 311 11. 1-4.

Applicant argues that trial counsel's failure to object to such repeated, objectionable conduct by the Assistant Solicitor shows a clear failure by trial counsel to effectively assist Applicant in his defense.

This is another error cumulative to the severance of the trials when counsel improperly failed to challenge the prosecution.

E. Ineffective assistance of counsel for failure to object when the prosecutor elicited prejudicial, irrelevant and highly inflammatory statements about alleged stolen property by the Applicant in the past that was never reported missing.

During the direct examination of Casey Scruggs the Assistant Solicitor elicited testimony through leading questions that the Applicant left the residence a week earlier after stealing her boyfriend's rental car.

Q. You said you were robbed. What do you mean?

A. Well, Steven Lewis. We woke up and Steven was gone and my boyfriend's-- his rental car was gone and

Q. Was anything else gone? What?

A. Drugs

Q. Anything else?

A. That was it.

Q. How about a phone?

A. And his-- yeah, his cell phone.

The testimony offered at trial was clearly irrelevant to the case because it involved an alleged stolen vehicle that was unrelated to the charges at issue at trial. Furthermore, trial counsel should have been prepared to present to the jury the simple fact that no rental car was reported stolen at anytime prior. The Applicant was not charged with stealing a rental car and counsel should have been prepared to

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to impeach this witness through her false testimony. The fact that the State was allowed to elicit false testimony about a stolen vehicle that was unrelated to the issues at trial to advance their argument without any challenge from the defense easily creates unfair prejudice, confuses the jury about the issues at trial.

F. Ineffective assistance of counsel for opening the door into allegations that applicant stole a handgun from the victims residence prior to the incident that the charges rise from.

During the direct examination of Casey Scruggs, the State never mentioned any allegations regarding the Applicant stealing a handgun around the time the rental car was supposedly stolen.

On cross-examination of Casey Scruggs, the Applicant's trial counsel elicited the following:

Q. Okay. Did he take anything else?

A. I don't believe so, no sir.

Q. All right. Because at the prior trial you had testified that he had taken a Kil-Tec 9mm. So you're saying he didn't do that?

A. Yes, no, sir. I'm sorry. After -- yes, sir. The gun was in the drawer because -- yes, sir.

Even if trial counsel mentioned this subject because of his belief it would assist his case to disparage Scruggs character is

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unreasonable. The only character that this information would disparage would be the character of Applicant on trial. It did not disparage Scruggs character at all and was highly prejudicial to Applicant.

Trial counsel cannot possibly articulate a sound trial strategy by presenting inculpatory evidence favorable to the State after allowing the prosecution to present false testimony about a stolen rental car at a time not connected to the issues charged.

G. Ineffective assistance of counsel for failure to recross the State's key witness after the prosecution opened the door to impeachment testimonial evidence regarding bias and credibility on redirect.

The Applicant's conviction rests primarily on the testimony of State's witnesses Casey Scruggs, and Bridgette Nicole Cash.

During an In-camera interview, trial counsel cross-examines Bridgette Nicole Cash and reveals the following:

Q. All right. Ms. Cash, you are currently housed in pod one, is that correct, at the jail?

A. Yes, sir.

Q. All right. And what cell are you in?

A. Ten.

Q. Cell ten. Are you aware that Ms. Scruggs is in cell 13?

A. Yes, sir.

Q. Have you spoken at all about this case?

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A. No, sir.

Q. Have y'all spoken at all about any of these incidents?

A. No, sir.

App. 329, ll. 15-25, 330 l. 1.

Although the prosecution was not paying attention it appears that the trial court objected and sustained when the Assistant Solicitor claims "it's not a relevant question". The Applicant strongly disagrees.

The following redirect takes place in front of the jury:

Q. Okay. Are you under the influence today?

A. No, sir.

Q. When is the last time you used drugs?

A. February 28th.

Q. That's because you --

A. Have been incarcerated, yes.

Q. Okay. All right. So you've had a few months off the drugs.

A. Yes, sir.

App. 331, ll. 9-17.

Trial counsel was given the opportunity to recross Ms. Cash and completely fails to present any impeachment evidence critical to assist the jurors determination of possible bias, conspiracy and/or credibility.

Scruggs was being held on shoplifting charges in the same pod as Cash at the jail, who also had pending charges.

Prevailing professional norms would dictate that it is the responsibility of trial counsel to cross-examine all witnesses thoroughly, effectively, and in a manner which will elicit any possible testimony that could aid a criminal defendant in his defense.

The Applicant's right to inform the jury that Scruggs and Cash were housed together at the jail, the pending charges against them, and the simple fact that moments prior to trial they wore handcuffs and leg shackles in a prison jumpsuit, violates a full and fair opportunity to test and expose inconsistencies and ferret out falsehoods.

H. Ineffective assistance of counsel for failure to object to the prosecutions use of perjured testimony and the failure to correct it.

The prosecution asked Scruggs:

Q. And where do you live?

A. Right now I'm at Parr's Bridge Road with my dad.

App. 189, II. 6-9.

The prosecution asked Cash:

Q. Where do you live?

A. Woodland Avenue.

Q. Who do you live there with?

A. My grandmother.

App. 299, II. 14-17.

Both witnesses lived together at the jail.

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I. Ineffective assistance of counsel for failing to object to the "hands of one, hands of all" instruction when the prosecution severed the trials.

Trial counsel failure to challenge this unconstitutional jury charge impermissibly relieves the State of it's burden of proof of each element beyond a reasonable doubt. The mandatory presumption created by an instruction that all participants in crime are principals, and equal offenders are subject to the same punishment, violates Due Process of the Fourteenth Amendment.

It was the prosecution who insisted on separate trials and trial counsel allowed the jury to convict the Applicant on the basis of his codefendant's conviction.

This is exactly the scenario where failure by counsel to properly engage in the adversarial process results in uncertainty as to whether or not the trial produced a just result. Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E. 2d at 814.

J. Ineffective assistance of counsel for failure to request a specific instruction to require the jury to find unity element where Applicant and his codefendant conspired to a common plan, but were tried separately.

An instruction that did not require the jury to find unity of purpose for conspiracy conviction unconstitutionally shifted burden of

proof on essential element.

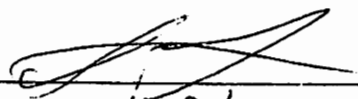
K. The cumulative effect of trial counsel's errors are significant enough to undermine the reliability of the results at trial.

Applicant has raised a number of issues in his application for post-conviction relief. When the Applicant and his attorney files an Amended PCR Application which will be addressed at his hearing, he will by the preponderance evidence prove:

First, that counsel's performance "fell below an objective standard of reasonableness under the prevailing professional norms. His performance provided was not within the range of competence required in criminal cases.

Second, counsel's deficient performance did prejudice the Applicant such that "but for counsel's unprofessional errors, the results of the proceeding would have been different".

The Applicant will satisfy both prongs and the Respondent will not prove counsel was effective given the relevant facts.

X 
DATE: 5/29/19

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Steven Richard Lewis,	)	Case No.: 2019-CP-42-02014
S.C.D.C. No. 372738,	)	
	)	
Applicant,	)	
	)	RETURN AND
v.	)	PARTIAL MOTION TO DISMISS
	)	(Counsel Appointed)
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the application for post-conviction relief filed by Steven Richard Lewis (Applicant) on June 4, 2019, Respondent would show this Court:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the August 2015 term of the Spartanburg County Grand Jury for kidnapping (2015-GS-42-03788), murder (2015-GS-42-03789); and attempted murder (2015-GS-42-03790). Applicant was further indicted at the February 2017 term for burglary, first degree (2017-GS-42-00523); and armed robbery (2017-GS-42-00524). Matthew W. Shealy, Esq. represented Applicant. Derrick B. Bulsa and Nicholas J. Sharpe, Esqs., of the Seventh Circuit Solicitor's Office, prosecuted the case. On May 22, 2017, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty as indicted on May 24, 2017. Judge Cole sentenced Applicant to imprisonment for concurrent terms of life for murder, life for burglary, and 30 years for armed robbery. Judge Cole additionally sentenced Applicant to a consecutive term of 30

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 SPARTANBURG COUNTY
 AMY W. COLE

years for attempted murder. Pursuant to S.C. Code Ann. § 16-3-910, Applicant was not sentenced for kidnapping.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Robert M. Dudek, Esq. filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967), which offered the following issue:

Whether the court erred by admitting appellant's jail calls where the relevance of those calls was substantially outweighed by their unduly prejudicial effect, given the cursing about irrelevant matters, and untrue hearsay information that a witness had been murdered that was on those calls, and where the judge erroneously reasoned that because appellant did not deny the charges on the jail calls that they were admissible as statements against interest?

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. State v. Lewis, Op. No. 2019-UP-155 (S.C. Ct. App. filed May 1, 2019). The Remittitur was issued on May 23, 2019.

II. STATEMENT OF THE FACTS

The Victim's Testimony

Casey Scruggs testified she lived with her boyfriend, Carey Mauldin, at a home on Highway 11 for three or four months. (R. 189, ll. 10-18; R. 207, ll. 17-23). Scruggs met Applicant (who she knew as "Scooter") through Mauldin, who himself met Applicant at a store, and explained he stayed with Scruggs and Mauldin for between two weeks and a month. (R. 190, ll. 7-18). Scruggs also knew Jason "Drew" Cash, and that he drove a Mazda, but did not otherwise know him very well. (R. 191, ll. 4-15). Applicant stayed with Scruggs and Mauldin until May 17, 2015, when he stole their car, drugs, and an LG Vista cell phone and left. (R. 191-93). Mauldin purchased a blue iPhone to replace the stolen phone. (R. 193-94).

Scruggs next saw Applicant on May 22, 2015. (R. 194, ll. 6-10). Scruggs woke to the sight of the lights on in the living room and kitchen, and heard Mauldin tell her "Baby, call 9-1-

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CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

1.” (R. 194-95). As Scruggs reached for the phone, Applicant ran into the bedroom and tied her up. (R. 194-95). Applicant was wearing purple latex gloves. (R. 195, ll. 5-9). Scruggs never made the call. (R. 195, ll. 12-16). Applicant bound Scruggs’s head, hands, and ankles with grey duct tape, and covered her mouth with the same. (R. 195-96). After he finished tying her up, Applicant resumed ransacking the house alongside Jason Cash for the following two hours. (R. 196, ll. 5-13). The two stole televisions, cologne, jewelry, other assorted items, and the PT Cruiser that had been parked in the driveway. (R. 196-97). Eventually, Scruggs broke free of her restraints as they weakened from her perspiration, and she fled to the side door to try and escape. (R. 197, ll. 4-13). Scruggs failed. (R. 197, ll. 14-15). Scruggs saw Drew Cash loading loot into his Mazda and saw Applicant returning to the house. (R. 197, ll. 16-25). Applicant saw Scruggs was loose, captured her, and dragged her back to the bedroom. (R. 197-98).

Seconds later, Applicant shot Scruggs in the back of her head, then ran to the living room and shot the similarly captured Mauldin, who was laying on the floor on his back. (R. 197-98). Applicant and Drew Cash departed immediately thereafter. (R. 198, ll. 11-12). Scruggs, who was grazed by the bullet, did not lay on the ground for long before she saw headlights, got up from the floor, and fled to the Turner and Stewart residences. (R. 198-99). She could not remember the ambulance arriving to take her to the hospital. (R. 199, ll. 3-4). Scruggs recalled that she despaired for her dog and her son, and that she would perish away from them. (R. 199, ll. 8-15). Scruggs was certain Applicant was the person who invaded her home and tied her up. (R. 199, ll. 16-25).

On cross-examination, Counsel impeached Scruggs on a variety of points. Scruggs was not surprised to hear that she misidentified the day of the week of May 17, 2015. (R. 200, ll. 16-24). Scruggs testified that on May 17, 2015, Applicant stole a safe containing drugs, then

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corrected herself and asserted Applicant stole only the drugs contained in the safe. (R. 200-01). Scruggs denied Applicant stole anything else, but when confronted with her testimony from Drew Cash's preceding trial, testified Applicant had also stolen a Kil-Tec 9mm pistol that had belonged to Nicole Cash. (R. 201, ll. 12-21).

Returning to the night of the shooting, Scruggs testified she and Mauldin had gone to bed around 12:30 A.M., and that Mauldin received a phone call at that time from Drew Cash to arrange a sale of drugs. (R. 201-02). Scruggs woke up roughly thirty minutes after the call. (R. 202, ll. 14-23). Immediately after Mauldin told her to call 9-1-1, she heard two or five gunshots, and Applicant tied her up between thirty and sixty seconds later. (R. 202-04; R. 205, ll. 4-15). Scruggs also testified that she saw from her bed that Mauldin was on his knees before Drew Cash, and that Drew was angry with him, but that she did not hear a gunshot at that time. (R. 204, ll. 11-24). Scruggs thought Drew was angry at Mauldin over "some bad drugs something along that line." (R. 204-05). Scruggs testified only one gun was used in the attack, and that she was not shot when she was tied up, but was pistol whipped later and she was being dragged to the bedroom. (R. 207-08). When asked again if she could see a vehicle while looking out through a window, Scruggs testified that it had still been dark outside and that she could not really tell. (R. 210-11). Scruggs also testified the lights in the house were still turned on, and bright, when she left the house, despite testimony to the contrary. (R. 211-12).

Scruggs admitted that Mauldin gave her methamphetamines and Suboxone,¹ but initially denied the drugs had any effect on her before admitting they did and that she had been actively using meth that day and for days prior to the attack. (R. 212-13). Scruggs also testified Mauldin possessed numerous phones, and intended to sell "about five" of them. (R. 214-15).

¹ Upon information and belief, Suboxone is primarily used to treat addiction to other narcotics, but may also be used to treat pain.

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On redirect examination, Scruggs testified she believed Mauldin was still alive when she finally succeeded in escaping the house. (R. 217-18). Scruggs also testified further to the pistol. Scruggs knew the pistol stolen by Applicant belonged to Nicole Cash because Drew Cash told her as much. (R. 219, ll. 7-12). Drew pawned the pistol to Mauldin in exchange for heroin. (R. 219, ll. 13-22). Scruggs initially denied she could tell what kind of gun was used, but then immediately asserted with confidence that the gun used was a Kil-Tec 9mm. (R. 219-20).

On recross examination, Scruggs testified that people sold things to Mauldin in exchange for drugs, and that much of the property in the home was itself stolen. (R. 220-21). Scruggs denied being with Nicole Cash when she purchased the gun. (R. 221, ll. 2-5).

The Neighbors

Tony Turner, a neighbor, woke around 5:00 a.m. to a loud banging at his door. (R. 83). Turner put on a shirt and opened the door to find Casey Scruggs covered in dirt and blood[,] in a monstrous panic. (R. 84, ll. 1-15). Turner called the police and unbanded Scruggs, who started telling him about "Scooter" and expressed her worry for both her child and herself. (R. 84-85). While assisting Scruggs, Turner noticed that Mauldin's PT Cruiser was gone. (R. 85-86). Turner freed Scruggs' hands from her bindings, but he left the head bindings in place for fear of relieving pressure from the head wound. (R. 86-87). Once E.M.S. arrived after a few minutes, a somewhat calmer Scruggs joined paramedics and was promptly whisked away to the hospital. (R. 87, ll. 2-8; R. 89, ll. 15-20). After Scruggs was taken to the hospital, and after he gave his report to law enforcement, Turner returned home and showered off the copious blood that Scruggs had splashed on him. (R. 87-88). On cross-examination, Turner testified he was never woken by gunshots or screeching tires. (R. 90-91).

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Adam Stewart, a neighbor, was woken the morning of May 22, 2015, by his frantic daughter, who told him somebody was beating on the front door. (R. 106-07). Adam could not see anybody from within the house, but could hear a commotion going on. (R. 107, ll. 6-8). Adam and his daughter went outside to see what was going on, to where Turner was cutting tape off of a distraught Scruggs, and Scruggs "kept saying that Carey had been shot, Carey had been shot, he was dead, he was dead[,]" and further "just kept saying Scooter, Scooter, Scooter done it, Scooter done it." (R. 107-08). Adam testified he was unfamiliar with who Scooter and Drew were. (R. 106, ll. 18-19). Adam noted that Mauldin's PT Cruiser, which Stewart had previously worked on and seen parked outside the night before, was gone. (R. 106, ll. 6-22; R. 108, ll. 7-11; R. 109-10; R. 111, ll. 13-16).

Tonya Stewart also testified to being woken the morning of May 22, 2015, by her daughter, who reported "somebody beating and banging on the front door." (R. 111-12). When they went downstairs and opened the front door, they found blood on the front porch and commotion down near a neighbor's house. (R. 112-13). Tonya exited out of a side door and went to the scene, where Scruggs was duct taped and pouring blood. (R. 112-13). Scruggs kept saying, well, Scooter had shot her and Carey." (R. 113, ll. 8-9).

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First Responders & Law Enforcement's Investigation

On May 22, 2015, Deputy Nicholas Hullinger, of the Spartanburg County Sheriff's Office ("SCSO"), was directed by dispatch at a little after 5:00 a.m. to a residence in Chesnee, South Carolina, along Highway 11. (R. 70-72). When Hullinger arrived on scene, the neighbors had gathered at the house, who directed him inside. (R. 71-72). Hullinger explained he went into the house with the understanding "that there was someone in the house and they were half way on the couch and half way on the floor[,]" and that there were possibly other people in the

house. (R. 72, ll. 15-23). Hullinger immediately found Mauldin, dead and covered in a blanket, then cleared the house, finding nobody else inside. (R. 72-73; R. 76-77). The house was ransacked. (R. 77, ll. 3-8). Hullinger went back outside, separated the witnesses present, and directed other arriving officers to take statements. (R. 73-74). Hullinger learned shortly thereafter that Scruggs had already left with paramedics just prior to his arrival. (R. 74, ll. 11-21). On cross-examination, Hullinger testified he learned another person had been into the house before him and thrown the blanket over Mauldin. (R. 77-78). Hullinger additionally testified that he did not recall any lights in the house, and that he used his flashlight in clearing the house. (R. 78, ll. 3-12).

Zachary Hubbard was one of the paramedics who responded to the scene that morning. (R. 91-92). On scene, Hubbard found Scruggs standing in the driveway in a white sheet, drenched in blood, with loose duct tape around her wrists, panicked and trying to speak. (R. 92-93). Hubbard only learned that Scruggs had been shot after they got to the scene. (R. 93, ll. 15-15; R. 96-97). Because nobody could tell Hubbard the whereabouts of the shooter, Hubbard very quickly loaded her into the ambulance and left the scene. (R. 93, ll. 15-22). The scene and road away were still very dark, and the only light was what shined from the ambulance. (R. 93-94). Hubbard hooked Scruggs up to an intravenous drip and to a cardiac monitor, then removed the tape over her mouth, prompting Scruggs to clearly tell Hubbard that Drew Cash and Steven Lewis had tied up her and her boyfriend, shot her boyfriend, then shot her. (R. 94, ll. 3-24; R. 98-99; R. 101-02). Hubbard described Scruggs' wound, and explained "some type of object had opened up a large portion of the flesh from her skull." (R. 101, ll. 1-9).

Investigator Todd Ruffner, of the South Carolina Law Enforcement Division, dispatched to Spartanburg Regional Hospital to check on Scruggs after the shooting. (R. 290-91). Ruffner

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found Scruggs very upset in the trauma bay of the emergency room. (R. 291, ll. 2-7). Scruggs told Ruffner that she had been tied up and shot by Steven Lewis, who she called "Scooter," and Drew Cash. (R. 291, ll. 8-12). Ruffner later joined officers at a location in Inman, South Carolina, believed to be the home of Drew Cash, to execute a search warrant and take photographs. (R. 291-93). Ruffner found blue surgical gloves in a filing cabinet in Drew Cash's bedroom. (R. 294-95). On cross-examination, Ruffner affirmed that Scruggs told him she believed Drew Cash shot her. (R. 296, ll. 3-8).

Investigator Robert Charles Talanges, SCSO, was the primary forensic officer who worked the scene. (R. 113-15). Entering into the home, Talanges found the door to the sunporch was knocked off its hinges, but was still padlocked. (R. 116-17; R. 123, ll. 13-20; R. 139-40). Bloody smears ran from room to room, indicating Mauldin had been drug through the house. (R. 118-19; R. 154-55). Shards and pieces of a broken yellow vase were scattered on the living room couch and on the floor. (R. 119, ll. 5-8). The living room, and the house generally, was ransacked. (R. 120-22). Spent shell casings were recovered from the living room. (R. 124, ll. 19-20). A bloodstained stuffed animal was found near where Scruggs had lay, and beneath that was a bullet hole in the floor, from which a bullet was recovered. (R. 124-28). Nearby, Talanges found a piece of blue latex glove, a gray roll of duct tape, and a shell casing. (R. 125-27; R. 159, ll. 8-16). Another bullet hole was located in the ceiling, and a projectile recovered therefrom. (R. 128, ll. 6-18). At least one round was fired each in the kitchen, the living room, and the bedroom. (R. 155, ll. 6-13). Ultimately, Talanges recovered four projectiles and three shell casings from the investigation; the fourth shell casing was never found. (R. 138-39).

Talanges subsequently executed a search warrant at a location on Flynn Road between Landrum and Campobello, South Carolina, following a lead on the Chrysler PT Cruiser that was

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missing from the scene. (R. 130-31). Talanges found an "impact," or part of a bumper, matching to a Chrysler vehicle and recovered it. (R. 131-32). Officers also found a clump of cloth, beneath which they recovered a ring of keys which included a key to a Chrysler vehicle. (R. 132-33). Talanges and another detective returned to the original scene with the keys, tried the keys on the locks to the house, and discovered they opened the doors. (R. 133-34). Talanges also executed a search warrant on a suspect's Mazda recovered from North Carolina, from which he recovered "a little baggy that had something like drug paraphernalia in it[.]" (R. 134-35; R. 150-52).

Despite the pieces of latex indicating gloves were used, Officer Steven Horton, SCSO, and law enforcement recovered twenty-six latent fingerprints from the crime scene. (R. 129-30; R. 157, ll. 6-8; R.150-62). From the twenty-six latent prints recovered from the scene, thirteen were identified by Courtney Burgess, SCSO, of which one matched to Applicant. Of the remaining twelve identified, nine matched to Mauldin, and three matched to [redacted]. (R. 170, ll. 7-15).

Corporal Brian Ezell, a canine handler with the Guilford County Sheriff's Office ("GCSO") in Greensboro, North Carolina, converged with twelve to thirteen other officers on an address in Guilford County on May 23, 2015, following a lead that Applicant and Drew Cash were at the property. (R. 221-23). Law enforcement approached the building in the dark of night, around 2:00 A.M., and set a perimeter around the two suspect houses. (R. 222-23). When Ezell pulled around to the back of one of the houses, Drew Cash fled out the back and into the woods; Ezell found him in the woods and apprehended him. (R. 223, ll. 7-14). Despite calls over a loudspeaker to come out starting at around 3 A.M., Applicant remained in the house until the S.W.A.T. team breached the front door with explosives sometime around 5:00 to 5:30 A.M.

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(R. 223-24). After the door was blown off, Applicant "came out and gave up." (R. 224, ll. 6-7). Officer Tracy Nelson, GCSO, photographed the scene after Applicant was taken into custody. (R. 232-36).

Ivy Lawson, a former resident of the house who dated Applicant's brother, and who still had property there, recovered things after investigators finished going through the house, and subsequently turned over a number of cell phones a few weeks later to Officer Brandon Elison, GCSO. (R. 237-51). Officer William S. Howell, GCSO, reviewed Applicant's jail calls while he was in custody in North Carolina, recorded them, and provided three of them to the jury at trial. (R. 267-68; State's Trial Exhibit No. 80). As part of one call, Applicant advised Lawson to get rid of Mauldin's phone. (R. 259-60; State's Trial Exhibit No. 80).

Detective Paul Anthony Norris, SCSO, joined interviewed Drew Cash's sister, Nicole Cash, at the home in Inman after the burglary and killing. (R. 269-71). After the interview, Norris and other officers searched the house. (R. 271, ll. 15-17). In June 2015, Norris retrieved from GCSO officers a box of evidence recovered from Applicant's arrest scene, which included multiple phones. (R. 271-73). Norris met with Scruggs, who identified Mauldin's LG Vista and iPhone. (R. 273-74).

Norris subsequently learned that the missing PT Cruiser might be located a property on Flynn Road, but when law enforcement got there, the only things they found were a set of keys and the Styrofoam bumper stamped with the model number for a PT Cruiser. (R. 274-75). Norris and Talenges returned to the original crime scene and found the keys worked on the doors to the house and storage shed. (R. 275-76). Norris testified he sent three cartridges and four bullets to the Greenville County Sheriff's Office for ballistics analysis, and noted that the perpetrators were suspected to have used a Kel-Tec 9mm, and that the casings recovered were all

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9 mm. (R. 276, ll. 5-24). The gun was never found. (R. 290, ll. 9-14). None of the latent prints lifted from the crime scene matched to Applicant. (R. 291, ll. 12-18). Too much time passed between the killing and Applicant's capture to conduct meaningful testing for gunshot residue. (R. 295, ll. 10-16).

Lindsey McGraw, an SCSO computer forensics investigator, examined the phones recovered and identified them as an "LG Vista model LGD631 and this Apple iPhone model 5c." (R. 280-82). McGraw pulled data from the phones and determined they both belonged to Mauldin. (R. 282, ll. 7-17). She also recovered from the iPhone an AT&T SIM card, which she determined was assigned to a phone number ending in -5309. (R. 282-83). Tyler McBee, a records custodian for AT&T, confirmed the number had been assigned to Mauldin on May 19, 2015.² (R. 285-86).

Dr. John David Wren, the forensic pathologist, testified Mauldin suffered a through-and-through gunshot wound to the head, two through-and-through gunshot wounds to his back, and one shot to his left forearm. (R. 333-40). Dr. Wren recovered the bullet from Mauldin's arm. (R. 337-38). Mauldin also had a fracture of his ulnar of his left forearm, four lacerations to the left side of his head, and some various other superficial abrasions. (R. 333-40). Dr. Wren concluded Mauldin bled to death from being shot. (R. 340, ll. 17-19). With regard to the headshot, Dr. Wren described it as "a make-sure-he's-dead type gunshot[.]" (R. 340-41).

James Armstrong, an expert in firearms and toolmark identification from the Greenville County Sheriff's Office, could not definitively state the spent cartridges were fired by the same weapon, but did conclude the cartridges and recovered bullets were all the same caliber, and that they all could have been fired by a Kil-Tec 9mm. (R. 345-49). On cross-examination,

² Just after Applicant was said by Scruggs to have stolen the LG Vista phone and just before Mauldin was killed.

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Armstrong admitted he could not definitively match the bullets to the casings, and further explained that he generated a list of no less than twenty-five different weapons which could have fired the bullets. (R. 349-50).

Cash's Family and Friends

Tracy Lanning, a friend of Drew Cash's grandmother Emma Cooke, arrived at Cooke's house at around 7 A.M. the morning of May 22, 2015, to accompany her to Spartanburg to testify on behalf of her son. (R. 23, line 13; R. 173, ll. 1-16; R. 179, ll. 12-14). A passenger to be dropped off, Lanning saw Drew's car backed up to an outbuilding, doors open, with Applicant standing in the doorway of the car moving something between the car and the outbuilding. (R. 173-74; R. 177, ll. 1-11; R. 178-79). Lanning and Applicant exchanged looks as she got out of truck, and she explained his appearance as "like I had caught him doing something" even though she hadn't actually seen him move anything. (R. 174, ll. 7-14). Lanning walked towards the house and asked Applicant where Drew Cash was; Applicant replied that he was inside. (R. 174, ll. 15-17). As Lanning walked into the house, she noticed a small black bag in the walkway that she assumed belonged to Cooke, so she scooped it up and carried it in. (R. 174-75; R. 177-78). Lanning showed the bag to Cooke after making a cup of coffee for her, where together they found it contained jewelry, little bottles, and a piece of paper with names and numbers; Cooke denied ownership. (R. 175, ll. 2-9; R. 180, ll. 10-16). Lanning went downstairs, found Drew Cash in his bedroom, tossed the bag to him, and promptly turned around to go back upstairs. (R. 175, ll. 10-17). As she ascended, Lanning heard Drew Cash and Applicant discussing where she found it, how she got it, where it came from, and whether she opened or looked in it. (R. 175, ll. 18-21). The two nervously called Lanning back down to question her about the bag. (R. 175-76). On cross-examination, Lanning testified she had not

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met Applicant prior to seeing him that day. (R. 178-79). Lanning was present at the house when law enforcement searched the property. (R. 180-81).

Clifford Cash, Drew Cash's father, testified that Drew was living with Cooke in May 2015, and that he had never met Applicant before. (R. 182, ll. 1-21). Clifford explained Drew had been fixing up some property along Flynn Road, which Drew expected to inherit. (R. 183-84). After Clifford learned of Drew's arrest, he visited the Flynn Road property and found a PT Cruiser parked behind the building, obscured by pallets and tarps. (R. 184, ll. 7-23). The car was in one piece when Clifford saw it. (R. 185, ll. 11-18). Clifford told the police about the vehicle, but did not know if they recovered it. (R. 185, ll. 1-10). On cross-examination, Clifford could not say whether the car was actually on the property, or where the property line was. (R. 186-87). Clifford also could not say whether Applicant had ever been at the secluded property. (R. 187, ll. 10-23).

Bridgette Nicole Cash, Drew Cash's sister, met Applicant through drug use with Mauldin, and knew him at the time as "Scooter." (R. 299-300; R. 304, ll. 16-21). Applicant was visiting downstairs with Drew Cash on the date of the killing. (R. 301, ll. 1-8). Nicole explained Applicant did not have a car, but that Drew drove a Mazda. (R. 302, ll. 6-9). Nicole explained that she owned a Kil-Tec 9mm that she purchased April 30, 2015, and subsequently provided to Mauldin, which Applicant thereafter stole from Mauldin and refused to return to her. (R. 302-04). The Friday night before the killing, Applicant expressed his desire to rob Mauldin to Nicole and Drew. (R. 315, ll. 3-18). Nicole was too heavily under the influence to participate in the conversation, was enraptured by her concerns that an ex was stalking her that night. (R. 315, ll. 17-21). Applicant still had Nicole's gun and was wiping off bullets, making her nervous. (R.

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315-16). She later heard the two leave. (R. 316, ll. 8-18). Nicole saw the two again the following morning around 7 A.M. and thought they were about to leave Spartanburg for North Carolina. (R. 316-17). The morning after the killing, before the police arrived and searched the house, Nicole called Drew and asked where he was; Drew put Applicant on the speakerphone and reported they were in Greensboro, North Carolina. (R. 317-18). As the police knocked on the door, Nicole could hear Drew telling her to answer the door as Applicant said she should not. (R. 318, ll. 16-21). Nicole opted to answer the door, admitted she had owned a pistol, but did not give it to them or tell them where it was, worried she would get in trouble for not reporting the stolen weapon. (R. 318-19).

On cross-examination, Nicole testified she thought she had met Applicant seven or eight times, but was uncertain. (R. 319-20). When confronted with her testimony from Drew Cash's trial that she had only met Applicant twice, Nicole replied that she had been under the influence of pills methamphetamine, and "pretty much anything" for the preceding decade. (R. 320-21). Nicole that prior to going to bed on May 22, 2015, she had been awake for "about two or three days, taking like shore naps in between." (R. 321, ll. 1-6). Mauldin was the sole cause for Nicole's heavy drug habit. (R. 321, ll. 7-14). As to the speakerphone call, Nicole testified she could not be sure of precisely what Applicant was saying, but that she could hear him in the background. (R. 323-24). Nicole denied any memory of a fight with Drew Cash over the gun, but admitted telling Officer Norris as much. (R. 326-27). Nicole admitted she overdosed on Mauldin's drugs at some point, impliedly proximate with the events of concern, but could not remember on which day she overdosed. (R. 327, ll. 12-25). Nicole also admitted to receiving gifts in the form of "small items, perfumes and other things like that" around the time of the robberies and killing. (R. 328-29).

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On redirect examination, Nicole freely admitted that she was a drug addict, and that she attempted to get some treatment through a detox center. (R. 331, ll. 1-8). Nicole denied being under the influence during trial and asserted she had not used drugs since February 28, 2017, when she was incarcerated.³ (R. 331, ll. 9-12). Nicole further explained the gifts of perfume were provided by Applicant and that she knew he had stolen them from Scruggs. (R. 331-32).

The jury retired to deliberate at 1:15 P.M. and were provided the exhibits at 1:20 P.M. (R. 403-04). The jury returned with a verdict at 2:12 P.M. and convicted Applicant on all charges. (R. 404-07).

III. CURRENT APPLICATION

In his post-conviction relief application, and in a 10 page memorandum attached thereto, Applicant alleges he is being held unlawfully for the following reasons (excerpted from the application):

1. Ineffective assistance of counsel, in that:
 - a. "[C]ounsel failed to move to dismiss two superseding indictments."
 - b. Counsel failed "to challenge the multiplicitous indictments."
 - c. Counsel failed "to object to the severance of a joint trial allowing the prosecution to gain a tactical advantage from the delay, violating due process."
 - d. Counsel failed "to object to the prosecution's excessive use of leading questions."
 - e. Counsel failed "to object when the prosecutor elicited prejudicial, irrelevant and highly inflammatory statements about alleged stolen property by the Applicant in the past that was never reported missing."
 - f. Counsel opened "the door into allegations that applicant stole a handgun from the victims residence prior to the incident that the charges rise from."
 - g. Counsel failed "to recross the State's key witness after the prosecution opened the door to impeachment testimonial evidence regarding bias and credibility on redirect."
 - h. Counsel failed "to object to the prosecutions use of perjured testimony and the failure to correct it."
 - i. Counsel failed "to object to the 'hands of one, hands of all' instruction when the prosecution severed the trials."

³ Nicole Cash testified on May 24, 2017. Jason Cash's trial began on February 27, 2017.

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- j. Counsel failed “to request a specific instruction to require the jury to find unity element where Applicant and his codefendant conspired to a common plan, but were tried separately.”
- k. “The cumulative effect of trial counsel’s errors are significant enough to undermine the reliability of the results at trial.”

Applicant requests relief as follows:

- “Vacate conviction Remand for new trial”

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant’s records from the South Carolina Department of Corrections, Applicant’s appellate records (including the complete trial transcript), the Record on Appeal from the trial of co-defendant Jason Andrew Cash, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Trial Counsel, Generally

Applicant’s allegations of ineffective assistance of counsel are without merit. In any event, action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel’s performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its

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“reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

a. Failure to Quash “Superseding” Indictments, Timeliness

Applicant’s contention that Counsel was ineffective for failing to move to quash the indictments for armed robbery and burglary, first degree, pursuant to 18 U.S.C. § 3161 is without merit as a matter of law. The federal statute cited by Applicant is applicable only to those criminal charges which may be brought in federal court and is not applicable to criminal proceedings in state court. The form and process of issuing and amending indictments in state courts are established by statute and by court rules. See Rule 3, SCCrimP (when to file); S.C. Code Ann. §17-19-20 (what to state); S.C. Code Ann. § 17-19-100 (how to amend); see also State v. Edwards, 374 S.C. 543, 571-72, 649 S.E.2d 112, 126-27 (Ct. App. 2007) rev’d on other grounds 384 S.C. 504, 682 S.E.2d 820 (2009) (Rule 3 is procedural, not substantive, and affords no substantive rights or impact jurisdiction). There are no evident procedural flaws in the procurement of the indictments. Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

b. Failure to Quash to “Multiplicitous” Indictments

Applicant’s contention that Counsel was ineffective for failing to move to quash the indictments for armed robbery and burglary, first degree, as “multiplicitous” is without merit as a matter of law. An indictment is multiplicitous if it charges the same crime in two counts, subjecting the defendant to two punishments for the same crime in violation of the Double Jeopardy Clause. United States v. Goodine, 400 F.3d 202, 207 (4th Cir. 2005). In determining whether counts or indictments are multiplicitous, the Court must decide whether the counts or indictments charge the same offense. Id. “[W]here the same act or transaction constitutes a violation of two *distinct* statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does

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not.” State v. Elders, 386 S.C. 474, 481-82, 688 S.E.2d 857, 861 (Ct. App. 2010) (quoting Blockburger v. United States, 284 U.S. 299 (1932)). “Under the Blockburger test, a defendant may be convicted of two separate crimes arising from the same conduct without being placed in double jeopardy where his conduct consists of two distinct offenses.” Id., 386 S.C. at 482, 688 S.E.2d at 861 (quotations omitted).

Burglary, first degree, and armed robbery are undeniably distinct crimes which require proof of distinct facts. For example, in order to prove burglary, the State must show an accused entered a dwelling without consent; no such fact is required for armed robbery. Conversely, the State need not prove any larceny by force to prove burglary, whereas it must do so to prove an accused committed an armed robbery. Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

c. Failure to Demand Joint Trial

Applicant’s contention that Counsel was ineffective for failing to object to the severance of his trial from that of his co-defendant is without merit as a matter of law. Motions regarding the joint or several prosecution of co-defendants is addressed to the sound discretion of the trial court. State v. Halcomb, 382 S.C. 432, 439, 676 S.E.2d 149, 152-53 (Ct. App. 2009) (citing State v. Harris, 351 S.C. 643, 652, 572 S.E.2d 267, 272 (2002)). Co-defendants who are jointly tried are not entitled to separate trials as a matter of right. Id., 382 S.C. at 439, 676 S.E.2d at 152 (citing State v. Kelsey, 331 S.C. 50, 73, 502 S.E.2d 63, 75 (1998)). Respondent can find no authority to show any right to of co-defendants to be jointly tried, either, but it stands to reason that just as would be the case where the State seeks joinder, a defendant’s demand for joinder or objection to a co-defendant’s demand for a severance should only be sustained when there is a

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serious risk that several trials among the co-defendants would compromise a specific trial right or prevent the jury from making a reliable judgment about guilt.

Applicant contends that by being tried separately, the prosecution gained an unfair advantage in two ways. First, Applicant asserts the State was able to obtain an instruction that “the hand of one is the hand of all.” Whether the accomplice liability instruction was appropriate at trial was not and could not be impacted by whether the accomplices were tried separately or together. The State could have and would have obtained the same instruction even if Applicant and Jason Cash were tried together. Second, Applicant complains that Cash’s initial proffer provided the probable cause for Applicant’s indictments for armed robbery and burglary, but that the proffered statement was not introduced at trial and the State was relieved of its burden of proving all the elements charged. Applicant is simply incorrect—the State was still required to prove each of the elements of each of the crimes beyond a reasonable doubt. The disposition of the co-defendant’s charges was irrelevant. See State v. Massey, 267 S.C. 432, 446, 39 S.E.2d 332, 339 (1976) (reaffirming that in the trial of the accessory, the State must prove the principal must find as a fact that the principal did actually commit the crime involved; a defense that may not interpose the acquittal of a principal actor as a bar to his own prosecution). Applicant’s argument is a non-sequitur.

Furthermore, Applicant’s defense would have only been hindered by a joint trial. Substantial evidence was introduced against Drew Cash during his own trial which did not turn up during Applicant’s trial, including but not limited to jail calls (1) between him and Clifford Cash more clearly linking the stolen PT Cruiser to that observed at the Flynn Road property; (2) between him and Emma Cooke asking her to obtain guns from different hiding places; and (3) between him and his mother, Angela Ross, asking her to talk somebody into implicitly

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fabricating an alibi and to talk Nicole Cash into hiding from a subpoena. The State was also prevented from eliciting from Nicole Cash testimony to establish that Drew Cash suggested the victims of the planned robbery be shot. (R. 314, ll. 13-20). By being tried separately, Applicant was spared any proximate exposure to this highly damaging evidence and more, as it was not admissible without Drew Cash sitting at the defense table with Applicant. Still further, by being tried second, Applicant gained the advantageous capability of impeaching witnesses with their testimony from the prior trial, which was especially valuable with respect to Nicole Cash, who may have discredited herself through her explanation that she was under the influence through the course of the first trial. Counsel arguably would have been ineffective had he sought a joint trial.

Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

d. Failure to Object to Leading Questions

Applicant contends Counsel was ineffective in failing to object to leading questions the prosecution. “A leading question is one which suggests to the witness the desired answer.” State v. Tyner, 273 S.C. 646, 653, 258 S.E.2d 559, 563 (1979). “The law gives the trial judge wide discretion when ruling on an objection to a question on the ground that it is leading.” State v. Hale, 284 S.C. 348, 351, 326 S.E.2d 418, 420 (1985). “A case will rarely be reversed on the ground that the trial judge permitted leading questions, and then only if there has been a clear abuse of discretion resulting in prejudice to the objecting party.” Id.

Applicant does not identify specific questions in his petition, but instead broadly asserts a course of conduct. The only specific instance in the record to which Applicant cites is the *in camera* testimony of Bridgette Nicole Cash, which *per se* could not have improperly influenced

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the jury as they were not present. Applicant cannot prevail upon an application for relief by broad, non-specific gesture to the record as a whole, and review of the record as a whole reveals no galling instances of leading by the prosecution to which Counsel could have objected and thereby changed the outcome of trial.

Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

e. Failure to Object to Prior Bad Act Testimony

Applicant contends Counsel was ineffective in failing to object to testimony by victim Casey Scruggs indicating that Applicant had stolen victim Carey Mauldin's rental car the week before. "Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent." Rule 404(b), SCRE; see also State v. Weaverling, 337 S.C. 460, 467 S.E.2d 23 (S.C. 1975), 787, 791 (Ct. App. 1999) (explaining same).

Applicant cites to a series of questions during the direct examination of victim Scruggs:⁴

Q. You don't remember the day of the week. You remember the date. How do you remember the date?

A. Because I remember when we woke up that was still on the 17th. We were – you know, we were robbed. You know, I was – you know, our car was gone and I just – you know, that was six days until, you know, the 22nd. I just remember it.

Q. You said you were robbed. What do you mean?

A. Well, Steven Lewis. We woke up and Steven was gone and my boyfriend's – his rental car was gone and...

Q. Was anything else gone? What/

⁴ Respondent sets forth somewhat more testimony than specifically identified by Applicant in order to show some greater context.

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A. Drugs.

Q. Anything else?

A. That was it.

Q. How about a phone?

A. And his – yeah, his cell phone. And I think a toolbox of some cologne, name brand cologne.

Q. Okay. So you – this jury – you’re telling this jury that Mr. Lewis stayed with you, but a few days prior to your boyfriend’s death Mr. Lewis left and had taken some items of yours.

A. Yes, sir.

(R. 192, ll. 3-24). Scruggs thereafter testified Mauldin purchased another phone to replace the one that was stolen, and that she next saw Applicant the morning when he tied her up. (R. 192-94).

A review of the record as a whole reflects that Scruggs’ testimony achieves the unique feat of arguably falling into every exception set forth in Rule 404(b), SCRE. The prior incident between Mauldin, Scruggs, and Applicant provided to show an ongoing dispute between the victims and Applicant, which partly motivated the subsequent home invasion and killing. The prior incident provided how Scruggs was previously familiar with Applicant and how she could identify him as one of the perpetrators. The prior incident, considered in the additional context of Bridgette Nicole Cash’s later testimony that Applicant wanted to rob the victims again (R. 305-06), establish by a preponderance of the evidence a common scheme or plan. Finally, the prior robbery helps to dissolve any conceivable argument that Applicant was merely present, or that he did not intend to rob the victims. The earlier robbery constituted a vital part of the *res gestae* of the crime, and answers much of the “why” of the crimes committed. Counsel had no obligation to bring an objection that was doomed to be denied, and which would have only

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served to create the appearance to the jury that he was attempting to bury the incident occurring only days before.

Respondent denies Applicant is entitled to any relief by way of this allegation.

f. Deficiently Opening the Door to Testimony Regarding the Stolen Gun

Applicant's allegation that Counsel was ineffective in "opening the door" to testimony that he stole a gun from the victims prior to the night of the ultimate burglary, robbery, and killing, is without merit.

Applicant cites to a series of questions during the cross-examination of victim Scruggs:⁵

Q. All right. Was there money in the safe?

A. I'm not sure. I don't know.

Q. Okay. Did he take anything else?

A. I don't believe so, no, sir.

Q. All right. Because at the prior trial you had testified that he had taken a Tec 9mm. So you're saying he didn't do that?

A. Yes, no, sir. I'm sorry. After – yes, sir. The gun was in the drawer because yes, sir.

Q. So, and you testified that was Nicole Cash's pistol?

A. Yes, sir.

(R. 201, ll. 10-21). The question represented the first mention of a "Kil-Tec." Counsel thereafter questioned Scruggs about when Mauldin asked her to call 9-1-1. (R. 201-02). On redirect examination, the State elicited further testimony regarding the pistol: Scruggs explained that Cash pawned the pistol to Mauldin in exchange for heroin, that it went missing after she was robbed, and then gave conflicting testimony as to whether she could tell what gun was used in

⁵ Respondent sets forth somewhat more testimony than specifically identified by Applicant in order to show some greater context.

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robbery and killing. (R. 219-20). On recross, Counsel forced Scruggs to admit that much of the property in her home was stolen, and impeached her over her prior testimony that she had been with Nicole Cash when she bought the gun. (R. 220-21).

Even Applicant acknowledges the obvious: Counsel was using Scruggs' testimony from Cash's trial and impeaching her with the inconsistent testimony. Counsel used the prior testimony to show that the pistol Scruggs claimed Applicant stole was itself arguably stolen, and then exchanged for drugs. Counsel cast Scruggs as an addict, a thief, and a liar, and his efforts to do so fall within the range of a reasonable strategic decision and reasonably effective assistance of counsel. Respondent denies Applicant is entitled to relief by way of this allegation.

g. Failure to Re-Cross Bridgette Nicole Cash

Applicant's allegation that Counsel was ineffective in failing to recross Bridgette Nicole Cash is without merit as a matter of law. "The right to, and scope of, recross-examination within the sound discretion of the trial court." Liberty Mut. Ins. Co. v. Gould, 266 S.W.2d 521, 533, 224 S.E.2d 715, 720 (1976). "A witness may be re-examined as to the same matters to which he testified only in the discretion of the court, but without exception he may be re-examined as to any new matter brought out during cross-examination." Rule 611(d), SCRE; see also United States v. Flescher, 98 F.3d 155, 157 (4th Cir. 1996) ("Absent the introduction of any new matter on re-direct examination, the rule is that recross-examination is not required. Without something new, a party has the last word with his own witness.").

First, Applicant complains Counsel should have sought to recross Nicole after the trial court refused to permit questions about whether she discussed the case with Scruggs, and after the prosecution asked:

Q. Okay. Are you under the influence today?

A. No, sir.

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Q. When is the last time you used drugs?

A. February 28th.

Q. That's because you –

A. Have been incarcerated, yes.

Q. Okay. All right. So you've had a few months off the drugs.

A. Yes, sir.

(R. 331, ll. 9-17). Applicant's apparent argument—that the exchange reopened the door to questions regarding whether Nicole and Scruggs discussed the case while incarcerated in proximity to one another—misapprehends the nature of the questions asked on redirect and the availability of recross. The admission by Nicole on redirect that she had been incarcerated did not open the door to question her about conversations she may or may not have had while incarcerated, and did not offer a basis to reargue the relevance of the issue. The issue had been raised to the court and ruled upon, and no basis existed to attempt to again litigate the issue on recross. Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

h. Failure to Object to Perjured Testimony by Scruggs, Cash

Applicant's contention that Counsel was ineffective in failing to object to alleged perjury by witnesses Scruggs and Nicole Cash is without merit as a matter of law. The question of where one "lives" is tantamount to the question of where one "resides," and the question pertains not to where one laid their head down the prior night, but rather "denotes the place of one's fixed abode, not for a temporary purpose alone, but with the intention of making such place a home[.]" Holden v. Cribb, 349 S.C. 132, 561 S.E.2d 634 (Ct. App. 2002) (quoting Nagy v. Nagy-Horvath, 273 S.C. 583, 586-87, 257 S.E.2d 757, 759 (1979)). It was perfectly fair for both witnesses to identify a place other than the jail as the place they lived. Furthermore, that both witnesses

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asserted places of residence other than jail is entirely immaterial to the issues of concern at trial, and an objection to their answers to the question would have accomplished and changed nothing. Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

i. Failure to Object to “Hands of One, Hands of All” Instruction

Applicant’s allegation that Counsel was ineffective in failing to object to the trial court’s “hands of one, hands of all” instruction despite the severance of Applicant’s from that of his co-defendant, is without merit as a matter of law. “The trial court is required to charge only the current and correct law of South Carolina.” State v. Ward, 374 S.C. 606, 613-14, 649 S.E.2d 145, 149 (Ct. App. 2007). “The law to be charged must be determined from the evidence presented at trial.” Id., 374 S.C. at 614, 649 S.E.2d at 149 (quoting State v. Knowles, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001)). “If any evidence supports a requested jury charge, the trial court should grant the request.” Id. “Under ‘the hand of one is the hand of all’ theory, one who joins with another to accomplish an illegal purpose is liable criminally for everything done by his confederate incidental to the execution of the common design and purpose.” Id. (quoting State v. Langley, 334 S.C. 643, 648, 515 S.E.2d 98, 101 (1999)).

Little was discussed during the charging conference; both the State and Counsel requested “standard” or “ordinary” charges. (R. 354, ll. 12-18). At trial, the trial court instructed the jury:

In this case the state alleges that the defendant is guilty of the crimes alleged in each of these indictments as either a principal offender or as an accomplice.

The legal theory of accomplice liability may be applicable in this case depending upon your determination of the facts as you consider the evidence.

You are instructed that where two or more persons act together with a common intent and purpose and they combine, conspire, plan or otherwise agree

to the commission of a crime, each person who is present to aid, abet, assist or otherwise participate in the commission of that crime is equally guilty.

The act of one is deemed to be the act of all, and any person who joins with another or others to accomplish an illegal purpose is held to be criminally responsible for everything that [is] done by any other person which occurs as a natural and probable consequence of the acts done pursuant to and in furtherance of the common plan and purpose.

And therefore where two or more persons are acting together and they are aiding, abetting, assisting and participating with each other in committing a crime, the acts of one become the acts of all. The hand of one becomes the hand of all. And all are equally guilty of any crime which is accomplished by those joint efforts.

In order for the defendant to be found guilty of a crime under the legal theory of aiding and abetting it must be proven beyond a reasonable doubt that the defendant was present at the scene of the crime with the intention of aiding, abetting, assisting or participating in the common plan or scheme which culminates in the commission of the crime.

Under a theory of accomplice liability two or more people may be guilty of an unlawful homicide, even though only one person actually commits the act which is directly responsible for the death of another.

Therefore, when two or more persons combine, conspire or agree for the commission of a felony such as a burglary or a robbery, and then in the commission of criminal acts done in furtherance of that crime a homicide is committed by one of the participants which is a natural and probable consequence of those acts done in furtherance of the common plan, all who are present and participating in those criminal acts are equally responsible as the one who actually commits directly the fatal act.

The common purpose may not have been to kill anyone at all, but if during the commission of a felony a homicide is committed by one of the participants which is a natural and probable consequence of the acts done in furtherance of the common plan, then each person who is present aiding, abetting, assisting and participating in that common design are equally guilty of the homicide, just as the principal offender himself or herself.

(R. 396-98). The trial court shortly thereafter instructed the jury that:

. . . the burden is always on the state to prove the defendant guilty because they brought the charge, they made the accusation. The burden is never upon a defendant to prove that he or she is not guilty or to prove that he or she is innocent because in some cases that might not be possible.

(R. 399, 4-9).

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Contrary to Applicant's bald assertion, accomplice liability and the instruction that "the hand of one is the hand of all" is well settled, well supported, and runs afoul of no constitutional protections. As previously argued, whether the accomplice liability instruction was appropriate at trial was not and could not be impacted by whether the accomplices were tried separately or together. The instruction was amply supported by the evidentiary record. Applicant's argument that the jury was permitted to convict him on the basis of his co-defendant's conviction is without any evidentiary or legal support—the jury was never told about Jason Cash's conviction, and (as previously noted) the State was still required to prove each of the elements of each of the crimes beyond a reasonable doubt. The disposition of the co-defendant's charges was irrelevant. See State v. Massey, 267 S.C. 432, 446, 229 S.E.2d 332, 339 (1976) (reaffirming that in the trial of the accessory, the State must prove and the jury must find as a fact that the principal actually commit the crime involved; a defendant may not interpose the acquittal of a principal actor as a bar to his own prosecution). The State could have and would have obtained the same instruction even if Applicant and Cash were tried together. Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

j. Failure to Request Instruction Regarding "Unity Element"

Applicant's allegation that Counsel was ineffective in failing to request a jury instruction "to require the jury to find unity element" is without merit as a matter of law. Precisely what Applicant means by "unity" is not clear, but as indicated in the instruction excerpted above, the trial court clearly articulated the correct law as to accomplice liability. The trial court instructed the jury that to convict Applicant for the acts of Cash, they had to act together with a "common intent," that Applicant had to perform some aid, abet, assist, or otherwise participate, and that the

act performed by Cash and attributed to Applicant had to be the natural and probable consequence of the acts performed in furtherance of the intended crime. As such, whether or not Counsel requested such a charge is of no consequence because Applicant did, in fact, receive such a charge. Accordingly, Respondent denies Applicant is entitled to any relief by way of this allegation, and further moves the allegation be summarily dismissed.

k. Cumulative Error

Applicant's demand for relief by way of cumulative error analysis of the above ten allegations calls for analysis not at this time recognized by South Carolina precedent, which runs contrary to the fundamental character of Strickland v. Washington, and which is not appropriate to even consider in the present case where no deficiencies have been established.

"Whether the cumulation of several errors, which by themselves are not prejudicial, would warrant relief is an unsettled question in South Carolina." Green v. State, 351 S.C. 197, 569 S.E.2d 318, 324-25 (2002); see also Lorenzen v. State, 376 S.C. 521, 535 S.E.2d 771, 779 n.3 (2008) (recognizing the same and declining to answer the issue given the facts of the case). Notwithstanding the unsettled question, "the threshold to asking the cumulative prejudicial question is to first find multiple errors." Green, 351 S.C. at 197, 569 S.E.2d at 325; see also Simpson v. Moore, 367 S.C. 587, 604, 627 S.E.2d 701, 710 (2006) (finding no need to attempt a cumulative error analysis where several errors are not present); Walker v. State, 397 S.C. 226, 239, 723 S.E.2d 610, 617 (Ct. App. 2012) (reversed on other grounds 407 S.C. 400, 756 S.E.2d 144 (2014)) (reversing a grant of relief based upon cumulative error where the lower court erred in finding three instances of deficiency on the part of counsel).

The "cumulative error" analysis demanded by Applicant is not appropriate. In Fisher v. Angelone, 163 F.3d 835, 852-853 (4th Cir. 1998), cert denied 526 U.S. 1035 (1999), the Fourth

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Circuit Court of Appeals held that consideration of the cumulative effect of attorney error was inappropriate where the claims, taken individually, did not violate the defendant's constitutional rights. The Fisher court noted that a constitutional error in terms of the Sixth Amendment right to counsel occurs only upon a showing of *both* deficient performance *and* prejudice. If no individual claim on its own amounts to constitutional error, then the claims cannot collectively amount to error. Put another way, "the fact that many claims of counsel error are pressed does not alter the fundamental math—a string of zeros still adds up to zero." Hunt v. Smith, 856 F.Supp. 251, 258 (D.Md. 1994). The Fourth Circuit dissolved any possible confusion "[t]o the extent this Court has not specifically stated that ineffective assistance of counsel claims of trial court error, must be reviewed individually, rather than collectively, we so now." Fisher at 852; *see also* Wainwright v. Lockhart, 80 F.3d 1226, 1233 (8th Cir. 1996), denied, 519 U.S. 968 (1996) ("Errors that are not unconstitutional individually cannot be added together to create a constitutional violation.").

Additionally, a key point in the standards for measuring ineffective assistance of counsel under Strickland v. Washington is that the principles set forth in the case . . .

. . . do not establish mechanical rules. Although those principles should guide the process of decision, the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. In every case the court should be concerned with whether, despite the strong presumption of reliability, the result of the particular proceeding is unreliable because of a breakdown in the adversarial process that our system counts on the produce just results.

Strickland, 466 U.S. 668, 696 (1984). To the extent Applicant advances "cumulative error" as a means of analyzing Strickland prejudice by totaling some ephemeral quanta of prejudice across the numerous allegations, Applicant's demand runs contrary to the anti-mechanical tilt of

Strickland. The Strickland court explicitly advises against such calculus when it tells lower courts to approach the problem in whatever order is quickest:

Although we have discussed the performance component of an ineffectiveness claim prior to the prejudice component, there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one. In particular, a court need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. The object of an ineffectiveness claim is not to grade counsel's performance. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course should be followed. Courts should ensure that ineffectiveness claims not become so burdensome to defense that the entire criminal justice system suffers as a result.

Strickland at 697. The cumulative summation of prejudice would require this Court, and indeed every court, to analyze both prongs in every case in mechanical, burdensome fashion. The cumulative summation of prejudice would also perversely incentivize applicants to raise not only their best grounds for relief (as is consistent with best practices for appellate advocacy), but raise as many allegations as possible in every case in the hopes of landing enough glancing blows to knock out their conviction. A plethora of post-conviction relief and appellate allegations cannot accumulate to an applicant's benefit; to the contrary, the multiplicity betrays the inadequacy of any single allegation. See, e.g., Fifth Third Mortgage Co. v. Chicago Title Ins. Co., 692 F.3d 507, 509 (6th Cir. 2010) ("When a party comes to us with nine grounds for reversing the district court, that usually means there are none."); Pierce v. Visteon Corp., 791 F.3d 782, 788 (7th Cir. 2015) (raising 13 issues on appeal violates principle that counsel must concentrate attention on best issues).

Cumulative error analysis is not appropriate in the form demanded by Applicant. Furthermore, even if the Court were to apply a cumulative summation of prejudice analysis to

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this case, the sum would be “zero” because Applicant has failed to meet his burden of demonstrating any deficiencies of counsel, let alone more than one. Accordingly, Respondent denies Applicant is entitled to any relief by way of cumulative error analysis.

I. Conclusion and Action Requested

Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

V. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, ETC.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VI. GENERAL DENIAL

Respondent denies each allegation not expressly admitted, qualified, or explained.

VII. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court grant its motion to dismiss specific allegations as set forth in Sections IV.a-d, g-j, above, and thereafter convene an evidentiary hearing on the allegations of ineffective assistance of trial counsel.

Respectfully submitted,

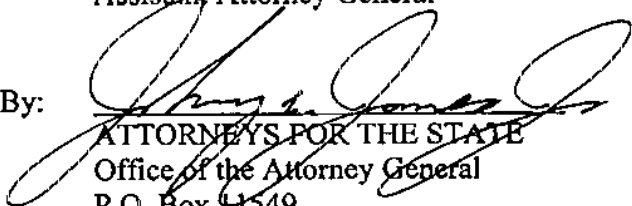
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6 Sept. 2019

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

STEVEN R. LEWIS, #372738)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2019-CP-42-02014

AFFIDAVIT OF SERVICE BY MAIL

FILED
 2019 SEP 10 AM 10:15
 CLERK OF COURT
 SPARTANBURG COUNTY
 AMY W. COX

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Partial Motion to Dismiss** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney Wade Richey, Esquire
 Richey & Richey, PA
 Post Office Box 10916
 Greenville, South Carolina 29603-0916

DATED this 6th day of September, 2019.



Eva Cook, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	2019-CP-42-02014
	)	
	)	
	)	
	)	
STEVEN LEWIS,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
	)	

April 21, 2022
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE G.D. MORGAN, JR., JUDGE.

A P P E A R A N C E S:

CHELSEY MARTO, ESQ.
Assistant Attorney General

SUSANNAH ROSS, ESQ.
Attorney for the Applicant

AMBER PAYNE, CVR
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness

(AW) - Denotes Applicant's Witness

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INDEXEXHIBITS

There were no exhibits entered during this hearing.

P R O C E E D I N G S

(Whereupon, the hearing began at
10:20 a.m.)

THE COURT: All right. Steven Lewis, 2019-CP-42-
02014. Are we ready to proceed?

MS. MARTO: Yes, Your Honor. It's my understanding
that Mr. Cash is going to be at the hearing
virtually, but I just discussed with Susannah and
she stated she's okay with moving ahead at the
moment. I am waiting for them to -- yep.

THE COURT: All right.

MS. ROSS: (To the Court) I'll keep an eye on it,
too.

MS. MARTO: (To Ms. Ross) Okay. May it please the
Court.

THE COURT: Yes, ma'am.

MS. MARTO: Applicant is confined in the South
Carolina Department of Corrections pursuant to
orders of commitment of the Spartanburg County Clerk
of Court. He was indicted August 2015 for
kidnapping, murder, and attempted murder, and then
was indicted February 2017 for first degree burglary
and armed robbery. He was represented by Mr.
Matthew Shealy, and Derrick Bulsa and Nicholas
Sharpe and the 7th Circuit Solicitor's Office

1 prosecuted the case.

2 On May 22nd, 2017, Applicant proceeded to trial
3 before the Honorable J. Derham Cole and a jury. The
4 jury found Applicant guilty as indicted May 24th,
5 2017. Judge Cole sentenced Applicant to life for
6 murder, life for first degree burglary, and 30 years
7 imprisonment for armed robbery. Judge Cole
8 additionally sentenced him to a consecutive term of
9 30 years for attempted murder. Pursuant to South
10 Carolina Code Annotated Section 16-3-910, he was not
11 sentenced for kidnapping.

12 And then he filed a timely notice of appeal and
13 direct appeal was perfected by Robert Dudek who
14 filed a brief pursuant to "Anders vs. California."
15 The South Carolina Court of Appeals dismissed the
16 appeal by unpublished opinion. The remittitur was
17 issued May 23rd, 2019. The application was filed
18 June 4th, 2019, and the State's return was made
19 September 6th, 2019.

20 With that, I'll turn it over to Ms. Ross.

21 THE COURT: All right. Ms. Ross?

22 MS. ROSS: Judge, largely, my allegations are
23 consistent with the application. They are, one,
24 that they failed to move to dismiss duplicitous
25 indictments. Two, failed to object to a severance.

1 Three, excessive abuse of leading questions, and,
2 for example, I've referenced Page 192, 199, and 217
3 of the trial transcript. Four, redirect beyond the
4 scope of the cross, and I've referenced Page 99, 154
5 through 58, Page 217, Pages 230 and 231, Page 245,
6 and 288. Fifth, the hand of one reference to the
7 co-defendant's conviction, this is as at Page 396 in
8 the transcript. And there was -- and jury
9 instructions and then there was no exceptions to the
10 instruction at Page 403. We'd argue that was
11 prejudicial because the --the co-defendant had
12 already been convicted, so to say that the hand of
13 one is the hand of all, is to basically burden shift
14 and to say this person is guilty or certainly make a
15 prejudicial suggestion there. Six, failed to
16 effectively cross-examine the witness and opened the
17 door to allowing testimony about the gun. Seven,
18 allowed jurors that -- who knew the witnesses.
19 Eight, the -- the solicitor, in closing, referenced
20 testimony that was elicited by leading and
21 questioning beyond the scope of cross, and that was
22 at Page 236, Line 6 and 357, Line 17. Failed to
23 move to reconsider the life sentence with a person
24 who had no prior record. Failed to present
25 testimony of Jason Cash. The final argument was

1 already lost due to putting some photographs into
2 evidence, so -- so he lost final argument with the
3 photographs, and then failed to present Jason Cash,
4 the
5 co-defendant, who was a witness willing to testify,
6 and we'll present him today virtually.

7 And, at that point, we'd also move to conform
8 the pleadings into evidence pursuant to "Love v.
9 State." And I call Mr. Steven Lewis to the stand.
10 THE COURT: All right. Mr. Lewis, come up here to
11 the stand and be sworn.

12 (WHEREUPON, the applicant was sworn.)

13 DIRECT EXAMINATION OF STEVEN LEWIS

14 BY MS. ROSS:

15 Q Hey, Mr. Lewis. Why have you -- what are -- what are
16 your allegations as far as post-conviction relief? Can
17 you tell the Judge why you were -- you found your lawyer
18 ineffective at your trial?

19 A I mean, there was several reasons.

20 THE COURT: If you could, Mr. Lewis, maybe pull up
21 that microphone, and see if I can hear you,
22 especially the court reporter, she's got to take
23 down everything you say, okay?

24 A There was several reasons. Like you said, I feel that he
25 didn't have my best interest at hand. When we spoke to

1 Barry to start with, when he first came and seen me, he
2 told me that he thought everything was a triable case.
3 You know, he felt comfortable taking the case to trial.
4 When we went for the bond hearing, the second time we
5 went, Mr. Bulsa said, you know, "Judge, since he wants to
6 go ahead and keep pushing for a bond, we'll just go ahead
7 and push the trial up, you know, for this summer." Which
8 was within a year of me being locked up.

9 And Mr. Shealy, he stood up, he said, "Your Honor,
10 you know, this is a triable case. We plan on taking it
11 to trial anyway."

12 And then when I actually got in court, it's -- the
13 things that I was asking him to do and the things he said
14 he was gonna do, he didn't do, you know.

15 Q Like what?

16 A There was a time that someone was on the stand and I
17 asked him to ask her a question and bring something up.
18 He said, "We'll get to that." And then he failed to even
19 do so. He let the witness get off the stand; didn't say
20 anything to her.

21 Q Who is this? Ms. Cash or --

22 A I think --

23 Q -- maybe --

24 A -- it was Casey.

25 Q Okay. And tell -- who is Casey in this case?

1 A Ms. Scruggs.

2 Q Okay. And she was --

3 THE COURT: (To the applicant) What was that last
4 name? Casey what?

5 THE APPLICANT: Scruggs.

6 MS. ROSS: Scruggs.

7 THE COURT: Scruggs.

8 Q And she was the victim --

9 A Yes.

10 Q -- who -- who named you as the --

11 A Yes.

12 Q -- the shooter?

13 A Yes.

14 Q Now, what questions would you want her to be asked?

15 A There were several things about, like, her prior criminal
16 history. She had several charges for counterfeit money,
17 false identification, bad checks, things like that. And
18 he wouldn't -- when he -- when we tried to bring it up,
19 we weren't allowed to bring it up, and he didn't push for
20 that. You know, he just kind of let it be. And that
21 right there would -- that would show that she lies, you
22 know. I mean, she has a record -- a long record of lying
23 to the courts and everybody. So, I mean --

24 Q Was she lying that night when she said you were her --
25 you shot her?

1 A Yes, ma'am. Because in my -- in my co-defendant's trial
2 it was -- what she said in mine, it was opposite in his.

3 Q What did she say in his? Do you know?

4 A In his, she said that I did it. In mine, she said that
5 he did it.

6 Q Would you call her a "reliable witness"?

7 A Her?

8 Q Casey, yeah.

9 A No, ma'am.

10 Q And how -- well, hadn't she been -- wasn't there an issue
11 of her being sort of kept in the jail for petty charges
12 prior --

13 A Yes.

14 Q -- to the trial, just to keep her --

15 A See --

16 Q -- as a witness?

17 A -- when -- when I was -- Mr. Shealy came and seen me on a
18 Sunday and told me that we were gonna start court and
19 start trial Monday -- the following Monday, which was the
20 next day, and that they were gonna offer me a plea of 15
21 to 30 years. To begin with, the only plea I could get
22 was 40 years flat if I was to testify against my co-
23 defendant. Well, I asked him, I said, "Why did it drop
24 down so much?"

25 And he said, "Because they didn't want

1 Casey -- Ms. Scruggs or Ms. Cash, either one, back on the
2 stand because they were high on drugs the first time and
3 they didn't want them -- they didn't want them to testify
4 again, at all. So they kept them in jail, both of them,
5 on petty charges, shoplifting, and things like that, just
6 so they'd be sober in my trial. And the -- the time
7 difference between my co-defendant's trial and mine,
8 there was two or three months in between, and they kept
9 them in jail just so they'd be sober that entire time.
10 And that's what Matthew Shealy told me, also. That's not
11 just my findings, that's what my lawyer told me.

12 Q Was there some issue with them being close to each other
13 at the jail or able to --

14 A Yeah. They were -- instead of top and bottom rooms, it
15 was kind of diagonal, the one room over, top and bottom.
16 And I don't know if it makes any sense of how the
17 ventilation system's hooked up, but if you yell through
18 the vents you can talk to each other and stuff like that
19 in the jails and it just -- he didn't really push for
20 those issues.

21 Q And you felt that could have been played out?

22 A Yes, ma'am.

23 Q And that their testimony could have been organized, or .

24 . . .

25 A Yeah. And, also --

1 Q And -- and their testimony changed, again, between Mr.
2 Cash -- Mr. Cash's trial and your trial?

3 A Yes, ma'am.

4 Q Did your lawyer bring out the differences? Did he have
5 the transcript from the prior trial to --

6 A He -- somewhat, but not really. He -- he brought up a
7 couple things, but not -- like I said, he didn't really
8 push for any of that, you know. He mentioned briefly
9 that it was different, but that's kind of where he left
10 it at.

11 Q Okay. You talked about objecting to the severance. Why
12 do you think the State tried your cases separately, even
13 though they were the same incident, the same witnesses?

14 A The reason they tried it separate -- they brought us both
15 to court the first day that we were supposed to be
16 starting trial. My co-defendant had wrote a statement
17 against me and this was prior to the court date and when
18 we showed up for trial the very first day, he decided he
19 wasn't gonna testify against me. The solicitor got mad
20 and said for me to go back to the jail and that they were
21 gonna start his trial that day; they were separated
22 because he decided he wasn't gonna testify against me.
23 So everything was to be a joint trial until he changed
24 his mind about testifying against me and then they
25 separated it.

1 Q Why do you think he changed his mind? I know you can't
2 know for sure, but I'm just --

3 A Honestly, I don't know. I mean, I --

4 Q You didn't threaten him or anything?

5 A No, ma'am.

6 Q Now, you talked about dismissing duplicitous indictments.
7 What -- what did you mean by that?

8 A The -- the indictments, that's the ones that -- they
9 didn't bring on those indictments until he wrote the
10 statement against me. The -- the two latest indictments
11 that were brought on, I think --

12 Q Which ones were those?

13 A -- it was like two years later.

14 Q Do you remember what they were, maybe kidnapping and --

15 A The -- yeah. I want to say the kidnapping and armed
16 robbery.

17 Q So that was based on a recanted statement by the co-
18 defendant?

19 A Yes, ma'am.

20 Q And then you think your lawyer should have moved to
21 dismiss those?

22 A Yes, ma'am.

23 Q As far as just leading, what was the general feeling?

24 Did -- you wrote down that it was "excessive leading."

25 A If -- if you were to look through the transcripts of my

1 trial, every time that Ms. Cash was asked a question, her
2 and Ms. Scruggs, their answers -- especially Ms. Scruggs
3 would be, "I don't know" -- excuse me -- "I don't know.
4 I can't remember," or, "I'm not sure."

5 Mr. Bulsa would then step in and pretty much tell
6 the story for her, the -- all the way to a point to where
7 even the judge had said something about him leading her
8 on -- said it was gonna be an issue.

9 Q Okay.

10 A There was not any questions to where she actually got to
11 answer for herself and her continue to give the answer
12 without him stepping in and helping her.

13 Q All right. And -- and do you think that made a big
14 difference?

15 A Yes, ma'am. Because she was not able to actually give
16 her answers. Whenever she would try to answer, if it
17 wasn't what -- the answer he was looking for, he would
18 step in and kind of give the answer that he wanted given.

19 Q All right. And how about the -- the hand of one
20 reference that I talked about in -- well, how about let's
21 go back.

22 Did -- did you notice a lot of redirect, as well?

23 Do you know what that is?

24 A No. I sure don't.

25 Q So after -- well, then I'll stop there then.

1 How about you had a reference to the hand of one,
2 hand of all, how did you think that was prejudicial to
3 you?

4 A Because if -- if one person -- if that -- the hand of
5 one, hand of all, the understanding that I get from that
6 is if one person is guilty then you're all guilty, okay.
7 If my co-defendant has already been tried, and he -- he's
8 found guilty, then when I'm going to court, they don't
9 have to prove anything against me except for that I was
10 around him or -- or something like that. That's all that
11 had to be proven; it doesn't have to be proven that I did
12 anything or anything like that. It's just if I knew
13 anything or seen anything or was anywhere nearby, then
14 I'm automatically guilty. They didn't have to prove
15 anything, correct?

16 Q Well, that's certainly a suggestion. And so did you have
17 any way to -- did Ms. Cash or Ms. Scruggs reference the
18 prior trial, at all, or did anyone, in front the jury to
19 your recollection?

20 A As far as --

21 Q Well, with Ms. Cash, who was your co-defendant's sister,
22 and Ms. Scruggs testified, was there any reference -- do
23 you recall --

24 A As far as the prior trial, yes.

25 Q So they --

1 A Yes.

2 Q -- talked about that conviction and --

3 A Yes.

4 Q -- talked about that?

5 A Yes. They had actually said that -- I'm not sure if it
6 was Bulsa or Shealy that had said that my co-defendant
7 was found guilty in a prior trial. That's when he was
8 asking them about, you know, their statements in his
9 trial versus what they were saying now --

10 Q Uh-huh.

11 A -- that he was actually found guilty.

12 Q So if you think the jury hearing all that, then hears the
13 jury instructions, that says, "The hand of one is the
14 hand of all" --

15 A Yes. Because --

16 Q -- do you think that submission diminished the State's --

17 A -- you know, everybody that was on the -- in the jury,
18 there's not one person that came up that hadn't -- had
19 never heard about the case prior to my trial. You know,
20 whether it had been on TV or just living in the area or
21 for some reason, you know, everybody up there had heard
22 about it,
23 so . . .

24 Q And -- and with that, did your lawyer ask any questions
25 of the juror whether they (verbatim) heard about it and

1 would be prejudiced by that?

2 A He did. And, also, there was one juror that said that
3 she knew one of the solicitors -- or one of the --
4 somebody on the solicitor's side, said she knew one of
5 them and it was after the jury had already been picked
6 and we came back from lunch and I asked Mr. Shealy, I'm
7 like, "Well, you know, isn't that an issue?"

8 He said, "Yeah. But they've already started court
9 now, so we can't really do anything about it."

10 Q Okay.

11 A I mean, they're clearly saying that they know one of
12 these people, and when it was asked to begin with, they
13 didn't know anybody, you know.

14 Q Uh-huh.

15 A So --

16 Q And he didn't move for a mistrial or change of venue or
17 anything like that?

18 A No, ma'am. And I asked him to.

19 Q All right.

20 A I asked him about that actually before we even went to
21 trial about a change of venue, and he said we wouldn't be
22 able to get it because there wasn't enough exposure about
23 the case, or something like that. It -- it -- pretty
24 much he was saying it wasn't on TV enough to be seen out
25 there from everybody for that to happen.

1 Q Had you seen it on TV, in the news, or anything?

2 A I seen when Mr. Cash got convicted, they had me on there,
3 too, on the TV, because it was us being arrested
4 together.

5 Q All right. I have down here -- I think there was some
6 reference to the gun. You know, Casey Scruggs had -- had
7 testified at first that she didn't know what kind of gun
8 it was, and then suddenly at your trial she knew exactly
9 what kind it was or something to that effect. Can you
10 elaborate on that?

11 A There was nothing brought up about a gun until my lawyer
12 brought it up -- Matthew Shealy, brought -- he mentions
13 the gun. There was nothing brought up about it,
14 whatsoever -- excuse me -- and him bringing it up, it --
15 it went against me the way that he brought it up and what
16 was said about it.

17 Q So you think it prejudiced you in the eyes of the jury --

18 A Yes, ma'am.

19 Q -- the gun issue? How so?

20 A Because if it wasn't brought up by him, then it wasn't
21 being brought up at all. It should have never been
22 mentioned because there was never a gun found -- like,
23 there was never a gun found at the scene or anywhere --
24 anytime, at all. There was never a gun found or
25 anything. There's no gun in evidence, nothing, so a gun

1 should have never been brought up.

2 Q And your lawyer brought it up?

3 A Yes, ma'am.

4 Q Now, did your -- you got probably the strongest sentence
5 you -- you get, did your lawyer move to reconsider or --
6 or anything like that? Ask the judge to think, again,
7 about that sentence, given you had no prior record?

8 A No. He did not. And that was one thing when they asked
9 -- when the judge -- the judge had asked my past criminal
10 record in court and they told him, he had to ask them,
11 again, because he didn't believe that it was actually
12 true, that I had had a clean criminal record up until
13 that point.

14 Q None in North Carolina, where you were from, or anything?

15 A Nothing ever. Speeding tickets and stuff like that,
16 that's it. No criminal, nothing.

17 Q Now, this is one small point, but in redirect on Page
18 231, Line -- let's just start at Line 4, they start
19 talking about how many officers were out there. And this
20 is -- do you know the context of what they're talking
21 about there? So y'all were in North Carolina; is that
22 right?

23 A Yeah. That was at my house, yes.

24 Q Okay. And -- and you -- you first didn't come to the
25 door, but then came to the door?

1 A No.

2 Q What happened?

3 A See what had happened was when we got back to my house,
4 he had picked -- Mr. Cash had picked me up that morning
5 from his house. I was there with his sister, and he
6 picked me up to take me home.

7 Q Did y'all date or something?

8 A We were starting to -- starting to, and that's the reason
9 I was with her.

10 Q Okay.

11 A So he picked me from his house with his sister, to take
12 me home to North Carolina because I was in South Carolina
13 working, and he was taking me home for the weekend.

14 Q Uh-huh.

15 A And then I was gonna be back because I was working in
16 Charlotte, and they -- they were in Spartanburg, so not
17 far from it. When we got back to my house, I was -- I
18 went to sleep; I'm asleep on the couch when this is --
19 what they're talking about here is going on. I didn't
20 hear anybody calling for me, no police whatsoever,
21 nothing. And if you read through there, one of the
22 officers -- they mention, you know, about putting
23 explosives around the door and the window on the front of
24 the house.

25 Q Uh-huh.

1 A Well, then I think it's Mr. Shealy asked, did they even
2 try to knock on the door, and they said, "No." No one
3 even tried to knock on the door. They're several hundred
4 -- several hundreds of feet away from the house trying to
5 -- from what they say, "Call in on the bullhorn," from
6 the road.

7 Q All right.

8 A Nobody came and knocked on the door, but they put
9 explosives and everything around the door, and that's
10 what woke me up was when the door got blown in, it was
11 laying beside me when I rolled over and looked. It was
12 laying beside me and that's when I put my hands up and I
13 had no idea what was going on. I just seen the door
14 laying there, and the red lasers everywhere, so I put my
15 hands up.

16 Q So in response to Mr. Shealy asking about, "Did y'all try
17 to knock on the door?" Mr. Bulsa gets up on redirect and
18 starts bringing in about how there are 40 officers there
19 and a SWAT team and -- and making a big thing about it
20 when they didn't even knock on the door?

21 A Nobody even knocked on the door to try and wake me up or
22 anything. They're just assuming that I'm in there doing
23 what -- God knows what, and, honestly, I'm in there
24 asleep.

25 Q And --