

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SUMTER COUNTY

William Jeffrey Young, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH WADELL DUNBAR,

APPELLANT

APPELLATE CASE NO. 2011-203386

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT.
STATE’S EXHIBIT # 2 (PHOTO LINE UP)**

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

COURT OF GENERAL SESSIONS
2010-GS-43-00543

STATE OF SOUTH CAROLINA

-vs-

JOSEPH WADELL DUNBAR

:
:
:
:
:

TRANSCRIPT OF RECORD
JURY SELECTION

MONDAY, NOVEMBER 7, 2011
SUMTER, SOUTH CAROLINA

B E F O R E:

THE HONORABLE W. JEFFREY YOUNG, JUDGE, AND A JURY.

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

R. KIRK GRIFFIN, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

WILL BRUNSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DIANNE A. RUTLEDGE
CIRCUIT COURT REPORTER

I N D E X

1

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3 CERTIFICATE OF COURT REPORTER 13

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E X H I B I T S

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13 (No exhibits were introduced during this requested
14 portion of the transcript of record.)

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1 THE COURT: Good morning, ladies and gentlemen. As
2 Mr. Prince said, I'm Jeff Young, and I'm a circuit court
3 judge in the at-large seat. And we are about -- well, I
4 guess I'll go ahead and let you call. We're about to start
5 the case, but I'll let the solicitor call it at this point
6 in time.

7 MR. GRIFFIN: Your Honor, the state calls indictment
8 no. 2010-GS-43-543, The State of South Carolina versus
9 Joseph Wadell Dunbar, Jr.

10 Count 1, burglary in the second degree violent.

11 Count 2, armed robbery.

12 Mr. Dunbar is present in the courtroom with his
13 attorney, Will Brunson.

14 THE COURT: All right. Would you please pass up the
15 indictments.

16 (Pause.)

17 THE COURT: Thank you. All right. Ladies and
18 gentlemen, as I said, we're about to begin the case of The
19 State versus Joseph Wadell Dunbar. And he's charged with
20 armed robbery in the second degree violent -- excuse me --
21 burglary in the second degree violent and armed robbery.

22 Now, ladies and gentlemen, let me remind you, the fact
23 that Mr. Dunbar was arrested, charged, and indicted is in
24 no way an indication that he actually committed the crime.
25 Mr. Dunbar has pled not guilty. So, therefore, the burden

1 is going to be on the state to prove his guilt beyond a
2 reasonable doubt.

3 Now, ladies and gentlemen, I'll remind you that you
4 are still under oath. And there's a number of questions I
5 need to ask you to make sure that we get a jury that is
6 fair and impartial.

7 And, again, one of the reasons that you're under oath
8 at this time is this is such a crucial stage of the trial.
9 Just like a building must have a firm foundation to be
10 strong and protective of those who live in it, so must a
11 jury be strong as the basis for a fair and impartial trial
12 for those who participate, the solicitor for the people,
13 and the defendant who is on trial.

14 Now, your answers to these questions, ladies and
15 gentlemen, are the foundation for which these attorneys
16 will build a jury. They are relying on your truthful
17 answers to help them as they strike an unbiased jury, who
18 will diligently listen to the facts and deliver a just
19 verdict.

20 And, again, ladies and gentlemen, thank you again for
21 your complete truthfulness as I ask you these questions.

22 Now, ladies and gentlemen, the first question is: Has
23 anyone ever been related by blood or marriage or had a
24 close, personal relationship with the defendant, Joseph
25 Dunbar, who is in the gray shirt to my right? If so,

1 please stand.

2 (No response.)

3 THE COURT: All right. Thank you. Now, ladies and
4 gentlemen -- no one's standing.

5 This is a list of the possible witnesses in this case.
6 And after I go over this list -- so listen carefully -- I'm
7 going to ask you if you've ever been related by blood or
8 marriage or had a close, personal relationship with any of
9 these witnesses. The witnesses start off as William Lyons
10 of the Sumter Police Department, Truman Duggin of the
11 Sumter Police Department, Marie Hodge of the Sumter Police
12 Department, Johanna Aleck of the Sumter Police Department,
13 Jim Alsbrook of the Sumter Police Department, Calvin
14 Fulmore of the Sumter Police Department, Stephanie Stanley
15 of The State Law Enforcement Division, Mary Pollard,
16 Maqueda Duncan, Jahmelia Ward, Libra Johnson, Shakyra
17 Gooseby, Joanna Marie or Joanna Marie Dunbar.

18 If you all want to turn around so they can see who you
19 are.

20 (Complied.)

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

22 Is there any member of the jury panel who has ever
23 been related by blood or marriage with any people that I
24 called out, including these 5 ladies who just stood up --
25 had any business relationship or basically any relationship

1 with any of these people? If so, please stand at this
2 time.

3 Yes, sir, please state your juror number and name.

4 JUROR: Juror No. 189, Henry Williams.

5 THE COURT: Mr. Diamond?

6 JUROR: Henry Williams.

7 THE COURT: Henry Williams. Yes, sir.

8 JUROR: I know one name that you called.

9 THE COURT: Excuse me.

10 JUROR: I said I am familiar with one of the officer
11 name that you called.

12 THE COURT: And who would that be?

13 JUROR: Calvin Fulmore.

14 THE COURT: Okay. Would the fact that you know Calvin
15 Fulmore make it so that you can't be fair and impartial to
16 both the state and the defense in this case?

17 JUROR: Well, the way I feel about it as far as our
18 law enforcement, we have ---

19 THE COURT: Hold it. Come on down. Come on down
20 here. You're not in trouble.

21 (A bench conference was held off the record in the
22 presence of the jury, but out of the hearing of the jury.)

23 THE COURT: 189 struck for cause.

24 Thank you. Is there anyone else? Yes, ma'am, please
25 stand.

1 JUROR: I'm juror number 36. I'm Liz Compton. I know
2 Jamal Brooks, one of the law officers.

3 THE COURT: Okay. Would the fact that you know --
4 which one was it you knew?

5 JUROR: Jamal Brooks.

6 THE COURT: Jamal Brooks. The fact that you know
7 them, would that make it so that you couldn't be fair and
8 impartial to the state and defense based upon the facts of
9 this case?

10 JUROR: I could be fair and impartial.

11 THE COURT: Thank you.

12 MR. BRUNSON: Your Honor, the juror number please?

13 THE COURT: Ms. Compton, what is your juror number?

14 JUROR: 36.

15 THE COURT: 36. All right.

16 All right. Ladies and gentlemen, the attorneys who
17 will be trying this case are Mr. Kirk Griffin for the
18 solicitor's office, and Mr. Willie Brunson for the
19 defendant.

20 Has any member of the jury panel ever been represented
21 by either of these attorneys who are involved in this or
22 any of the law firms in which they were associated? If so,
23 please stand.

24 (No response.)

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

1 Has any member of the jury panel formed or expressed
2 an opinion about any issue or matter that is involved in
3 this case? Let me go back and read the indictments to make
4 sure you don't.

5 Count 1, burglary in the second degree violent reads
6 that Joseph Wadell Dunbar did in Sumter County on or about
7 January 1st of 2010, enter without consent and with the
8 intent to commit a crime therein a building of Untouchable
9 Cuts located at [REDACTED], and that the
10 defendant, Joseph Wadell Dunbar, did enter the building in
11 the nighttime in violation of section 16-11-312(B) of the
12 South Carolina code.

13 Under count 2 the indictment reads that on or about
14 January 1st of 2010 in Sumter County, South Carolina, the
15 defendant Joseph Wadell Dunbar, Jr., at Untouchable Cuts at
16 [REDACTED] by use of force, threats, or
17 intimidation and while armed with a deadly weapon or while
18 allegedly either by words or actions that he was armed
19 while using a representation of a deadly weapon or other
20 object which a person present during the commission of the
21 robbery reasonably believed to be a deadly weapon did take
22 and carry away goods and or moneys from the person or
23 immediate possession of Mary Pollard with the intent to
24 permanently deprive the victim of possession thereof in
25 violation of section 16-11-330(A) of the South Carolina

1 code.

2 Now, ladies and gentlemen, as I said the defendant has
3 pled not guilty, and therefore the state has the burden of
4 proving all the allegations contained in these charges of
5 the indictment.

6 But does anybody in the jury panel know anything about
7 this incident that is alleged to have happened on January
8 1st of 2010? Read anything in the newspapers or know
9 anything about it?

10 (No response.)

11 THE COURT: All right. Thank you. Has any member of
12 the jury panel formed or expressed an opinion about any
13 issue or matter involved in this case? If so, please
14 stand.

15 (No response.)

16 THE COURT: Has any member of the jury panel had any
17 -- you or any member of your family been the victim of a
18 violent crime? If so, please stand.

19 (No response.)

20 THE COURT: All right. Thank you. Is there any
21 member of the jury panel who is aware of any bias or
22 prejudice towards either the state or the defendant in this
23 case? If so, please stand.

24 (No response.)

25 THE COURT: All right. Thank you. No one is

1 standing.

2 Is there any member of the jury panel who is also a
3 member of the grand jury which issued the indictment in
4 this case? If so, please stand.

5 (No response.)

6 THE COURT: All right. Thank you. Is there any
7 member of the jury panel who is a member or a contributor
8 to any group which has as its primary concern the promotion
9 of law enforcement or victim's rights? Now, these groups
10 would include but certainly would not be limited to Mothers
11 Against Drunk Drivers, Students Against Drunk Drivers, or
12 Citizens Against Violent Crime? If so, please stand at
13 this time?

14 Yes, ma'am, please state your juror number and name.

15 JUROR: 37. I am a member of Mothers Against Drunk
16 Driving.

17 THE COURT: Okay. Would the fact that you're a member
18 of Mothers Against Drunk Drivers make it so that you
19 couldn't be fair and impartial to the state or the
20 defendant in this case?

21 JUROR: No, sir.

22 THE COURT: Okay. Thank you. Yes, Ms. Compton.

23 JUROR: 36. I'm a member of Mothers Against Drunk
24 Drivers, but I can be fair.

25 THE COURT: All right. Thank you.

1 Does any member of the jury panel know of any reason
2 whatsoever why he or she should not serve as a juror in
3 this case, with particular emphasis being placed on your
4 ability to be fair and impartial to both the state and the
5 defendant? If so, please stand.

6 (No response.)

7 THE COURT: All right. Thank you. Does the state
8 have any additional questions it would like for me to ask?

9 MR. GRIFFIN: No, sir.

10 THE COURT: All right. Does the defense have any
11 additional questions?

12 MR. BRUNSON: None from the defense, Your Honor.

13 THE COURT: All right. Ladies and gentlemen, what
14 will happen now is the computer will pick out a random list
15 of names. And then as your name is called, please bring
16 your personal items with you and come up in front of the --
17 I guess right in front of the bar there. Turn around and
18 face General Thomas Sumter. And then the state and the
19 defense will have an opportunity to strike you.

20 Now, ladies and gentlemen, please don't take it
21 personal if you're stricken from the jury. Each of these
22 attorneys have some idea what they think would be the ideal
23 jury based upon the facts and circumstances of this
24 particular case. So, again, please don't take it personal
25 if you get stricken. All right. Thank you.

1 (The jury was empaneled at 11:55 a.m.)

2 THE COURT: Thank you. Ladies and gentlemen, you all
3 have been selected as the jury for this trial. I'm going
4 to let you go for lunch now with instructions to be back
5 here at 3:00 o'clock. We have some pretrial matters that
6 we need to take up, and then we won't start the case until
7 3:00 o'clock.

8 Now, let me remind you because you're on a jury,
9 please do not talk to anyone about this case. Go off and
10 have your lunch. Have a nice lunch. But then come back
11 here at 3:00 o'clock. And hopefully you will not talk to
12 anyone during that time.

13 All right. Ladies and gentlemen -- let me send them
14 back to the jury room for just a minute while I take up one
15 more thing, and then I'll release them from there.

16 (The jury retires to the jury room at 11:57 a.m.)

17 THE COURT: Are there any objections from the state or
18 the defense to the jury that has been drawn and the manner
19 in which it was selected?

20 MR. GRIFFIN: None from the state, Your Honor.

21 THE COURT: Mr. Brunson?

22 MR. BRUNSON: Not in the manner of selection, Your
23 Honor.

24 THE COURT: All right. Thank you.

25 --- End of transcript of record ---

1 I, the undersigned Dianne A. Rutledge, official court
2 reporter for the Fifth Judicial Circuit of The State of
3 South Carolina, do hereby certify that the foregoing is a
4 true, accurate, and complete transcript of the record of
5 the jury selection and evidence introduced in the trial of
6 the captioned case, relative to appeal, in the Circuit
7 Court for Sumter County, South Carolina on the 7th day of
8 November 2011.

9 I do further certify that I am neither of kin,
10 counsel, nor interest to any party hereto.

11
12 May 1, 2013

13
14
15 
16 Court Reporter

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF SUMTER	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 10-GS-43-0543
	)	
Joseph Waddell Dunbar, Jr.,	)	
	)	
Defendant.	)	

TRANSCRIPT OF TRIAL

The within Hearing was held on November 7-9, 2011, before The Honorable William J. Young in the Court of General Sessions for Sumter County, South Carolina; attended by counsel, as follows:

APPEARANCES:

Ryan Kirk Griffin, Solicitor
 3rd CIRCUIT SOLICITORS OFFICE
 141 North Main Street
 Sumter, South Carolina 29150
 Appearing for State of South Carolina

Will Brunson, Esq.
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 Appearing for Defendant

Transcribed for Margaret Sullivan, Court Reporter

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(None Entered)

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(None Entered)

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1 MR. BRUNSON: We believe that the
2 jury has been tainted by Juror 189.

3 THE COURT: He didn't say anything.

4 MR. BRUNSON: Well, he did.

5 THE COURT: Nobody heard it.
6 Solicitor?

7 SOLICITOR: Judge, in your initial
8 remarks to the jury you would remind them the
9 State has the burden of proof in this case, and
10 Juror Number 89 was set aside for cause, I think
11 the -- with the standard opening remarks to the
12 jury, you could certainly clear up any confusion
13 that may have been created in the jury's mind by
14 any statement that a juror may have made. Your
15 Honor, we certainly -- certainly believe that
16 the State has the burden of proof and that a
17 person cannot be found guilty until a jury
18 decides that the State has met its burden beyond
19 a reasonable doubt. Certainly that would cure
20 any taint that we're talking about based on what
21 that juror may have said, if anyone heard him.
22 At that point, unless a juror comes up and makes
23 an affirmative statement that whatever Juror
24 Number 189 may have some impact on this jury, I
25 think that at this point it's premature and that

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1 Your Honor can take care of the whole burden of
2 proof issue.

3 THE COURT: I may not do that in my
4 opening charge, but the jury is going to go
5 under a new oath that they will swear that they
6 will try this case based on these facts and not
7 on what somebody else may tell them.

8 His statement was so generic that I
9 don't think that it would taint the jury in any
10 way whatsoever.

11 MR. BRUNSON: Yes, sir, I
12 understand your ruling.

13 THE COURT: Your Motion is
14 respectfully denied.

15 MR. BRUNSON: Thank you, Your
16 Honor. The Defendant would also like to make a
17 Motion that the fact witnesses be sequestered.
18 The basis of that Motion, Your Honor, is that we
19 believe that there are some discrepancies in the
20 statements that they have written and I believe
21 that sequestering them would prevent them from
22 altering their statements or tailoring them in
23 any fashion.

24 THE COURT: Any objection to that?

25 SOLICITOR: I would just state for

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7

1 the record that ---

2 THE COURT: The victims and the
3 investigating officer always can be present.

4 SOLICITOR: Yes, sir, and, Your
5 Honor, these people were all present during
6 robbery at the barber shop, they were all
7 present, they all had guns pulled on them. They
8 will each testify that they were in the presence
9 of this robbery and in such a position that
10 these witnesses are all victims, and of course
11 the lead investigation, Detective Lyons, can
12 stay in the courtroom. So, Your Honor, these
13 are -- they are all victims, and I think that
14 they have a right to stay during the entirety
15 of the trial.

16 THE COURT: I agree if they were all
17 present; however, any other witnesses will be
18 kept out/sequestered.

19 SOLICITOR: And, Your Honor, we don't
20 have anybody else in the courtroom other than
21 the victims and Detective Lyons.

22 THE COURT: Respectively denied.

23 MR. BRUNSON: Thank you, Your
24 Honor. The defense would like to make a Motion
25 with regard to the photo lineup.

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1 THE COURT: All right, you may
2 proceed.

3 SOLICITOR: Your Honor, the State
4 calls Mary Pollard to the stand.

5 (WITNESS TAKES STAND)

6 MARY POLLARD, being duly sworn to tell
7 the truth, the whole truth and nothing but the
8 truth, testified, as follows:

9 DIRECT EXAMINATION

10 BY SOLICITOR:

11 Q. Ms. Pollard, where do you live?

12 A. Sumter County.

13 Q. How long have you lived in Sumter?

14 A. Seven years.

15 Q. All right. Back on January 1st, 2010, what
16 had you done that day?

17 A. I was in my shop doing Ms. Libra's hair.

18 Q. When you say in your shop, what shop is
19 that?

20 A. Untouchable Cuts.

21 Q. That's a beauty salon?

22 A. Yes, a beauty and barber salon.

23 Q. How long had you been there that day?

24 A. I have been there since 7:00 in the
25 morning.

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1 Q. Was there an incident that happened on
2 January 1st, 2010?

3 A. Yes, sir.

4 Q. What happened?

5 A. I was in my shop and at first -- at first,
6 I was outside talking to my pastor and when I
7 came back into the shop my client, along with my
8 daughter, told me that someone had come into the
9 shop inquiring about the owner.

10 Q. They were asking who the owner was

11 A. (Affirmative nod), who the owner was. They
12 were pretty much looking around the shop.

13 Q. And at that point of the day, what was
14 going on? Were y'all still open or what was ---

15 A. No, we were closed. We were closed.

16 Q. After you came back in, what happened?

17 A. I came back in and when I shut the door
18 behind me, I got a knock on the door. There was
19 a young man standing to the right of the shop.
20 There's like a small pathway right next to the
21 door of the shop -- if I may stand up. He was
22 like (gesturing), 'Can you twist my dreads?' He
23 didn't have long dreads but he had dreads like
24 here, sticking out.

25 Q. Now, you were talking to this person at the

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1 door?

2 A. Yes, sir.

3 Q. How were you able to see them?

4 A. I pulled my curtain back.

5 Q. Is the door a solid door or what is the
6 composition of the door?

7 A. It's a regular wooden door with a small
8 plexiglas/ glass.

9 Q. So you could see through the pane of the
10 door?

11 A. Yes, sir.

12 Q. You said that this individual had short
13 dreads?

14 A. He had on a black hat, kinda rolled up and
15 -- so -- the left side, a little bit of hair was
16 showing out and he asked if I would twist his
17 dreads. At that time, I stated to him that I
18 was not open, that he could come back tomorrow
19 and that I would do it for him.

20 Q. Did you notice anything else about how he
21 physically looked other than the hair, at that
22 point?

23 A. Light skin. He had some small, like, red
24 marks on his chin area, he was wearing gloves at
25 the time.

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1 Q. Now, after you told him that you were
2 closed, what happened next?

3 A. I got a bad feeling and I asked my daughter
4 to pass me my cell phone so that I could call
5 911. I don't know why, but I got a bad feeling.
6 And she was approaching me to bring me my cell
7 phone and we heard a loud noise, just shattered
8 the glass. I stepped back to the right of me,
9 which would be my dryers, and I just heard
10 kicking -- kicking the glass in, kicking the
11 glass in.

12 Q. After you heard this noise, what happened
13 next?

14 A. I -- apparently he'd -- about four or five
15 guys jumped in. Everybody had -- one guy was --
16 everybody was masked, one guy had the gun
17 directly pointed on me to my face, ---

18 Q. Was it a handgun or a long gun?

19 A. It was a handgun.

20 Q. After these individuals came into the shop,
21 what happened next?

22 A. After these individuals came into the shop,
23 they had guns on everyone and -- the one
24 individual that had the gun on me, like I said,
25 at this time everybody was masked, had a mask

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1 on. One individual, I seen, walk around to the
2 barber shop and they was like, 'where the fuck
3 is that, where the fuck is it at?' I reached
4 inside my bra and I gave the individual that was
5 in front of me the money that I had inside my
6 bra. It was like \$1,500, I had my EBT card, my
7 driver's license, and another card -- I can't
8 quite remember now which ---

9 Q. That amount of money, was that -- why did
10 you have that amount on you?

11 A. That was money that I had made the day
12 before. I just hadn't took it off of me. I
13 left my shop earlier that day so -- I left my
14 shop earlier that day to take it home, but then
15 I came right back to the shop and I still had
16 that amount on me.

17 Q. And you had worked that day, as well?

18 A. Yes.

19 Q. Now, the individual that was in front of
20 you holding the gun, did you ever get a look at
21 his face?

22 A. I didn't get a look at his face because he
23 had a mask on.

24 Q. At some point did you?

25 A. Yes, sir.

1 Q. Tell the judge how he did that.

2 A. He was still pointing the gun on it and he
3 was still saying, 'where the fuck is that, where
4 the fuck is it at', and -- "where the fuck is
5 at, where the fuck is at?" I was like, 'I am
6 peeing on myself, I gave you everything that I
7 had.' I was like, 'There's bags and cell
8 phones' and, you know, things like that over
9 there on the counter, which I pointed to the
10 counter. The other guys grabbed that stuff and
11 left out. He was the only one inside. He took
12 his mask off. He was, like, "I know where the
13 fuck you live. If you say anything, I will kill
14 you." I was just at that moment just stuck.

15 Q. Okay. How far away from you was he at that
16 point?

17 A. In my face.

18 Q. All right. Now, the person that asking you
19 for money, what did he look like?

20 A. He was light-skinned. When he took his
21 mask off, he was real, real red/flushed. Just
22 red. He had the same - and I notice that it was
23 the same kind as the guy who had initially asked
24 me to twist his dreads.

25 Q. Okay. This guy that had the gun on you,

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1 did he have dreads as well?

2 A. No, sir.

3 Q. Did he have -- you said that he was the
4 same guy as the guy who had asked about twisting
5 dreads?

6 A. (No verbal response).

7 Q. So did he have ---

8 A. He had a small afro, not long hair at all.
9 Just kinda small, that you could just
10 (gesturing), like that.

11 Q. He didn't have the long dreads but you
12 could twist his hair?

13 A. Yes, sir.

14 Q. Now, you said that the business was closed.
15 Were the lights on when they came in?

16 A. Yes, sir.

17 Q. Did you have a clear view of the person who
18 pulled the gun on you?

19 A. Yes, sir.

20 Q. Did anything block your view at all?

21 A. No, sir.

22 Q. Now, after this was over, what happened?

23 A. After the incident was over -- well, at the
24 time during the incident, he was still in there?
25 He was, like 'How the fuck you get out of here,

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1 how the fuck do you get out of here?' I was
2 like, 'You have to go out the same way that you
3 came in.' He proceeded right back the door that
4 they came in. I took everybody and went to the
5 back of the shop, which is a gated door but it
6 wasn't locked. We stayed back there and started
7 banging on the door upstairs, for the owner who
8 owns the building.

9 Q. You said the owner who owned the building?

10 A. (Affirmative nod).

11 Q. You rented that shop?

12 A. Yes, sir.

13 Q. Did the police subsequently come?

14 A. Yes, sir.

15 Q. Did you talk with the police officers at
16 that point?

17 A. No, my daughter did.

18 Q. To your knowledge, was a description given
19 of the person who'd pulled the gun on you?

20 A. Repeat that?

21 Q. Did you describe the person that pulled the
22 gun on you, to the police?

23 A. Yes, sir.

24 Q. What did you tell them about this person,
25 about his looks?

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1 A. I told them that he was light-skin, that he
2 had some what appeared to be pimples, marks, red
3 marks on the side of his face, like little
4 dents. I explained what he had on, which was a
5 black ski mask, white gloves, long dark coat.

6 Q. Now, Ms. Pollard, did you have an
7 opportunity to go down to the police station the
8 next day?

9 A. Yes, sir.

10 Q. Who did you speak with when you went to the
11 police station?

12 A. I spoke with Detective Lyons.

13 Q. Now, Ms. Pollard, I am going to show you
14 what has been marked for identification purposes
15 as State's Exhibit 1 and ask you if you
16 recognize this form.

17 SOLICITOR: May I approach, Your
18 Honor?

19 THE COURT: You may.

20 THE WITNESS: (Upon review), yes,
21 I do.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR:

24 Q. Ms. Pollard, have you seen this document
25 before?

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1 A. Yes.

2 Q. Did you prepare that document?

3 A. Yes, sir.

4 Q. Looking at the document, the instructions
5 on it, did Detective Lyons go over those with
6 you?

7 A. Yes, sir.

8 Q. Okay. Now, he read you these instructions
9 before you reviewed the photographs?

10 A. Yes, sir.

11 Q. Did he tell you that you had to pick
12 somebody out?

13 A. No, sir.

14 Q. Did he suggest anybody, that you pick any
15 particular number?

16 A. No, sir.

17 Q. Did he force you to do this?

18 A. No, sir.

19 Q. Did he promise you anything if you made a
20 selection?

21 A. No, sir.

22 Q. When you went and met with him, were you
23 under the influence of any drugs or alcohol?

24 A. No, sir.

25 Q. Did you see on that document -- did you

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1 make any marks on it?

2 A. Yes, sir.

3 Q. What marks did you make on it?

4 A. My initials by number five, and I signed
5 it.

6 Q. And what date and time did you sign it?

7 A. I don't remember the time.

8 Q. Look down on the ---

9 A. 1/2/2010.

10 Q. So this would have been the day after?

11 A. Yes, sir.

12 Q. Ms. Pollard, I am going to show you what
13 has been marked for identification purposes as
14 State's Exhibit 2. Do you recognize this?

15 A. Yes, sir.

16 Q. You've seen this document before?

17 A. Yes, sir.

18 Q. And did you make any marks on this
19 document?

20 A. Yes, sir.

21 Q. What did you do on -- what marks did you
22 make on the document?

23 A. I circled number five and added my
24 initials.

25 Q. You circled number five and added your

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1 initials?

2 A. Yes, sir.

3 Q. Okay. Why did you initial and circle
4 number five?

5 A. Because that was the guy.

6 Q. That was the guy that did what?

7 A. Robbed me.

8 Q. That was the guy with the gun?

9 A. That knocked on my door and asked me if I
10 could twist his dreads.

11 Q. Ms. Pollard, do you see the person that is
12 number five in the courtroom here today?

13 A. Yes, sir.

14 Q. Who would that be?

15 A. (Indicating).

16 Q. What color shirt does he have on?

17 A. He has on a gray shirt and black glasses.

18 Q. He is seated next to Mr. Brunson?

19 A. Yes, sir.

20 Q. That's the man that robbed you on January
21 1st, 2010?

22 A. Yes, sir.

23 Q. Any doubt in your mind?

24 A. No, sir.

25 Q. Any doubt in your mind when you picked him

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1 out of a photo lineup on January 2nd, 2010?

2 A. No, sir.

3 Q. You're a hundred percent sure?

4 A. Yes, sir.

5 THE COURT: Could I see the photo
6 lineup?

7 SOLICITOR: Yes, sir, Your Honor --
8 (tendering).

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR:

11 Q. Ms. Pollard, with that photo identification
12 process, answer any questions that Mr. Brunson
13 may have for you.

14 A. Yes, sir.

15 THE COURT: Mr. Brunson?

16 MR. BRUNSON: May it please the
17 Court, Your Honor?

18 THE COURT: Yes, sir.

19 CROSS EXAMINATION

20 BY MR. BRUNSON:

21 Q. Ms. Pollard, you testified on direct that
22 you were not in the building initially; correct?

23 A. No, sir.

24 Q. Did you testify that you were talking to
25 someone outside of the building?

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- 1 A. Yes, sir.
- 2 Q. Who was that?
- 3 A. My pastor.
- 4 Q. So you were not in the building when
- 5 someone first came in?
- 6 A. No, sir.
- 7 Q. All right. Who told you that someone had
- 8 entered the building?
- 9 A. My daughter, Jahmelia Ward, and Libra.
- 10 Q. Now, you also testified that the person
- 11 that you selected in this photo lineup is the
- 12 person that entered the building?
- 13 A. At the time of the robbery, yes, sir.
- 14 Q. But you testified that they had entered the
- 15 building before, correct?
- 16 A. No. It was someone who entered the
- 17 building but I didn't see the person who'd
- 18 entered the building when I was outside talking
- 19 to my pastor.
- 20 Q. All right. So was it your testimony that
- 21 you looked through the glass and you saw someone
- 22 twisting ---
- 23 A. Yes. Someone knocked on the door and I
- 24 answered it, and he asked he would I twist his
- 25 dreads. I stated to him that I was closed.

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1 Q. So you don't know if that is the same
2 person that walked in the first time or not?

3 A. No, sir.

4 Q. But it is your testimony that that is the
5 person that ultimately removed a mask from his
6 face?

7 A. The person that knocked on the door; yes,
8 sir.

9 MR. BRUNSON: Your Honor, may I
10 see the lineup, sir?

11 THE COURT: You may, (tendering).

12 CROSS EXAMINATION CONTINUED

13 BY MR. BRUNSON:

14 Q. On State's Exhibit 1, there's a name
15 written at the top after the words "Witness";
16 what is that name?

17 A. Mary Pollard.

18 Q. Did you write "Mary Pollard" on that line?

19 A. Yes.

20 Q. That's your handwriting?

21 A. Yes, sir.

22 Q. Okay. And you also signed this document?

23 A. Yes, sir.

24 Q. That is your signature?

25 A. Yes, sir.

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- 1 Q. Are you sure about that?
- 2 A. I'm sure.
- 3 Q. You are sure about writing your name on
- 4 that line?
- 5 A. Not on the top, but the bottom is.
- 6 Q. I'm sorry, I can't hear you. The bottom
- 7 signature is my signature and the initials, but
- 8 the top signature isn't.
- 9 Q. You did not write that?
- 10 A. No, sir.
- 11 Q. Is there an X in box number five?
- 12 A. Yes, sir.
- 13 Q. You put that X in there?
- 14 A. Yes, sir.
- 15 Q. Tell me something. At what point did you
- 16 put the X and the initials, was it before you
- 17 signed or after you signed?
- 18 A. I made the X first.
- 19 Q. All right. So at some point you were given
- 20 this collection of photos?
- 21 A. Yes, sir.
- 22 Q. And it is your testimony that you were
- 23 given this before you signed it?
- 24 A. Yes, sir.
- 25 Q. You're sure about that?

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1 A. Yes, sir.

2 Q. Now, your testimony is -- just tell me in
3 your own words what happened when you met with
4 Detective Lyons.

5 A. I know that -- he had more than one
6 collection of photos that he had.

7 Q. It was more than one collection of photos?

8 A. Yeah, there was two more like this. He
9 said, 'take your time, try to remember' and then
10 he laid them out on the table and I recognized
11 him.

12 Q. And you're saying that there were two other
13 sheets of photographs?

14 A. Yes, but I didn't have to look at them.

15 Q. You were presented with this one first?

16 A. No, I was presented with all of them.

17 Q. But you didn't get a chance to look at the
18 other two?

19 A. Yeah, I looked. I looked over everything
20 but that -- that's -- I'd never forget that
21 face.

22 Q. So you saw that?

23 A. Yes, sir.

24 Q. And where did this meeting occur?

25 A. At the police station.

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- 1 Q. Where?
- 2 A. (No verbal response).
- 3 Q. Where at the police station? Big room?
- 4 Small room?
- 5 A. Big room.
- 6 Q. How many people were in the room?
- 7 A. Me and Detective Lyons.
- 8 Q. Just the two of you?
- 9 A. Yes, sir.
- 10 Q. And your testimony is that you selected
- 11 number five from this page?
- 12 A. Yes, sir.
- 13 Q. And then you signed this document?
- 14 A. Yes, sir.
- 15 Q. Did anybody else sign this document?
- 16 A. No, sir.
- 17 Q. Look at this document, (tendering).
- 18 A. (Reviewing).
- 19 Q. Did anybody sign it in front of you?
- 20 A. Yes, sir.
- 21 Q. Who?
- 22 A. Detective Lyons.
- 23 Q. So at no point did anyone else ever come in
- 24 the room, that you recall?
- 25 A. No, sir.

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1 MR. BRUNSON: Nothing further.

2 THE COURT: Redirect?

3 SOLICITOR: Briefly, Judge.

4 REDIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Ms. Pollard, Mr. Brunson asked you about
7 the individual that came to the door looking for
8 the owner.

9 A. Yes, sir.

10 Q. You weren't in the store at that time?

11 A. No, sir.

12 Q. You had interaction with who you now know
13 as Joseph Dunbar through the glass?

14 A. Yes, sir.

15 Q. Then you picked him out of this photo
16 lineup?

17 A. Yes, sir.

18 Q. Did Detective Lyons suggest who you should
19 pick out, did he suggest that you pick anybody
20 in particular out?

21 A. No, sir.

22 Q. Did he promise you anything or force you to
23 do this

24 A. No, sir.

25 SOLICITOR: Your Honor, that's all

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1 that we have for Ms. Pollard with regard to this
2 issue.

3 THE COURT: You may step down.

4 (WITNESS STEPS DOWN)

5 THE COURT: Call your next witness.

6 SOLICITOR: The State calls Detective
7 Lyons, William Lyons.

8 (WITNESS TAKES STAND)

9 WILLIAM LYONS, being duly sworn to tell
10 the truth, the whole truth and nothing but the
11 truth, testified, as follows:

12 DIRECT EXAMINATION

13 BY SOLICITOR:

14 Q. Detective Lyons, where do you work?

15 A. Sumter Police Department.

16 Q. How long have you been with the Police
17 Department?

18 A. Since 2004.

19 Q. In your current employment capacity, what
20 is your job title?

21 A. I'm the senior detective in the violent
22 crimes division, specializing in violent crimes,
23 gang-related crimes, a variety of different
24 violent crimes, even narcotics; it just depends
25 on different things on any given day.

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1 Q. Did you have an occasion to become involved
2 in an investigation of the armed robbery at
3 Untouchable Cuts back in January of 2010?

4 A. I did.

5 Q. All right. How did you become involved?

6 A. I was either on duty that weekend or on
7 call. It was a holiday weekend, so I was off
8 work. A call came out and I was one of the
9 officers that initially responded, but I was not
10 working.

11 Q. All right. Now, Detective, in your
12 capacity as the investigator, you were assigned
13 this case?

14 A. Correct.

15 Q. Upon arriving at the scene, what did you
16 do?

17 A. Prior to getting to the scene we had a
18 description of a black male who'd wanted to
19 enter the business. Traveling up one street
20 behind the barber shop, it's between Lafayette
21 and Red-and-White Street, then the next street
22 over would be Brand Street. Traveling up Brand
23 Street, came into contact with a young black
24 male by the name of Rakeem Dunbar. We stopped,
25 spoke with Mr. Dunbar, patted him down for

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1 weapons. During that pat-down, we received a
2 credit card in his possession that had the
3 defendant's name on it, one Joseph Dunbar.

4 Q. So this individual named Rakeem had a
5 credit card belonging to Joseph Dunbar?

6 A. He did. He had -- after speaking with him,
7 he was eventually brought to the station and
8 questioned about his potential involvement in
9 the crime there at Untouchable Cuts.

10 Q. Now, Detective Lyons, did you have an
11 occasion to get a detailed physical description
12 of one of the perpetrators of the crime?

13 A. We did. We got the description from Ms.
14 Pollard, Ms. Mary Pollard, in regards to one of
15 the robbers. She described him as a short,
16 light-skinned black male. She describe the face
17 as being pimpled or pitted, the face having some
18 distinguishing characteristics around the cheek
19 area. She also said that his hair was not long
20 dreads but braidable, twistable or whatever you
21 have, that he had long enough hair to where it
22 would be manipulated in a twist fashion.

23 Q. Okay. Detective Lyons, based on the
24 description and based on the contact that you
25 had with Rakeem Dunbar and the existence of this

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1 card, did you have occasion to compile a photo
2 lineup?

3 A. I did. After having spoken with Ms.
4 Pollard and after having talked with Mr. Dunbar,
5 -- in fact, he had the defendant's credit card
6 with him and the physical description that Ms.
7 Dunbar (sic) gave me matched that of the
8 defendant.

9 Q. That Ms. Pollard gave you?

10 A. Yeah. I'm sorry. That Ms. Pollard gave
11 me. Matched that of the defendant, Joseph
12 Dunbar.

13 Q. Prior to this robbery taking place, did you
14 have knowledge of Joseph Dunbar?

15 A. I did. And I knew that he matched that
16 description. Therefore, I took a recent jail
17 photo - he had a booking photo from November of
18 2009 for an unlawful weapons charge, so I took
19 that booking photo because I knew that it would
20 be probably the most recent photo of him, unless
21 he'd gotten a new driver's license, so I sent
22 that photo to the State Law Enforcement Division
23 and asked them to compile a six-person photo
24 lineup.

25 Q. So you sent a known photo of Joseph Dunbar

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1 to SLED?

2 A. I did.

3 Q. And did you have any hand in choosing the
4 other five photos?

5 A. No, sir, I have no idea who they are.

6 Q. Tell us a little bit about -- once you
7 request a lineup from SLED, how do you get it
8 back?

9 A. We send it off by e-mail, we send the
10 individual's name, date of birth, if they have a
11 driver's license number -- or we request they
12 view a photo that they already have of the
13 individual, i.e., a booking photo from the jail.
14 We sent that in e-mail format to them. They
15 have a fill in the blank form on the e-mail. We
16 send it to them and they, in turn, e-mail it
17 back. They will e-mail the photo lineup back to
18 us.

19 Q. And you did that in this case?

20 A. I did.

21 Q. Did you have an occasion to have Ms.
22 Pollard come back in and meet with you?

23 A. She did. She came back in early that
24 Saturday morning. That would have been the
25 morning after the robbery.

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1 Q. The morning after the robbery. Okay. What
2 was the purpose for her visit that morning?

3 A. To present the photo lineup to her and see
4 if she could identify anyone in the lineup as
5 being the robber.

6 Q. I want to show you what has been marked as
7 State's Exhibit 1 for identification,
8 (tendering). Do you recognize that, Detective?

9 A. I do.

10 Q. What is this form, generally.

11 A. Generally it is the witness lineup
12 identification form. It's the form that is used
13 in connection with the photo lineup, which we
14 explain to them the photo lineup, explain to
15 them that the people shown in the form are in no
16 particular order, they are listed from left to
17 right, numbered one through six. On the form
18 that's all the photos that we use on a form, is
19 six. So they're in no particular order and
20 they're no particular number. The numbers are
21 selected randomly, we do not select them. We
22 tell them that if they can identify one or more
23 persons in the lineup that's presented to them,
24 to please mark that with an "X". Then we have
25 them mark with an X and put their initials on it

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1 and sign it.

2 Q. Now, the hand-printed name "Mary Pollard",
3 who wrote that on there? The print?

4 A. I printed her name on there.

5 Q. And you handed the form to her?

6 A. I handed the form to her.

7 Q. And this a form that is used as a standard
8 form used by the Sumter Police Department?

9 A. It is, (affirmative nod).

10 Q. Now, did Ms. Pollard, was she able to pick
11 anybody in particular out in this lineup?

12 A. She did.

13 Q. What number did she pick?

14 A. She selected number five, which is the
15 Defendant.

16 Q. Now, did you promise her anything for
17 making this selection?

18 A. No.

19 Q. Did you threaten her in any way?

20 A. No, sir.

21 Q. Did you tell her that she had to pick
22 someone out?

23 A. No, sir.

24 Q. Did she appear to be under the influence of
25 any drugs or alcohol that morning?

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1 A. No, sir.

2 Q. Detective, I want to show you what has been
3 marked for ID as State's Exhibit 2 and ask if
4 you recognize this?

5 A. I do. It's the six person lineup that was
6 generated by State Law Enforcement Division,
7 includes the defendant in position five.

8 Q. Okay. Who -- to your knowledge, who made
9 the markings on that form, the handwritten
10 marks?

11 A. These markings were made by Ms. Pollard, in
12 my presence.

13 Q. You saw her do that?

14 A. I did.

15 Q. Just to clear anything up, she made the
16 markings on this and then she filled out the
17 corresponding?

18 A. Yes. There would be no need to fill this
19 portion of the form out had she not made the ID
20 on this section.

21 Q. Okay. So to be clear, you showed what's
22 been marked as State's Exhibit 1 first?

23 A. I reviewed what's marked as State's Exhibit
24 1 first, to go over the instructions, and then I
25 present them with the photo lineup.

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1 Q. Right.

2 A. Then if they pick someone from the photo
3 lineup, we finish completing State's Exhibit 1,
4 because there would no point in completing the
5 form if they do not pick anybody out. In other
6 words, if she had not picked anybody there would
7 be no x's in the blocks and there would be no
8 signature on the form.

9 Q. Right. And the signature on State's
10 Exhibit 1, below the box marked number five,
11 whose signatures are on that sheet?

12 A. My signature is in the signature as Officer
13 and Ms. Pollard signed beneath the signature
14 line above the date and time line.

15 Q. How many photo lineups did you show Ms.
16 Pollard?

17 A. I only showed Ms. Pollard one photo lineup.

18 Q. In making the selection of number five, did
19 she hesitate in any way?

20 A. No, sir, she went straight to it.

21 Q. Did she appear unsure at all?

22 A. No, sir.

23 SOLICITOR: Answer any questions that
24 Mr. Brunson might have for you, Detective Lyons.

25 THE WITNESS: Yes, sir.

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1 THE COURT: Mr. Brunson?

2 MR. BRUNSON: Thank you, Your
3 Honor.

4 CROSS EXAMINATION

5 BY MR. BRUNSON:

6 Q. Detective Lyons, just a couple of
7 questions. The date and time line, who filled
8 that out? Was it you or was it Ms. Pollard?

9 A. The date and time line was filled out by
10 myself.

11 Q. Okay. And that's a zero-eight-fifty-two?

12 A. Yes, sir.

13 Q. 8:52 in the morning?

14 A. Yes, sir.

15 Q. Was this photo lineup videoed?

16 A. Was the presentment videoed?

17 Q. Yes, sir.

18 A. No, sir.

19 Q. Was there an audio of the photo lineup?

20 A. No, sir.

21 Q. Was there any other witness present besides
22 you and Ms. Pollard?

23 A. No, sir.

24 Q. How many witness lines on the form?

25 A. Signature lines on the form?

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1 Q. There's a signature line for the officer
2 and a signature line for the witness; correct?

3 A. That's correct.

4 Q. Now, isn't it procedure to have a photo
5 lineup witnessed?

6 A. Not necessarily procedure. If you have
7 someone there that can witness it, we do; but,
8 again, this was a holiday weekend. I had her
9 coming in on a Saturday morning, met her up
10 there and presented her with the photo lineup.

11 Q. So it was New Year's? In fact, the day
12 after?

13 A. The day after New Year's.

14 Q. So there wasn't a whole lot of people
15 around?

16 A. No.

17 Q. All right. Now, what the reason for have a
18 witness to a photo lineup?

19 A. Just to have anyone else there to initial
20 or sign it, witness her signing it. Or there
21 might not be anybody.

22 Q. So that witness would then be able to
23 verify that the lineup was done properly?

24 A. I'm verifying that it was done properly.

25 Q. But a witness would be able to do that,

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1 too; right?

2 A. Would be a second person.

3 Q. Now, you testified that you got the
4 information about my client from a credit card;
5 correct?

6 A. Yes.

7 Q. Did you place that credit card into
8 evidence?

9 A. I do not remember if we did or not.

10 Q. Okay. So the only way that you got to my
11 client is from a credit card that as in the back
12 pocket of someone walking down the street?

13 A. No.

14 Q. No?

15 A. That's part of it.

16 Q. The first part?

17 A. Also, the person walking down the street
18 was his family member.

19 Q. Okay.

20 A. Therefore, his family member had his ID.

21 At first, I didn't think anything about it.

22 Okay? It wasn't until we discussed what was
23 going on in the business with the victim and Ms.
24 Pollard gave a description and I said, 'that
25 matches the description of Joseph Dunbar'; which

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1 was the gentleman's, that we'd stopped, cousin
2 (sic).

3 Q. All right.

4 A. I had no idea that they were family, had we
5 not stopped Mr. Rakeem Dunbar when he had the
6 credit card on him. He admitted that Joseph
7 Dunbar was his cousin. That's how I knew that
8 they were family.

9 Q. All right. Okay. So the first thing was a
10 description?

11 A. The first thing was -- as far as leading us
12 to Joseph Dunbar, it was a compilation of
13 things.

14 Q. So, I'm trying to figure out, did you get a
15 description before you found the credit card or
16 afterwards?

17 A. No, it was afterwards that I got a
18 description from Ms. Pollard.

19 Q. So you found the credit card first?

20 A. Correct.

21 Q. Then at some point you or another officer
22 had an occasion to interview Ms. Pollard?

23 A. Correct.

24 Q. Who gave the description?

25 A. (Affirmative nod), who gave a description.

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1 Q. Now, what was your answer in regard to the
2 credit card?

3 A. As far as?

4 Q. Is it in evidence?

5 A. I do not remember. We'd have to look at
6 our chain of custody to see. I do not recall it
7 being in evidence.

8 Q. What was the description?

9 A. Of the robber?

10 Q. Correct.

11 A. Light-skinned black with the pits or
12 pimples, what-have-you, facial acne around the
13 cheekbone area, short, lightweight -- not
14 heavysset. Hair, not long braids but hair that
15 could be twistable or braidable, long enough to
16 be able to braid his hair.

17 Q. Is that description not consistent with
18 Rakeem Dunbar?

19 A. No, he's considerably taller than Joseph
20 Dunbar. He's somewhat darker, he had longer
21 braids.

22 Q. All right. Now, you testified that you did
23 not assemble this photo lineup?

24 A. That's correct.

25 Q. Now, the description is a light-skinned

1 male? In your opinion, how many of this six are
2 light skinned?

3 A. Four.

4 Q. All right. So the other two in the lineup
5 clearly -- well, let me rephrase it. So your
6 testimony is that two of them aren't even light-
7 skinned?

8 A. They are not dark-skinned.

9 Q. So you're testifying ---

10 A. They are not dark.

11 Q. So your testimony is that four are light-
12 skinned?

13 A. (Affirmative nod).

14 Q. Now, you said that you got this photo from
15 a November of 2009 booking?

16 A. Correct.

17 Q. Pollard testified that there were two other
18 sets of photos with this one. Is it your
19 testimony that is not true?

20 A. My testimony is that I presented this photo
21 lineup to Ms. Pollard on that date.

22 Q. Just those six?

23 A. That's correct.

24 Q. Tell me about the process for requesting a
25 photo lineup from SLED. Now, you sent a photo

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1 but did you also send a description?

2 A. We have to send a form along with the
3 photo, if we want to use a photo. We still have
4 to fill out the same form, an e-mail form. We
5 fill it out and then we attach the photo that
6 we're requesting them to use. So it's still the
7 same form and we just send that photo along with
8 the form that corresponds to the suspect.

9 Q. Is that form in your police file, a copy of
10 that?

11 A. No, it's a simple e-mail form.

12 Q. Electronic?

13 A. Yes, sir.

14 Q. You did not print out a copy of it?

15 A. No, sir.

16 Q. Do you know if a copy exists other than in
17 electronic form?

18 A. I am not sure if the State Law Enforcement
19 Division would print it out or not. I am not
20 sure.

21 Q. All right. So tell us a little bit more
22 about this form. Does it require a description?

23 A. Our information is at the top, the Sumter
24 Police Department and the official case number.

25 Q. Okay.

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1 A. The individual's name, date of birth, race,
2 gender and whether or not they have a South
3 Carolina driver's license. A lot of times we
4 send it where we do not have a SCDL -- if we are
5 using an SCDL, then they compile the photo
6 lineup based on that. In this case, I decided
7 to send this photo along with it. So as far as
8 descriptionwise, it's his name, the date of
9 birth, race and gender and if they have the
10 SCDL.

11 Q. Other specifics?

12 A. Yes, height, weight, things of that sort.

13 Q. Do you know if a DMV photo was provided?

14 A. I do believe that he has a South Carolina
15 driver's license.

16 Q. Did you look at it in making your decision
17 on which photo to send?

18 A. I don't recall. I just recall that he had
19 been booked, and I don't remember -- we just
20 used the photo from his last booking.

21 MR. BRUNSON: Court's indulgence,
22 Your Honor?

23 THE COURT: Yes, sir.

24 CROSS EXAMINATION CONTINUED

25 BY MR. BRUNSON:

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1 Q. One other question. I notice on State's
2 Exhibit 1, proposed one, that there are two
3 different writing utensils being utilized. Is
4 that correct?

5 A. Correct.

6 Q. Any particular reason why -- and -- well,
7 first of all, tell me what the types. One
8 appears to be a marker/pen.

9 A. If you look at the photo lineup, the same
10 marker that was used to write the initials and
11 to circle number five on the photo lineup is the
12 same marker that's used to put it in the box.
13 It's a Sharpie marker.

14 After she completed that, I had her sign it
15 with a pen instead of trying to sign it with the
16 Sharpie. That's the difference for the two.

17 Q. No other significance?

18 A. No. To me, a Sharpie shows up better when
19 you're marking something than trying to use a
20 pen. A pen looks better when you're signing
21 something.

22 MR. BRUNSON: Nothing further.

23 THE COURT: Any redirect?

24 SOLICITOR: Your Honor, we have no
25 redirect. At this time we would offer State's

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1 Exhibits 1 and 2 into evidence.

2 THE COURT: Any objection?

3 MR. BRUNSON: Just an objection at
4 the appropriate time.

5 THE COURT: All right.

6 (SO ENTERED AS STATE'S EXHIBIT 1)

7 (SO ENTERED AS STATE'S EXHIBIT 2)

8 THE COURT: Under the due process
9 clause, evidence of identification of an accused
10 must be excluded if the process to obtain the
11 identification is so unnecessarily suggestive as
12 to give rise to a substantial likelihood that
13 there is a misidentification.

14 The facts that the Court should look to
15 to determine the reliability of the witnesses
16 are the opportunity to view the criminal at the
17 time of the crime, the witness' degree of
18 attention to the accuracy, the witness' level of
19 certainty at the time of the confrontation, and
20 the time between the crime and the
21 confrontation.

22 In this situation, I find that the
23 witnesses had an opportunity to view the
24 criminal at the time of the crime. The
25 testimony was that he took the mask off and that

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1 she would have seen it at the time. Her degree
2 of attention, she was very specific that he was
3 a light-skinned Black male with shorter hair,
4 with facial markings. She was very specific,
5 ends up being pretty accurate.

6 The witness' level of certainty at the
7 time of confrontation. She was very certain at
8 the beginning of that.

9 And there was very little time. I
10 mean, we're talking about from one evening to
11 the next morning when this lineup was presented.

12 I am looking at the lineup. Four of
13 them are very, very similar. The other two are
14 darker but, yet, the hair would fall into the
15 description.

16 So based on -- the key factor here is
17 reliability. I think that being the linchpin,
18 that the photo lineup will come in. Based on
19 that, your in-court identification will be
20 allowed at this point. Thank you.

21 Yes, sir, do you have another Motion?

22 MR. BRUNSON: Your Honor -- no,
23 Your Honor. We just renew our objection.

24 THE COURT: So noted, denied again.

25 MR. BRUNSON: Thank you, Your

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1 Honor.

2 THE COURT: Let's take a few minutes
3 -- are our jurors here?

4 BAILIFF: Yes, sir.

5 THE COURT: All right, I'll give you
6 a minute to change gears. We will bring the
7 jurors in about 3:15.

8 (BRIEF RECESS)

9 (DEFENDANT PRESENT)

10 BAILIFF: All jurors are back in
11 the courtroom, Your Honor.

12 (JURY IN @ 3:17 P.M.)

13 THE COURT: Please swear the jury.

14 (WHEREUPON JURY SWORN)

15 THE COURT: Thank YOU, Ladies and
16 Gentlemen. Mr. Weaver, I've appointed you as
17 foreman of this jury. I will give you further
18 instructions in that regard later.

19 Ladies and Gentlemen, before we begin
20 this trial, I want to tell you that this trial
21 will be probably be different from what you
22 might expect. Most people never have a chance
23 to attend an actual criminal trial or court
24 session as you are today and may think from
25 watching TV, movies or reading books that trials

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1 are always full of high drama, intense drama,
2 riveting circumstances. While all of these
3 things may be true at times, this is a real
4 trial. This is a fundamental part of our
5 discovery (sic) and this trial is not for
6 entertainment purposes. This is a search for
7 the truth in an effort to make sure that justice
8 is done. In making sure that justice is done,
9 it's often slow, deliberate and repetitive; the
10 exact opposite of what you may have seen on
11 television or movies or read in books.

12 This courtroom, Ladies and Gentlemen,
13 is a place of honor that is dedicated to the
14 preservation of our citizens rights through what
15 I truly to be the greatest justice system that
16 has ever been created. The attorneys who are
17 appearing before you are advocates for the
18 parties they represented. But first and
19 foremost, they are officers of this court who
20 are sworn to uphold the integrity and the
21 fairness of our judicial system and to help you,
22 as jurors, in your search for the truth.

23 Ladies and Gentlemen, you should expect
24 them to be professional, competent and ethical
25 in the representation of their client's

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1 interest. Ladies and Gentlemen, remember you
2 just took an oath to listen to the evidence in
3 this case and reach a fair and just verdict.
4 Ladies and Gentlemen, you're expected to be
5 professional, reasonable and ethical as well.

6 Again, thank you for accepting this
7 important responsibility of jury duty and your
8 contribution to our justice system.

9 Is it hot in here, or is it just me?
10 Turn that down a little bit.

11 Now, Ladies and Gentlemen, what I am
12 going to tell you now is intended to serve just
13 as an introduction to the trial of this case.
14 These remarks are not a charge on the law. I
15 will charge you the law that is applicable to
16 this case at the end of the trial. This is
17 merely an explanation of procedures that we will
18 follow during this trial so that you may better
19 understand what's happening.

20 Ladies and Gentlemen, let me tell you
21 upfront that you're not going to be able to take
22 notes during the trial; so, therefore, it's very
23 important that you listen closely throughout the
24 trial.

25 Now, Ladies and Gentlemen, the

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1 defendant is charged by the indictment filed
2 with this court of armed robbery and burglary in
3 the second degree, violent. The elements will
4 be explained to you in greater detail later.

5 Now, Ladies and Gentlemen, as I told
6 you before, the indictment charging the
7 defendant is simply the document by which this
8 case is brought into court and is not in any
9 sense evidence of any of the allegations that
10 are contained in the indictment.

11 The defendant has pled Not Guilty and,
12 therefore, the State has the burden of proving
13 all of the evidence of each charge that's in the
14 indictment beyond a reasonable doubt. It will
15 be your duty, Ladies and Gentlemen, as the jury,
16 to decide whether the State has met that burden.

17 Your purpose, Ladies and Gentlemen, is
18 to determine the facts of this case. You're to
19 determine the facts from the testimony that you
20 hear in this courtroom and other evidence that
21 is introduced here in court. Ladies and
22 Gentlemen, it's up to you to determine which
23 inferences you feel may be properly drawn from
24 the evidence. Ladies and Gentlemen, it is
25 especially important that you do your job

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1 diligently and conscientiously because
2 ordinarily there is no way to correct an
3 erroneous interpretation of facts by a jury.

4 On the other hand, but with equal
5 emphasis, the same law that makes you the judges
6 of the facts makes me the judge of the law. The
7 law as given to you by me is the only law that
8 you may consider. Ladies and Gentlemen, you
9 must accept the law as I give it to you even
10 though you might disagree. I cannot tell you
11 what the facts are and you cannot disagree with
12 me about what the law is or what you believe
13 that the law should be. Your job is to take the
14 law as I give it to you, apply it to the facts
15 as you find them from the testimony and other
16 evidence as presented.

17 After hearing the evidence, you will
18 deliberate and render a true and just verdict
19 under the solemn oath that you just took, Ladies
20 and Gentlemen, as jurors.

21 Now, until I advise you to begin your
22 deliberations at the conclusion of the case you
23 must not discuss the case with anyone, including
24 your fellow jurors, except when authorized to do
25 so by me. You may not use a computer, cellular

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1 phone or other electronic device with
2 communication capabilities while here, in
3 attendance in court or during your
4 deliberations. These decisions may be used when
5 you break for lunch or when we break over the
6 evening, however you're -- you still can't use
7 them to disclose any information about the case.
8 Information about the case would include --
9 certainly would not be limited to information
10 about a party, a witness, an attorney or a court
11 official, any news accounts about the case, any
12 information -- juror research on any topic that
13 may be raised during testimony. So if you hear
14 something here, you can't go back on your
15 computer and Google it to see what you can find
16 out about it. That's strictly prohibited. That
17 would be juror misconduct.

18 Now, Ladies and Gentlemen, after the
19 case is submitted to you, you must discuss it
20 only in the jury room with your fellow jurors.
21 Ladies and Gentlemen, the attorneys and parties
22 in this case are advised that they are not to
23 talk to you. So if you see one of them in the
24 hall and they don't say anything to you, they're
25 not being unfriendly, they're just following my

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1 instructions. As I said, the system is designed
2 that all of the information that you're going to
3 need to reach a verdict should be presented from
4 this witness stand or exhibits that are provided
5 here in the courtroom. So if you hear anything
6 from outside, that would taint that and we don't
7 want to have that happen.

8 Ladies and Gentlemen, it is very
9 important that you keep an open mind and not
10 decide any issue in this case until all the
11 evidence has been presented, the attorneys have
12 made their closing arguments and I have charged
13 you on the law.

14 Ladies and Gentlemen, it is your solemn
15 responsibility to determine the guilt or the
16 innocence of the defendant and your verdict must
17 be based solely on the evidence as presented to
18 you in this trial and on the law as I instruct
19 you during and at the close of the trial.

20 Now, in just a moment the Solicitor
21 will make what is called an opening statement,
22 in which he will explain to you what he believes
23 that the issues are in this case. The attorney
24 for the defendant may also make an opening
25 statement, although he is not required to do so.

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1 What the attorneys tell you during their opening
2 statement is not evidence in this case. It is
3 only their contention as to what they believe
4 that the evidence will show.

5 Ladies and Gentlemen, from time to time
6 throughout this trial you may hear one of the
7 lawyers say something like, 'Your Honor, I
8 believe that we have a question of law' or 'a
9 matter of law to discuss with you.' Or, 'Your
10 Honor, may we approach the bench?'

11 Or sometimes I may find it necessary to
12 excuse you from the courtroom for a short time
13 so that the attorneys and I can discuss a matter
14 of law. Now, the reason that you're going to be
15 excused from this conversation is, as I said,
16 you are the judges of the facts and sometimes
17 when I am discussing matters of law with the
18 attorneys, it may be necessary for me to make
19 some comment as to the facts in connection with
20 making a ruling whether or not a law applies.
21 As I've said, I am not supposed to tell you what
22 the facts are. So I will excuse you from the
23 room while these discussions take place so that
24 nothing that I say could in any way influence
25 you in any way.

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1 Now, Ladies and Gentlemen, also during
2 the trial you may hear one of the attorneys make
3 an objection to certain evidence that is about
4 to be presented. Whether I sustain/grant the
5 objection or overrule/deny the objection should
6 not construed that I favor one side or the
7 other. I do not.

8 Nor should you infer that the objecting
9 party is trying to hide something from you. You
10 know, in this court as in all situations of life
11 there are specific rules that must be followed.
12 The attorneys, as officers of this court, are
13 merely trying to follow the rules of evidence.
14 This court -- in making their objection -- and I
15 am only ruling on what I believe to be the law
16 of the state of South Carolina as to whether
17 that evidence should be admitted.

18 Now, Ladies and Gentlemen, in
19 determining what the true facts are in the case,
20 you must decide whether or not the testimony of
21 a witness is believable. It will be my
22 responsibility to rule as a matter of law
23 whether certain testimony is admissible.
24 However, once the testimony is admitted, whether
25 or not you as jurors decide you want to believe

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1 it is entirely up to you.

2 Now, in deciding whether or not to
3 believe a witness, you have the right to
4 consider the interests of any witness, the bias
5 of any witness, the prejudice of any witness,
6 the opportunity for the witness to have actually
7 observed the matters and things about which the
8 witness testifies and the way that the witness
9 acts on this witness stand.

10 Ladies and Gentlemen, you have a right
11 to consider anything that is in the record that
12 will help you evaluate the testimony of the
13 witness. That means, Ladies and Gentlemen, that
14 it is your responsibility as jurors to pay close
15 attention to the witness, to observe the
16 witness, to listen to the witnesses and to pay
17 close attention to the attorneys and to the
18 court.

19 Ladies and Gentlemen, don't let your
20 minds wander but give strict attention to the
21 testimony so that at the end of all the
22 testimony, after the arguments of counsel, and
23 the charge on the law by me, you will then be in
24 a position to determine what the true facts are,
25 to apply the law to those facts and thus render

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1 a true and just verdict.

2 Mr. Foreman, in addition, it will be
3 your job to preside in the jury room and to be
4 the jury spokesperson here in the courtroom. It
5 will also be your duty to write down the verdict
6 of your fellow jurors. I'll give you more
7 instructions about that at the time.

8 Now, in order to preserve everyone's
9 rights, I will give the attorneys an opportunity
10 to object to anything that I've stated. Does
11 the State have any objection to my opening
12 charge?

13 SOLICITOR: None from the State, Your
14 Honor.

15 THE COURT: Does the defense have any
16 objection?

17 MR. BRUNSON: None from the
18 Defendant, Your Honor.

19 THE COURT: We will now begin the
20 trial. Solicitor?

21 SOLICITOR: Thank you, Your Honor,
22 may it please the court?

23 THE COURT: Yes, sir.

24 SOLICITOR: "Take everything. That's
25 all that we have. Please don't shoot. Please

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1 *don't shoot."*

2 The victim in this case, Mary Pollard,
3 made those statements. She made those
4 statements on January 1st, 2010. She made those
5 statements with a handgun pointed at her face as
6 she was being robbed.

7 To get to that point, we have to go
8 backwards a little bit. On January 1st, 2010,
9 Ms. Pollard worked at her salon, Untouchable
10 Cuts on Lafayette here in Sumter. She worked
11 that day, she had her children at the shop with
12 her, she had a patron at the shop with her after
13 hours, after 7:00 o'clock, after the store had
14 closed.

15 That day an individual came in,
16 described as a young black male wearing red
17 socks and flip-flop shower shoes. He came in
18 the store asking who the owner was. Ms.
19 Pollard, who was the owner and the proprietor of
20 that business was outside the store, and her
21 daughter who was inside the store -- her
22 daughters, Ms. Pollard's daughters, Jahmelia
23 Ward and Maqueda Duncan, this young individual
24 was told 'she's not in the store now, you've got
25 to come back tomorrow, we're gonna be closed.'

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1 So he leaves.

2 Ms. Pollard, who had been outside
3 speaking with her pastor, came back in and then
4 there was a knock at the locked door. A man she
5 describes as a young black male, light-skinned,
6 with twisty dreads knocked on the glass door and
7 asked, 'Can I come in? Can you twist my dreads
8 for me?' She said, "We're closed, you'll have
9 to come back tomorrow." Now, this was a
10 different person than had come in asking for the
11 owner.

12 Ms. Pollard will tell you from the
13 stand that we felt uneasy about what had
14 happened. She asked her daughter, Jahmelia,
15 'Go get me my cell phone.' To call law
16 enforcement. A few moments later, she hears a
17 loud crash. The glass door, the locked glass
18 door to her shop is busted out. Four males bust
19 through the door, come in, all armed with
20 weapons -- handguns and long guns. "Where is
21 the money at? Where's the money at?" The guns
22 are drawn on Ms. Pollard, proprietor of the
23 business.

24 A patron, Libra Johnson, -- Libra
25 Johnson's young daughter, Shakyra Gooseby,

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1 Maqueda Duncan, who is Mary Pollard's daughter,
2 and Jahmelia Ward, also Ms. Pollard's daughter.
3 Guns were held on all of these individuals,
4 "Where's the money? Where's the money?"

5 These individuals are all dressed in
6 black, all wearing gloves, all armed.

7 Ms. Pollard had the money she had made
8 that day and the day before tucked in her shirt.
9 She gave up the money. She gave the money to
10 the man directly in front of her, pointing the
11 gun, the man who she pled to "Take everything,
12 that's all we have. Please don't shoot. Please
13 don't shoot."

14 They gathered up some bags of the folks
15 in the store and at that point the man in front
16 of Mary Pollard pulled up the mask that he was
17 wearing and said, "I know where you live and
18 I'll kill you." At that moment she got to look
19 at this individual. She saw a light-skinned
20 male with acne marks on this face, the same
21 individual who had knocked on the door moments
22 earlier asking about getting his hair twisted.

23 All the property scooped up, they run
24 out the door the way that they came in, through
25 the busted glass.

1 Ladies and Gentlemen, law enforcement
2 was called and that's when the investigation
3 began. You'll hear testimony from the lead
4 detective in this case, Detective William Lyons.
5 He responded to this call.

6 Canvassing the area, looking for people
7 that may have been involved in this situation.
8 You'll hear that he comes into contact with a
9 young man by the name of Rakeem Dunbar, who
10 admittedly is not the defendant on trial here
11 today. Rakeem Dunbar was the same individual
12 who had come in looking for the owner of the
13 business, wearing socks and flip-flops.

14 Rakeem Dunbar had a credit card
15 inscribed with the name "Joseph Dunbar."
16 Detective Lyons takes the description of Joseph
17 Dunbar, a young light-skinned black male,
18 because he finds this individual with Joseph
19 Dunbar's credit card information. He takes that
20 information and starts the investigation. He
21 determines from speaking to these victims here
22 that in fact the light-skinned, young, short
23 Black male was the one who lifted his mask and
24 threatened Mary Pollard.

25 So armed with that information,

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1 Detective Lyons compiles what is called a photo
2 lineup. Ladies and Gentlemen, that's where six
3 photos are put on a sheet of paper and a witness
4 is shown these photos to see if any of these
5 people depicted in any of these photos had
6 anything to do with this crime. Ladies and
7 Gentlemen, Detective Lyons had Mary Pollard, the
8 victim in this case, come to the law enforcement
9 center the next day at 8:52 a.m. to review this
10 photo lineup. Ladies and Gentlemen, Joseph
11 Dunbar's photo was included in that photo
12 lineup. Detective Lyons told Ms. Pollard, 'look
13 at these photos, see if you recognize anybody,
14 if anybody in these photos was involved in what
15 happened last night.' Ladies and Gentlemen, Ms.
16 Pollard picks out number five immediately.
17 'That's the man, that's the man who pointed the
18 gun at me and demanded my money. That's one of
19 the men that busted in my shop, my salon
20 afterhours, that's one of the men that pointed
21 guns at my children and my patrons. I am a
22 hundred percent sure that's him.'

23 Ladies and Gentlemen, you will also
24 hear about the rest of the police investigation.
25 Crime scene witnesses (sic) came out and took

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1 photos. We've got these photos and we'll show
2 them to you, photos of the scene, photos of what
3 happened, how they attempted to get fingerprints
4 and any other identifying information from this
5 crime scene.

6 Ladies and Gentlemen, this case is
7 about what happened to these five people seated
8 on the front row. This case is about how they
9 suffered from having these guns drawn on them,
10 not knowing what these individual would do, and
11 how Mary Pollard would tell you unequivocally,
12 without question, that Joseph Dunbar is the man
13 that pointed a gun at her face, the man who
14 demanded her money, and the man to who she
15 pleaded "take everything, that's all we have,
16 please don't shoot, please don't shoot."

17 Ladies and Gentlemen, I would submit to
18 you that after you've heard all of the evidence,
19 viewed all of the photographs, all of the
20 testimony from the victims and the witnesses,
21 the State will have proven to you beyond a
22 reasonable doubt that the Defendant, Joseph
23 Dunbar, came into Untouchable Cuts on Lafayette
24 Drive here in the City of Sumter at around 7:00
25 o'clock on New Year's Day 2010, he was dressed

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1 in all black with a mask covering his face, he
2 put a gun in Mary Pollard's face, demanded her
3 money, and showed her his face and threatened
4 her. The State will prove beyond a reasonable
5 doubt that Joseph Dunbar is the man with the gun
6 in Mary Pollard's face, the man who you pleaded
7 "take everything, that's all we have, please
8 don't shoot, please don't shoot." Thank you.

9 THE COURT: Mr. Brunson?

10 MR. BRUNSON: May it please the
11 Court, Your Honor?

12 THE COURT: Yes, sir.

13 MR. BRUNSON: Good afternoon
14 Ladies and Gentlemen of the jury, Mr. Foreman.
15 My name is Will Brunson and I represent Mr.
16 Joseph Dunbar, Jr. He is seated with me today
17 at the defense table. Mr. Dunbar is charged
18 with burglary second and armed robbery.

19 Now, today Mr. Dunbar sits at this
20 table cloaked in a robe of innocence. In other
21 words, he remains innocent until the State has
22 proven that he is guilty of these charges beyond
23 a reasonable doubt. So, in other words, the
24 State has a very heavy burden. They must strip
25 my client of the his robe of innocence. The

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1 only way that the State can do that is by
2 putting forth evidence that tends to show that
3 he is guilty.

4 Well, I submit to you today that the
5 State is not able to meet its burden. I submit
6 to you that the State cannot reach this very
7 high burden because my client has maintained his
8 innocence from the very beginning. He maintains
9 it today and at the conclusion of this trial,
10 after all the evidence has been presented, we
11 are certain that you will come back with the
12 only possible verdict in this case. That's a
13 verdict of Not Guilty.

14 Now, the Solicitor told that the law
15 enforcement officer investigating this case
16 discovered a credit card in somebody's back
17 pocket. That's how the investigation began.
18 I submit to you that you will not see a credit
19 card in evidence today. We will not see any
20 fingerprints that match my client. You will
21 hear talk about DNA evidence, biological
22 evidence that was collected from the scene.
23 That evidence doesn't match my client. You
24 will hear testimony that on the first of January
25 2010, on the south side of Sumter, that there

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1 was a robbery -- fact. You will testimony that
2 this robbery was performed by four or five
3 individuals. I submit to you that those four or
4 five individuals are still on the street,
5 because Mr. Dunbar was not one of them.

6 Now, you'll hear testimony about
7 individuals -- actually you'll hear testimony
8 that there was seven people in the beauty salon
9 that were robbed. You will hear from law
10 enforcement officers. I submit to you that none
11 of these law enforcement officers were there on
12 the scene, but these seven individual were --
13 and out of those seven, and out of these
14 officers, only one witness is going to tell you
15 that my client did it. One out of seven.

16 Well, I'd like to thank -- I'd like to
17 take this opportunity to personally thank you
18 for being part of this process. In fact, jury
19 duty is very important, an extremely important
20 aspect of your civil responsibilities and
21 duties. In fact, the wheels of justice cannot
22 grind, cannot turn without your participation.
23 So I ask you to pay close attention to the
24 facts, listen to the evidence, look at these
25 witnesses when they're on the witness stand and

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1 test the truthfulness of their testimony.

2 At the end of this case, after all the
3 testimony is presented, Your Honor will charge
4 you with the law. He will tell you about this
5 heavy burden that the State's got. He will tell
6 you about a reasonable doubt. That's the burden
7 to which they have to prove my client is guilty.

8 Well, beyond a reasonable doubt -- it's
9 kinda like -- the judge will -- what Your Honor
10 is going to explain to you is that in order to
11 convict him, you have to not have any doubt that
12 he did it.

13 SOLICITOR: Your Honor, that
14 misstates the law.

15 THE COURT: That is not the law.

16 MR. BRUNSON: That is not the law.
17 I will rephrase that. Your Honor -- reasonable
18 doubt is the type of doubt that would cause a
19 reasonable person to hesitate to act. I submit
20 to you that you will hesitate to act in this
21 case. So, again, we thank you for paying
22 attention to this case, all the facts. Again,
23 we're confident that you'll come back with the
24 only possible verdict in this case; Not Guilty.

25 THE COURT: Thank you, Mr. Brunson.

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1 The State may call its first witness.

2 SOLICITOR: Your Honor, the State
3 calls Mary Pollard.

4 (WITNESS TAKES STAND)

5 MARY POLLARD, being duly sworn to tell
6 the truth, the whole truth and nothing but the
7 truth, testified, as follows:

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. Ms. Pollard, how are you today?

11 A. Fine.

12 Q. Are you nervous?

13 A. Yes.

14 Q. Just listen and answer the questions, okay?

15 A. (Affirmative nod).

16 Q. All right. Ms. Pollard, what do you do for
17 a living?

18 A. Beautician.

19 Q. How long have you been a beautician?

20 A. Ten years.

21 Q. Back on January 1st, 2010, were you working
22 as a beautician?

23 A. Yes, sir.

24 Q. Where were you working?

25 A. Untouchable Cuts Barber & Beauty Salon.

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1 Q. Where was that located?

2 A. On the south side of Sumter.

3 Q. What street?

4 A. Lafayette.

5 Q. Okay. Now, did you own that business or
6 what was the status of the barber stop or salon
7 there?

8 A. Yes, sir, I owned it.

9 Q. Did you own the actual physical property or
10 were you renting it from someone?

11 A. I was renting, renting from someone.

12 Q. Okay. On January 1st, 2010, tell the jury
13 what you had done that day.

14 A. I got to my business at 7:00 in the
15 morning, had two clients, one being Libra, I was
16 braiding hair, just doing hair, just doing my
17 normal/usual.

18 Q. Even though it was a holiday you were
19 working?

20 A. Yes, sir, I worked.

21 Q. Okay. Now, what time did you close that
22 day?

23 A. I closed at approximately 5:00 o'clock.

24 Q. When you closed, was there anybody still in
25 the business after you closed to the public?

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- 1 A. Yes, sir.
- 2 Q. When you closed, did you lock the door?
- 3 A. Yes, sir.
- 4 Q. All right. A little before 7:00 that
- 5 night, who was in the salon with you?
- 6 A. It was me, Maqueda Duncan, my daughter,
- 7 Jahmelia Ward, my daughter, Myah Pollard, my
- 8 daughter, Libra, Libra's daughter Shakyra and
- 9 Libra's daughter Taylor.
- 10 Q. Taylor and Mia ---
- 11 A. Myah.
- 12 Q. Are they -- are they adults, children?
- 13 A. Children.
- 14 Q. So they were -- how old were they on this
- 15 date?
- 16 A. Myah was ten. I don't remember how old
- 17 Taylor was.
- 18 Q. Was she small?
- 19 A. Yes, she was small.
- 20 Q. Now, did you remain in the business from
- 21 5:00 to 7:00? Did you remain inside at all
- 22 times or did you have occasion to leave the
- 23 business?
- 24 A. No, I did not remain in the building. I
- 25 left earlier that day, around 3:00 o'clock. I

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1 came back to the business around 3:15. At 5:00,
2 around 5:30, my pastor came and I stepped
3 outside of the business. I was still in front
4 of the business but was outside talking to my
5 pastor.

6 Q. And after you got through talking to your
7 pastor, what did you do next?

8 A. I came back inside. I left the door -- at
9 that time my daughter and Libra told me that an
10 individual had came in, was inquiring about who
11 was the owner, pretty much looking around. They
12 told him that they were the only ones here at
13 the time.

14 Q. After your daughters told you that, what
15 happened next?

16 A. Shortly after that I heard a knock on the
17 door. I went to the door -- I have curtains up
18 at my door. I pulled the curtain backed to the
19 right of me and I seen a young man standing
20 there to the side, to the left side, to the
21 right of me, and he asked me would I twist his
22 dreads. At that time I told him that my
23 business was closed, that he could come back
24 tomorrow and that I would do it for him. Then I
25 stepped away from the door.

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1 Q. You did this with the door open or closed?

2 A. Closed.

3 Q. How could you see anything about him with
4 the door closed?

5 A. The door is made of glass, more glass than
6 wood, and in my front on my porch I have a light
7 like right there.

8 Q. So the entry door to the business has a
9 wood frame and majority glass?

10 A. Yes, not a solid door.

11 Q. After this encounter at the front door,
12 what happened after that?

13 A. I stepped away from the door and I told my
14 daughter Jahmelia -- I didn't feel right, and I
15 was asking her to pass me my cell phone. As she
16 proceeded to pass me my cell phone, a loud boom
17 like. I stepped back to the right of me, which
18 is where my dryers was and kinda stood along
19 that wall. Jahmelia backed back into my TV
20 room. I just started hearing just the glass
21 shattering, kicking, guys jumping, they just
22 jumped through the door. They was like -- one
23 guy got directly on me, had the gun in my face.
24 The other guys were kinda scattered with the
25 guns all over Maqueda and Jahmelia and Libra --

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1 on everybody that was in the shop. The one guy
2 stayed on me, he was like, 'Where the fuck is
3 at, where the fuck is at?'

4 At that time I reached inside of my bra
5 area and I gave him -- which I had fifteen
6 hundred dollars, EBT card, my Medicaid card and
7 my license. I just gave him all that at one
8 time.

9 He kept like, 'Where the fuck is at,
10 where the fuck is at?' I was like -- I have a
11 counter, a long counter -- I was like,
12 'everything is over there, we don't have
13 anything, you can take everything.'

14 He still proceeded with the gun is my
15 face and I was, like, 'Look, I am peeing on
16 myself. I am peeing.'

17 Q. You actually were -- went to the bathroom
18 on yourself?

19 A. (Affirmative nod).

20 Q. Did you say anything else to him?

21 A. I was like, 'Please don't shoot, don't
22 shoot, take everything, take everything you
23 want', I gave him everything. And (emotional)
24 he was like -- the other guys snatched up the
25 stuff and they ran out the door, and then -- he

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1 was like 'how the fuck you get out of here?' I
2 said, 'you gotta go out the same way that you
3 came in.'

4 When they left the business, I have a
5 locked back door, that had a gate on it. I told
6 everybody to come with me and let's just go to
7 the back.

8 Q. The individual that had the gun on you, did
9 you get a look at his face?

10 A. Yes. At the time he asked me how the fuck
11 to get out of there, he took his mask off.

12 Q. When he pulled his mask off, what did you
13 see?

14 A. I saw his face.

15 Q. What did ---

16 A. And when I saw his face, my mind was like
17 'that's the same guy that knocked on the door
18 just not too long ago.' To myself. I didn't
19 say that out loud.

20 Q. That was in your mind at the time?

21 A. Yeah.

22 Q. Okay. What -- how would you describe the
23 person who took the mask off?

24 A. When he took his mask off, his face was
25 red, real red like if you're hot, a red person.

1 I noticed this on his face.

2 Q. When you say "this" on his face, what are
3 you talking about?

4 A. Pimples, red marks, like little dents in
5 his face.

6 Q. Was he light-skinned or dark-skin?

7 A. He was light skin.

8 Q. But, for example, would he have been
9 lighter or darker than Ms. Johnson here?

10 A. Lighter.

11 Q. When he took the mask off, did he say
12 anything to you?

13 A. He said, "I know where the fuck you live
14 at. If you say anything, I know where the fuck
15 you live. I come kill you. I know the fuck you
16 live at." Just kept repeating that.

17 Q. All right. Now, after everybody left,
18 after everything was over, what happened then?

19 A. After everything was over, like I stated, I
20 took everybody to the back, which was a gated
21 door, closed the door, we stood -- and I
22 proceeded to bang on the door, which is the
23 owner of the building, he lives upstairs. I was
24 banging, banging, banging. At that time, which
25 somebody came from down--, -- from upstairs

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1 downstairs. They let us in. We ran upstairs
2 and we started screaming. You know, we were
3 real, real frantic so we couldn't get it out,
4 you know, what had happened. I was like, 'Call
5 the police, please call the cops, call the cops,
6 call the cops.' So they called the cops and
7 after that we kind of like calmed down.

8 The police came. We were still kinda
9 shaken up when we, you know, talked with the
10 officers.

11 Q. Did you have an occasion to speak with the
12 officers about what happened?

13 A. No, I didn't speak with anybody until I got
14 to the precinct.

15 Q. That's what I am getting at. Did you have
16 an opportunity to tell law enforcement what
17 happened to you that night?

18 A. Yeah, I had an opportunity when I got to
19 the precinct.

20 Q. They had you write down the statement that
21 you gave?

22 A. Um-humm.

23 Q. You said that the man had light-skin,
24 pimples, red face. Did you give this
25 description to the police?

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- 1 A. Yes, sir. I gave it in writing.
- 2 Q. So you wrote it down, told them your
- 3 description of who you saw?
- 4 A. Yes.
- 5 Q. Okay. Now, when you made this statement,
- 6 did law enforcement tell you what to write?
- 7 A. No. Actually I was like -- I didn't want
- 8 to see anything but I wasn't going to forget
- 9 this face. I remember his face. I remember his
- 10 face. That's why they were, like, 'write it
- 11 down.' I was, like, 'I just need to see
- 12 something. I remember his face. I would never
- 13 forget that face, ever.'
- 14 Q. Okay. Now, when you made this statement to
- 15 law enforcement, when was that done?
- 16 A. That was done when we was, uh, writing down
- 17 the statement.
- 18 Q. Okay. What time of day was that?
- 19 A. That was in the night time.
- 20 Q. It was ---
- 21 A. It was that same day.
- 22 Q. The same day as the robbery?
- 23 A. Yes.
- 24 Q. Now, when your business was broken into,
- 25 was it daylight or nighttime?

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- 1 A. It was nighttime.
- 2 Q. Nighttime?
- 3 A. Yes, sir.
- 4 Q. And your door, your door -- was it open,
5 closed, or locked?
- 6 A. It was locked.
- 7 Q. Now, Ms. Pollard, after you wrote this
8 statement, did law enforcement write this
9 statement -- did you tell somebody and they
10 wrote it or did you write it in your own
11 handwriting?
- 12 A. I wrote it in my own handwriting.
- 13 Q. After you went to the precinct and made
14 your statement, what did you do next?
- 15 A. I went home.
- 16 Q. Did you have occasion to go back to the law
17 enforcement station?
- 18 A. The next day.
- 19 Q. Okay.
- 20 A. The next morning.
- 21 Q. Did you initiate this contact or did they
22 have you come in?
- 23 A. They had me come in.
- 24 Q. Okay. Did they tell you what the purpose
25 of this trip to the law enforcement was going to

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1 be?

2 A. Yes, sir.

3 Q. What was that purpose?

4 A. To do a photo lineup.

5 Q. Ms. Pollard, I am going to show you what
6 has been marked for identification purposes at
7 this time State's Exhibit 1 and ask if you
8 recognize this document?

9 A. Yes, sir.

10 Q. Tell the jury what that is?

11 A. This is the document that you sign as
12 you're taking the photo lineup.

13 Q. Okay. And this was something that the law
14 enforcement officer gave you?

15 A. Yes, sir.

16 Q. Who did you meet with at the law
17 enforcement center?

18 A. Detective Lyons.

19 Q. And did he go over this document with you?

20 A. Yes, sir.

21 Q. Did he give you instructions, did he read
22 off the instructions about what he wanted you to
23 do?

24 A. Yes, sir.

25 Q. He told you that if you'd previously seen

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1 one or more persons in this lineup to place an X
2 in the appropriate square corresponding to the
3 number of the person in the lineup.

4 A. Yes, sir.

5 Q. To place an X in the appropriate box?

6 A. (Affirmative nod).

7 Q. Then to sign -- when finished, to sign your
8 name and put the date and time?

9 A. Yes, sir.

10 Q. And when completed to give the sheet to the
11 officer, Detective Lyons?

12 A. Yes, sir.

13 Q. Okay. Now, let's go back a little bit to
14 the incident. You stated that the individual
15 who had the gun on you, how close was he to you?

16 A. Close.

17 Q. The gun was in your face?

18 A. Yes.

19 Q. Was there anything between the two of you
20 to obstruct your view at all?

21 A. No.

22 Q. Even though your business was closed, were
23 the lights on?

24 A. Yes, sir.

25 Q. Had you had anything to drink that day?

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- 1 A. No, sir.
- 2 Q. Had you had any drugs that day?
- 3 A. No, sir.
- 4 Q. How long would you say that this whole
5 encounter took?
- 6 A. Seemed like forever.
- 7 Q. What were you focused on when the gun was
8 in your face?
- 9 A. The gun, my kids.
- 10 Q. Did you have a good look at the physical
11 characteristics of his face?
- 12 A. Yes.
- 13 Q. Was the individual that had the gun on you,
14 was he short or tall?
- 15 A. Short.
- 16 Q. And you have already testified that he had
17 light skin?
- 18 A. Yes, sir.
- 19 Q. And pimple marks on this face?
- 20 A. Yes.
- 21 Q. You believe that he was the same person
22 that's come to the door, asked about twisting
23 his dreads?
- 24 A. Yes, he was.
- 25 Q. Okay. All right. Now, going back to the

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1 lineup procedure, Detective Lyons went over that

2 form with you; correct?

3 A. Yes, sir.

4 Q. Did he force you to pick anybody?

5 A. No, sir.

6 Q. Did he promise you anything in exchanging
7 for picking somebody out?

8 A. No, sir.

9 Q. Did he suggest that you pick out anybody in
10 particular of the photos that you saw?

11 A. No, sir.

12 Q. Okay. I am going to show you what has been
13 marked as State's Exhibit 2 for identification
14 purposes and ask if you recognize this item.

15 A. (Upon review, affirmative nod).

16 Q. Tell the jury what that is?

17 A. This is a photo lineup of six people.

18 Q. Okay. Did Detective Lyons hand you that
19 form?

20 A. Yes, sir.

21 Q. Were you able to review the six photos on
22 that piece of paper?

23 A. Yes, sir.

24 Q. Did you pick out anybody in particular?

25 A. Yes, sir.

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- 1 Q. Which person?
- 2 A. Number five.
- 3 Q. Number five?
- 4 A. (Affirmative nod).
- 5 Q. Now, I see that there's some handwritten
- 6 markings on that form. Whose writing is that?
- 7 A. Mine.
- 8 Q. Who made that circle around number five?
- 9 A. Me.
- 10 Q. And who put the initials on that form?
- 11 A. Me.
- 12 Q. I am going to hand you back what has been
- 13 marked for identification as State's Exhibit 1.
- 14 Did you make any marks on that form?
- 15 A. Yes, sir.
- 16 Q. Tell the jury what you did on that form.
- 17 A. After I did the photo lineup, I made an X
- 18 in the box on the form. I put my initials by it
- 19 and I signed it.
- 20 Q. So you made the marks on State's 1 for
- 21 identification after you looked at the
- 22 photographs?
- 23 A. Yes, sir.
- 24 Q. And after you marked the box number five
- 25 and signed it ---

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1 MR. BRUNSON: Your Honor, leading.

2 THE COURT: Sustained. Rephrase your
3 question.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR:

6 Q. You selected number five; correct?

7 A. Yes, sir.

8 Q. What did you then?

9 A. After I selected number five, I circled
10 number five, put my initials. I went to the
11 other paper, x-ed the box, put my initials and
12 took the pen and signed my name.

13 Q. When you made this identification of photo
14 number five, did you hesitate at all?

15 A. No.

16 Q. How sure were you?

17 A. A hundred percent.

18 Q. Do you see the person depicted in photo
19 number five in the courtroom today?

20 A. Yes, sir.

21 Q. Who is that?

22 A. The young man with the gray shirt and black
23 glasses.

24 Q. Seated by Mr. Brunson?

25 A. Yes, sir.

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1 Q. Is that the man that robbed you that night?

2 A. Yes, sir.

3 Q. Is that the man that broke into your
4 business when it was closed that night?

5 A. Yes, sir.

6 SOLICITOR: Your Honor, at this time
7 -- I'd ask the Court's indulgence. We've got
8 some photographs that we'd like to offer and
9 it's going to take a minute or two to get this
10 overhead (projector) set up.

11 THE COURT: Why don't we take five
12 minutes? We've been here about an hour, so
13 we'll take a quick break. Just a ten-minute
14 break, Ladies and Gentlemen of the jury, so that
15 you can get a drink of water or something.
16 Please do not discuss anything about the case
17 amongst each other. Thank you.

18 (JURY EXITS COURTROOM)

19 (BRIEF RECESS)

20 (DEFENDANT PRESENT)

21 (JURY ENTERS COURTROOM)

22 THE COURT: You may proceed,
23 Solicitor.

24 SOLICITOR: Your Honor, at this time
25 we would ask the court's permission to have the

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1 witness ---

2 THE COURT: She may step down.

3 Ma'am, you're going to need to speak up because
4 there is not going to be a microphone there.

5 SOLICITOR: Come on down, Ms.

6 Pollard. Stand right here. Remember to speak
7 up so that the court reporter can take down
8 everything that you say.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR:

11 Q. I am going to show you some photographs at
12 this time.

13 SOLICITOR: Your Honor, this is --
14 these have all been agreed upon, again, by
15 stipulation between the State and the defense.

16 THE COURT: Is that correct, Mr.
17 Brunson?

18 MR. BRUNSON: That's correct.

19 THE COURT: So these pictures are in
20 evidence?

21 SOLICITOR: Yes, sir.

22 THE COURT: Very well. All right.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR:

25 Q. Ms. Pollard, this is State's Exhibit 3.

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1 Can you identify what is depicted in this
2 photograph?

3 A. The first door of my shop.

4 Q. This is the way that it appears as you are
5 walking in, is that correct?

6 A. Yes, sir.

7 Q. Obviously explain to the jury what happened
8 as a result of this. What does this depict?

9 A. Broken glass, which the individuals came
10 through. This shows how I pack the trash up
11 when I -- I was already closed, and I usually
12 set my trash outside the door when I close and
13 then I take it when I leave. That door is
14 locked.

15 Q. These curtains, would they have normally
16 been pulled or open?

17 A. They would have been pulled if I was open
18 and they're normally closed when I'm closed.

19 Q. So when you close the store you'd pull the
20 curtains?

21 A. Yes, sir.

22 THE COURT: Can the jurors see those
23 exhibits?

24 SOLICITOR: Yes, sir.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR:

2 Q. I show you what has been marked as State's
3 Exhibit 4. Do you recognize what that is?

4 A. Yes, the front door.

5 Q. And what is that?

6 A. Curtain.

7 Q. So would that be inside or outside of your
8 shop?

9 A. That's inside.

10 Q. Ms. Pollard, this is State's Exhibit 5.
11 Tell the jury where this would be in the
12 orientation of the shop?

13 A. This is inside of the shop, which would be
14 the doors that you come through.

15 Q. The doors that we just saw?

16 A. Yeah, the door that -- this is the
17 shattered door, which would be to the right.

18 Q. What is over here in this part of the
19 picture?

20 A. Dryers. Then coming this way is dryers as
21 well.

22 Q. Those would be the hair dryers?

23 A. Hair dryers.

24 Q. This is State's Exhibit 6. Tell the jury
25 where this is coming from?

1 A. This is still inside of the shop. This
2 would be the first door. This would be the wall
3 where the dryers are. Other this way would be
4 the TV room. Going this way would be the barber
5 shop and these are sitting areas.

6 Q. Now, when the robbery happened, in this
7 picture can you tell us where you would have
8 been -- does this picture show where you would
9 have been?

10 A. Yes, sir. I was right here along this
11 wall, right this way.

12 Q. Where is your -- where do you do hair?

13 A. I do hair right here, the first station.

14 Q. Where the green stool is?

15 A. No. Right here.

16 Q. Right here?

17 A. (Affirmative nod).

18 Q. State's Exhibit 7, tell the jury what this
19 shows.

20 A. This shows inside the shop after the
21 robbery. This is -- one of the guys snatched a
22 chair, threw it down. This gate right here is
23 the back door, the back door to the shop. This
24 is like -- well, this right here, the gate right
25 here. It has another door, a door plus the

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1 gate.

2 Q. Now, you mentioned on direct that after it
3 was over that you got everybody and went
4 somewhere?

5 A. We went towards this direction, which would
6 be the back door.

7 Q. And the robbers went?

8 A. Back out this door, through the broken
9 glass.

10 Q. Ms. Pollard, what does photo show -- sorry
11 -- this would be --

12 SOLICITOR: Your Honor, this would e
13 State's Exhibit 9.

14 THE COURT: All right.

15 THE WITNESS: This would be my
16 work station. This is the stool that I sit in,
17 the dryers along that wall.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR:

20 Q. Now, the -- your counter there, what does
21 this photo show, if anything?

22 A. It shows my products and everything --
23 everything is knocked down because -- Libra had
24 her pocketbook, I had my pocketbook up there, so
25 when the individual snatched at the stuff some

1 of this stuff kinda got knocked down. This is
2 where I usually keep all of my products and this
3 is my drawer.

4 Q. Do you remember if your drawer was open or
5 would it have been ---

6 A. It was closed.

7 Q. State's Exhibit 10, which direction would
8 this have been taken from?

9 A. This is towards the back of the door. This
10 side is where I work. This is my other counter
11 space for my other client (sic) was working.

12 This is the back door that we left by.

13 SOLICITOR: That is number eleven,
14 Your Honor.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR:

17 Q. Tell the jury what this depicts.

18 A. This is the broken glass door. This shows
19 that the business was locked. This is showing
20 the inside of the shop.

21 Q. So when the lock is turned in that position

22 ---

23 A. It's locked. When it is locked, it is
24 turned this way.

25 Q. This is State's Exhibit 12. What is this a

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1 photo of, Ms. Pollard?

2 A. This is a photo of my work station. This
3 is, uh, a stool, like a kid's stool sitting up
4 in the chair. It shows my work station. This
5 is the trash can over here. These are some
6 items that I got knocked on the ground.

7 Q. That happened during the ---

8 A. During the robbery.

9 Q. State's Exhibit 13, what does this show?

10 A. This is the barber shop.

11 Q. Now, this isn't -- is this part of your
12 business?

13 A. Yes.

14 Q. Who would have been in this part of the
15 shop when the robbery occurred?

16 A. Malqueda, my daughter, and Taylor, Libra's
17 daughter.

18 Q. Did any of the robbers go into this part of
19 this shop?

20 A. Yes, sir.

21 Q. Is this a separate room from the salon?

22 A. Yes, sir.

23 Q. Ms. Pollard, what does this show?

24 A. This is the TV room and this is my
25 daughters.

1 Q. Again, based on the orientation of how the
2 salon is set up, could they have heard what
3 happened from that spot?

4 A. Yes, sir, it's right by the door.

5 Q. State's Exhibit 14. Ms. Pollard, you can
6 resume the witness stand, please.

7 A. (Complies).

8 Q. Ms. Pollard, you stated that there were at
9 least three other individuals that came in the
10 store, the shop that night?

11 A. Yes, sir.

12 Q. Did you get a look at any of their faces?

13 A. No, sir. They have masks on.

14 Q. Did they have anything, any other distinct
15 clothing on at that time?

16 A. Just masks and black clothing.

17 Q. Did they have anything on their hands?

18 A. Yes, gloves.

19 Q. Okay. Now, did anybody show you their
20 face?

21 A. Yes, sir.

22 Q. Who showed you his face?

23 A. (Indicating Defendant).

24 Q. Say who you're pointing to.

25 A. Joseph Dunbar.

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1 Q. Okay. And did you get a look at any of the
2 other individuals who participated, did you get
3 a look at any of their faces?

4 A. No, sir.

5 Q. Is there any question in your mind that
6 Joseph Dunbar was the man who robbed you?

7 A. No, sir.

8 Q. When you identified him in that lineup, how
9 sure were you?

10 A. A hundred percent.

11 Q. How sure are you today?

12 A. The same.

13 SOLICITOR: Court's indulgence, Your
14 Honor?

15 THE COURT: Yes, sir.

16 SOLICITOR: Answer any questions that
17 Mr. Brunson may have for you.

18 THE COURT: Mr. Brunson?

19 MR. BRUNSON: Your Honor, may we
20 approach?

21 THE COURT: You may.

22 (OFF RECORD BENCH CONFERENCE)

23 MR. BRUNSON: May it please the
24 court, Your Honor?

25 THE COURT: Yes, sir.

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1 CROSS EXAMINATION

2 BY MR. BRUNSON:

3 Q. Ms. Pollard, ---

4 A. Yes, sir.

5 Q. --- how old are you?

6 A. Thirty-six.

7 Q. You are not from South Carolina, are you?

8 A. No, sir.

9 Q. In fact you're from New York?

10 A. Yes, sir.

11 Q. When did you move to South Carolina?

12 A. In 2003.

13 Q. 2003.

14 A. (No verbal response).

15 Q. All right.

16 A. 2002.

17 Q. Pardon me?

18 A. (No verbal response).

19 Q. It could be 2002?

20 A. 2002 or 2003.

21 Q. Now, this business that you operate, it's a
22 salon?

23 A. Yes, sir.

24 Q. How many employees did you have?

25 A. I had at the time -- five.

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1 Q. How many were there at the time of this
2 incident?

3 A. None.

4 Q. Okay. What are your hours of operation?

5 A. We don't have set hours.

6 Q. This morning you testified that you'd
7 arrived at 7:00. Was that normal or not?

8 A. Yes, sir.

9 Q. And you testified that you closed at 5:00.
10 Was that normal or not?

11 A. No.

12 Q. Tell me about it.

13 A. I usually stay in the shop until 2:00 or
14 3:00 in the morning. I have a lot of nighttime
15 clients that work other shifts. If I have early
16 morning clients, I open my shop as early as 5:00
17 or 6:00 in the morning. I work all day.

18 Q. You testified that you were outside talking
19 to someone around 5:00 o'clock, is that right?

20 A. My pastor.

21 Q. So you talked to your pastor before you
22 closed that day?

23 A. No, I was closed.

24 Q. So you had already locked the door and
25 everything?

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1 A. Yes.

2 Q. What time did you talk to your pastor?

3 A. It was around 5:00, I want to say it was
4 between 5:15 and 5:30.

5 Q. And you spoke to him outside?

6 A. Yes. It was a lady.

7 Q. Her. Sorry. How long did that
8 conversation last?

9 A. I am not too sure.

10 Q. Estimate.

11 A. I am not too sure.

12 SOLICITOR: Your Honor, he is calling
13 or speculation.

14 THE COURT: That'd be speculation.
15 She said that she didn't know.

16 CROSS EXAMINATION CONTINUED

17 BY MR. BRUNSON:

18 Q. You closed at around 5:00, you were outside
19 talking to your pastor, and then -- well, was it
20 daytime or nighttime?

21 A. It was partially -- day and night, it
22 wasn't quite dark yet.

23 Q. Okay.

24 A. It was dark.

25 Q. So when you were out talking with the

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1 pastor, you could see structures like
2 surrounding buildings or houses or trees?

3 A. Yes, sir.

4 Q. So it was not nighttime yet?

5 A. It was nighttime.

6 Q. Well, let me rephrase my question. It
7 wasn't dark to the point where you couldn't see
8 structures?

9 A. No.

10 Q. How many guys entered the building?

11 A. I would say about four.

12 Q. Okay. About four?

13 A. I remember four.

14 Q. You remember four?

15 A. Yes, sir.

16 Q. Could it be three?

17 A. No, sir.

18 Q. Could it be six?

19 A. No, sir.

20 Q. Could it be five?

21 A. There's a possibility.

22 Q. So four or five?

23 A. Yes, sir.

24 Q. How long did they stay inside the building?

25 A. It seemed like forever.

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1 Q. Okay. Now, your testimony is that one of
2 the guys pulled off his mask?

3 A. Yes, sir.

4 Q. Now, the person that pulled off his mask,
5 it wasn't my client; was it?

6 A. Yes, it was, sir.

7 Q. All right, let me ask you this -- this
8 wasn't -- let me ask you this, have you ever had
9 another beauty salon in Sumter?

10 A. No, sir.

11 Q. This is the only one that you have ever
12 worked in?

13 A. No, sir.

14 Q. Okay. Which beauty salon have you worked
15 in prior to this?

16 A. I worked in the Mane Attractions beauty
17 salon.

18 Q. Where is that located?

19 A. That's located on Main Street, Hampton and
20 Main.

21 Q. All right. And did you work with Reanna
22 Johnson at that business?

23 A. Yes, sir.

24 Q. You know Reanna Johnson, isn't that
25 correct?

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1 A. Yes, sir.

2 Q. In fact, you are Reanna Johnson's baby's
3 godmother; isn't that true?

4 A. No, sir.

5 Q. Are you aware that she has a child?

6 A. Yes, sir, she has two.

7 Q. Okay. Aren't you aware that my client is
8 Reanna Johnson's child's father?

9 A. I am aware of it now.

10 Q. Isn't it true that you know multiple
11 Dunbars?

12 A. (No verbal response).

13 Q. Multiple meaning more than one?

14 A. Yes, sir.

15 Q. You know Joanna Dunbar, don't you?

16 A. I don't know.

17 Q. Well, tell me which Dunbars that you know.

18 A. I know Dee. I call her "Dee", I don't know
19 her name.

20 Q. Dee Dunbar.

21 A. And I know, um, Derrick. I think that's
22 right.

23 Q. Dexter?

24 A. Dexter, yes. He boxed with my son.

25 Q. So you know Dexter Dunbar, you know Dee.

1 Dunbar, you know Reanna Johnson, ---

2 A. Yes, sir.

3 Q. You know Janice Dunbar, too; don't you?

4 A. No, I don't know her.

5 Q. Isn't it true that Joanna Dunbar was a
6 customer of yours?

7 A. I don't know all my customers by name.

8 Q. All right. Isn't it true that you knew Mr.
9 Joseph Dunbar prior to January 1st, 2010?

10 A. No, sir.

11 Q. Okay. Now, you testified earlier that you
12 knew Reanna Johnson, his baby's mother?

13 A. Yes, sir.

14 Q. And you knew that she had a child?

15 A. Yes, sir.

16 Q. And you knew that he is the child's father?

17 You know that he is the child's father?

18 A. Now I know.

19 Q. Were you at the hospital when this child
20 delivered?

21 A. No, sir.

22 Q. And if anybody said you were, they're not
23 telling the truth?

24 A. They're not telling the truth.

25 Q. And you knew Dexter Dunbar was my client's

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1 cousin, didn't you?

2 A. No, I did not, sir.

3 Q. You said that Dexter boxed with your son?

4 A. Yes, sir. He didn't actually box with him.

5 That was a friend of his and they used to go to

6 the boxing practice, but they actually are not

7 boxers.

8 Q. You spoke with law enforcement on the night

9 of the incident, January 1, 2010?

10 A. Yes, sir.

11 Q. And you wrote a statement, correct?

12 A. Yes, sir.

13 Q. You did not state in the statement that

14 Joseph Dunbar robbed you, did you?

15 A. I didn't state his name.

16 Q. You did not?

17 A. No, sir.

18 Q. In fact, you've never told law enforcement

19 that Joseph Dunbar robbed you?

20 A. Not his name; no, sir.

21 Q. All right. Who was the shampoo girl at

22 Mane Attractions when you worked there?

23 A. Reanna.

24 Q. Your testimony is that you never met Joseph

25 Dunbar prior to -- that you'd never met him,

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1 period?

2 A. No, sir.

3 Q. Didn't know that he was Reanna's baby's
4 father?

5 A. No, sir.

6 Q. What other Dunbars do you know?

7 A. Those are the only two.

8 Q. Is it your testimony that this is the first
9 time you ever saw Joseph Dunbar?

10 A. For me, today, the first time?

11 Q. Right.

12 A. No.

13 Q. When was the first time?

14 A. When he knocked on my door.

15 Q. January 1?

16 A. Yes, sir.

17 Q. All right. Now, --

18 MR. BRUNSON: Court's indulgence,
19 Your Honor.

20 THE COURT: Yes, sir.

21 MR. BRUNSON: Nothing further,
22 Your Honor.

23 THE COURT: Any redirect?

24 SOLICITOR: Very briefly, Your Honor.

25 REDIRECT EXAMINATION

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1 BY SOLICITOR:

2 Q. Ms. Pollard, you know some other folks
3 named Dunbar?

4 A. Just two.

5 Q. Out of all the Dunbars that you know, which
6 one robbed you with a gun in your face?

7 A. Joseph Dunbar.

8 SOLICITOR: No further questions.

9 THE COURT: You may step down.

10 (WITNESS STEPS DOWN)

11 THE COURT: Let me see the attorneys
12 just a minute.

13 (OFF RECORD BENCH CONFERENCE)

14 THE COURT: All right, Ladies, and
15 Gentlemen, this seems to be an appropriate time
16 for us to break for the evening. So I am going
17 to dismiss you for the evening. Let me remind
18 you that you are not to watch anything on TV --
19 please don't read any news, research anything
20 online.

21 Ladies and Gentlemen, have a nice
22 evening. I hope that you have a pleasant
23 night's rest and we will see you in the morning.
24 If you could, be back here just a little before
25 9:30 so that we can start right at 9:30. Thank

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1 you, Ladies and Gentlemen.

2 (JURY EXITS COURTROOM)

3 THE COURT: Anything from the State
4 before we recess?

5 SOLICITOR: No, sir, Your Honor.

6 MR. BRUNSON: Nothing from the
7 defendant, Your Honor, although we would ask
8 that the witness not be released in case we ---

9 SOLICITOR: She's going to be here.

10 THE COURT: She'll be here.

11 MR. BRUNSON: Thank you.

12 THE COURT: Court is adjourned until
13 9:30 tomorrow.

14 (COURT IN RECESS)

15 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 NOVEMBER 8, 2010 9:30 A.M.

2

3 (DEFENDANT PRESENT)

4 THE COURT: Good morning. Is there
5 anything before we bring in the jury?

6 MR. BRUNSON: Yes, Your Honor. I
7 would like to make a Motion at the appropriate
8 time to suppress the introduction of any
9 evidence regarding an anonymous tip. The basis
10 of the Motion being that -- Kirk and I discussed
11 this earlier. I asked him -- rather, if he had
12 a copy of it. He doesn't have it. I think,
13 Your Honor, anything about a tip would be
14 hearsay, not within any exception.

15 THE COURT: Mr. Griffin?

16 SOLICITOR: Your Honor, number one,
17 I would like to -- that testimony would come
18 through Detective Lyons. He's going to be my
19 last witness. I would like, number one, to ask
20 you to reserve ruling on that until before he
21 testifies.

22 Number two, at this point, Your Honor,
23 I would argue that the tip wouldn't be offered
24 for truth ---

25 THE COURT: But as to why they did

1 what ---

2 SOLICITOR: (Affirmative nod), as to
3 why the did what they did, Your Honor; why they
4 would have notified the U.S. Marshals in the
5 state of Florida. The basis of the tip was
6 that Joseph Dunbar had fled from Sumter to
7 Florida, so we would be offering it for why
8 that ---

9 THE COURT: But if you put it in
10 those contexts, that he fled, doesn't that look
11 very prejudicial -- of course, fleeing would be
12 a consider of a knowledge of guilt.

13 SOLICITOR: Yes, Your Honor.

14 THE COURT: Guilty of knowledge.

15 SOLICITOR: Yes, Your Honor. That
16 would be the basis for why we would offer the
17 evidence that U.S. Marshals -- and we've got
18 the officer that actually went to Florida to
19 retrieve Mr. Dunbar, who will testify after
20 Detective Lyons. So ---

21 THE COURT: There was an
22 extradition, wasn't there?

23 MR. BRUNSON: There was.

24 THE COURT: He had to be extradited
25 back up here?

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1 MR. BRUNSON: And he waived.

2 SOLICITOR: And, Your Honor, I would
3 concede that any mention of extradition would
4 perhaps be more prejudicial than probative, but
5 certainly why law enforcement focused their
6 efforts on looking for Mr. Dunbar after the
7 warrant was issued in the State of Florida.
8 I would submit that we're offering that for the
9 basis of law enforcement action, not for the
10 truth of -- I mean, it turned out that ---

11 THE COURT: I would certainly think
12 that he could answer to 'why did you do it'
13 with 'because we got a tip.' That's not
14 hearsay. We ask that type question, 'why did
15 you do what you do', 'we got a tip.'

16 SOLICITOR: And, Your Honor, ---

17 THE COURT: You're not saying what
18 was stated, just that you received a tip. We
19 do that all the time.

20 SOLICITOR: Your Honor, -- and we
21 would couch it in that phrase, that, uh, ---

22 THE COURT: I wouldn't allow a tip
23 that says "Mr. Dunbar was the one who
24 perpetrated this crime." That would be,
25 fairly, hearsay.

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1 SOLICITOR: Right.

2 THE COURT: But 'why did you do what
3 you did', 'we had a tip', I don't think that's
4 hearsay at all.

5 MR. BRUNSON: So it depends on how
6 it's ---

7 THE COURT: Very much so. Yeah.

8 MR. BRUNSON: So you deny my
9 Motion at this point?

10 THE COURT: I am going to reserve
11 and see how it is couched.

12 MR. BRUNSON: Yes, sir.

13 THE COURT: If it's couched in the
14 right way, they can say why they did what they
15 did without saying what the verbiage was.

16 MR. BRUNSON: Yes, sir. If it
17 please the court, my second, Your Honor, was
18 that, uh, -- I know that we've got some fairly
19 young witnesses that are going to take the
20 stand. Your Honor, we ---

21 THE COURT: Do you want me to do an
22 in-camera meeting with the kids to see if
23 they're -- outside the presence of the jury?

24 MR. BRUNSON: I think it's
25 appropriate.

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1 THE COURT: How old are these girls?

2 SOLICITOR: Your Honor, the next
3 witness is Jahmelia Ward. She's seventeen
4 years old.

5 THE COURT: She's good.

6 SOLICITOR: And, Your Honor, Shakyra
7 Gooseby is fourteen years old, and -- just for
8 the record and for the court's information, she
9 appears to understand the gravity of what
10 testifying in court means, she appears to be
11 old enough to understand ---

12 THE COURT: If she's fourteen, I
13 think she's old enough. I've done that before
14 with six and seven year olds, but ---

15 MR. BRUNSON: Yes, sir.

16 THE COURT: What grade is she in?

17 SOLICITOR: She's in the eighth
18 grade, Your Honor.

19 THE COURT: Eighth grade. I've got
20 a thirteen, a fifteen and a seventeen in my
21 household and they could all testify to the
22 truth. They know what the meaning of an oath
23 is.

24 MR. BRUNSON: Yes, sir. Would
25 they understand that they can't make an in-

1 court ID?

2 THE COURT: That's going to be up to
3 Mr. Griffin to explain to them that they can't
4 do that, that the person who can make the in-
5 court ID is ---

6 MR. BRUNSON: Yes, sir. And,
7 finally, Your Honor, one other ---

8 THE COURT: But, again, be careful
9 -- let me caution you that if you open the door
10 to that, that they can testify all that they
11 want to.

12 MR. BRUNSON: I understand that
13 it's a fairly tight line.

14 THE COURT: Yes, sir.

15 MR. BRUNSON: Your Honor, finally,
16 the other issue is that the defendant intends
17 to subpoena rebuttal witnesses.

18 THE COURT: Okay.

19 MR. BRUNSON: Actually have
20 prepared the subpoenas but haven't issued them
21 yet.

22 THE COURT: Okay.

23 MR. BRUNSON: I was wondering from
24 a standpoint of timing if Your Honor would
25 approve the subpoenas to be issued for 9:00

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1 o'clock in the morning?

2 THE COURT: Why weren't -- why
3 didn't we do this yesterday?

4 MR. BRUNSON: Well, Your Honor,
5 she was the last witness to testify. I didn't
6 ---

7 THE COURT: Oh, okay.

8 MR. BRUNSON: --- know we were
9 going to need them.

10 THE COURT: You think you will be
11 finished with your case today?

12 SOLICITOR: Your Honor, I think that
13 there's a pretty good likelihood that we will
14 get through this afternoon, potentially
15 tomorrow; but depending on the length of the
16 cross-examination, I think we'll get close this
17 afternoon.

18 THE COURT: Are they local
19 witnesses?

20 MR. BRUNSON: Yes, Your Honor.
21 No, one ---

22 THE COURT: Now we may have a
23 problem because you didn't announce them
24 yesterday.

25 MR. BRUNSON: They're rebuttal

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1 witnesses.

2 THE COURT: I don't care. You knew
3 the possibility of that. Now I've got a jury
4 who has been asked questions and if I get a
5 juror who knows one of your witnesses, that's a
6 bad thing. Why weren't they brought up
7 yesterday?

8 MR. BRUNSON: Well, I didn't know
9 that she was going to deny knowing them. She
10 denied on the stand that she knew four people.
11 I am advised by my client that she knows them.
12 I didn't know that she was going to say that.
13 So I couldn't give the court prior notice.
14 They're rebuttal witnesses, Your Honor.

15 THE COURT: I generally like lawyers
16 to put up anybody that they -- seems like you'd
17 had to have thought that -- you didn't (sic)
18 take her deposition, so you did know how she
19 was going to testify. You would have had to
20 have known that she might say that she didn't
21 know any of them.

22 SOLICITOR: And, Your Honor, to go
23 into that point, if she had known this
24 individual, uh, circumstances or reasons that
25 she had told Detective Lyons, he wouldn't have

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1 gone through the motions of putting together a
2 photo lineup of -- if she knew this man prior
3 to the incident that happened in her salon,
4 certainly she would have said, 'Joseph Dunbar
5 did this. I got a good look at him. I know
6 him.' The evidence in the case, the evidence
7 that has been presented goes to the fact that
8 she didn't know him. Her actions corroborate
9 what she's telling on the stand, that she did
10 not know him. Why else would they have gone
11 through this whole lineup procedure.

12 MR. BRUNSON: And, Your Honor,
13 that's exactly why my rebuttal witnesses are so
14 important, because it goes directly to her
15 truthfulness.

16 THE COURT: All right. Well, I'm
17 not going to -- because of that -- I'm not
18 going to grant a mistrial. If one of these
19 witnesses (sic) say that they know your guy
20 and they don't like him, you're going to have
21 to ---

22 MR. BRUNSON: One of the
23 witnesses?

24 THE COURT: If one of the jurors
25 knows this person and knows that he is "a

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1 creep", or something like that, they're staying
2 on the jury. I am not going to dismiss them
3 from the jury because of that.

4 MR. BRUNSON: Yes, sir.

5 THE COURT: That is a risk that you
6 take, because I could have asked that whole
7 panel out there whether they knew these people.
8 They -- you know how to prepare a case. You
9 have the ones that you know are going to be
10 witnesses and then you have your potential
11 witnesses, and then you have your other tier as
12 to whenever things fall apart where you are
13 going to go. So, I mean, we like to ask all of
14 those names rather than just the ones that
15 you're sure of.

16 MR. BRUNSON: I understand.

17 SOLICITOR: And, Your Honor, we
18 would just ask if maybe at the lunch break we
19 could get the names of these witnesses.

20 THE COURT: Well, you're going to
21 have to get the names.

22 SOLICITOR: Yes, sir.

23 THE COURT: Because you are going to
24 have to run a criminal background on them.

25 SOLICITOR: Yes, sir. That's what

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1 we are looking for.

2 THE COURT: Anything else?

3 SOLICITOR: Nothing from the State,
4 Your Honor.

5 MR. BRUNSON: Nothing else, Your
6 Honor.

7 THE COURT: Let's move our jury in.

8 (JURY ENTERS COURTROOM)

9 THE COURT: Good morning, Ladies and
10 Gentlemen. I hope that you all had a pleasant
11 evening rest. It certainly was a pretty night
12 last night. I took a long walk with my dog and
13 that moon, you could see -- it was a spotlight.

14 All right, we are into day two of this
15 trial. I am going to be keep track of the time
16 and we'll try not to go too long, we'll go for
17 about an hour, an hour and a half, and then we
18 will take a break. We will probably break
19 around 12:30 or 1:00, and I'll try to you out
20 of here before it gets dark. It's amazing once
21 we change to daylight savings time how -- it
22 seems like it gets dark much earlier.

23 Is the State ready to proceed?

24 SOLICITOR: Yes, Your Honor.

25 THE COURT: Is the Defense ready to

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1 proceed?

2 MR. BRUNSON: Yes, Your Honor.

3 THE COURT: All right. You may call
4 your next witness.

5 SOLICITOR: The State calls Jahmelia
6 Ward to the stand.

7 (WITNESS TAKES STAND)

8 JAHMELIA WARD, being duly sworn to
9 tell the truth, the whole truth and nothing but
10 the truth, testified, as follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR:

13 Q. Jahmelia, how old are you?

14 A. Seventeen.

15 Q. Who is your mother?

16 A. Mary Pollard.

17 Q. Where do you go to school now?

18 A. Sumter High School.

19 Q. Okay. Jahmelia, what were you doing on
20 January 1st, 2010?

21 A. Watching TV in the TV room at the shop.

22 Q. In the TV room at the shop?

23 A. Yes, sir.

24 Q. When you say "shop", what do you mean?

25 A. Untouchable Cuts.

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1 THE COURT: You are going to need to
2 speak into the microphone just a little bit
3 louder. It's important to hear what you have
4 to say.

5 THE WITNESS: Yes, sir.
6 Untouchable Cuts.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR:

9 Q. And Untouchable Cuts is -- who ran that
10 business?

11 A. My mother.

12 Q. Did anything out of the ordinary happen
13 that day at the salon?

14 A. Yes, sir.

15 Q. Okay. Tell me what happened?

16 A. There was a robbery. It started, I guess,
17 around 6:00 or so.

18 Q. Talking about that, what was the first
19 thing that you remember that was a little out
20 of the ordinary that day?

21 A. Well, uh, when I was walking TV, a boy
22 had walked in. He was dark-skinned and he had
23 braids down his back, he was like skinny, and
24 -- he came in looking around the shop, asking
25 who the owner was. He was talking to Ms. Libra

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1 and when she ---

2 Q. Let me stop you right there. Ms. Libra,
3 who is Ms. Libra?

4 A. Ms. Libra Johnson, the client.

5 Q. All right. She was a client that day?

6 A. Yes, sir.

7 Q. Now, you say that this boy came in. What
8 type of clothing was he wearing?

9 A. I remember he had on red socks and these
10 Nike-looking slippers.

11 Q. When you say slippers, what do you mean by
12 that?

13 A. With the toes cut out, where to you could
14 see his toes, like.

15 Q. Were they flip-flops?

16 A. Yes, sir.

17 Q. And so he came in the shop?

18 A. Yes, sir.

19 Q. Who was he looking for?

20 A. He was looking for the owner, my mother.

21 Q. Did he ever talk to your mother? Do
22 you ---

23 A. No, sir.

24 Q. --- know? Did he ever talk to Ms. Libra
25 Johnson?

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1 A. Yes, sir.

2 Q. What did he do after he talked with Ms.
3 Johnson?

4 A. He just gone on looking around, and after
5 he looked around he looked at me and I looked
6 at him, because I remember his face from
7 somewhere and I thought, 'he looks familiar.'
8 Then after he looked around, he walked out.

9 Q. Do you say that he looked familiar, ---

10 A. (Affirmative nod).

11 Q. --- do you know where you may have
12 recognized him from?

13 A. Yes, sir.

14 Q. Okay. Where is that?

15 A. Middle school.

16 Q. Where did you go to middle school?

17 A. Chestnut Hills Middle School.

18 Q. Do you know -- the first boy, with the red
19 socks and flip-flops, do you know his name?

20 A. Rakeem, Ricky.

21 Q. Do you know his last name?

22 A. I think it was Dunbar.

23 Q. After he looked around, what did he do
24 then?

25 A. He just walked out.

1 Q. Afer that happened, what happened next?

2 A. My mother came inside and she locked the
3 door, to make sure that the curtain was
4 closing. She started on Ms. Libra's hair and
5 she was talking, then somebody knocked on the
6 window. She went to the window ---

7 Q. You say window?

8 A. The door, glass on the door. She moved the
9 curtain back and she was talking to somebody,
10 but I couldn't really hear her because I was
11 watching TV. Then she went back to the spot
12 she was, like, 'Jahm?' And I said, 'Yes, sir.'
13 And she was, like, 'bring my phone 'cause
14 something don't see right.' So I was like
15 'okay', and I was walking a little slowly to
16 her and went I was a little past the window
17 bust.

18 Q. The window, when you saw window you mean?

19 A. The door glass. It bust.

20 Q. What happened after the glass in the door
21 busted?

22 A. I jumped back in, with the phone still in
23 my hand, and I ran back into the TV room, back
24 in between the -- besides -- like the corner of
25 the TV room.

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1 Q. And what do you remember happening after
2 that?

3 A. I remember a lot of boys yelling, my mother
4 now screaming, and one boy came in here -- came
5 into the room where me and my sister was and
6 started grabbing us and pulling us out of our
7 spots.

8 Q. Did they lead you anywhere?

9 A. Inside the beauty salon.

10 Q. Now, the people that came in the salon, do
11 you remember how they were dressed?

12 A. Yeah, had on black.

13 Q. Had on black.

14 A. All of 'em, and some of them were skinny
15 and tall.

16 Q. Did they have any weapons on them?

17 A. Yes, sir.

18 Q. What kind?

19 A. The one that I remember had a long shotgun,
20 I guess it was, and he pointed it at my face.
21 I just remember the other one with a shotgun.

22 Q. Do you remember what any of the -- of the
23 people that came into the shop, do you remember
24 anything that they may have said?

25 A. No, all I remember they saying, 'get out'

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1 and they was grabbing us. I really didn't
2 understanding what they were saying because
3 they were yelling a lot and it was all a bunch
4 of shrugging.

5 Q. Now, what did you see, if anything, your
6 mother do?

7 A. I seen her past the man some money and her
8 saying, "*Please don't shoot, please don't*
9 *shoot.*" She was explaining that her kids and
10 everything was there, "*please don't shoot.*"

11 Q. Now, did you see anybody take off their
12 mask?

13 A. Yes, sir.

14 Q. Did that person say anything?

15 A. Yeah, but I don't remember.

16 Q. Now, did anybody -- you said the person
17 that took you out of the room had a long gun?

18 A. Yes, sir.

19 Q. How did you feel?

20 A. Scared for my life.

21 Q. After your mother gave the money, what did
22 these individuals do?

23 A. The rest of the boys grabbed the stuff off
24 the counter and ran out. The other boy was
25 throwing things around.

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1 Q. How did they leave the salon?

2 A. They ran out the door they broke in.

3 Q. So the same way that they came in, they
4 went out?

5 A. Yes, sir.

6 Q. Did your mother appear to be frightened?

7 A. Yes, sir.

8 Q. How did you know that she was scared?

9 A. Because her eyes, and then I see her like
10 wet up so I know that she was terrified.

11 Q. When you say "wet up", she used the
12 bathroom?

13 A. Yes, sir.

14 SOLICITOR: Court's indulgence, Your
15 Honor.

16 THE COURT: Yes, sir.

17 SOLICITOR: Jahmelia, answer any
18 questions that Mr. Brunson may have for you.

19 THE COURT: Mr. Brunson?

20 MR. BRUNSON: May it please the
21 Court, Your Honor?

22 THE COURT: Yes, sir.

23 CROSS EXAMINATION

24 BY MR. BRUNSON:

25 Q. Good morning, Jahmelia.

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1 A. Good morning.

2 Q. You testified that you were in the TV room.

3 Is that correct?

4 A. Yes, sir.

5 Q. I want to show you what's marked State's

6 Exhibit 14.

7 MR. BRUNSON: May I approach the

8 witness, Your Honor?

9 THE COURT: Yes, sir.

10 CROSS EXAMINATION CONTINUED

11 MR. BRUNSON:

12 Q. Take a look at that for me. When you're

13 done looking at it, just kinda look up at me.

14 A. (Complies). S

15 Q. Do you recognize that?

16 A. Yes, sir.

17 Q. What is that?

18 A. The TV room in the shop.

19 Q. Now, the TV room is a separate room;

20 correct?

21 A. Yes, sir.

22 Q. Was the TV on?

23 A. Yes, sir.

24 Q. What were you watching?

25 A. Law & Order.

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1 Q. Okay. Who was in there with you?

2 A. My little sister.

3 Q. All right. And does that show the TV?

4 A. Yes, sir.

5 Q. So that TV was on Law & Order?

6 A. Yes, sir.

7 Q. Now, if you're in the TV room, you can't
8 tell over in the shop, can you?

9 A. I can.

10 Q. How?

11 A. Because it don't have a door. It's open.

12 Q. All right. Now, let me ask you a question.

13 You testified that this boy that came in had
14 went to school with you?

15 A. Yes, sir.

16 Q. My client never went to school with you,
17 did he?

18 A. No, sir.

19 Q. Are there any windows in the TV room?

20 A. No, sir.

21 Q. Did you know whether it was daytime or
22 nighttime?

23 A. It was nighttime.

24 Q. How could you tell?

25 A. Because from the TV room you can see out

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1 the door a little bit.

2 Q. And you said that the guys were skinny and
3 tall?

4 A. Um-humm.

5 MR. BRUNSON: Court's indulgence.

6 THE COURT: Yes, sir.

7 CROSS EXAMINATION CONTINUED

8 BY MR. BRUNSON:

9 Q. Did any of the robbers have -- you said --
10 what were they wearing?

11 A. I remember that they had on black and I
12 remember that one came in the room and he was
13 real tall and skinny.

14 Q. What was he wearing?

15 A. He had on black.

16 Q. Did any of them have on red socks?

17 A. No.

18 MR. BRUNSON: Nothing further.

19 THE COURT: Mr. Griffin.

20 REDIRECT EXAMINATION

21 BY SOLICITOR:

22 Q. Jahmelia, Mr. Brunson asked you about the
23 guys being skinny and tall. Were all of them
24 skinny and tall?

25 A. I just remember one was real skinny and

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1 tall.

2 Q. Is that the one that came and approached
3 you?

4 A. Yes, sir.

5 Q. Is it fair to say that you were focused on
6 him?

7 A. Yes, sir.

8 SOLICITOR: Nothing further, Your
9 Honor.

10 THE COURT: Any recross?

11 MR. BRUNSON: None, Your Honor.

12 THE COURT: Thank you. You may step
13 down.

14 SOLICITOR: Judge, may we approach?

15 (OFF RECORD BENCH CONFERENCE)

16 MR. BRUNSON: Your Honor, may I
17 beg the court's indulgence for a moment.

18 THE COURT: Yes, sir.

19 MR. BRUNSON: (Sidebar with
20 Defendant). Thank you.

21 THE COURT: Call your next witness,
22 Solicitor.

23 SOLICITOR: The State would call
24 Shakyra Gooseby.

25 (WITNESS TAKES STAND)

1 SHAKYRA GOOSEBY, being duly sworn to
2 tell the truth, the whole truth and nothing but
3 the truth, testified, as follows:

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Shakyra, how old are you?

7 A. Fourteen.

8 Q. Where do you go to school?

9 A. Oak Crest Middle School.

10 Q. All right. Who is your mother?

11 A. Libra Johnson.

12 Q. On January 1st, 2010, who were you with?

13 A. My mother.

14 Q. Where were y'all?

15 A. We was in the beauty salon.

16 Q. Where was the beauty salon?

17 A. Lafayette, on the south side.

18 Q. What was -- what were y'all doing there?

19 A. Getting our hair done.

20 Q. What happened that day?

21 A. We got robbed.

22 Q. What's the first thing that you remember
23 that was out of the ordinary?

24 A. A tall skinny dark-complexion dude came in
25 the store.

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1 Q. Did you notice anything about what he was
2 wearing?

3 A. Yes, sir. He had on a black hoodie, black
4 shorts, long red socks and shower shoes with a
5 Nike sign on them.

6 Q. Did you actually talk with him?

7 A. No, my mother did.

8 Q. Okay. Did you hear what he asked your
9 mother?

10 A. Yes, sir.

11 Q. What did he ask?

12 A. Are we the owner, was the owner there.

13 Q. Did he ever talk with the owner, that you
14 know of?

15 A. No, sir.

16 Q. After he talked with your mother, what did
17 he do?

18 A. He looked around and he left.

19 Q. After the boy with the red socks left, what
20 happened after that?

21 A. Ms. Mary Pollard said 'I have a bad
22 feeling' and she told her daughter to bring her
23 the phone. But before she could reach the
24 phone, the glass bust.

25 Q. Now, between the glass busting and Mary

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1 Pollard saying that she had a bad feeling, did
2 anybody else come to the salon?

3 A. No, sir.

4 Q. There was a boy that came to the door?

5 A. That was -- yes, there was a boy that come
6 to the door.

7 Q. Did Ms. Pollard talk to him?

8 A. Yes, sir.

9 Q. What happened after that?

10 A. He asked if she could twist his braids.
11 She said she was sorry that she was closed but
12 said, 'you can come back tomorrow and I can do
13 it.' After that, the boy stepped away from the
14 door.

15 Q. What happened after that?

16 A. Ms. Mary said that feel right but before
17 her daughter could give her the phone, the
18 glass broken.

19 Q. After the glass broke, what happened?

20 A. Screaming and they were kicking through the
21 door, trying to get in, jumped through the
22 door. My mom said, "*Shakyra, come mere, come*
23 *mere.*" So I ran with her and we ran to the
24 corner of the counter and then a tall -- one
25 like tall and one that seemed like short/medium

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1 sized boy came at us with a long double
2 barreled gun and pointed it at me and my mom.
3 He said, "Where's the money? Where's the
4 money?"

5 Q. Now, did they take anything from you or
6 your mother?

7 A. Yes. My mom's wallet.

8 Q. After it was over, what did you do?

9 A. I screamed. My mom was crying, I was
10 crying. Ms. Mary opened the gated back door
11 and we all ran up to, uh, upstairs.

12 Q. Shakyrá, I am going to show you what has
13 been marked as State's Exhibit 10. Do you
14 recognize that picture?

15 A. Yes, sir.

16 Q. Do you see the door in that photograph?

17 A. Yes, sir.

18 Q. Is that the door that you left through,
19 that you went upstairs?

20 A. Yes, sir.

21 Q. After it was over, you went through that
22 door, and what did you do then?

23 A. Someone called 911. Everybody was panicked
24 and we were all crying.

25 Q. Did you have an opportunity to speak with

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1 law enforcement after the event.

2 A. Yes, sir.

3 Q. Okay. Did you go anywhere -- or where did
4 you go when you left the salon that night?

5 A. The police station.

6 Q. Did you talk with any officers, or what
7 happened?

8 A. When we got there, we went straight to the
9 back room. It was like -- not a whole lot big
10 but a medium-size room, with a long table.

11 They gave us each paper and they said -- we
12 can't talk, we couldn't communicate, but just
13 give what we saw, what we heard.

14 Q. So they gave you a sheet of paper. Did you
15 make a statement?

16 A. Yes, sir.

17 Q. Did you write it?

18 A. Yes, sir.

19 Q. Did law enforcement officers tell you
20 anything to say?

21 A. No, sir.

22 Q. Did any of the other victims of the crime
23 tell you want to write?

24 A. No, sir.

25 Q. Did you have an opportunity to talk with

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1 any of them, to talk about what happened, while

2 you were at the police station?

3 A. No, sir.

4 Q. When did you write the statement compared

5 to when the robbery happened?

6 A. It was right after the robbery, we got in

7 the car and went down to the police station and

8 I gave a statement.

9 Q. So you went straight to the police station?

10 A. (Affirmative nod).

11 SOLICITOR: Please answer any

12 questions that Mr. Brunson may have for you.

13 THE COURT: Mr. Brunson?

14 MR. BRUNSON: Thank you, Your

15 Honor.

16 CROSS EXAMINATION

17 BY MR. BRUNSON:

18 Q. Good morning, Shakyra.

19 A. Good morning.

20 Q. How old did you say you were?

21 A. Fourteen.

22 Q. Fourteen?

23 A. (Affirmative nod).

24 Q. Okay. You said that y'all were in a shop

25 on the south side; is that right?

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- 1 A. Yes, sir.
- 2 Q. Now, when you were in there, you testified
3 that a tall skinny dude -- was he a light-
4 skinned dude?
- 5 A. No, sir.
- 6 Q. Dark-skinned dude?
- 7 A. Yes, sir.
- 8 Q. And then you testified that a tall, medium-
9 sized boy had a long gun on you?
- 10 A. Yes, sir.
- 11 Q. And you wrote that statement right after it
12 happened; didn't you?
- 13 A. Yes, ma'am.
- 14 Q. You think your memory is better right after
15 it happened or years later?
- 16 A. Years later.
- 17 Q. Your memory is better than right after?
- 18 A. Because everybody is all tear'ed up,
19 frantic and no one could get their mind
20 straight.
- 21 Q. Okay. Well, let me ask you this, in your
22 statement you never said to the police that
23 anybody took their mask off; did you?
- 24 A. No, sir.
- 25 Q. Never said you saw a face?

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1 A. No, sir.

2 MR. BRUNSON: Nothing further.

3 THE COURT: Redirect?

4 SOLICITOR: No, Judge.

5 THE COURT: Thank you. You may
6 speak down.

7 (WITNESS STEPS DOWN)

8 SOLICITOR: State calls Libra
9 Johnson.

10 (WITNESS TAKES STAND)

11 LIBRA JOHNSON, being duly sworn to
12 tell the truth, the whole truth and nothing but
13 the truth, testified, as follows:

14 DIRECT EXAMINATION

15 BY SOLICITOR:

16 Q. Ms. Johnson, by whom are you employed?

17 A. Air Force.

18 Q. How long have you been with Air Force?

19 A. Sixteen years.

20 Q. Ms. Johnson, where were you on January 1st,
21 2010?

22 A. At Ms. Mary Pollard's beauty salon.

23 Q. What were you doing there?

24 A. I was arranging for me and my daughters to
25 get our hair done.

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1 Q. Can you pull that microphone up a little
2 bit?

3 A. (Complies).

4 Q. You said you and your daughters, who were
5 your daughters?

6 A. Shakyra Gooseby and Taylor Johnson.

7 Q. How old is Taylor?

8 A. Taylor at the time was eight and Shakyra
9 was thirteen.

10 Q. Okay. What happened that day?

11 A. I remember I was sitting in the chair, a
12 young black male came in the shop, I just
13 remember him having the red socks with the
14 shower shoes - not the kind that goes between
15 your toes but the kind with the flap-over.
16 He asked if I worked there, if I was the owner.
17 I mentioned to him no, that I wasn't. Maya
18 mentioned that her mom was outside. He just
19 looked around, left. That was him.

20 Then Ms. Mary came back into the shop. She
21 proceeded to try to finish up doing my braids
22 and then it sounded like a knock or somebody
23 trying to get in the door. So she pulled back
24 the curtain to see who it is. They must have
25 asked her something about getting their hair

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1 done. She said just 'I'm closed, come back
2 tomorrow.'

3 The next thing I know, the glass
4 shattered all over the floor. I just remember,
5 uh, about three -- about three guys just coming
6 in, dressed all in black. You could hear
7 screaming, people asking 'where the fuck it's
8 at?'

9 Q. What did you think that they meant by that?

10 MR. BRUNSON: Objection, Your
11 Honor.

12 THE COURT: Sustained. Requires
13 speculation.

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR:

16 Q. Did you give anybody anything in response
17 to what was said?

18 A. After that, I just remember ending up on
19 the floor with Shakyra. I remember seeing Ms.
20 Mary in the corner by the dryer. I'm on the
21 floor with Shakyra, and I just remember just
22 two holes of a long gun being pointed at me.
23 Asking where the stuff was. I pointed to my
24 wallet in my coat. They just swooped up
25 everything and just left.

1 Q. Now, you said that you were on the floor of
2 the shop.

3 A. Yes, sir.

4 Q. I am going to show you what has been marked
5 'as State's Exhibit 7. Could you point to the
6 jury and say whereabouts you would have been
7 inside the shop?

8 A. I was back here behind this counter, with
9 my back towards -- we're back towards where
10 that back gate was, but it was shut. We're
11 like up against this corner, back down in the
12 corner like that 'cause they were standing over
13 us with the long gun.

14 Q. In this picture, where would Ms. Pollard
15 would have been?

16 A. Ms. Pollard would have been back here in
17 this corner.

18 Q. In the corner up near the door?

19 A. Yes, sir, by the dryers.

20 Q. After the robbery was over, what did y'all
21 do?

22 A. After the robbery was over, Ms. Mary opened
23 that back gate -- there was a room back there.
24 I kept saying -- I was trying to turn on the
25 light, 'where the light?' And she was saying

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1 'there is no light back here.' Then I just
2 heard this banging on the door and she was
3 saying there was people upstairs. When they
4 finally opened the door, somebody from upstairs
5 finally opened the door, we all just shot/ran
6 up the stairs to that door/apartment up the
7 stairs.

8 Q. Okay. Now, did you have an opportunity to
9 speak with any members of law enforcement after
10 the robbery?

11 A. Yes, sir.

12 Q. How did that come about?

13 A. Just letting them know what happened.

14 Mainly was telling them about the guy with the
15 red socks.

16 Q. Okay. Where did you speak with law
17 enforcement?

18 A. At the crime area.

19 Q. Did you ever have an opportunity to go to
20 the police station?

21 A. Yes, sir.

22 Q. What happened when you got to the police
23 station?

24 A. Got to the police station, we were taken
25 (sic) back into this room with a bunch of

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1 tables. They gave us a sheet of paper and we
2 were told just to write what happened. We
3 wrote down what happened.

4 Q. Did any law enforcement members tell you
5 what to write?

6 A. No, sir.

7 Q. Did you have an opportunity to talk with
8 the other victims about what happened while you
9 were at the police station?

10 A. No, sir.

11 Q. Did you write the statement in your own
12 handwriting?

13 A. Yes, sir.

14 Q. How much time passed between the robbery
15 and when you wrote the statement?

16 A. About thirty minutes.

17 Q. Did you go anywhere between leaving the
18 salon and arriving at the police station?

19 A. No, sir.

20 Q. You had an opportunity to look at or to get
21 a good look at the individual who was having
22 the altercation with Ms. Pollard?

23 A. Yes, sir.

24 Q. But you were -- where were you in relation?

25 A. In the far back corner.

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1 Q. Obviously Ms. Pollard was closer to him
2 than you were?

3 A. Yes, sir.

4 Q. And, again, Ms. Johnson, you mentioned that
5 you had two daughters there: Shakyra, who is
6 present today and the other -- the other
7 daughter was how old?

8 A. She was eight.

9 Q. Is it fair to say that she was scared?

10 A. Yes, sir.

11 MR. BRUNSON: I object.

12 THE COURT: Sustained. Well, ---

13 SOLICITOR: Your Honor, I think a
14 parent can certainly tell when their child is
15 scared or ---

16 THE COURT: Yeah. Overruled. How
17 did she appear?

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR:

20 Q. How did she appear to you?

21 A. Scared.

22 SOLICITOR: Court's indulgence, Your
23 Honor -- answer any questions that Mr. Brunson
24 may have for you.

25 THE COURT: Mr. Brunson.

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1 MR. BRUNSON: Thank you, Your
2 Honor.

3 CROSS EXAMINATION

4 BY MR. BRUNSON:

5 Q. Good morning, Ms. Johnson.

6 A. Good morning.

7 Q. I believe that you were looking at a photo
8 on direct examination; is that correct?

9 A. Yes..

10 MR. BRUNSON: May I approach the
11 witness, Your Honor?

12 THE COURT: Yes.

13 CROSS EXAMINATION CONTINUED

14 BY MR. BRUNSON:

15 Q. Is this the photo that you were looking at?

16 A. Yes, sir.

17 Q. Forgive me for being redundant, but I
18 didn't see what you were pointing to. Can you
19 show me where you said that you were in this
20 photo?

21 A. This gate right here was -- we were around
22 back, up against this ---

23 Q. This wall?

24 A. Yes, sir.

25 Q. And I believe that you described where you

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1 remember Mary Pollard went?

2 A. She was over here.

3 Q. Over where?

4 A. Over here (indicating in photograph).

5 Q. That's State's Exhibit 7. So she was in
6 close proximity to the hair dryers?

7 A. Yes, sir.

8 Q. You testified that a guy with red socks
9 came in?

10 A. Yes, sir.

11 Q. Did one of the robbers wear red socks?

12 A. No, sir, all of them had on all black.

13 Q. Thank you. And you testified that you gave
14 a statement to law enforcement?

15 A. Yes.

16 Q. Right after the incident?

17 A. (No verbal response).

18 Q. Isn't that right?

19 A. Yes, sir.

20 Q. Isn't it true that you never mentioned that
21 somebody took off a mask during your statement?

22 A. That's correct, sir.

23 Q. Isn't it true that you never mentioned
24 seeing a face in your statement?

25 A. Yes, sir.

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1 MR. BRUNSON: Nothing further.

2 THE COURT: Any redirect?

3 SOLICITOR: No, sir.

4 THE COURT: Thank you, you may step
5 down.

6 (WITNESS STEPS DOWN)

7 THE COURT: We will take just a
8 brief recess. Please go to your jury room. Do
9 not discuss the case. We will be with you
10 shortly.

11 (JURY EXITS COURTROOM)

12 (BRIEF RECESS)

13 (DEFENDANT READY)

14 THE COURT: Bring in the jury.

15 (JURY ENTERS COURTROOM)

16 THE COURT: All right. The State
17 may call it's next witness.

18 SOLICITOR: Your Honor, the State
19 calls Lieutenant Truman Duggin.

20 (WITNESS TAKES STAND)

21 TRUMAN DUGGIN, being duly sworn to
22 tell the truth, the whole truth and nothing but
23 the truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR:

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1 Q. Lt. Duggin, where do you work?

2 A. Sumter Police Department, in the
3 Investigative Services section.

4 Q. How long have you been with the police
5 department?

6 A. I've been full-time for eighteen years, and
7 during my last five years with the Air Force I
8 was a reserve officer; so twenty-three years of
9 being with the department.

10 Q. Now, Lt. Duggin, you stated that you work
11 with the investigative services division. Tell
12 the jury what ISD does?

13 A. We have -- ISD is the investigative
14 services. That's where the detectives work out
15 of and, basically, the crime scene unit,
16 forensic, folks going out and proceeding crime
17 scenes, processing fingerprints, collecting
18 evidence, running the AFIS computer, the
19 Automated Fingerprint Identification System,
20 computer system, polygraph, processing evidence
21 and storage of evidence.

22 Q. Are you in charge of that division of
23 investigative services?

24 A. Yes, I am the supervisor of that section.

25 Q. How long have you been the supervisor for

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1 that section?

2 A. Seven, eight years.

3 Q. Lt. Duggin, did you have an occasion to
4 become involved with a crime scene --

5 Untouchable Cuts on Lafayette here in Sumter?

6 A. Yes, sir, I did.

7 Q. Tell the jury how you became involved with
8 this case?

9 A. Being crime scene, we're pretty much on
10 call 24/7. I received a call on July (sic) 1st,
11 2010, that there had been ---

12 Q. Investigator, let me stop you there. You
13 said July.

14 A. Excuse me. Yes. January 1st.

15 Q. Okay.

16 A. I received a call from our dispatch about
17 that I was needed at a burglary and armed
18 robbery that had occurred on South Lafayette at
19 the barber shop.

20 Q. Okay. You mentioned the crime scene
21 processing. Tell the jury in general what
22 crime scene processing is.

23 A. Initially when a call comes out, a patrol
24 officer will respond. Something of this
25 nature, the supervisor on the shift will also

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1 go and make the determination whether a
2 detective is needed. They determine if it is
3 going to be investigated, if the need a
4 detective to come out and do interviews or if
5 it is something that is beyond their capacity
6 and then they'll call crime scene to come out
7 and evaluate the actual scene, make a
8 determination of what we can do as crime scene
9 investigators to collect evidence.

10 Q. Now, upon arriving on this particular
11 scene, what did you do first?

12 A. Well, my first -- upon arrival -- was to
13 get a briefing. I received that from Sargent
14 Wren (phonetic). He was the supervisor on the
15 scene. He gave me a briefing, a walk-through
16 of the crime scene. The scene had already been
17 secured once ---

18 Q. Let me stop you right there. What does
19 securing the scene mean?

20 A. Securing the scene would be making sure
21 that the victims are okay. If they need any
22 type of help such as EMS or something that
23 nature, to get that in action. Then clearing
24 the building, making it safe. When we arrive
25 first, when patrol arrives they're going into

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1 an unknown. They have a building there. To
2 them it is still, I'm saying "unsafe" until
3 they make it safe. So they have to go in and
4 determine that no one else is in there.

5 So the building had been rendered safe,
6 no suspects were in the building. I got my
7 tour of the crime scene, then I started my
8 photography and photographed the crime scene.

9 Q. Lt. Duggin, these are already in evidence.
10 I'm just going to show you one, State's Exhibit
11 10. Does that appear to be a photograph that
12 you took?

13 A. On State's Exhibit 10. Yes, sir. This
14 will be a photo that I took on my arrival.

15 Q. Now, Lt. Duggin, with regard to processing
16 the scene, is it important in which order
17 that you do things?

18 A. Yes, sir. One would be -- if you do
19 something out of order, you may destroy
20 something before you get a chance to observe
21 it.

22 One would be footwear. You look for signs
23 of footwear on the floor, for instance; or
24 coming into the scene, you look for footwear,
25 process that, collect it, or at least safeguard

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1 it.

2 Other things that may be damaged, moved or
3 destroyed during the process. Normally it's
4 photographed, you look for the obvious.

5 We get a DNA sample, process for
6 fingerprints. In this case, I used black
7 powder.

8 Q. So in this case, what was the first thing
9 that you did after securing the scene?

10 A. After securing the scene, I collected some
11 items that, from what I could determine, the
12 suspect may have touched. I collected these.
13 It was basically some cardboard items. DNA on
14 the doorknob. We have no way of knowing if
15 there is any DNA on the doorknob ourselves in
16 the field, so we have to take a sample and send
17 it to our State Law Enforcement Division for
18 analysis. So that was collected.

19 Q. Lt. Duggin, did you take photographs before
20 you started collecting items?

21 A. Yes. Photographs were taken first before
22 anything. The photographs of the scene as it
23 was on my arrival.

24 Q. All right. Now, you mentioned dusting for
25 fingerprints. Tell the jury in general how

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1 that is done.

2 A. Usually black powder, a very, very fine
3 powder and brush. We look for areas where we
4 believe that the suspect(s) may have touched.
5 We apply this powder. If there is a
6 fingerprint there, the powder will stick to it
7 and we will be able to see it.

8 Q. What is the consistency of the powder?

9 A. It's a very, very fine black dust.

10 Q. Would it be more fine or less fine than,
11 say, baby powder?

12 A. It's almost equivalent to baby powder.

13 Q. And did you in fact use the fingerprint
14 identification powder on this scene?

15 A. Yes, I did. Being the type business that
16 it is, there's a lot of oils and grease, stuff
17 of this nature for hair, uh, it wasn't an ideal
18 process -- since that's what it is attracted
19 to, oils and things of that nature. It just
20 globbed up -- when we were processing like a
21 countertop, if there was any oils from the
22 items that were used in the shop, we'd end up
23 with just a big black spot versus the
24 fingerprints. There were no fingerprints on
25 the items that I dusted that were clean/clear

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1 fingerprints.

2 Q. Lt. Duggin, I am going to show you what has
3 been marked for identification as State's
4 Exhibit 19 and ask you if you recognize this
5 item?

6 A. State's Exhibit 19 is a gel lift of latent
7 prints that were on an item that was processed
8 at the law enforcement center laboratory.

9 Q. Now, explain to the jury how you would
10 create or collect this gel lift.

11 A. Given that there were items that I could
12 take from the crime scene to the lab, the lab
13 is a better environment for processing. We can
14 do more things in the laboratory than we can in
15 the field.

16 So the items that I thought the subject
17 might have touched, items on the floor that
18 looked like they might have been handled or
19 moved, I brought them into the law enforcement
20 center and processed them using a SuperGlue
21 fuming technique. It is very widely used. You
22 take the item and put it in a tank, you heat up
23 SuperGlue, you add water and the SuperGlue will
24 show the fingerprint. It basically becomes a
25 permanent print, becomes kind of a white color.

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1 Then I apply black powder to it, so that we can
2 see it, get contrast, and instead of
3 fingerprint tape we use a gel lift. It works
4 better if you're working with cardboards and
5 paper. The tape will actually tear the paper
6 This is very, very gentle, if you will. It's
7 not very sticky at all.

8 Q. Okay. State's Exhibit 19 for identifica-
9 tion is a gel lift collected from items at the
10 scene at Untouchable Cuts?

11 A. That's correct.

12 Q. And on the back of that item, is there any
13 notation -- identifying notations?

14 A. Yes, sir. It has the case number assigned
15 to the incident for the item that it was taken
16 from. We displayed the date that I did this,
17 "January 2nd, 2010 (at the lab)", and then my
18 initials.

19 Q. After you would have evaluated that gel
20 lift, what would you have done with that item?

21 A. We have an AFIS, that's the Automated
22 Fingerprint Identification System. Their
23 expertise is in fingerprints. We have
24 computers that enter fingerprints into, if
25 they're of sufficient quality to where we can

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1 do an identification through the State
2 fingerprint data base. So if she is not
3 available, I'm certified to also operate the
4 AFIS. So I take my latent prints to her, she
5 does an examination and makes sure.

6 Q. So after you created the gel lift, it goes
7 to another person within the police department?

8 A. That's correct. Normally I just hand carry
9 it over and we enter it. I watch over her
10 shoulder as she does it.

11 Q. Are these items -- after they are analyzed
12 and evaluated, are they kept in a secure
13 location?

14 A. That's correct. They go back into -- are
15 entered back into evidence, where they are in a
16 controlled, secure environment.

17 Q. All right. Lt. Duggin, I am going to show
18 you what has been marked for identification as
19 State's Exhibit 20. Do you recognize that
20 object?

21 A. (Upon review), yes, State's Exhibit 20, I
22 recognize it.

23 Q. How do you recognize it?

24 A. It has the case number, the dates, the item
25 that I took the gel lift and it has my

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1 initials.

2 Q. Is this -- is State's Exhibit 20 for
3 identification, is it similar to State's
4 Exhibit 19?

5 A. Yes, it's similar.

6 Q. And tell the jury just briefly what it is?

7 A. It's from another piece of cardboard
8 display, it's a piece of processed cardboard
9 and these is the gel lifts of the latent prints
10 that were developed.

11 Q. And after this was developed, what was done
12 with this item?

13 A. This item went to our latent station, to
14 Miss Hodge, where she worked the latent print.

15 Q. Again, after it would have been analyzed
16 and evaluated, would it have been kept in a
17 secure facility?

18 A. Yes, it would be put in Evidence.

19 Q. The same location for State's Exhibit 19?

20 A. Yes, sir.

21 Q. Detective Duggin, I show you what has been
22 marked for identification as State's Exhibit 21
23 and ask if you recognize this item?

24 A. State's Exhibit 21 is a piece of cardboard
25 that I brought back from the crime scene and

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1 processed in the lab.

2 Q. So that item was taken from the scene and
3 evaluated upon bringing it to the law
4 enforcement center?

5 A. Yes, sir. I processed it the same way,
6 with SuperGlue fuming and then with black
7 powder.

8 Q. After it was processed, where would this
9 item have gone?

10 A. This item here went to Ms. Hodge for entry
11 into AFIS for examination and then it would
12 have been turned into evidence, sent to the
13 Evidence room.

14 Q. That same secure facility?

15 A. Yes, sir, it is a secure facility.

16 Q. Lieutenant Duggin, I'm going to show you
17 what's been marked for identification as
18 State's Exhibit 22 and ask you if recognize
19 that item?

20 A. (Upon review), yes, sir. State's Exhibit
21 22 is a piece of cardboard that I seized from
22 the crime scene and brought back into the
23 laboratory for processing.

24 Q. All right. After it was processed, where
25 would it have gone?

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1 A. This particular item, instead of a
2 fingerprint it has a footwear impression. The
3 footwear impression shows up under processing
4 and I can see the design in the shoe print. It
5 went straight into evidence.

6 Q. Now, when you're evaluating shoe print
7 impressions, you've got the shoe print on this
8 card, what do you need in order to do a
9 comparison?

10 A. We need the shoe.

11 Q. Explain to the jury.

12 A. I have -- on this item, State's Exhibit 22,
13 a circular pattern, which is common with Nike
14 Air Force One shoes. So it would be just like
15 comparing a fingerprint. Before I could say
16 that it was this shoe in particular, I would
17 have to have the shoe, make a test print and
18 compare this with the actual shoe in question.

19 Q. And --

20 A. You have to have a shoe so that you can
21 make a match.

22 Q. Were any shoes recovered during the
23 processing of this scene or the subsequent
24 investigation?

25 A. No, sir. There was no shoe found.

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1 Q. Lieutenant Duggin, you also mentioned in
2 part of the crime scene processing looking for
3 DNA. Can you explain to the jury how a
4 processed crime scene -- how that would look
5 for DNA?

6 A. Yes. Normally what most people are
7 familiar with when we're talking about DNA,
8 they think about blood, saliva, semen, bodily
9 fluids, things of this nature that have that --
10 those individual cells that makes you who you
11 are. Genetic fingerprint, if you will.

12 Of course, you immediately look for the
13 obvious. The door was the point of entry, the
14 glass was broken. So I was looking very
15 closely at this glass at the point of entry for
16 possibly some blood or hair or something of
17 this nature. Didn't find any.

18 So the next logical place would be the
19 doorknob. I tested the doorknob. I took a
20 sample from the doorknob for what is known as
21 touch DNA.

22 DNA analyses have advanced by leaps and
23 bounds over the years. Where it used to take a
24 drop of blood, now it only takes a pinpoint or
25 a speck of blood to do a DNA analysis. They've

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1 got it down to where we can use touch DNA.

2 If you take your hand and it's -- it's
3 better if it is a rough object, where you have
4 a little friction, you could leave some cells
5 behind. These cells can be collected and turn
6 into our State Law Enforcement Division, to
7 their DNA lab, where they can be analyzed.

8 Q. Now, you mentioned that DNA could be found
9 in a person's hair. Could you see any hair at
10 this crime scene?

11 A. No, sir. Well, there was plenty of hair.
12 It's a barber shop, beauty salon. But what'd
13 be looking for, for the hair in this particular
14 incident, was at the door where maybe as they
15 were going in or out they got a little too
16 close to some glass or to the edge.

17 Q. Now, did you notice any blood or bodily
18 fluids on the floor or the door of this
19 business?

20 A. No, sir, I didn't. That's probably what
21 we'd call a touch DNA swab.

22 Q. Lieutenant Duggin, I'm going to show you
23 what has been marked for identification
24 purposes as State's Exhibit 23 and ask you if
25 you recognize this item?

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1 A. State's Exhibit 23 is the envelope that
2 would have basically a Q-tip swab from the
3 doorknob. This is our package that we sent to
4 SLED.

5 Q. You mentioned this Q-tip swab. Is this a
6 swab that is specifically designed for evidence
7 collection?

8 A. Yes. They're sterile Q-tips, they're --
9 it's basically a Q-tip but it's kept in a
10 sterile environment. They're in a little paper
11 packet. We have to use distilled water that
12 comes with our kits to collect those.

13 Q. Why is that important?

14 A. So that we don't bring a contamination from
15 the outside to the Q-tip. Like I said, it's
16 very, very sensitive. So it doesn't take but
17 just a very, very small sample for DNA
18 analysis.

19 Q. Lieutenant Duggin, the item in State's
20 Exhibit 23 for identification, again, what is
21 that?

22 A. It is a Q-tip that I took a sample from the
23 doorknob, a DNA sample.

24 Q. Lieutenant Duggin, I am now going to show
25 you what has been marked -- what is State's

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1 Exhibit 11. Do you recognize this?

2 A. Yes, sir. State's Exhibit 11 is the
3 doorknob where I took the sample.

4 Q. And when you say took the sample, ---

5 A. I took the Q-tip and I put distilled water
6 on the Q-tip and I swabbed or rubbed the Q-tip
7 around the doorknob. So if there was any kind
8 of bodily cells or things of that type, I'd
9 recover them.

10 Q. Upon swabbing the doorknob, when that is
11 complete, what do you do with that object?

12 A. It's turned into evidence for eventual
13 transfer to the State Law Enforcement Division?

14 Q. Okay, and when you put these items into
15 evidence, does -- do these doorknob or do the
16 touch swabs have to be refrigerated or kept in
17 any special way?

18 A. The requirements now are that they have to
19 be maintained at room temperature, and that's
20 where it was housed.

21 Q. That would have been maintained in a safe,
22 secure location until it was transported?

23 A. Yes, sir.

24 Q. All right. Lieutenant Duggin, I am going
25 to show you State's Exhibit 24 ---

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1 THE COURT: Your Honor, this is
2 coming in by stipulation.

3 THE COURT: Is that correct?

4 MR. BRUNSON: That is correct,
5 Your Honor.

6 THE COURT: All right. Admitted
7 into evidence without objection.

8 (SO ENTERED AS STATE'S EXHIBIT 24)

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR:

11 Q. Lieutenant Duggin, are you familiar with
12 those forms?

13 A. Yes, sir. State's Exhibit 24, I'm familiar
14 with.

15 Q. Can you tell the jury briefly what this
16 form is?

17 A. This is a report that we get back from the
18 State Law Enforcement Division, this one coming
19 from the DNA lab. They have a number of
20 different laboratories. They forward this to
21 us after analysis.

22 Q. Okay. Now, when -- to your knowledge, when
23 these reports come back, what do they show?

24 A. They can show a number of things. One
25 could be that there was a DNA sample and there

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1 was a DNA profile that was developed, and
2 entered into the data base with no identifiers,
3 no one identified. It could come back that a
4 DNA profile was developed with a match from the
5 DNA data base, so that we have identification.

6 Or, in this instance the analysis on the
7 swab was performed and no DNA profile was
8 developed.

9 Q. So the swab that you took from the
10 doorknob, according to that document which is
11 in evidence, SLED could not create a DNA
12 profile for anyone based on what you sent?

13 A. That's correct.

14 Q. All right. Lieutenant Duggin, going back
15 to the fingerprints that were collected, to
16 your knowledge was the Defendant's fingerprints
17 located at the scene?

18 A. No, sir.

19 Q. Based on your experience, what would be
20 some reasons that there may or may not be
21 fingerprints recovered?

22 A. Fingerprints are -- when they are left
23 behind, it's -- people don't always leave
24 fingerprints, I guess is the best way to put
25 it.

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1 The weather has a lot to do with it. This
2 being January, the cold, you don't perspire as
3 much. That's what fingerprints are made of:
4 perspiration, water, oils and dirt. It's cast
5 off whenever you touch something. So the
6 temperature outside could have an effect on it.

7 The type surfaces that are being touched
8 could have an effect on it. A rough, grainy
9 surface is not a very good surface for leaving
10 a fingerprint; compared to a piece of glass,
11 for instance.

12 MR. BRUNSON: Your Honor, ---

13 THE COURT: Yes, sir?

14 MR. BRUNSON: --- I object. Mr.
15 Duggin has not been qualified as an expert and
16 he's giving opinion testimony.

17 SOLICITOR: Your Honor, this is
18 based on his experience. This isn't based on
19 an analysis of anything but his eighteen years
20 as an officer collecting fingerprints.
21 Certainly he can testify as to the types of
22 surface and the reasons that fingerprints may
23 or may not be left behind. This is not
24 opinion. This is based on what he knows.

25 THE COURT: Overruled. You may

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1 proceed.

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR:

4 Q. Go ahead.

5 A. So the surface would have a lot -- a
6 tendency to -- whether fingerprints are going
7 to adhere to -- whether fingerprints are going
8 to be left or not.

9 And also the environment outside. If it's
10 an outside-type situation, whether it's raining
11 or things of that nature.

12 Then, again, if the subject has been
13 wearing gloves or had something over his hands.
14 We've seen everything from gloves to people
15 putting glue on their fingers to hide
16 fingerprints. So it could be something just as
17 simple as a glove.

18 SOLICITOR: Answer any questions
19 that Mr. Brunson may have for you.

20 THE COURT: Mr. Brunson.

21 MR. BRUNSON: Thank you, Your
22 Honor.

23 CROSS EXAMINATION

24 BY MR. BRUNSON:

25 Q. Lieutenant, did you collect any video

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1 evidence?

2 A. No, sir.

3 Q. So there were no cameras in the salon?

4 A. Not that I am aware of.

5 Q. None of the prints that you collected came
6 back to my client; is that right?

7 A. That's correct.

8 Q. The gel lift didn't match any sneaker
9 belonging to my client; isn't that right?

10 A. I've never -- I don't know about the shoe,
11 as far as being a comparison. A shoe was never
12 submitted to me to be compared.

13 Q. So you didn't match it with my client's
14 shoe, then?

15 A. I didn't ---

16 Q. You didn't match it to any shoe?

17 A. Didn't match it to any shoe. That's
18 correct.

19 Q. All right. In fact, you were never even
20 given one for comparison?

21 A. That's correct.

22 Q. And then in the collection of DNA,
23 deoxyribonucleic acid; is that correct?

24 A. Yes, sir.

25 Q. And State's Exhibit 24 that's already in

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1 evidence is the result of that; correct?

2 A. Yes, sir.

3 Q. And on that first page, what is that
4 result? Can you read from that page?

5 A. State's Exhibit 24, the results, (reading:
6 "No DNA profile was developed from item one."
7 Item one being a swab from the doorknob.

8 Q. Isn't it true, Lieutenant Duggin, that you
9 have no evidence linking my client from your --
10 your crime scene investigation?

11 A. From the crime scene investigation, that's
12 correct.

13 MR. BRUNSON: Nothing further,
14 Your Honor.

15 THE COURT: Yes, sir. Mr. Griffin?

16 REDIRECT EXAMINATION

17 BY SOLICITOR:

18 Q. Lieutenant Duggin, evidence collect from a
19 crime scene processing, what type of evidence
20 do you recall?

21 A. Trace evidence.

22 Q. Trace?

23 A. Physical evidence, (affirmative nod).

24 Q. Forensic evidence?

25 A. Forensic evidence, (affirmative nod).

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1 Q. In a crime scene that's what you're looking
2 for, correct?

3 A. That's correct.

4 Q. So your processing of the scene, ultimately
5 there was no evidence of that type collected;
6 is that correct?

7 A. There was no forensic evidence collected.
8 Correct.

9 SOLICITOR: Any recross?

10 MR. BRUNSON: None, Your Honor.

11 THE COURT: Thank you.

12 (WITNESS STEPS DOWN)

13 THE COURT: Any objection to
14 Lieutenant Duggin being excused?

15 SOLICITOR: None from the State,
16 Your Honor.

17 MR. BRUNSON: None from the
18 defense.

19 THE COURT: Thank you. If any of
20 the jurors want to stand up for a minute before
21 we call our next witness.

22 You may call your next witness.

23 SOLICITOR: Your Honor, the State
24 calls Marie Hodge.

25 (WITNESS TAKES STAND)

1 MARIE HODGE, being duly sworn to tell
2 the truth, the whole truth and nothing but the
3 truth, testified, as follows:

4 DIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. Ms. Hodge, by whom are you employed?

7 A. The Sumter City Police Department.

8 Q. How long have you been with the Police
9 Department?

10 A. Thirty-eight years.

11 Q. Now, Ms. Hodge, what is your job title and
12 duties with the Police Department?

13 A. I am the AFIS examiner. AFIS stands for
14 Automated Fingerprint Identification System.

15 My duties are to examine latent fingerprints
16 that are lifted a crime scene, put them in to
17 the AFIS system and see if we can get
18 identification.

19 Q. What does the word "latent" mean?

20 A. Latent means a fingerprint that is lifted
21 from a crime scene that you can't see with the
22 naked eye.

23 Q. So a latent print wouldn't be obvious to
24 someone?

25 A. Correct. It's not obvious.

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1 Q. How long have you been in the capacity as
2 the AFIS fingerprint examiner?

3 A. I've been the AFIS fingerprint examiner
4 since 2005. Prior to that my fingerprint
5 experience started in 1968 when I went to work
6 for the identification division of the FBI. I
7 worked up there for approximately two years. I
8 started with the Sumter Police Department in
9 1973 and was in charge of the fingerprint
10 identification records. It just progressed
11 thru the years to dealing with fingerprints of
12 victims and things like that.

13 Q. How does one -- what type of training does
14 one receive to become an AFIS examiner?

15 A. To become an AFIS examiner, we have to go
16 through training over at the State Law
17 Enforcement Division. We're tested on
18 fingerprint identification and pattern
19 recognition. We have to be certified through
20 the State Law Enforcement Division before we
21 can operate the AFIS system in South Carolina.

22 Q. Are you certified through SLED as an AFIS
23 examiner?

24 A. Yes.

25 Q. How long have been certified?

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1 A. Since 2005. We had to do that before we
2 could get our operating system.

3 Q. Ms. Hodge, is it fair to say you've
4 examined fingerprints as a daily -- daily, in
5 your job duties?

6 A. Yes.

7 Q. Okay. How many fingerprints would you
8 estimate that you've examined during the course
9 of your career?

10 A. I think to-date, right now I've got right
11 at sixteen hundred cases that we've done. It
12 averages about two latent fingerprints per
13 case. Some have been more than that. So in
14 the thousands.

15 Q. Have you ever testified in a court of law
16 in this state with regard to fingerprint
17 identification examination?

18 A. Yes, I have.

19 Q. How many times?

20 A. Four.

21 Q. Have you been qualified as an expert
22 witness in those cases?

23 A. Yes, I have.

24 SOLICITOR: Your Honor, at this time
25 we would offer Ms. Hodge as an expert in the

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1 field of fingerprint identification and
2 examination.

3 THE COURT: Any objection?

4 MR. BRUNSON: Without objection.

5 THE COURT: Ladies and Gentlemen,
6 she's been offered and accepted as an expert in
7 fingerprints identification.

8 Let me tell you, first of all, that
9 normally witnesses cannot testify to opinions.
10 They can only testify to what they saw, heard,
11 smelled, tasted or felt. However, when
12 somebody has the level of schooling and
13 experience, we allow then to testify, to make
14 an opinion concerning something.

15 Now, although I will allow her to
16 testify in this matter, whether you as jurors
17 decide to accept her testimony is totally up to
18 you. You can give it the amount of weight that
19 you deem -- that you think is appropriate. You
20 can treat this just like any other piece of
21 evidence that is admitted and give it the
22 weight that it deserves.

23 You may proceed.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR:

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1 Q. Ms. Hodge, did you have an occasion to
2 examine any fingerprints that were collected
3 from the scene of an armed robbery at
4 Lafayette, Untouchable Cuts?

5 A. Yes, I did.

6 Q. Briefly tell the jury about what you
7 examined in this case.

8 A. I've got my worksheet. There were several
9 things that were submitted to me: two gel lifts
10 and one piece of cardboard. The fingerprint
11 images on those items were examined by me to
12 determine whether they were of a quality to
13 even be examined in the AFIS system. Of the
14 latent images that I viewed on those items
15 there were only two images that were good
16 enough to be put into the AFIS system. I
17 believe that those were marked. Of the two
18 images that were put into the AFIS system, I
19 did not get an identification on either one.

20 Q. Okay. Ms. Hodge, I am going to show you
21 what has been marked for identification as
22 State's Exhibit 20. Would you view that and
23 tell me if you recognize it?

24 A. Yes, this is what's called a gel lift.
25 It's got my initials over here in the corner

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1 ane the date that I did the examination.

2 A gel lift is a lift that is actually --
3 it's a thicker piece. When you put this
4 particular lift over the fingerprint and lift
5 it up, then the fingerprint is actually
6 reversed. In other words, something that looks
7 like it is going this way (gesturing) is
8 actually going this way. So when we put it
9 into the computer, we actually have to reverse
10 the image so that it will be correct.

11 I labeled two different areas on this as
12 Image 2.1 and 2.2.

13 Q. Okay. Those images, were they the ones
14 that were potentially suitable for
15 identification?

16 A. They were suitable to be put into the
17 computer, yes, but there was no identification
18 made.

19 Q. Okay. Now, when you say suitable, what
20 does that mean?

21 A. To be put into the AFIS system, it has to
22 be of enough quality that the computer is able
23 to make a determination or make a comparison
24 with other fingerprints that may be on file.
25 So you have to have a certain number of

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1 identification points.

2 In other words, fingerprints are made up of
3 what we call "ridges", friction ridge. In
4 those ridges there are different -- in other
5 words, you might have one ridge and it splits
6 apart at one point. That one point where it
7 splits apart is called a bifurcation. You
8 might have another ridge next to it that comes
9 up and just suddenly stops. That's an ending
10 ridge.

11 You have to have at least eight or nine of
12 those points of identification to be able to
13 put the fingerprint into the system so that the
14 system can work. If you don't have enough of
15 those points, then the system not going to work
16 and it's not going to be able to bring you
17 anything back. You might have a lot of ridges
18 but they might not be points in those ridges;
19 so, therefore, you wouldn't be able to put that
20 into the system even though you could make an
21 identification from that print.

22 Q. And these two images that were deemed
23 suitable to present for identification, did you
24 receive anything based on the analysis that
25 would point to anyone in particular?

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1 A. No, I did not.

2 Q. Now, Ms. Hodge, I am going to show you what
3 has been marked as State's Exhibit 19 for
4 identification. Do you recognize that
5 document?

6 A. This was the other gel lift. There were no
7 images on this particular lift that were
8 suitable for anything.

9 Q. Okay. So based on State's Exhibit 19,
10 there were no images of anybody's fingerprints
11 to compare?

12 A. No. Basically what you'd call smudges. A
13 lot of times if you've got too much moisture on
14 your fingers, you might -- you're leaving a
15 fingerprint but there's nothing there but just
16 smudges. You can't get the detail that you
17 need, so you couldn't identify them.

18 Q. Ms. Hodge, is it fair to say that based on
19 your education, training and experience that it
20 would be more or less likely to find suitable
21 fingerprints in a public place?

22 A. You would -- well, it's kinda hard to say.
23 It depends on what kind of surface you're
24 looking at.

25 Q. Right.

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1 A. Okay. Naturally a countertop or something
2 that there's going to be multiple prints,
3 prints over prints over prints. So you'd be
4 less likely to find something that's
5 identifiable, because there's just so much
6 there and it's going to be smudged. So it just
7 depends on what type of surface and what you're
8 looking at.

9 THE COURT: Hold on just a second.

10 Ladies and Gentlemen of the jury, I know that
11 you of you listen pretty well with your eyes
12 closed but it's important that you keep your
13 eyes open, so -- I'm sure you all are listening
14 carefully but you need to keep your eyes open.

15 SOLICITOR: Thank you, Your Honor.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR:

18 Q. Ms. Hodge, based on your education,
19 training and experience, would the presence of
20 chemicals or oils have any bearing on the
21 suitability of fingerprints to be -- would that
22 have any effect on fingerprints?

23 A. I wouldn't be certified as an expert as far
24 as processing. I would think not, but I
25 couldn't offer a good opinion on that because

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1 I'm not certified as an expert in that area.

2 Q. Okay. All right. So if you've got a place
3 like a barber shop, a counter that multiple
4 people would come in contact with, would it be
5 more likely or less likely that you would
6 receive suitable prints for analysis?

7 A. As I stated, with multiple prints -- with
8 that many people at one counter, there would be
9 prints over prints over prints. I would think
10 that it would be less likely to get a good,
11 identifiable print off of that particular
12 surface because of the number of people that
13 have touched it.

14 Q. Ms. Hodge, I am going to show you what has
15 been marked for identification as State's
16 Exhibit 21 and ask if you recognize this item?

17 A. Yes. This is a piece of cardboard that was
18 submitted. Also, I did get one identifiable
19 print that was good enough to be processed
20 through the AFIS system. It's also marked with
21 my initials and the date of the examination.

22 Q. Okay. With regard to this item, was the
23 suitable print able to be matched to any print
24 in the AFIS system?

25 A. No, it was not.

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1 Q. Even though the print was suitable for
2 analysis, what could be some reasons that it
3 may not have been identifiable through the AFIS
4 system?

5 A. There may not have been enough there on the
6 -- it depends on the quality of the prints that
7 are in the system, you know. Sometimes those
8 prints are not of the best quality. So it's
9 not to say that those prints aren't there.
10 Sometimes there's a good identifiable latent
11 print but the prints that might be in the
12 system might not be good, or that particular
13 finger may not be of good enough detail for
14 identification. We have had that to happen.

15 Q. So based on your experience, is the AFIS
16 system -- like you see on television, where you
17 feed something in and it pops up with the 'this
18 belongs to this person.'

19 A. No, it's not like that. I call it my
20 C.S.I. machine but it doesn't quite look
21 exactly like or work exactly like that.

22 The -- any kind of fingerprint analysis
23 system, based on computer, is not really
24 looking at a picture. It's looking at what the
25 operator plots. So it's more of a mathematical

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1 thing. It'll give you the best reasonable
2 proximity of the points that you plot. So if
3 I've got nine points and they are like here,
4 here, here, here and here, the system is going
5 to search all of the fingerprints that are out
6 there in the system and it's going to bring me
7 back the ones that are closest to that
8 configuration of plots or points. Then it is
9 up to the operator to look at those, one at a
10 time, side by side, with the latent image --
11 and we do this on the computer, you go back and
12 forth, back and forth, to make sure that it is
13 a match. So even though I didn't get a match,
14 I still had to examine each one of these images
15 compared with the top forty respondents. So we
16 had to go through thirty possible fingerprints
17 to make sure that we did or did not have a
18 match.

19 Q. So each certified AFIS examiner makes the
20 determination as to whether the prints are
21 matches. Is that correct?

22 A. Yes. We go through an AC method. It's an
23 analyses comparison, evaluate and verify.
24 That's the methodology that most every -- most
25 every fingerprint examiner uses.

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1 The first thing you do is analyze the
2 latent print to see if it's of good enough
3 quality to even compare. Once you've analyzed
4 it and you think it's of good enough quality,
5 then you put it into the system. But you've
6 got to mark the points of identification so
7 that the AFIS system will have something to
8 compare to. If that makes sense.

9 Q. So you did that with the two prints in this
10 case?

11 A. Yes.

12 Q. And there results were?

13 A. The results were that we did not have any
14 identification with prints in the AFIS system.

15 SOLICITOR: Answer any questions
16 that Mr. Brunson may have for you.

17 THE COURT: Mr. Brunson.

18 MR. BRUNSON: Thank you, Your
19 Honor.

20 CROSS EXAMINATION

21 BY MR. BRUNSON:

22 Q. Good morning, Ms. Hodge.

23 A. Good morning.

24 Q. You've been referring to State's Exhibit 20
25 and State's Exhibit 19, isn't that correct?

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1 A. Yes, sir, and this.

2 Q. And State's Exhibit 21.

3 A. (Affirmative nod).

4 Q. I believe that you testified that you
5 obtained fingerprints that had enough ID
6 points; is that correct?

7 A. Yes, to be entered into the AFIS system.

8 Q. And you entered them?

9 A. Yes, sir.

10 Q. All right. Where was one of the -- where
11 were the prints from?

12 A. This particular print was lifted from the
13 weave display.

14 Q. That is State's what?

15 A. This is -- I can't read that. State's
16 Exhibit 20.

17 Q. All right.

18 A. There were no images on State's Exhibit 19
19 that were of good enough quality.

20 Q. Okay.

21 A. There was one on this, State's Exhibit 21,
22 and this is front a cutting from a cardboard
23 box and on the back it says "Vanessa's Fashion
24 Hair, Fifth Avenue Collection."

25 Q. So you had a readable print from State's

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1 Exhibit 20?

2 A. (Affirmative nod).

3 Q. And State's Exhibit 21, is that correct?

4 A. Correct.

5 Q. And neither of those prints matched my
6 client, Mr. Joseph Dunbar?

7 A. To my knowledge, no.

8 Q. In fact, you have no other evidence to
9 offer that leads to my client's responsibility
10 for a robbery?

11 A. No, sir.

12 MR. BRUNSON: Nothing further.

13 THE COURT: Mr. Griffin?

14 SOLICITOR: No redirect, Your Honor.

15 THE COURT: You may step down.

16 (WITNESS STEPS DOWN)

17 THE COURT: Next.

18 SOLICITOR: The State calls Jim

19 Alsbrook to the stand.

20 (WITNESS TAKES STAND)

21 JAMES ALSBROOK, being duly sworn to
22 tell the truth, the whole truth and nothing but
23 the truth, testified, as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR:

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1 Q. Mr. Alsbrook, by whom are you employed?

2 A. Sumter City Police Department.

3 Q. How long have you been with the Police
4 Department?

5 A. Five years, six months.

6 Q. What is your title with the Police
7 Department?

8 A. Evidence technician.

9 Q. How long have you been the evidence
10 technician?

11 A. Five years, six months.

12 Q. In your capacity as evidence technician,
13 generally what are your day to day duties?

14 A. Every day when we come into work, we check
15 the evidence lockers to see if there's been
16 anything placed within them.

17 There are only four currently who have
18 authorization to go into an evidence locker to
19 retrieve any items that have been placed with
20 them.

21 We verify that the chain of custody is with
22 the item, that there is a copy of the incident
23 report, and that the item actually meet or
24 matches the chain of custody.

25 We take all of those items back to the

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1 office area. I sign the chain of custody
2 showing receipt of the items, log them into the
3 computer, then store them for court purposes or
4 other processing needs.

5 Q. You say that you store the items for court
6 purposes. Where are they stored?

7 A. There is an area behind my desk that is
8 controlled -- right now only four people have
9 access to it currently, we all have keys and
10 codes to get into the office area. They are
11 stored either in files or boxes for the
12 appropriate -- tagged for the necessary item.

13 Q. These four people that have access to this
14 area, are they all employees of the Police
15 Department?

16 A. Three are officers: Lieutenant Duggin who
17 testified earlier, Patrolman Tyler (phonetic),
18 and Patrolman Allen.

19 Q. And then yourself?

20 A. Myself, (affirmative nod).

21 Q. Now, this location where the evidence is
22 kept, it's, to your knowledge, secure?

23 A. It is.

24 Q. All right. Mr. Alsbrook, I am going to
25 show you some items of evidence and ask if you

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1 recognize them, the first being State's Exhibit
2 19 for identification purposes. Do you
3 recognize that?

4 A. (Upon review), yes, sir. I do.

5 Q. What is that?

6 A. It is called a white gel lift. It's one of
7 the items that was turned into Evidence by
8 Truman Duggin.

9 Q. Did anybody else have access to this item
10 before it came into your possession?

11 A. After the Lieutenant turned into Evidence,
12 I signed for it, then the item was transferred
13 to Ms. Hodge for her examination and then
14 returned back to Evidence.

15 Q. When was it returned back to Evidence?

16 A. January 14th, 2010.

17 Q. Since then has it been in your continuous
18 care, custody and control?

19 A. It has.

20 Q. Did you bring it to court here this
21 morning?

22 A. I did.

23 Q. To your knowledge, has anybody tampered
24 with it or done anything to this item of
25 evidence from the time that it was turned back

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1 into you until today?

2 A. No, sir.

3 SOLICITOR: Your Honor, we would
4 offer State's Exhibit 19.

5 THE COURT: Any objection?

6 MR. BRUNSON: No objection.

7 THE COURT: Without objection,
8 State's Exhibit 19 is admitted into evidence.

9 (SO ENTERED AS STATE'S EXHIBIT 19)

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR:

12 Q. Mr. Alsbrook, I am going to show you
13 State's Exhibit 20 for identification and ask
14 if you recognize this.

15 A. Yes, sir, I do.

16 Q. What is that?

17 A. It is the second white gel lift that was
18 turned into Evidence by Lieutenant Duggin.

19 Q. Okay. After it was turned into Evidence,
20 did anybody sign it out?

21 A. Just as I stated earlier with the first
22 item, to Ms. Hodge, who then returned it back
23 to me.

24 Q. When did she return it back to you?

25 A. January 14th, 2010.

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1 Q. And since it was returned to you, has it
2 been in your continuous care, custody and
3 control?

4 A. Yes, sir.

5 Q. Has anybody tampered with it or removed it,
6 to your knowledge?

7 A. No, sir.

8 Q. Did you bring it to court with you this
9 morning?

10 A. I did.

11 Q SOLICITOR: Your Honor, we would
12 offer State's Exhibit 20.

13 THE COURT: Any objection to State's
14 evidence?

15 MR. BRUNSON: Without of the jury,
16 Your Honor.

17 THE COURT: Without objection,
18 State's Exhibit 20 is admitted into evidence.

19 (SO ENTERED AS STATE'S EXHIBIT 20)

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR:

22 Q. Mr. Alsbrook, I am going to show you what
23 has been marked for identification as State's
24 Exhibit 21. Do you recognize that item?

25 A. Yes, sir, I do.

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1 Q. What is that?

2 A. State's Exhibit 21 matches a piece of.
3 cardboard that was turned into Evidence.

4 Q. When was that turned into Evidence?

5 A. 2 January, 2010.

6 Q. By?

7 A. Truman Duggin.

8 Q. Did anybody retrieve that item after it was
9 put into Evidence?

10 A. As the first two items, Ms. Hodge signed
11 them out for her purposes and then returned
12 them to me on January 14th, 2010.

13 Q. Since January 14th, 2010, has it been in
14 your continuous care, custody and control?

15 A. It has.

16 Q. Has anybody tampered it or removed it, to
17 your knowledge?

18 A. No, sir.

19 Q. Did you bring it to court with you this
20 morning?

21 A. I did.

22 SOLICITOR: Your Honor, we would
23 offer State's Exhibit 21.

24 THE COURT: Any objection to State's
25 Exhibit 21?

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1 MR. BRUNSON: Without objection,
2 Your Honor.

3 THE COURT: All right. Without
4 objection, it is admitted into evidence.

5 (SO ENTERED AS STATE'S EXHIBIT 21)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR:

8 Q. I am going to show you what has been marked
9 for identification as State's Exhibit 22. I
10 asked if you recognize this item.

11 A. Yes, sir.

12 Q. What is that?

13 A. State's Exhibit 22 is a piece of cardboard
14 showing a footwear impression.

15 Q. When was it turned into evidence?

16 A. The same. January 2, 2010.

17 Q. And did anybody removed it from Evidence?

18 A. It was turned over to Ms. Hodge, and she
19 turned it back into Evidence on 14 January.

20 Q. Since January 14, 2010, has it been in your
21 continuous care, custody and control?

22 A. It has.

23 Q. Has anybody removed that are tampered with
24 it anyway?

25 A. No.

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1 Q. Did you bring it with you to court with you
2 this morning?

3 A. I did.

4 SOLICITOR: Your Honor, we would
5 offer State's Exhibit 22.

6 THE COURT: Any objection to State's
7 Exhibit 22?

8 MR. BRUNSON: May the Defendant
9 examine State's Exhibit 22?

10 THE COURT: Certainly.

11 SOLICITOR: (Tenders).

12 MR. BRUNSON: (Upon review), no
13 objection.

14 THE COURT: Without objection,
15 State's Exhibit is in evidence.

16 (SO ENTERED AS STATE'S EXHIBIT 22)

17 DIRECT EXAMINATION CONTINUED

18 BY SOLICITOR:

19 Q. Mr. Alsbrook, I am going to show you what
20 as been marked as State's Exhibit 23 for
21 identification and ask you if you recognize
22 this item?

23 A. Yes, sir.

24 Q. What is that item?

25 A. That would be the DNA swab that Lieutenant

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1 Duggin turned into Evidence, requesting it to
2 go to SLED for analysis.

3 Q. When something is turned in with a request
4 to be analyzed at SLED, what do you do?

5 A. The process provided is that I have to go
6 to SLED, to enter the item as a submission that
7 will be turned into them. I transport the item
8 to SLED. They log it into their computer
9 system, and they give me a written receipt
10 showing acceptance of the item. I place that
11 in the file. Then at some given point either
12 myself or one of the other Evidence personnel
13 will go to SLED, retrieve the item and return
14 to the Evidence locker.

15 Q. When did you take this item to SLED?

16 A. January 6th, 2010.

17 Q. And when did you -- or did you retrieve it
18 from SLED at any point in time?

19 A. I presume so. I don't have the date with
20 me, but generally -- we have the item.

21 Q. Did you bring it to court with you this
22 morning?

23 A. I did.

24 Q. Where did you locate it this morning?

25 A. (No verbal response).

1 Q. Where was the item when you got it this
2 morning?

3 A. It was in my Evidence room.

4 Q. To your knowledge has anybody tampered with
5 it in any way?

6 A. No, sir, it's still contained in the heat-
7 sealed pouch and it appears to be sealed.

8 SOLICITOR: Your Honor, we would
9 offer State's Exhibit 23.

10 THE COURT: Any objection?

11 MR. BRUNSON: May the Defendant
12 examine it?

13 THE COURT: He certainly may.

14 SOLICITOR: (Tenders).

15 MR. BRUNSON: (Upon review), no
16 objection.

17 THE COURT: Without objection,
18 State's Exhibit 23 is entered.

19 (SO ENTERED AS STATE'S EXHIBIT 23)

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR:

22 Q. Mr. Alsbrook, please answer any questions
23 that Mr. Brunson may have for you.

24 THE COURT: Mr Brunson.

25 MR. BRUNSON: Thank you, Your

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1 Honor.

2 CROSS EXAMINATION

3 BY MR. BRUNSON:

4 Q. Good morning, Mr. Alsbrook.

5 A. Good morning, sir.

6 Q. He testified that you're the evidence
7 technician.

8 A. Correct.

9 Q. Are you an officer of the law?

10 A. I am not commissioned, no, sir.

11 Q. Are you the senior evidence technician? Or
12 are you a supervisor over the office?

13 A. No, sir, Truman Duggin is the supervisor.
14 I'm second in the Evidence department.

15 Q. Okay. I believe that you testified that
16 your office obtained evidence in this case?

17 A. Yes.

18 Q. Are you aware of the result of any tests
19 that were performed on this evidence?

20 A. I have the results of SLED.

21 Q. Okay. Do you have any physical evidence
22 that tends to show that my client committed a
23 robbery?

24 SOLICITOR: Your Honor, he's just
25 the custodian.

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1 THE COURT: He's just the custodian.

2 He doesn't analyze it.

3 MR. BRUNSON: Yes, sir.

4 THE COURT: He can't answer it.

5 MR. BRUNSON: Okay.

6 CROSS EXAMINATION CONTINUED

7 BY MR. BRUNSON:

8 Q. So, Mr. Alsbrook, your job then is just to
9 collect the evidence?

10 SOLICITOR: Your Honor, he's the
11 custodian. He receives the evidence but he
12 doesn't ---

13 THE COURT: He just holds it. He
14 doesn't analyze it, he doesn't collect it.
15 Correct?

16 THE WITNESS: Yes, sir.

17 MR. BRUNSON: Yes, sir.

18 THE COURT: Once somebody else has
19 collected it, he holds it.

20 MR. BRUNSON: Yes, sir, Your
21 Honor. All right. I'll rephrase it.

22 CROSS EXAMINATION CONTINUED

23 BY MR. BRUNSON:

24 Q. You receive evidence from other members of
25 law enforcement and hold it?

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1 A. Yes.

2 Q. And you sometimes take it for processing,
3 deliver it to be processed?

4 A. To SLED, (affirmative nod). If that's a
5 question, -- yes, sir.

6 Q. Yeah. And after it is processed, do you
7 get it back?

8 A. Yes.

9 Q. And hold it in your custody?

10 A. Correct.

11 Q. And you testified that there's nothing to
12 suggest that this evidence was tampered with;
13 correct?

14 A. There's nothing, to my knowledge.

15 MR. BRUNSON: Right. Nothing
16 further.

17 THE COURT: Any redirect?

18 SOLICITOR: No, sir, Judge.

19 THE COURT: Thank you. You may step
20 down.

21 (WITNESS STEPS DOWN)

22 THE COURT: Let me see the attorneys
23 for a minute.

24 (OFF RECORD BENCH CONFERENCE)

25 THE COURT: You may call your next

1 witness.

2 SOLICITOR: The State calls
3 Detective William Lyons.

4 (WITNESS TAKES STAND)

5 WILLIAM LYONS, being duly sworn to
6 tell the truth, the whole truth and nothing but
7 the truth, testified, as follows:

8 DIRECT EXAMINATION

9 BY SOLICITOR:

10 Q. Detective Lyons, by whom are you employed?

11 A. The City of Sumter Police Department.

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

14 A. Since 2004.

15 Q. All right. Detective Lyons, what is your
16 job title?

17 A. Senior Detective in the Violent Crimes
18 Division.

19 Q. Being in the violent crimes division, what
20 type of crimes do you usually investigate?

21 A. We investigate crimes against persons, such
22 as: homicides, robbery, armed robberies,
23 shootings, domestic disputes, a wide variety of
24 different types of violent crimes.

25 Q. How long have you been with the

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1 investigative services division?

2 A. Four years.

3 Q. Detective Lyons, were you on duty on
4 January 10st, 2010?

5 A. Yes, I was.

6 Q. Did you have occasion to respond to any
7 calls that day?

8 A. I did. I responded to an armed robbery
9 call at South Lafayette, at the Untouchable
10 Cuts beauty salon/barber shop.

11 Q. How, generally, is a detective made aware
12 of a situation in which they may have to be
13 involved?

14 A. We're made aware in a variety of ways. If
15 it is a business, we may respond to an alarm,
16 respond with patrol units.

17 If it's on a weekend, we have a detective
18 that is on-call twenty-four hours a day, seven
19 days a week, three hundred sixty-five days out
20 of the year. We also have a duty detective
21 that works from 2:00 to 10:00 Tuesday through
22 Saturday.

23 On this particular day, this was over a
24 holiday weekend, I was on call. I -- the call
25 came in -- I'd been out working that day

1 already, so I was actually already out, so I
2 didn't have to get called by the supervisor.
3 I just went ahead and responded to the scene.
4 Q. And in your capacity as an investigator,
5 what is the first thing that you did on
6 receiving this call?

7 A. Responded to the scene. I was given some
8 descriptions of the individuals thought to be
9 involved in the robbery: black males dressed in
10 all black clothing. The initial description
11 came out over the radio.

12 While responding, I noticed a young man
13 walking on Brand (phonetic) Street. I stopped
14 and spoke with him and the gentleman identified
15 himself as Rakeem Dunbar. The gentleman had on
16 red socks, black Nike -- I call them athletic
17 flip-flops. Not between the toes type flip-
18 flops. Black clothing.

19 He identified himself. I did a quick field
20 interview to determine where he was going,
21 where he had been coming from, did a pat-down
22 for weapons. During that pat-down, I
23 discovered a credit card in his possession that
24 had Joseph Dunbar's name on it. I didn't think
25 anything of it at the time. I gave the

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1 gentleman back the credit card.

2 He was initially transported to the station
3 for further questioning and at that point I
4 proceeded ahead on to the scene, where I met
5 Lieutenant Duggin and some of the other
6 officers that had arrived at the scene.

7 Q. At that point, had you received any
8 specific descriptions other than the dark
9 clothing, that it was males in the business?

10 A. No. The only description that I'd gotten
11 previously was what had come out on the radio,
12 that it was multiple black males that had
13 entered the business and robbed it at gunpoint,
14 all dressed in dark clothing. We hadn't talked
15 at anyone at the business to receive any kind
16 of specific description of any of the
17 individuals. We didn't get that until after
18 they were interviewed and had given their
19 statements.

20 Q. Just generally, this individual, Rakeem
21 Dunbar, what -- give us a physical description
22 of him.

23 A. He's a taller black male. I think at the
24 time that we interviewed him that he was around
25 the age of fourteen or fifteen years of age.

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1 Hew as a juvenile at the time. Tall, dark-
2 complexion, longer dreads -- not quite to the
3 shoulder, but longer length hair.

4 Q. Okay. Detective Lyons, upon arriving at
5 the scene at Untouchable Cuts, what did you do?

6 A. Spoke with some of the victims that were
7 there. Lieutenant Duggin and the other crime
8 scene officers arrived on scene. I stayed
9 there for a short period of time, didn't do any
10 processing, then I went back to the station
11 where I interviewed Mr. Rakeem Dunbar.

12 Q. Okay. Did you subsequently have an
13 occasion to speak with the victims in this
14 case?

15 A. Yeah, it was after Mr. Dunbar had been
16 released to a family member, I believe his
17 parents, father and mother. The victims, Ms.
18 Pollard and some of the others that inside the
19 business, had come to the law enforcement
20 center along with one of our other Detectives,
21 Detective Allen, where they had subsequently
22 given their statements about what had happened.

23 After reviewing the statements and speaking
24 with Ms. Pollard, I got the description of the
25 gentleman that had the gun on her. He was

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1 described as a light-skinned black male, short
2 -- the main characteristic that stood out to me
3 when she was giving the description was the
4 facial acne or, for lack of a better term,
5 pimples or pits that were in his face. The
6 fact that he had hair that wasn't dreads length
7 but it was twistable or braidable; however you
8 want to say it, he had enough hair to where it
9 could be manipulated and made to look like
10 twists or braids.

11 Q. So, Detective Lyons, based on your contact
12 with Rakeem Dunbar, based on the description
13 that you received from Ms. Pollard, what did
14 you do then?

15 A. After I spoke with Ms. Pollard and had that
16 description, I thought back to my interview
17 with Rakeem Dunbar and the fact that he had
18 Joseph Dunbar's credit card with him. Right
19 offhand, I knew what Joseph Dunbar looked like,
20 so he immediately became a person of interest
21 to me in the case because he fit -- he fit the
22 physical description, almost to a T, at that
23 time, back in January of 2010. So based on
24 that information, after talking with Ms.
25 Pollard, going back to my interview with Mr.

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1 Rakeem Dunbar, I decided to obtain a photo
2 lineup of Mr. Joseph Dunbar.

3 Q. Okay. Now, going back to the interview
4 with Rakeem Dunbar, did he make any admissions
5 to you that he -- that you can remember?

6 A. He did admit that he had been inside
7 Untouchable Cuts, which would have been
8 consistent with the information that the
9 victims gave. He matched the physical
10 description of the individual that came in and
11 inquired about the owner, with the red socks
12 and the white Nike flip-flops/bedroom-type
13 shoes.

14 Q. All right. So Detective Lyons, at this
15 point, after received the description from the
16 victims, what did you do next?

17 A. As I stated, I put together a request for
18 the State Law Enforcement Division to put
19 together a six-person lineup for me. We don't
20 typically do our own lineups. I obtained a
21 photograph of Mr. Dunbar and sent that
22 photograph, along with his name, date of birth,
23 case number, the crime that we were
24 investigating. I sent that information to the
25 State Law Enforcement Division and they, in

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1 turn, generated a six person photo lineup for
2 us.

3 Q. All right. So you didn't have any hand in
4 preparing the lineup other than sending a
5 picture of your suspect at that -- or someone
6 that you thought should be included in the
7 lineup?

8 A. Correct.

9 Q. All right. At that point when you
10 requested the six person photo lineup, had
11 anybody given you the name of Joseph Dunbar?

12 A. No, they hadn't.

13 Q. Ms. Pollard, did she tell you that Joseph
14 Dunbar did it?

15 A. No, she didn't.

16 Q. Did any of the other victims give you the
17 name of Joseph Dunbar?

18 A. No, they didn't.

19 Q. So explain to the jury your basis for
20 including Mr. Dunbar in the lineup?

21 A. The reason I put -- that I requested a
22 photo lineup that included Mr. Joseph Dunbar
23 was based on my initial stop of Rakeem Dunbar.
24 He had Mr. Dunbar's, Mr. Joseph Dunbar's credit
25 card and, like I said, at the time when I first

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1 stopped him and interviewed him it didn't seem
2 important because I -- I hadn't developed
3 Joseph Dunbar as a suspect.

4 Talking with Ms. Mary Pollard and the other
5 ladies, Ms. Pollard gave me that description of
6 a light-skinned black male with the pits, acne
7 on the face and the hair, I immediately thought
8 back to, 'well, okay, Rakeem Dunbar had Joseph
9 Dunbar's credit card on him' and Joseph Dunbar
10 matched that description almost to a T. So I
11 decided to get a photo lineup of Mr. Joseph
12 Dunbar.

13 Had I been given the name, there would have
14 been no need for me to obtain a photo lineup.
15 Had Ms. Pollard, or any one of the other
16 victims that were present that day said 'Joseph
17 Dunbar is the one that robbed me,' there would
18 have been no need for a photo lineup. I would
19 just have obtained the arrest warrant for him
20 without the necessity of a photo lineup.

21 The photo lineup was based on my contact
22 with Rakeem Dunbar and my conversations with
23 Ms. Pollard and the other victims. I developed
24 him as a suspect and put him in a photo lineup.

25 Q. All right. Now, Detective Lyons, did you

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1 have occasion to ask any of the victims to come
2 to the law enforcement center after you decided
3 to have this lineup compiled?

4 A. I did. I had Ms. Pollard come to the law
5 enforcement center on January 2nd, around 8:50
6 that morning, to look at the photo lineup that
7 I had gotten back from the State Law
8 Enforcement Division.

9 Q. Okay. Detective, I am going to show you
10 what has been marked for identification as
11 State's Exhibit 1. I will actually show you
12 two documents, State's Exhibit 1 and State's
13 Exhibit 2 for identification. Do you recognize
14 these documents?

15 A. I do. State's Exhibit 1 is what we call
16 our witness lineup identification form.
17 State's Exhibit 2 is actually the photo lineup
18 itself.

19 Q. Okay. Now, when you were going to present
20 a witness the photo lineup, tell the jury a
21 little bit about the procedure.

22 A. Bring them in, there's instructions on it
23 -- we tell them that, 'We have a photo lineup
24 that we would like for you to look at. There
25 are going to be six photographs in the lineup,

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1 three on the top and three on the bottom. They
2 are in no particular order.'

3 There are six spots on there, so we've got
4 to put six pictures. That's just the way that
5 we have always done our lineups. They are
6 numbered one through six in no particular
7 order. They are not suggestive.

8 We tell them to look at the photo lineup
9 and if they see anybody in there that they
10 recognize, we ask them to mark it on the photo
11 lineup; which we have them do, we have them
12 mark the photo lineup. Then if they mark a
13 number, to circle the number on the photo
14 lineup. Then, in turn, we ask them to mark the
15 same box that correspondence with it on the
16 witness identification form. Then we have them
17 sign the witness identification form. The
18 officer signs it and it's dated and they give
19 the time as well.

20 Q. All right. Now, Detective Lyons, on
21 State's Exhibit 1 for identification, did you
22 go over the instructions with Ms. Pollard?

23 A. I did.

24 Q. Okay. After you have the instructions on
25 the form, what happened next?

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1 A. I told her the instructions that were on
2 the form, advised her. Then I put the lineup
3 out for her to look at. She immediately picked
4 number five.

5 Q. You say immediately. Was there any
6 hesitation at all?

7 A. No, it was almost as soon as the paper
8 touched the table, she went to number five.

9 Q. Now, the notation on State's Exhibit 2 for
10 identification, whose handwriting is that, to
11 your knowledge?

12 A. That's Ms. Pollard's handwriting.

13 Q. Did she make that notation on the paper in
14 your presence?

15 A. Yes, she did.

16 Q. Which number did she circle?

17 A. She circled number five.

18 Q. What initial are by number five?

19 A. "M.P."

20 Q. Now, did you suggest that she pick out any
21 of those photos in any way?

22 A. No, I did not.

23 Q. Did you promise her anything if she made a
24 choice of any particular person? And

25 A. No, I did not.

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1 Q. Did you tell her that she had to pick out
2 someone?

3 A. No, I did not.

4 Q. Now, did she had the opportunity to talk
5 with any the other witnesses before, during or
6 after the lineup in your presence?

7 A. No.

8 Q. How certain was she of this individual?

9 A. Like I said, as soon as I laid the lineup
10 down, she immediately went to number five and
11 circled it. So -- she was not -- you know,
12 based on her reactions, I'd say that she was
13 more than a hundred percent certain, just based
14 on the sheer fact that as soon as it hit the
15 table she marked it.

16 Q. To your knowledge had she ever -- did she
17 tell you that she had ever seen anybody in this
18 lineup before you showed her these six
19 photographs?

20 A. No, she hadn't.

21 Q. Okay. To your knowledge, Detective Lyons,
22 was she -- did she appear to be under the
23 influence of any alcohol or drugs when she made
24 this identification?

25 A. No, she wasn't.

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1 SOLICITOR: Your Honor, at this time
2 we would offer State's Exhibit 1 and State's
3 Exhibit 2 into evidence.

4 THE COURT: Mr. Brunson?

5 MR. BRUNSON: Your Honor, the
6 defense would like to renew the objections.

7 THE COURT: Subject to your
8 objections, which have been overruled, they are
9 admitted.

10 SOLICITOR: Thank you, Your Honor.

11 (SO ENTERED AS STATE'S EXHIBIT 1)

12 (SO ENTERED AS STATE'S EXHIBIT 2)

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR:

15 Q. All right. Detective Lyons, after the
16 identification, what did you do next?

17 A. After Ms. Pollard had identified the
18 defendant from the photo lineup and filled out
19 the corresponding witness lineup form, she
20 left. At that point in time, I obtained an
21 arrest warrant for Joseph Dunbar for the
22 robbery at Untouchable Cuts.

23 Q. Okay. Detective, the person whose picture
24 is number five on State's Exhibit 2, do you see
25 him in the courtroom here today?

1 A. I do.

2 Q. Where is he?

3 A. He is seated next to Mr. Will Brunson, his
4 attorney. One Joseph Dunbar.

5 Q. All right. After the arrest warrant for
6 Mr. Dunbar was completed, what happened?

7 A. We began our efforts to try to locate Mr.
8 Dunbar. During our investigation and in trying
9 to get Mr. Dunbar located, we received info
10 that he may be in another state, that he may be
11 in the state of Florida.

12 Therefore, we turned our efforts to trying
13 to investigate whether or not he had any
14 connections in the state of Florida. We were
15 able to determine that he did have some family
16 members that lived in the state of Florida,
17 based on records that we obtained.

18 Given the addresses that we had, I
19 contacted the United States Marshal Service,
20 Fugitive Task Force. Officers from their task
21 force were able to subsequently locate Mr.
22 Dunbar in a family member's home in the state
23 of Florida.

24 Q. Okay. Now, was Mr. Dunbar subsequently
25 returned to the state of South Carolina?

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1 A. He was.

2 Q. How did that occur, to your knowledge?

3 A. I believe, if my memory serves me
4 correctly, he was taken into custody on January
5 8th. I am not sure what his extradition date
6 was back to South Carolina, but normally when a
7 defendant is arrested out of state they have to
8 either waive extradition or the State has to
9 obtain what is called a Governor's warrant in
10 order to return him to the state. Mr. Dunbar
11 waived his extradition. We sent officers down
12 and he was subsequently brought back to our
13 facility.

14 Q. Okay. When he was brought back to South
15 Carolina, what was done there?

16 A. He was brought by the Sumter Police
17 Department, the officers that were transported
18 -- that were given his arrest warrant. He was
19 subsequently booked into the Sumter detention
20 center.

21 Q. Okay. Now, Detective Lyons, as the lead
22 detective on this case, did you have any role
23 in the crime scene processing or anything like
24 that?

25 A. No, I did not.

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1 Q. Why would you not have done that?

2 A. Because when we call our crime scene
3 technicians out, I allow them to do the
4 processing.

5 Q. There are things when we respond to
6 something as detectives on call and we may
7 process it ourselves, if it is something small.
8 But in this case Lieutenant Duggin was
9 available, as well as Detective Allen, and I
10 would ask them for their expertise in crime
11 scene processing.

12 Q. So what were you most interested in as the
13 person in charge of this investigation after it
14 was assigned to you?

15 A. At that point, after it was -- after it was
16 assigned to me?

17 Q. Well, as you ---

18 A. The biggest part for me was when I
19 responded, helping to try to determine who was
20 responsible for doing this. In talking with
21 witnesses, talking to the victims, putting
22 together the information as we received it and
23 in talking with the crime scene folks, my job
24 was to try to take care of everything, put it
25 together in order to develop a suspect.

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1 Q. And you didn't seize this credit card from
2 Rakeem Dunbar at the time that you spoke to
3 him, did you?

4 A. No, I did not.

5 Q. Why didn't you do that?

6 A. Like I said, at the time I made contact
7 with him while I was initially responding to
8 the scene. He was like two blocks from the
9 scene when I made contact with him. In that
10 initial contact, like I said, he had it on him
11 but at that point I didn't have the
12 descriptions from Ms. Pollard and them to be
13 able to determine that Joseph Dunbar might be a
14 suspect as I interviewed Mr. Rakeem Dunbar.
15 He was essentially taken to the police station
16 and later a more detailed interview was
17 conducted, at which time we learned that he was
18 the one that went into the store and asked
19 about who the owner was. He was released after
20 that.

21 It was after that that I spoke with Ms.
22 Pollard and then determined that Joseph Dunbar
23 was a suspect in this case. So at the time
24 that I spoke to Rakeem Dunbar, I didn't know
25 that Joseph Dunbar was going to be a suspect,

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1 so I had no real reason to take it. They're
2 family members. He -- they're family members,
3 so there would be no reason for him not (sic)
4 to have -- property that belonged to each
5 other's family on him.

6 Q. Now, getting back to identifying Joseph
7 Dunbar as a suspect, again, explain to the jury
8 how did you come up with that?

9 A. It was based on the corroboration of having
10 spoken with Rakeem Dunbar, determining that he
11 was the gentleman that was in the store; the
12 fact that he had Mr. Dunbar's, the defendant's,
13 ID on him; coupled with the fact that Ms.
14 Pollard and then gave a description that I was
15 familiar with, that to me matched the
16 description of one Joseph Dunbar. That led me
17 to obtain the photo lineup of Mr. Dunbar.

18 Q. Now, when Ms. Pollard made the
19 identification and circled the number five, did
20 she say 'that's Joseph Dunbar.'

21 A. No, she didn't. She just, 'that's the
22 person who robbed me.'

23 SOLICITOR: Answer any questions
24 that Mr. Brunson may have for you.

25 THE COURT: Mr. Brunson.

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1 MR. BRUNSON: Thank you, Your
2 Honor.

3 CROSS EXAMINATION

4 BY MR. BRUNSON:

5 Q. Detective Lyons, you weren't the first
6 officer on the scene, were you?

7 A. No, I was not.

8 Q. In fact, the first officer on the scene
9 wrote a report; didn't he?

10 A. He may not be the first officer.

11 Q. Well, there was an incident report
12 prepared; is that correct?

13 A. There was an incident reporter prepared,
14 that's correct.

15 Q. And I presume that incident report was
16 prepared after certain people were talked to?

17 A. It should be.

18 Q. Isn't it true that there is nothing in the
19 incident report that says anybody took off a
20 mask?

21 SOLICITOR: Your Honor, I am going
22 to object. He didn't prepare this.

23 THE COURT: Sustained.

24 MR. BRUNSON: Well, Your Honor, he
25 -- well, let me ask another question.

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1 CROSS EXAMINATION CONTINUED

2 BY MR. BRUNSON:

3 Q. What does it mean to be the lead detective
4 on a case?

5 A. It's my responsibility to investigate the
6 case, put together the case file to be sent to
7 the Solicitor's Office, draw up any arrest
8 warrants, obtain any documents or statements or
9 whatever is necessary to complete the entire
10 case file.

11 Q. Did you in your collection collect an
12 incident report?

13 A. I did.

14 Q. Do you recall the contents of it?

15 SOLICITOR: Your Honor, ---

16 THE COURT: Approach.

17 (OFF RECORD SIDEBAR)

18 THE COURT: I understand that the
19 objection is withdrawn, is that correct,
20 Solicitor?

21 SOLICITOR: That's correct, Your
22 Honor.

23 THE COURT: All right.

24 CROSS EXAMINATION CONTINUED

25 BY MR. BRUNSON:

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1 Q. Detective Lyons, I believe that you
2 indicated that you were the lead investigator
3 on this case?

4 A. Correct.

5 Q. As lead investigator, you collected all
6 that law enforcement had done?

7 A. Correct.

8 Q. And you testified that an incident report
9 was prepared by an officer.

10 A. Correct.

11 Q. Not you, but an officer that responded to
12 the scene?

13 A. Correct.

14 Q. And that you reviewed that incident report?

15 A. Yes, a copy of it.

16 Q. You read it?

17 A. Yes.

18 Q. My question is, did anybody -- did the
19 incident report say that someone took off a
20 mask?

21 A. Does the actual incident report say it?

22 Q. Yes.

23 A. No, it does not.

24 Q. Okay.

25 A. That would be because the initial officers

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1 that respond to a scene do not necessarily get
2 all the information from the victims of
3 witnesses. They get enough information needed
4 to generate a report.

5 Q. Okay.

6 A. That report simply, per se, doesn't ---

7 Q. But you were not there when these officers
8 talked to the witnesses, were you?

9 A. I was there, but -- I was there when the
10 officer was on the scene, but I was not
11 standing there when he spoke to the witnesses,
12 no.

13 Q. Okay. So you don't know what the witnesses
14 told the officer, do you?

15 A. No, I do not.

16 Q. Nothing in that incident report said
17 someone took off a mask?

18 A. To my knowledge, no.

19 Q. Okay. Now, you testified that you came in
20 contact with a one Rakeem Dunbar. Correct?

21 A. That's correct.

22 Q. How long after the call, or the dispatch,
23 did you contact Mr. Dunbar?

24 A. As I said, I was out when the call came
25 out, so I made contact with him while

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1. responding to the scene.
- 2 Q. Okay. Approximately how much time ---
- 3 A. I don't know how much time went by or how
- 4 much time it took me to get from Point A to
- 5 Point B. It's not like I was -- it was not
- 6 like an hour later.
- 7 Q. It was within ---
- 8 A. --- a short period of time.
- 9 Q. Less than thirty minutes?
- 10 A. That would be fair to say.
- 11 Q. Now, when you encountered Mr. Rakeem
- 12 Dunbar, he had red socks on?
- 13 A. He did.
- 14 Q. And Nike flip-flaps (sic)?
- 15 A. That's correct.
- 16 Q. Did any of the victims say that a robber
- 17 had on red socks?
- 18 A. No, they did not.
- 19 Q. Did any of the victims say that the robber
- 20 had on Nike flip-flops?
- 21 A. No, they did not.
- 22 Q. In fact, -- (pause). You testified on
- 23 direct that Mary Pollard described one of her
- 24 robbers as being light-skinned and that he had
- 25 acne -- you said acne or dents in his face.

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- 1 A. True.
- 2 Q. And what else?
- 3 A. In regard to the description?
- 4 Q. Yes.
- 5 A. The acne on his face, shorter light-skinned
- 6 black male, with hair that was not dreaded but
- 7 twistable, braidable, long enough to be
- 8 twisted.
- 9 Q. Not dreaded?
- 10 A. Not dreaded.
- 11 Q. All right. I believe that you testified
- 12 that my client waived extradition, is that what
- 13 you said?
- 14 A. I did.
- 15 Q. That means that he voluntarily came back or
- 16 submitted himself to this jurisdiction?
- 17 A. That's correct.
- 18 Q. Now, as lead detective on the case, do you
- 19 have any fingerprints from the scene that
- 20 belong to my client?
- 21 A. I did not collect anything, to my
- 22 knowledge, that -- I did not collect anything.
- 23 Well, I will take that back. There were
- 24 fingerprints that were collected, but at this
- 25 point they have not been returned yet.

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1 Q. Okay. So you did not collect any
2 fingerprints that belong to my client from the
3 scene?

4 A. I did not. No, sir.

5 Q. In fact, there aren't any in your file that
6 belong to my client?

7 A. No, sir.

8 Q. In fact, there isn't any DNA evidence in
9 your file that belongs -- that was collected
10 that belongs to my client, from the scene?

11 A. That's correct.

12 Q. There is no footprint of shoe in your files
13 that suggests or that came from my client, from
14 the scene?

15 A. No, sir, we do not have any of your
16 client's shoes.

17 Q. But you found a shoe print and you made an
18 imprint from it; is that correct?

19 A.. That's correct.

20 Q. But you have no evidence that that imprint
21 matched a shoe belonging to my client?

22 A. We don't have any evidence that it matches
23 anybody's shoes at this point. At that point
24 we have not been given a shoe nor have we
25 located a shoe that matches it. So I can't say

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1 whether or not the shoe belongs to your client

2 or whether it doesn't belong to your client.

3 All I can tell you is that we have the image of

4 a shoe and that it is unknown as to who it

5 belongs to.

6 Q. Exactly. You mentioned that you have a

7 credit card that was found in Rakeem's back

8 pocket.

9 A. Yes.

10 Q. You don't have that credit card in your

11 file today either, do you?

12 A. Like I said, at the time that I interviewed

13 Rakeem Dunbar, he had the credit card on him.

14 I had not developed Joseph Dunbar as a suspect.

15 Mr. Dunbar was already released from our

16 custody at the time that I developed Joseph

17 Dunbar as a suspect. So when I interviewed

18 him, I saw no need to take the credit card out

19 of his pocket. They were family members. So,

20 no, I do not have the credit card.

21 Q. Detective, how many people were robbed that

22 evening?

23 A. I would say that everybody in that business

24 was robbed.

25 Q. How many was that?

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1 A. Two, four, five and then I believe that
2 there were two other young children, that have
3 not testified because of their age.

4 Q. Seven?

5 A. Seven, (affirmative nod).

6 Q. Out of those seven people, one person
7 identified my client; isn't that right?

8 A. That's Mary Pollard who positively
9 identified your client in a photo lineup.

10 Q. Law enforcement did not recover a single
11 strand of evidence, physically, evidence that
12 tends to show that my client did anything;
13 isn't that correct? Physical evidence?

14 A. Ms. Pollard's statement. Are you talking
15 about physical, like in touch?

16 Q. Physical, (affirmative nod).

17 A. No, the evidence that we recovered is not
18 physical.

19 MR. BRUNSON: Court's indulgence?

20 THE COURT: Yes, sir.

21 MR. BRUNSON: Nothing further,
22 Your Honor.

23 THE COURT: Mr. Griffin, redirect?

24 SOLICITOR: No redirect, Your Honor.

25 THE COURT: All right. Thank you.

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1 You may step down..

2 (WITNESS STEPS DOWN)

3 SOLICITOR: Your Honor, the State
4 rests.

5 THE COURT: Ladies and Gentlemen of
6 the jury, I am going to give you an early
7 break. We have some matters of law that we
8 need to take up at this time. You may go back
9 in your jury room, take a smoke break. Do not
10 discuss the case and we will be with you
11 shortly. Thank you.

12 (JURY EXITS COURTROOM)

13 THE COURT: Mr. Brunson, do you have
14 any motions to make?

15 MR. BRUNSON: Yes, Your Honor.

16 THE COURT: All right.

17 MR. BRUNSON: Your Honor, the
18 defendant would like to move for a directed
19 verdict at this time. That motion is based on
20 -- the defendant contends that the State has
21 not met its burden and that they have not
22 provided evidence that my client is guilty of
23 arm robbery or use of a weapon.

24 THE COURT: Mr. Griffin?

25 SOLICITOR: Your Honor, going to the

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1 armed robbery first, all the witnesses said
2 that the individuals that came in the store had
3 handguns and long guns.

4 There is testimony that property was
5 taken directly from Mary Pollard, in the
6 presence of the other victims that were present
7 at the scene that night.

8 Your Honor, it was a locked business,
9 in the nighttime.

10 There was testimony that Joseph Dunbar
11 came in with the intent to commit a crime and
12 actually committed a crime, of armed robbery,
13 while in the business.

14 We've got the identification of Mr.
15 Dunbar from Mary Pollard.

16 Your Honor, all of those facts, taken
17 collectively, is certainly more than enough to
18 send this case to a jury. We've got eyewitness
19 identification. The description that she gave
20 matches Mr. Dunbar. Certainly these are issues
21 for the jury.

22 With regards to elements of the
23 offenses, I believe that testimony from the
24 stand, that each and every element of the two
25 offenses charged in the indictment, that there

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1 is evidence to show the existence of these
2 elements. We would submit that the case be
3 sent to the jury based on the testimony and
4 evidence that has been presented.

5 THE COURT: Thank you. Your Motion
6 for directed verdict -- the Court has listened
7 to the evidence and, in the light most
8 favorable to the nonmoving party, at this time
9 it certainly may have presented sufficient
10 evidence to take it to the jury. Whether the
11 jury would convict or not is a different
12 matter. Certainly there is sufficient evidence
13 of each of the elements necessary for these
14 crimes and therefore the Motion is respectfully
15 denied.

16 Have you talked to your client about
17 whether he wants to testify?

18 MR. BRUNSON: I have, Your Honor.

19 THE COURT: Let me go over a litany
20 of questions and then I will give you a chance
21 to talk with him. Please place the defendant
22 under oath.

23 (WHEREUPON DEFENDANT SWORN)

24 THE COURT: You are Joseph Waddell
25 Dunbar?

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1 DEFENDANT: Yes, sir.

2 THE COURT: Mr. Dunbar, at this time
3 I am going to explain to you certain of your
4 rights. If you do not understand anything that
5 I say, please let me know. If you want me to
6 explain anything in greater detail, I will be
7 happy to. Do you understand that?

8 DEFENDANT: Yes, sir.

9 THE COURT: We have now reached the
10 stage of the trial where you have the right to
11 claim the protections given to you by the fifth
12 amendment of the Constitution of the United
13 States, which says in part that no person shall
14 be compelled, in any criminal case, to be a
15 witness against himself. Now, this means that
16 you cannot be required to testify in this case.
17 You do have the right to testify on your
18 behalf; however, no one can make you testify.
19 This is a personal right that no one can waive,
20 except for you.

21 Now, if you decide to testify you will
22 be subject to the same rules that governs other
23 witnesses. You may be examined and cross-
24 examine on any relevant issue in this case.

25 In addition, if you had any

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1 convictions involving dishonesty or false
2 statements or for crime(s) punishable by
3 imprisonment for more than one year, and this
4 court determines that the probative value of
5 admitting this evidence outweighs the
6 prejudicial effect on you, then the solicitor
7 will be able to introduce your record to attack
8 your credibility.

9 If you decide to testify, the decision
10 on your part must be made freely, voluntarily
11 and intelligently with knowledge of the
12 protections given to you by the Fifth Amendment
13 of the Constitution of the United States and
14 the consequences of that decision to testify.

15 Now, if you decide not to testify, I
16 will instruct the jury that they cannot give
17 the fact that you did not testify any
18 consideration whatsoever. I would tell them
19 that there is to be absolutely no prejudice to
20 you because you did not testify.

21 It is left entirely up to you whether
22 or not you want to testify. You may talk to
23 your attorney, or your family members, to make
24 a decision but the decision is entirely left up
25 to you. Do you understand what I have I

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1 explained to you?

2 DEFENDANT: Yes, sir.

3 THE COURT: Do you have any
4 questions about why I explained to you?

5 DEFENDANT: No, sir.

6 THE COURT: Mr. Weeks (sic), I will
7 give you a few minutes to discuss with your
8 client whether or not he wants to testify.

9 MR. BRUNSON: Yes, sir. Thank
10 you.

11 THE COURT: Why don't we take a ten-
12 minute recess and then we will come back.

13 I'm sorry, I called you Mr. Weeks, Mr.
14 Brunson.

15 MR. BRUNSON: That's fine.

16 (BRIEF RECESS)

17 (DEFENDANT PRESENT)

18 THE COURT: Have you had an
19 opportunity to talk to your attorney whether
20 you want testify, Mr. Dunbar? Have you had an
21 opportunity to speak with your attorney?

22 DEFENDANT: Yes, sir.

23 THE COURT: Do you wish to testify?

24 DEFENDANT: Yes, sir.

25 THE COURT: You do?

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1 MR. BRUNSON: Your Honor, he and I
2 have discussed this and we have a witness
3 problem. Is it okay if he reserves that
4 decision until ---

5 THE COURT: Yeah. I'll ask him
6 again right before he testifies.

7 MR. BRUNSON: Yes, sir. Thank
8 you.

9 THE COURT: If he wants to. Of
10 course he doesn't have to.

11 MR. BRUNSON: Your Honor, one more
12 before the jury comes back?

13 THE COURT: Yes, sir.

14 MR. BRUNSON: Your Honor, I did
15 not serve my subpoena on a witness.

16 THE COURT: All right. And the
17 witness has indicated that he needs a subpoena
18 before he will appear.

19 THE COURT: You know, that's stuff
20 that should have been handled before the trial.

21 MR. BRUNSON: Yes, sir.

22 THE COURT: We're right in the
23 middle of trial. I've got twelve people,
24 thirteen people, sitting in a room down there.
25 He either needs to show or not show. I cannot

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1 send an officer out at this point to go fetch
2 him. To do -- I mean, do you have another
3 witness, he can testify?

4 MR. BRUNSON: I do, Your Honor.

5 THE COURT: If you can get him up
6 here and you have a subpoena -- we'll have one
7 waiting for him if he needs to come up here. I
8 mean, a subpoena should have been served on him
9 yesterday, or Monday.

10 MR. BRUNSON: Well, he was a
11 rebuttal witness, Your Honor.

12 THE COURT: Do what?

13 MR. BRUNSON: He's the rebuttal
14 witness, Your Honor.

15 THE COURT: You don't have rebuttal.
16 They have rebuttal. You don't have rebuttal.
17 You have a witness. It's your opportunity to
18 try your case.

19 MR. BRUNSON: Yes, sir, I under-
20 stand.

21 THE COURT: This is your case in
22 chief.

23 MR. BRUNSON: I understand that,
24 Your Honor. But that witness is in rebuttal to
25 the first witness presented by the State.

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1 SOLICITOR: Your Honor, isn't that
2 what the -- if the defendant puts up a witness
3 -- I would assume that to be the goal of any
4 defense witness. I ---

5 THE COURT: A rebuttal witness is
6 after you -- they get to rebut your testimony.
7 Yours is just testimony.

8 MR. BRUNSON: Yes, sir.

9 THE COURT: I mean, you need to
10 start your case. If you want to have somebody
11 from your office bring it up here, that's fine.

12 We need to get moving on this case. I
13 will give you five more minutes to get that in
14 order. If you want to pay a deputy to go down
15 and give it to him, you can do that. But you
16 need to call a witness within the next five or
17 ten minutes.

18 MR. BRUNSON: Yes, sir.

19 THE COURT: Whether it be your
20 client or someone else. But we're not sending
21 another witness to go get him. We've already
22 wasted a half hour doing that, at your request,
23 and I'm not waiting much longer.

24 MR. BRUNSON: I understand, Your
25 Honor.

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1 THE COURT: Thank you. Tell the
2 jury that we're sorry but they need to take
3 another smoke break, drink another Coca-Cola
4 and we will be with them in five minutes.

5 (BRIEF RECESS)

6 (DEFENDANT PRESENT)

7 THE COURT: Are we ready?

8 MR. BRUNSON: Yes, sir.

9 THE COURT: State ready?

10 SOLICITOR: Yes, Your Honor.

11 THE COURT: Bring in the jury.

12 (JURY ENTERS COURTROOM)

13 THE COURT: Thank you. Is the
14 defense ready to present your case?

15 MR. BRUNSON: Defense is ready,
16 Your Honor.

17 THE COURT: Call your first witness.

18 MR. BRUNSON: The defense calls
19 Joanna Dunbar.

20 (WITNESS TAKES STAND)

21 THE COURT: Let me see the attorneys
22 for one second.

23 (OFF RECORD BENCH CONFERENCE)

24 JOANNA DUNBAR, being duly sworn to
25 tell the truth, the whole truth and nothing but

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1 the truth, testified, as follows:

2 DIRECT EXAMINATION

3 BY MR. BRUNSON:

4 Q. Good afternoon, Ms. Dunbar.

5 A. Hello.

6 Q. Ms. Dunbar, how old are you?

7 A. Twenty-one.

8 Q. Where you currently reside?

9 A. Boynton Beach, Florida.

10 Q. How are you acquainted with the defendant
11 in this case?

12 A. He's my brother.

13 Q. Okay. Did you have - have you ever lived
14 in South Carolina?

15 A. Yes, sir.

16 Q. When did you live in South Carolina?

17 A. I moved to when I was fourteen, in two
18 thousand and four and that your until two
19 thousand and eight, in September.

20 Q. Now, did Joseph live with you here in South
21 Carolina?

22 A. Yes, sir.

23 Q. Thank you, -- so you moved here when you
24 were fourteen?

25 A. Yes, sir.

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1 Q. Do you know Ms. Mary Pollard?

2 A. Yes, sir.

3 Q. How long have you known Ms. Mary Pollard?

4 A. I met her when I was sixteen, turning
5 seventeen. So I would about four years, four
6 or five years.

7 Q. Okay. And is the -- is the Ms. Mary
8 Pollard that you know, is she in the courtroom
9 today?

10 A. Yes, sir.

11 Q. Where is she and what is she wearing?

12 A. She's over there, the one next to the one
13 in the purple shirt with the twists in her
14 hair.

15 Q. What color is her shirt?

16 A. I can't really see.

17 Q. Now, can you describe for the jury how you
18 came to meet Ms. Mary Pollard?

19 A. I was skipping school one day. I went to
20 Sumter High. I skipped school to get my hair
21 done. I had a friend tell me about a shop
22 called Mane Attractions. I went there and she
23 did my hair. That's when I first met her.

24 Q. Okay. The first time you had ever seen
25 her?

1 A. Yes, sir.

2 Q. But she did your hair?

3 A. Yes, sir.

4 Q. And has she done your hair anytime after
5 that?

6 A. Yes, sir.

7 Q. Approximately how many times has she done
8 your hair?

9 A. Four times.

10 Q. Four times?

11 A. Yes, sir.

12 Q. Does she know who you are?

13 A. Yes, sir.

14 Q. How do you know that she knew you when you
15 were sixteen?

16 A. Well, when I first met her -- like I said,
17 I was at her shop. We talked. I had blond
18 hair at that time, so I look a lot different
19 now. She died it like a cranberry reddish
20 color, so -- she was telling me that she was
21 New York. I was telling her that I was from
22 Florida. So we talked, you know, hairdresser
23 and client. That's how we built the
24 relationship then. I told her my name. I
25 didn't give her my whole name but I told her

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1 that my name was Joanna. She told me that her
2 name was Mary. That's how the relationship
3 started.

4 Q. Okay. Did she -- do you know any of her
5 children?

6 A. I know her son.

7 Q. And -- okay. You know him from where?

8 A. Her son and my cousin Dexter, and a boy
9 named Paul, -- well, I've got three brothers
10 who boxed -- Joseph, Michael, Timmy -- and they
11 all hung up Octopus (phonetic) Gym.

12 Q. What is the Octopus Gym?

13 A. Well, that's where people go if you want to
14 box. They do tournaments, championships,
15 things like that. Some people just went there
16 to hang out. You know, just like a hangout
17 spot.

18 Q. Okay. All right. But they also trained
19 boxers there, is that what you said?

20 A. Yes, sir.

21 Q. So was your brother, Joseph, into the
22 boxing part?

23 A. Yes, sir.

24 Q. And you mentioned her son was there.

25 A. Yes, sir.

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1 Q. Did he box, as well?

2 A. I don't recall him, like, doing tournaments
3 and championships and things like that, but he
4 was there and used to hang out -- he used to
5 dance, so he used to dance a lot, too.

6 Q. All right. Have you ever -- well, does
7 Joseph have any children that you know about?

8 A. Yes, sir.

9 Q. Tell me about them, how many?

10 A. He has two girls.

11 Q. How many - is there any other way that you
12 know Mrs. Mary Pollard?

13 A. Yes, sir, she was the godmother of his
14 first born, Arianna (phonetic).

15 Q. Okay. How do you know that?

16 A. When I came up here to visit his baby
17 mother -- her name is Reanna. I came to visit
18 her and I asked her if I could be the godmom,
19 just joking, and she told me that ---

20 SOLICITOR: Objection, Your Honor.

21 THE COURT: Sustained.

22 DIRECT EXAMINATION CONTINUED

23 BY MR. BRUNSON:

24 Q. Don't tell us what someone else said.

25 A. Okay.

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1 Q. Let me ask you this, have you ever -- well,
2 do you know whether or not Ms. Pollard has ever
3 seen your brother before January 2010?

4 A. Yes, sir.

5 Q. How do you know that?

6 A. At the Octopus Gym, like I said, everybody
7 was there to hang out. Her son liked to dance
8 and I've got a cousin that loves to dance also,
9 so he hung out with a guy named Paul. All of
10 them was there dancing. My brothers -- like I
11 said, I have three. One day I came to pick
12 them up and when I was picking them up, I --
13 I'd never met her son through her. I met her
14 son through my cousin, Dex. When I came to
15 pick them up and they were like, 'Mary's here'
16 and ---

17 Q. Don't tell me what anybody said.

18 A. Okay. I'm sorry. Well, Mary -- I peeked
19 my head in and told -- well, I found out that
20 that was New York's mother, and I said, 'Oh, I
21 didn't know that.' All of them was in Octopus
22 Gym. I didn't hang out there.

23 Q. Okay. Was Joseph there that day?

24 A. Yes, sir.

25 Q. In your testimony is that Mary was there,

1 as well?

2 A. Yes, sir.

3 Q. How long did Joseph box at the Octopus?

4 A. We moved to west side -- I was sixteen, so
5 2006. I want to say that he started boxing
6 within that year because -- either it was 2006
7 or going into 2007, so he's been boxing from
8 that point in time up until he was eighteen.

9 Q. Mary's son boxed with Joseph?

10 A. Like I said before, all three of my
11 brothers, including my cousin, and I had a
12 couple of other friends that I know, they were
13 considered boxers; such as you register, you
14 box, you go to tournaments and championship.

15 New York was just there. Like I said,
16 I've never seen him in a tournament or a
17 championship but he was there. So I guess it
18 was either to hang out with my cousin, because
19 they both liked to dance.

20 Q. So you mentioned that Joseph has a daughter
21 from Reanna, or that they have a daughter
22 together?

23 A. Yes, sir.

24 Q. Do you know where she worked, Reanna?

25 A. Yes, sir.

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1 Q. Where at?

2 A. Mane/Dominick's (phonetic).

3 Q. Did she ever work with Mary?

4 A. The hair salon that I knew of was Mane
5 Attractions.

6 Q. Right.

7 A. But like I said before, she moved to a
8 different hair salon, so I couldn't verify what
9 hair salon that it was. But I do recall Reanna
10 working at a hair salon with someone named
11 Mary, but I don't recall which hair salon that
12 it was.

13 Q. So you don't know?

14 A. Yes, sir.

15 Q. All right. But you do know that Mary was
16 the godmother of Joseph's daughter?

17 A. His firstborn. Yes, sir.

18 Q. Thank you.

19 THE COURT: Mr. Griffin?

20 SOLICITOR: Yes, sir, Your Honor.

21 CROSS EXAMINATION

22 BY SOLICITOR:

23 Q. Ms. Dunbar, you're a resident of Florida
24 now?

25 A. Yes, sir.

1 Q. Boynton Beach, Florida?

2 A. Yes, sir.

3 Q. That's in Palm Beach County?

4 A. Yes, sir.

5 Q. Okay. Now, you're aware that Joseph was
6 captured by the sheriff's department in Palm
7 Beach County, Florida; right?

8 A. I heard, but not -- not something that I
9 was witness to.

10 Q. You weren't -- you were living there back
11 in January of 2010, right?

12 A. Yes, sir.

13 Q. And you knew that he had been held in
14 custody by their sheriff's department, right?

15 A. Like I said, once again it's something that
16 I heard but not something that I witnessed.

17 Q. Okay. Now, Joseph was released to the City
18 of Sumter Police Department officer on January
19 21st, correct?

20 A. (No verbal response).

21 Q. Do you know?

22 A. I don't know.

23 Q. Okay. You didn't go to see him while he
24 was in their custody?

25 A. In whose custody?

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1 Q. The Palm Beach Sheriff Department's
2 custody?

3 A. I never seen him. Like I said, I heard
4 that he was in custody but I never got to see
5 him.

6 Q. You never went and inquired about whether
7 he was there or not, your own brother?

8 A. Was he -- are you asking me did I go up
9 there to see if he was in jail?

10 Q. Yeah.

11 A. Like I said, I heard that he was in jail
12 but I never visited him. I don't even know
13 where they took him, so I couldn't tell you
14 anything about that.

15 Q. So he was living in Sumter at the time,
16 right? In January of 2010?

17 A. Yes, sir.

18 Q. Right?

19 A. (Affirmative nod).

20 Q. He ends up in Florida, in the same county
21 where you live; right?

22 A. Yes, sir.

23 Q. And you all didn't get together?

24 A. No, sir. I work two jobs and I'm in
25 school, so it's kinda hard for the family that

1 I have there to get with me let alone somebody
2 out of state.

3 Q. Okay. But even though he is from out of
4 state, he is family; right?

5 A. He is family.

6 Q. Now, tell me about the day at Octopus Gym
7 that you say Mary Pollard would have known
8 Joseph.

9 A. Like I said before, the Octopus Gym was
10 sort of like a hangout spot. I came there to
11 pick up my three brothers because I didn't hang
12 out there. I remember them telling me that New
13 York was in there and that Mary was there, and
14 that that was her son. I told them that I
15 didn't know that. I was like, 'Oh, hi' and
16 that was all ---

17 Q. You're basing this on what somebody told
18 you?

19 A. Well, I seen her. Of course I know how she
20 looks, she did my hair. But as far as knowing
21 that New York was her son, no, I didn't know
22 that. I didn't meet New York through her.

23 Q. You didn't see her -- you didn't see Mary
24 and Joseph together that day?

25 A. Yes, sir, they were together.

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- 1 Q. What day was it?
- 2 A. I don't recall that. It was a long time
- 3 ago.
- 4 Q. Okay. Now, you're aware that Joseph was
- 5 arrested for this armed robbery at Mary's
- 6 salon, weren't you?
- 7 A. No, sir.
- 8 Q. You didn't know that?
- 9 A. No, sir.
- 10 Q. You're here today, right?
- 11 A. Yes, sir.
- 12 Q. When did you find out that he had been
- 13 arrested?
- 14 A. I actually found out after he'd spent
- 15 almost a year in jail, that he was arrested.
- 16 Q. Okay. But you knew that he was in Florida
- 17 in January? You had got word about that?
- 18 A. Yes, sir.
- 19 Q. You knew that he may have been at the Palm
- 20 Beach County jail awaiting transport to Sumter?
- 21 A. I'd heard but I couldn't tell you any
- 22 details. I didn't hear all that. I just heard
- 23 that he was in jail. I can't tell you what it
- 24 was for.
- 25 Q. But you heard that he was in jail back at

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1 that time, you knew that he'd spent almost a
2 year in jail on this pending charge, -- your
3 testimony, right?

4 A. No, you're mixing it up. After he was
5 already released out on bond while he was here,
6 still in Sumter County, is when I knew that he
7 was in jail. That was almost a year later.
8 But he wasn't in jail when I found out.

9 Q. Did you know that Mary Pollard was the
10 victim in this case?

11 A. No, sir, I knew nothing of her or the case
12 or any of that whole situation.

13 Q. You just knew that he had been arrested?

14 A. I knew that he was arrested in the state of
15 Florida. I knew nothing of South Carolina.

16 Q. Okay. Yet -- if you didn't know who the
17 victim was, how did you know that your
18 testimony would be relevant to this case?

19 A. I really don't know the question you're
20 asking me. You'll have to explain that.

21 Q. If Mary -- if you didn't know that Mary
22 Pollard was the victim, -- you testified you
23 didn't know that, correct?

24 A. I didn't know she was the victim to what?

25 Q. Of the armed robbery that your brother is

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1 charged with and the burglary that your brother
2 is charged with?

3 A. Is that the charge for the state of
4 Florida?

5 Q. That is the charge that he's on trial for,
6 the charges that we're here for today, this
7 trial.

8 A. Yes, sir.

9 Q. You didn't know that Mary Pollard was the
10 victim, correct?

11 A. It depends on what you're asking me. Did I
12 know beforehand that he was arrested for a
13 crime that Mary was the victim or did I know
14 after.

15 Q. Okay. You know that your brother is on
16 trial for armed robbery and burglary?

17 A. As far as today, yes, sir. That's why I am
18 here.

19 Q. And you didn't know that Mary Pollard was
20 the victim until you showed up for the trial?
21 Right?

22 A. No, sir. No, sir, I am not saying that.

23 Q. Well, if you didn't know all this, how did
24 you know that you were going to be important --
25 important issues for this trial?

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1 A. That's what I'm trying to get you to
2 understand. I don't ---

3 Q. Explain it to me. I'm all ears.

4 A. I don't understand what you're asking me,
5 so I can't explain.

6 Q. Okay. You knew that your brother was
7 arrested, correct?

8 A. Yes.

9 Q. You knew that he was arrested on South
10 Carolina charges?

11 A. No, sir. I knew that he was arrested in
12 the state of Florida. That's what I am trying
13 to get you to understand.

14 Q. Okay. Have you talked with him between the
15 time that he was arrested in Florida and today?

16 A. That time that he was arrested in Florida
17 was, like I said, almost over a year ago. So,
18 yes, sir.

19 Q. Okay. How did you decide that you were
20 going to be a witness in this case?

21 A. After he was released on bond, I was told
22 what happened. From my knowledge, I was told
23 that she never knew us. That's when I decided
24 to be a witness, because I knew for a fact that
25 she knew us.

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1 Q. Okay.

2 A. As far as the charges go, I don't know.

3 Q. So some point between January of 2010 and

4 before this trial started, you found out that

5 Mary Pollard was the victim; is that right?

6 That's is what you just said, right?

7 A. Yes, sir.

8 Q. Okay. You know where the law enforcement

9 center is in Sumter, don't you?

10 A. I am pretty sure that I could find it, but

11 I'm not real familiar with it. No.

12 Q. But you found the courthouse here today,

13 right?

14 A. No, sir, somebody actually drove here and I

15 rode with him.

16 Q. If you wanted -- think about this with me.

17 If you were in a town that you didn't know

18 anything about, you were on a trip and you had

19 something happen that you needed the police,

20 you'd know how to get ahold of them; wouldn't

21 you?

22 A. Yes, sir.

23 Q. So if you wanted to go tell the police what

24 you knew about a case in Sumter, you could have

25 found the Police Department; right?

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1 A. If I was here. Yes, sir.

2 Q. Now, you have never told any law enforce-
3 ment officer that you had any information about
4 this case, correct? Until today?

5 A. I never talked to law enforcement about
6 this case.

7 Q. Now your brother is facing charges, from
8 January to now, and your testimony is that he
9 was in jail for it, awaiting bond, -- correct?

10 A. No, sir. He was in jail. That's what I am
11 trying to let you know, like in -- in Florida,
12 I can't tell you what he was in jail for.
13 That's what I am trying to let you know.

14 Q. But you knew that he had been arrested,
15 right?

16 A. Yes, sir, but he could have been arrested
17 for anything. I didn't know.

18 Q. Okay. All right. Now, you don't want to
19 see anything bad happen to your brother, do
20 you?

21 A. I wouldn't want to see anything bad happen
22 to anybody.

23 Q. Okay. But especially not to somebody who
24 is a family member, right?

25 A. (No verbal response).

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1 Q. I man, you love him. Don't you?

2 A. Oh, yes, sir, I do love him.

3 Q. But you've never told anybody -- law
4 enforcement or otherwise -- that the victim in
5 this case had a prior relationship with anybody
6 in your family. Correct?

7 A. No one ever asked me.

8 Q. But you never took it upon yourself to make
9 anybody aware that, didn't you?

10 A. I wouldn't know how. I mean, what was I
11 supposed to do? The only person that ever
12 contacted me with the lawyer.

13 Q. But you just testified that you know how to
14 get in touch with police, right?

15 A. Yes, sir. I am pretty sure that I dialed
16 911 that I would get the Sumter County police.

17 Q. You've got family here, don't you?

18 A. No, sir, they don't live here anymore. I
19 have a few, but not close family.

20 Q. Well, you -- you know how to use directory
21 assistance, don't you?

22 A. Oh, yes, sir.

23 Q. So you could have called directory
24 assistance and asked for the Sumter Police
25 Department's phone number, right?

1 A. I probably could have.

2 Q. All right. You didn't think that was an
3 important piece of information?

4 A. Like I said, once I found out that he had
5 the charges, he had already spent time in jail
6 without bond. So I didn't know if they were
7 still pursuing.

8 Q. Now, you were not in Sumter on January 1,
9 2010; were you?

10 A. No, sir.

11 Q. Okay. So you cannot make any statements
12 about what happened then, can you?

13 A. No, sir.

14 Q. You don't have any basis to contradict
15 anything that Mary Pollard said happened to her
16 that day, do you?

17 A. No, sir.

18 Q. You don't have any basis to contradict
19 anything that Libra Johnson said happened to
20 her that day, do you?

21 A. No, sir.

22 Q. You don't have any basis to contradict
23 anything that Maqueda Duncan said happened to
24 her that day, do you?

25 A. No, sir.

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1 Q. You don't have any basis to contradict
2 anything that Shakyra Gooseby said happened to
3 her that day, do you?

4 A. No, sir.

5 Q. And you don't have any basis to contradict
6 anything that Jahmelia Ward said happened to
7 her that day, do you?

8 A. No, sir.

9 Q. You don't have any basis to contradict
10 anything that Detective Lyons says happened, do
11 you?

12 A. No, sir.

13 Q. Okay. All that you can say for us today is
14 that you believe that Mary Pollard knew your
15 brother, right?

16 A. I knew she knew my brother.

17 Q. And you knew that he had been arrested
18 back in January?

19 A. (No verbal response).

20 -Q. Correct?

21 A. In the state of Florida?

22 Q. You knew that he had been arrested?

23 A. In the state of Florida?

24 Q. I am just asking whether you knew that he
25 had been arrested?

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1 A. In the state of Florida, I heard that he
2 had been arrested.

3 Q. And you knew that he was facing charges?

4 A. No, all I -- I wasn't even around when he
5 got arrested, so I couldn't tell you anything
6 about that.

7 Q. Okay. And this is the first time, other
8 than talking with Mr. Brunson, that you've told
9 anybody this information about these two people
10 maybe knowing each other?

11 A. It depends. As far as law enforcement and
12 the attorneys or lawyers or people in general?

13 Q. Anybody.

14 A. Oh, yes, sir. I've told people.

15 Q. Now, don't you think -- now, bear with you.
16 The folks that made these charges, don't you
17 think that they would want to know something
18 like that? That piece of information?

19 A. Yes, sir, but I would assume that they
20 would ask.

21 Q. Well, you just said that you were in the
22 state of Florida; right?

23 A. Yes, sir.

24 Q. How would they know what you knew?

25 A. Well, I am pretty sure that my brother knew

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1 that we knew her. Because, like I said, he met
2 her through me, so I am pretty sure that was
3 something that was brought up.

4 Q. I mean, -- what I'm saying is, if law
5 enforcement didn't know that you were going to
6 be a witness in the case, how would they know
7 anything that you know unless you tell them?

8 A. Oh, sir, it was known that I was a witness
9 in the case for a while. This isn't the first
10 time that this came up, so I don't who deals
11 with that information but I -- I wouldn't know
12 how they would get it.

13 Q. But would you agree with me that law
14 enforcement's role is gather witnesses in a
15 criminal investigation; right?

16 A. I couldn't answer that. I wouldn't know
17 what they knew.

18 Q. Okay. Think about this with me, if
19 somebody stole your car, how would the police
20 know that that happened without you telling
21 them?

22 A. If I don't tell them? Maybe a witness.

23 Q. Okay. Assuming that there were no
24 witnesses other than you left your car parked
25 in a vacant parking lot and when you came out

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1 of the building it was gone?

2 A. Then I would have to tell them.

3 Q. Okay. So you have some knowledge regarding
4 a victim in the case and how would law
5 enforcement know that you had that knowledge
6 without you telling them?

7 A. Well, being that it wasn't a case that
8 would involve me, I would assume that they
9 would ask the people that's involved.

10 Q. So that's -- that's what I am asking. If
11 they don't know of your existence, how would
12 they know that you're involved?

13 A. They had to know of my existence because
14 that's how I got involved.

15 Q. You're not here at the request of law
16 enforcement, are you?

17 A. Law enforcement as far as an officer?

18 Q. Yeah. You're not ---

19 A. No, sir, not as far as an officer, no.

20 Q. So you're here as a defense witness,
21 testifying for your brother?

22 A. Yes, sir.

23 Q. I guess my point is, you didn't tell law
24 enforcement this information. How would they
25 have known it?

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1 MR. BRUNSON: Objection, asked and
2 answered.

3 THE COURT: Asked and answered.
4 Sustained.

5 CROSS EXAMINATION CONTINUED

6 BY SOLICITOR:

7 Q. You don't - again, you love your brother
8 and don't want to see anything bad happen to
9 him; right?

10 A. I love him. I wouldn't want to see
11 anything bad happen to anybody.

12 SOLICITOR: Court's indulgence, Your
13 Honor.

14 THE COURT: Yes, sir.

15 CROSS EXAMINATION CONTINUED

16 BY SOLICITOR:

17 Q. Ms. Dunbar, who lives at 7105 Mahogany
18 Drive in Boynton Beach, Florida?

19 A. Mahogany, I did.

20 Q. You stay there, too?

21 A. No, sir, but it was in my name.

22 Q. It was in your name?

23 A. (No verbal response).

24 Q. Are you aware that's where Joseph Dunbar
25 was arrested?

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1 A. I've heard but I didn't witness it.

2 Q. In a place that was in your name but that
3 you didn't stay there?

4 A. Yes, sir.

5 SOLICITOR: Nothing further, Your
6 Honor.

7 THE COURT: Redirect?

8 MR. BRUNSON: Very shortly.

9 REDIRECT EXAMINATION

10 BY MR. BRUNSON:

11 Q. Did you know that Mary Pollard would deny
12 knowing Joseph?

13 A. No, sir.

14 MR. BRUNSON: Nothing further.

15 THE COURT: Recross?

16 SOLICITOR: No, sir, Your Honor.

17 THE COURT: Thank you, you may step
18 down.

19 (WITNESS STEPS DOWN)

20 THE COURT: Mr. Brunson?

21 MR. BRUNSON: That's the
22 defendant's case, Your Honor.

23 THE COURT: Let me see the attorneys
24 for just a second.

25 (OFF RECORD BENCH CONFERENCE)

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1 THE COURT: Ladies and Gentlemen, I
2 am going to send you back to the jury room for
3 just a short break. Please do not discuss
4 anything about the case. Thank you. This will
5 be a very short break.

6 (JURY EXITS COURTROOM)

7 THE COURT: All right. You take five
8 minutes to talk about it and then if there are
9 any Motions, we will put them on the record.

10 (BRIEF RECESS)

11 (DEFENDANT PRESENT)

12 THE COURT: Mr. Brunson, although
13 you've rested, if -- your client wanted to
14 testify, and I need to hear from him if he does
15 not want to testify.

16 MR. BRUNSON: Yes, sir.

17 THE COURT: Mr. Dunbar, do you wish
18 to testify in this case?

19 DEFENDANT: No, sir.

20 THE COURT: All right. Do you
21 intend to call rebuttal witnesses?

22 SOLICITOR: No, sir, Your Honor.

23 THE COURT: Any Motions?

24 MR. BRUNSON: Yes, Your Honor.

25 The defense at this time would like to move for

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1 a directed verdict.

2 THE COURT: All right.

3 MR. BRUNSON: Based on that the
4 State has failed to prove its case, in light of
5 our witness' testimony.

6 THE COURT: Solicitor?

7 SOLICITOR: Your Honor, we would
8 submit the same grounds for submitting this
9 case to the jury that we submitted the first
10 time that Mr. Brunson made a Motion at the end
11 of the State's case. We feel that certainly
12 there is enough evidence to let the jury
13 decide.

14 THE COURT: I am going to respect-
15 fully deny your Motion. We are going to need
16 to have a charge conference tomorrow morning.
17 Please make sure that Sam has your e-mail -- he
18 will send you a draft of the charge.

19 Now I will bring the jury out. I've
20 got a short hearing at 9:30 that will go to
21 about 10:00 at the latest, a probable cause
22 hearing on sexually violent predator case.
23 Let's say that we have a charge conference for
24 about ten minutes at ten o'clock and as soon as
25 we finish that charge conference be prepared to

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1 argue and charge. You will open and close, and
2 you will ---

3 SOLICITOR: Yes, sir.

4 THE COURT: All right, bring the
5 jury out.

6 (JURY ENTERS COURTROOM)

7 THE COURT: Now, Ladies and
8 Gentlemen, that is all the testimony that you
9 all are going to hear in this case.

10 At this time, I am going to send you
11 home for the evening with the instruction that
12 you be back here right about ten o'clock
13 tomorrow morning, when you will hear the
14 closing arguments of the attorneys and I will
15 charge you on the law and then you will begin
16 your deliberations in this matter.

17 Please do not discuss this case with
18 anyone, do not read anything in any news or
19 listen to anything like that. Keep what you've
20 heard here to yourself and then tomorrow
21 morning, you will be permitted to discuss it
22 among each other when you are in your
23 deliberations.

24 Ladies and Gentlemen, have a nice
25 evening. Get a good rest tonight and I'll see

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1 you back here right about ten o'clock. Thank
2 you.

3 (JURY EXITS COURTROOM)

4 THE COURT: Court is adjourned until
5 9:30 tomorrow morning.

6 My charges are pretty standard.

7 SOLICITOR: Your Honor, I am going
8 to release the children to go back to school.
9 There is no sense in them sitting up here
10 unless they just want to hear the verdict in
11 the morning.

12 THE COURT: That will be up to the
13 parents. We are not making them stay here.

14 SOLICITOR: No, sir.

15 (COURT IN RECESS)

16 (TRANSCRIPT CONTINUED NEXT PAGE)

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1 NOVEMBER 9, 2011 10:00 A.M.

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3 (DEFENDANT PRESENT)

4 THE COURT: Any objection from the
5 State to the closing charge?

6. SOLICITOR: No objection, Your
7 Honor.

8 THE COURT: From the defense?

9 MR. BRUNSON: None from the
10 defense.

11 THE COURT: Anything else before we
12 bring our jury in?

13 SOLICITOR: No, sir.

14 MR. BRUNSON: Nothing, Your Honor.

15 THE COURT: I am not going to limit
16 you on your time. Hopefully -- there is one
17 lawyer in town that I will limit, but you all
18 are both fine.

19 THE COURT: Bring in our jury.

20 (JURY ENTERS COURTROOM)

21 THE COURT: Good morning, Ladies and
22 Gentlemen. As I told you yesterday, you have
23 heard all of the evidence that is going to be
24 presented in this trial. Now is the time for
25 the attorneys to give you their summation and

1 then I will charge you on the law that is
2 applicable to the case. Is the state ready?

3 SOLICITOR: Yes, sir, Your Honor.

4 THE COURT: You may proceed.

5 SOLICITOR: Ladies and Gentlemen, as
6 the judge told you, now is the time for the
7 lawyers in the case to make their summation --
8 or closing arguments, as they are commonly
9 called.

10 As the State, what we would do is talk
11 to you a little bit first about the law, what
12 we have to prove to you. After I do my part of
13 the closing argument regarding the law, I am
14 going to sit down and Mr. Brunson will be
15 allowed to make his closing argument. Then I
16 will get back and talk to you about the facts
17 of the case and give you my final closing
18 argument. But at this time, the law requires
19 that we talk a little bit about the law and
20 what the State has to prove.

21 Now, in this case, the defendant,
22 Joseph Dunbar, is facing two criminal charges.
23 The first being armed robbery and the second
24 being a burglary in the second degree, violent.

25 Now, let's talk a little bit about

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1 what each of these charges mean and what the
2 elements of each is. Armed robbery is what you
3 think it is. That a person is robbed by
4 another individual who is armed with a deadly
5 weapon. The statute defines a deadly weapon as
6 a pistol.

7 Ladies and Gentlemen, that is what the
8 State alleges happened in this case. Mr.
9 Dunbar came in, armed with a pistol, and robbed
10 Ms. Pollard of money.

11 Burglary in the second degree is a
12 little different. Burglary deals with not so
13 much property as possession of a building. The
14 judge will charge you in his charge on the law
15 that burglary in the second degree is a person
16 entering the building of another without
17 consent and with the intent to commit a crime
18 while inside the building. What makes this
19 case a burglary second, violent, is that the
20 defendant entered the building without consent,
21 with the intent to commit a crime therein, in
22 the nighttime.

23 In my final portion of the closing
24 argument, we will talk about all of the
25 elements of these offenses. We will talk about

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1 the elements and compare them to what you heard
2 from the witness stand. We will talk about the
3 types of evidence that was presented to you
4 here in this case. We will talk about the
5 difference between direct evidence -- what
6 somebody saw, what somebody heard, what
7 somebody observed -- versus circumstantial
8 evidence.

9 Circumstantial evidence is the type of
10 evidence that you may not see, or have heard,
11 but from which you could draw an inference of
12 what a situation is. For example, if you walk
13 out of this room into the hallway - there are
14 no windows in the this room, we walk out in the
15 hallway and you see somebody shaking off an
16 umbrella, you saw the water fall from that
17 umbrella, you could infer that that person is
18 coming in from outside, that it must be
19 raining. You did not see any of that, but you
20 can make an inference from what you saw
21 circumstantially. That is circumstantial
22 evidence.

23 We will talk about the credibility of
24 witnesses. "Credibility" is just a fancy word
25 for believability. Ladies and Gentlemen, as

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1 the trier of the facts, the judge is going to
2 charge you that it is your sole duty to find
3 the facts in this case. It is going to be your
4 job to determine which witnesses were credible,
5 which witnesses that you believe.

6 Ladies and Gentlemen, the law is
7 certainly important in a criminal case because
8 the State has to prove the elements of the
9 offenses. How do we do that? We do that by
10 presenting evidence. We do that by introducing
11 exhibits this for you to take back into the
12 jury room to look at.

13 Ladies and Gentlemen, a trial ends
14 with a jury reaching a verdict. A verdict --
15 the word "verdict" comes from a Latin word
16 which means to "speak the truth." Ladies and
17 Gentlemen, that is what a trial is all about.
18 It is to find the truth. That is the jury's
19 sole role.

20 In a criminal trial, after everything
21 has been presented, the lawyers have made their
22 closing argument, the judge charges you on the
23 law and then you deliberate. During your
24 deliberations, you're charged with finding the
25 truth. Ladies and Gentlemen, in a few moments

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1 I am going to sit down and allow Mr. Brunson to
2 make his closing argument. Then I am going to
3 get back up and talk to you about the evidence,
4 talk with you about the evidence compared with
5 the elements of the criminal offenses charged.
6 When everything is over, I'm going to ask you
7 to back to the jury room and find the truth.

8 Please listen to my colleague, Mr.
9 Brunson, as he makes his closing argument, and
10 I'll be back for you in about fifteen or twenty
11 minutes after that. We will talk about the
12 truth.

13 THE COURT: Mr. Brunson.

14 MR. BRUNSON: Thank you, Your
15 Honor. May it please the court?

16 THE COURT: Yes, sir.

17 MR. BRUNSON: Good morning, Ladies
18 and Gentlemen of the jury, Mister Foreman.

19 I first want to thank you for paying
20 close attention as this is a very serious
21 matter. As indicated by the State, my client,
22 Mr. Joseph Dunbar, Jr., faces some very serious
23 offenses. Now, because this is serious, Mr.
24 Dunbar's future hangs in the balance. Your job
25 as jurors, the finders of the facts, is of

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1 course to determine what the truth is.

2 Now, at the beginning of this trial,
3 we did opening statements. In my opening
4 statement, I told you several things. I told
5 you that at the end of this trial that we are
6 confident that you will come back with a
7 verdict of Not Guilty. Well, I submit to you,
8 you are now at the end. I am still confident
9 of that you will come back with a verdict of
10 Not Guilty.

11 Now, all the dust has settled. All
12 the smoke has cleared. What remains is the
13 truth. The truth, simply put, is that the
14 State has not met its burden in this case; that
15 the state has not met its burden in this case.

16 Let's review the evidence. We heard
17 testimony that an armed robbery occurred on the
18 south side of town. That's a horrible thing.
19 We heard testimony that seven people were in
20 the shop when the robbery occurred. However,
21 we only heard from five of the seven people
22 that were witnesses and victims. Out of those
23 five, only one person said to you that my
24 client did it. Only one. Two of the witnesses
25 gave statements and they never even said that

1 anybody took off a mask. Two more took the
2 stand and they said that 'yeah, somebody took
3 off his mask', it was a light skinned guy, a
4 light skinned man, a light skinned dude. They
5 talked about it as if the robber was not in the
6 room with them: a guy, a man, a dude. None the
7 witnesses said "that guy" (indicating
8 defendant). They talked about it as if the
9 robber wasn't in the room. Well, I submit to
10 you that they did it that way because the
11 robber isn't in the room. He wasn't in the
12 room in the beginning and he isn't in the room
13 now.

14 We heard from four members of law
15 enforcement. Not a single one of them offered
16 physical evidence to say or to suggest that my
17 client did anything. Not a single one of them
18 offered a shred of evidence to even prove that
19 my client was there.

20 Now, in the beginning I told you that
21 it all boiled down to the credibility of one
22 witness, and I maintain that is their case.
23 That one witness was Ms. Mary Pollard. As you
24 delve into the evidence and review what we have
25 heard, let's begin with her testimony.

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1 Well, Ms. Mary Pollard took the stand
2 and she testified that she is thirty-six, we
3 said that she is from New York City.

4 She testified that she worked at a
5 salon prior to this salon, she said that she
6 worked at a salon called Mane Attractions.
7 Well, she said that she never knew my client
8 before January 1. She said that she'd never
9 even seen him before January 1. Well, I submit
10 to you that the evidence suggests something
11 different.

12 Now, at Mane Attraction, where she
13 said that she worked, she said that she worked
14 with a Reanna Johnson. She testified from the
15 stand that Reanna has a child from my client.
16 She testified to that.

17 She testified that she didn't know
18 Joanna Dunbar, who is my client's sister.
19 Well, we heard from Joanna Dunbar. Joanna
20 Dunbar offered what the State has characterized
21 as "direct evidence." She took the stand and
22 she testified. I submit to you that her
23 testimony is not been rebutted by any other
24 testimony.

25 Now, we heard that Mary Pollard has a

1 son that boxed at the Octopus. We also heard
2 testimony that Joseph boxed at The Octopus
3 also. Not only that, we heard testimony that
4 his cousin Dexter boxed at The Octopus. Well,
5 Ms. Mary Pollard testified that she knew
6 Dexter, I believe that she said, -- let's see,
7 she knew Dexter because he boxed with her son.

8 Now, I submit to you that Ms. Mary
9 Pollard may not be believable.

10 She said that she didn't know Joanna
11 at all. Well, what did Joanna say? Joanna
12 took the stand and testified that she first met
13 Ms. Pollard when she was sixteen. In fact, she
14 said that she skipped school, went to Mane
15 Attractions Beauty Salon and had her hair dyed..
16 Who dyed it? Ms. Pollard. Well, Joanna is
17 Joseph's sister. She testified that she -- I
18 think that she said that she had it dyed from
19 blond to red. She said that she's also been to
20 that shop and that Mary has done her hair more
21 than one time after that, that she is Mary's
22 client. Mary claims to not know her.

23 Well, what else did we hear? We heard
24 testimony that not only has Mary been in the
25 same room with my client but we heard testimony

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1 that they hung out at The Octopus all the time,
2 they boxed together. We heard direct evidence
3 from this stand that Mary has been in the same
4 room at the same time with Joseph Dunbar, the
5 defendant in this case. With Dexter Dunbar,
6 his cousin; with Joanna Dunbar, his sister; and
7 Mary Pollard's own son -- direct evidence from
8 the stand that's not been refuted.

9 Now, why didn't Mary Pollard tell the
10 police that Joseph Dunbar did it? Why didn't
11 Mary Pollard tell the police, 'yeah, I seen the
12 guy before, but I can't remember his name.'
13 No. What did she do? She said nothing about
14 anything about Joseph Dunbar. She waits until
15 the next day when presented with a photo lineup
16 and says, 'that guy.' Not a guy that 'I've
17 seen before', not a guy named Joseph Dunbar,
18 not a guy who boxed at The Octopus 'with my
19 son', not a guy 'whose sister's hair I have
20 done'; not a guy whose 'cousin hangs out with
21 my son'; this guy -- (tapping photo lineup).
22 "I've never seen him before. That's him." In
23 fact, she did that the very next day.

24 Now, why did no one else pick him out
25 of a photo lineup? Why did no one else stand

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1 up and say that he did it? Why did only her
2 kids and her say that the man took off the
3 mask? Why didn't the other two patron ever
4 mention anybody taking off a mask? Why would
5 anybody take off the mask -- after you commit
6 an armed robbery, after you've got the money?

7 Well, are these coincidences? I
8 submit to you that they are not. What these
9 are, what these questions are, are the things
10 that reasonable doubt is made of. Building
11 blocks. What are you constructing? You are
12 construing doubt, the same type of doubt that
13 the State has the burden or disproving --
14 beyond a reasonable doubt. I submit to you
15 that the State has failed.

16 Well, let's just look at Mary Pollard
17 as an example. Let's look at her. She said
18 that the man who came in the shop was a light-
19 skinned black male with dents in his face.
20 Dents from acne. The Defendant has no dents.

21 Mary said that she was outside talking
22 to the preacher right before this incident, she
23 didn't say that it was dark. She said that it
24 was light enough to see across the street. She
25 said that she could see the houses, that she

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1 could see the trees, that she could see her
2 surroundings. I submit that she could see
3 these things because it was not dark. The
4 State must prove that these events happened in
5 the nighttime. They can't do it. That's the
6 only evidence that we have from someone who was
7 outside.

8 I submit to you that Mrs. Pollard, the
9 only person in this entire case that says that
10 my client did this, is not believable.

11 Now, Joanna Dunbar's testimony has
12 gone unchallenged. She said that Mary Pollard
13 knows Joseph Dunbar. The solicitor asked her -
14 the solicitor said, 'You don't want to see
15 something bad happen to your brother, do you?'
16 She said, 'I don't want anything bad to happen
17 to anyone.'

18 In fact, she said that she wasn't that
19 close to her brother. She said that she had
20 not visited him when he was in Palm Beach
21 County jail on these charges. Why would she
22 come to court and not be truthful?

23 That's another one of those building
24 blocks that I talked to you about earlier.
25 Joanna testified and her testimony was not

1 contradicted.

2 Who else did we hear from? We heard
3 from Jahmalia, the fourteen year old. It is
4 horrible that she was subjected to this.
5 However, she told us what happened. She never
6 told law enforcement that my client did it.
7 She never told us that my client did it. What
8 did she say? She said a light skinned boy.
9 And she said a tall, skinny boy. She talked
10 about it as if this light skinned boy wasn't
11 even in the room; because he isn't.

12 We heard from Shakyra, she took the
13 stand. Well, she verified that Ms. Mary
14 Pollard worked at Mane Attractions. The same
15 place that Joanna said that Mary did her hair.
16 This same place where she did Joanna's hair
17 multiple times. The same Joanna that she
18 claims that she doesn't know.

19 Well, what else did Shakyra tell us?
20 She said that it was a dude in her mom's face.
21 A dude. She said a guy took off his mask. She
22 said a light skinned man, some light skinned
23 boy. She characterized his hair is not being
24 that long. She never said that my client did
25 it. She said that she saw his face, that she

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1 saw the robber's face but she never pointed to
2 my client.

3 Now, to further prove my point that
4 the State has not reached it's burden and to
5 show that this case is filled with reasonable
6 doubt, if I have a bucket right here in the
7 courtroom and I put all the reasonable doubt
8 from this case in that bucket, then you would
9 have a whole bucket of reasonable doubt. The
10 case is riddled with reasonable doubt. It is
11 riddled with reasonable doubt.

12 Let's look at some more testimony. We
13 heard from Libra Johnson. Well, Libra was a
14 member of the Armed Services. In fact, she
15 testified in her uniform. She has served our
16 country. She was in this place when it was
17 robbed. That is horrible. Libra never said
18 that my client did this. Libra never told the
19 police that anybody took off a mask. She gave
20 a statement and never said anything about that.

21 We heard from her daughter, Shakyra,
22 and she never said that my client did it. She
23 testified from that stand and she never said
24 anybody took off a mask.

25 In fact, no one ever said that they

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1 heard anybody say, 'I know you. I know where
2 you live. I will kill you.' These two
3 witnesses never said that even heard that.
4 They were in the same room. Of all five of
5 these witnesses, only one could say that my
6 client did it; the same one that said that she
7 didn't know my client.

8 This is the stuff that reasonable
9 doubt is made of. These are the building
10 blocks of a burglary not solved.

11 Well, who else did we hear from? We
12 heard from law enforcement, members of the
13 Sumter City Police Department. Well, we heard
14 from Lieutenant Duncan first. Lieutenant
15 Duncan testified that he responded to the
16 scene. Lieutenant Duncan testified that he
17 collected photos. He didn't collect any video,
18 there were no cameras that show my client. He
19 collected fingerprints, none of which came back
20 to my client. He collected a shoe print, which
21 did not match any shoes of my client. He's got
22 over twenty-three years of experience, he sat
23 on that stand and told you -- and at the end of
24 my questioning, he said 'No' that he doesn't
25 have any evidence against my client. He

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1 collected nothing. What is that? It is
2 another block, another building block of
3 reasonable doubt.

4 We heard from Mary (sic) Hodge. In
5 fact, Mary Hodge testified that she has been
6 doing this since nineteen sixty-eight. Marie
7 Hodge was certified as an expert in this case.
8 Fingerprint analysis. Marie Hodge said, 'oh,
9 yeah, Lieutenant Duncan collected some good
10 fingerprints, which had good identification
11 point, that I was able to enter into our
12 system.' But then she testified that none of
13 the fingerprints -- they didn't match my
14 client. In fact, she had no evidence that my
15 client did it either.

16 Then we heard from Jim Alsbrook with
17 the Sumter Police Department. Well, he is the
18 evidence technician:

19 'Mr. Alsbrook, did anyone tamper with
20 the evidence?

21 Oh, no, no one tampered with it. This
22 evidence was secured, it is always secured.

23 Did you deliver it to SLED?

24 Did they test it?

25 Did everything go all right?

1 Yes.

2 Well, do you have any information that
3 my client did this?'

4 And he said, 'That's not my job, I
5 just hold the evidence and send it for
6 processing to make sure that it is not tampered
7 with.'

8 Again, another witness who had no
9 evidence against my client, that my client
10 committed this crime.

11 Finally, you heard from Detective
12 Lyons. In fact, Detective Lyons is the senior
13 detective of law enforcement. He is the senior
14 detective over violent crime. He testified
15 that a call came in and he was already out.

16 Detective Lyons said that he saw Rakeem
17 Dunbar on the street and he stopped him and
18 talked to him. He said that Rakeem had on red
19 socks. We later learned that Rakeem said that
20 he had been in the shop, that he had asked if
21 someone could do his hair and they said, 'we're
22 closed, come back tomorrow.'

23 He had on red socks and Nike flip-
24 flops. Not one of the witnesses said that one
25 of the robbers had on red socks. No one said

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1 that. They were asked *'did one of the robbers*
2 *have on Nike's and flip-flops?'* They never
3 said that.

4 *'Did you see the guy with red socks*
5 *and Nike flip-flops before the robbery took*
6 *place?*

7 Yes.'

8 *'Detective Lyons, did you see a guy*
9 *wearing flip-flops and red socks after the*
10 *robbery?*

11 Yes. He was walking down the street.'

12 This man had nothing to do with this
13 robbery, but he happened to have a credit card
14 in his back pocket, according to Detective
15 Lyons. In all this evidence, I don't see a
16 card that was collected. But the card had my
17 client's name on it, so this guy that had
18 nothing to do with the robbery had a credit
19 card with my client's name on it, so 'this guy
20 must be a suspect.' I tell you, I will submit
21 to you that that is proof of nothing.

22 As it turned out, from Detective
23 Lyon's own testimony, my client was in Florida
24 when they arrested him. That's where he was
25 when he was arrested. He testified that the

1 guy here had a low afro cut, not dreads, but a
2 low afro. That could be anyone.

3 Reasonable doubt. State must prove
4 that my client is guilty beyond any reasonable
5 doubt. This case is full of reasonable doubt.
6 My client began this trial, we all began this
7 trial and my client was presumed innocent in
8 the beginning and the job belongs to the State
9 to prove that he is guilty. I submit to you
10 that the State has not done that.

11 If you take all the facts and all of
12 the evidence in this case that tends to prove
13 that my client did it and line it up, right
14 here, and all the facts, that they say prove
15 that he did it, and line those up right here,
16 the State has not met its burden.

17 Only one person in this case offered
18 anything that tends to show that my client did
19 it. I submit to you that they are saying that
20 one person that they're saying that - well, we
21 have one witness, who testified totally
22 different from what that one person said. Is
23 that person believable? She said that she
24 doesn't know him. My witness said that she
25 does.

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1 Your Honor is going to charge you with.
2 the law. He may give you a copy of the charge,
3 I don't know. When you get it, you be able to
4 go to the jury room and deliberate. You are
5 the fact finders. When you review all the
6 evidence, when you have reviewed all the
7 testimony, and when you look at that, I am
8 confident that you will come back with the only
9 possible verdict in this case, and that's a
10 verdict of Not Guilty for my client.

11 Again, I thank you for serving as
12 jurors. I believe that you will find the truth
13 and that you'll come back with the only
14 possible solution, which is that there is too
15 much reasonable doubt in this case to convict
16 this young man of either of these charges.
17 Thank you.

18 THE COURT: Mr. Griffin.

19 SOLICITOR: Ladies and Gentlemen,
20 it is rare that the defense lawyer and a
21 prosecutor agree much of anything in closing
22 arguments in a criminal case, but there is one
23 thing that I agree with Mr. Brunson about.
24 This case is about the truth and it is about
25 credibility. It's about which witness that you

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1 believe.

2 If you believe Mary Pollard, a woman
3 who was operating her business on January 1st,
4 2010. If you believe that her salon was robbed
5 that day.

6 If you believe that Rakeem Dunbar, the
7 boy in the red socks and flip-flops came in
8 looking for the owner. If you believe the
9 witnesses that had said that.

10 If you believe it when Detective Lyons
11 corroborates those statements by speaking with
12 Rakeem Dunbar. He admits to Detective Lyons
13 that he was in the salon, that he was asking
14 for the owner. He admitted that to Detective
15 Lyons. That tends to lend credibility to what
16 these five victims say.

17 If you believe her when she says a
18 light-skinned black male with acne on his face,
19 hair that could be twisted, puts a gun in her
20 face, demands her money, says *'you better not*
21 *tell, I will kill all of y'all, I know where*
22 *you stay'* after he pulls his mask up.

23 If you believe that she didn't know
24 his name. If she had known him, why wouldn't
25 she have told the detectives, 'Joseph Dunbar

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1 did this to me'? His name does not come up in
2 this case until Detective Lyons puts it all
3 together. 'I know a light-skinned black male,
4 young guy, with acne on his face. It's the
5 same guy whose credit card was in Rakeem
6 Dunbar's pocket.' The man who is in -- the boy
7 who was in the salon, looking for the owner.

8 Why would they be looking for the
9 owner? The owner has got the money.

10 Detective Lyons decides to create this
11 photo lineup. Mary Pollard never gave the name
12 'Joseph Dunbar.' Joseph Dunbar's name isn't on
13 this photo lineup. But his picture is, and she
14 picks him out -- the very next day. If she
15 knew him before, why go through all that? Why
16 not just say 'he did this to me, I know he did
17 it, I know him.' Because she didn't know him.

18 Now, the defense would have you
19 believe that Mary Pollard had this relationship
20 or knew of Joseph Dunbar because she may have
21 done his sister's, Joanne's, hair at one time.

22 Now let's talk about Joanna Dunbar.
23 She is the victim's (sic) sister, who lives in
24 Florida where he was arrested. She admitted to
25 you that she -- that her name was on the

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1 residence where he was arrested. Why was he in
2 Florida? Ladies and Gentlemen, I will submit
3 to you that he was in Florida to get away. She
4 said, 'I never saw him while he in Florida',
5 even though she admitted that was the residence
6 that he was at, that was where he was arrested.

7 Let's talk about her testimony. Did
8 she really know anything? Did she know
9 anything other than 'well, Mary Pollard did my
10 hair one time' and 'we hung out at the Octopus
11 Gym. Ladies and Gentlemen, y'all are from
12 Sumter. Is the Octopus gym a hangout where
13 people go to dance, where grown people go?
14 It's a boxing gym.

15 Her testimony is convenient. It's
16 convenient to give the defense a theory for why
17 Mary would have picked Joseph Dunbar out of a
18 lineup.

19 She didn't talk to law enforcement in
20 the almost two years since this thing happened.
21 'Hey, you've got the wrong guy. They know each
22 other.' No. You saw her on the stand. Were
23 her answers direct? Remember, she didn't have
24 any trouble understanding the questions that
25 the defense was asking her but many of the

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1 questions that I asked her, 'I don't understand
2 that, I don't understand that. I don't
3 understand. Think about when I was asking her,
4 'Well, if you had this information that was
5 important to your brother's case, did you try
6 to get ahold of anybody in law enforcement?'
7 She used to live in Sumter.

8 'Do you know how to dial 411 and get
9 the number for the Sumter Police Department?

10 Well, I don't know. I guess I could
11 have. I didn't know it was that important.'

12 She knew to be testifying for him.
13 She found her way to the courthouse. It's
14 convenient, it gives a theory.

15 Do you believe her? Ladies and
16 Gentlemen, and I submit to you that her
17 testimony wasn't rebutted because it is
18 incredible. Do you believe anything that she
19 said?

20 She couldn't tell you when these two
21 folks may have seen each other at the Octopus
22 Gym. Just because Mary Pollard may have
23 colored her hair once or twice doesn't mean
24 that Ms. Pollard knows her brother. It's
25 convenient. It gives a theory.

1 Was it convenient for Mary Pollard to
2 be robbed at gunpoint? Was it convenient for
3 her children to be placed in that situation?
4 If she knew Joseph Dunbar, she would have told
5 law enforcement. *'He did it to me, I know*
6 *him.'* They didn't know each other. That's why
7 she had to pick him out of a lineup; which she
8 did with a hundred percent certainty, according
9 to Detective Lyons. As soon as she looked at
10 the photograph, *'That's the man right there.*
11 *That's him.'*

12 Now, Mr. Brunson made a point to say
13 Ms. Pollard is the only one who can say that
14 this event happened at night. The fact that it
15 was at night is important because one of the
16 elements of burglary second degree, violent, is
17 that this occurred in the evening.

18 Ladies and Gentlemen, I have heard the
19 expression that a picture tells a thousand
20 words in the past. I want to point you to a
21 picture. You heard the crime scene folks
22 testify that they were called shortly after
23 7:00 o'clock in the evening. They came out --
24 and what's the first thing that they do? They
25 secure the scene, make sure that nothing can

1 harm anybody, that nothing is still in the
2 building, that no perpetrators. They secure
3 the scene, get all the victims and witnesses
4 out. Then they took photographs. Well, look
5 at this picture. Look at the clock on the
6 wall. It's 8:00 o'clock. That tells you that
7 this thing happened in the nighttime. It
8 corroborates, backs up, supports what Mary
9 Pollard said happened.

10 *'It's a smoke screen. She was outside*
11 *talking, she could see things. This really*
12 *didn't happen at night. So you don't need to*
13 *believe anything else that she said.'*

14 That (displaying photograph) can't be
15 rebutted, that photo right there.

16 Now, a lot has been made of the lack
17 of forensic evidence. I am not going to stand
18 up in front of you and say that we have any.
19 Law enforcement certainly tried to collect it.

20 But you heard the description of these
21 individuals who, along with Joseph Dunbar,
22 committed this robbery and burglary -- dressed
23 in all black, wearing gloves on their hands,
24 with masks. If you've got gloves on, if a
25 person has got gloves on, they're not going to

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1 leave fingerprints. You heard Lieutenant
2 Duggin testify that fingerprints come from the
3 oils from your fingers. If you've got gloves,
4 you're not going to leave any fingerprints.

5 You heard them testify that a public
6 place, with hair, chemicals and things that
7 would be on smooth surfaces, that you would be
8 less likely to get prints.

9 I am not going to stand up here and
10 tell you that we have any, because we don't.

11 Think about it, Ladies and Gentlemen,
12 if law enforcement knew at the time when the
13 crime scene processing was done and when
14 Detective Lyons got involved in the
15 investigation, why would they have gone through
16 all these trouble if she knew who did it? It
17 corroborates, backs up, confirms the witness'
18 testimony. They were looking for who did this,
19 until Ms. Pollard was shown this lineup. They
20 were doing their standard police work that they
21 would do in any scene, looking for clues,
22 trying to find out who did it, even thought
23 they have been told that the robbers who were
24 with Joseph Dunbar that night had on gloves.

25 I would submit you that the credible

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1 witnesses in this case are the victims. The
2 victims who begged for their lives, "please
3 don't shoot, please don't shoot, take
4 everything we've got, this is it, please don't
5 shoot." The witness who was threatened, 'if
6 you tell, I'm going to come back and kill you,
7 I know where you stay.'

8 Why would the man take his mask off?
9 I am sure that's a question that you're going
10 to ask yourselves when you deliberate. Well,
11 Ladies and Gentlemen, I would submit to you
12 that he took his mask off to show Ms. Pollard,
13 'I am serious. I will come back and harm you
14 if you tell anybody.'

15 Ladies and Gentlemen, when you look at
16 this evidence, you've got the one person who
17 was closest to Joseph Dunbar that night inside
18 that salon, with a handgun pointed at her face,
19 clear line of sight, -- she gave an accurate
20 description. Look at this photo, look at Mr.
21 Dunbar, think about the description that she
22 gave: a light-skinned black guy, with hair
23 that could be twisted. Ladies and Gentlemen,
24 it is up to you to determine but I would submit
25 to you that this looks like his hair has been

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1 twisted in this photograph. You'll have this
2 back there with you. You can look at it as
3 close as you want. It looks like his hair is
4 twisted, to me. That corroborates the
5 description that she gave.

6 She testified that the lights were on
7 the building, that she got a good look at him,
8 an accurate description relayed to Detective
9 Lyons. He makes a photo lineup. She picks him
10 out immediately with a hundred percent
11 certainty, 'no question in my mind.'

12 'Where you sure then?

13 Yes, sir, Mr. Griffin.

14 Are you sure now?

15 Absolutely.'

16 Credible witnesses.

17 On the other hand, we've got Joanna
18 Dunbar, the defendant's sister. He was located
19 in Florida, a week after this robbery occurred,
20 at a residence that her name is on but 'I don't
21 stay there. My dad stays there, but I don't
22 stay there.' Is that believable? Do you
23 believe that?

24 Was her testimony shaded to assist her
25 brother? I asked her, 'You don't want to see

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1 *anything bad happen to him?' 'No, I don't, but*
2 *I really hadn't had any contact with him*
3 *between now and then. I am not real close to*
4 *him.'* She's close enough to him to be inside
5 this courtroom today. She's close enough to be
6 interested enough in what happens to him.

7 So, do you believe what she said on
8 the stand? It's been almost two years, 'Well,
9 *I really haven't had any contact with him.'*
10 But when it's convenient for Joseph, she's in
11 here with her testimony, and she's back today.
12 What does that tell you? Does that make you
13 believe or disbelieve what she told you?

14 The only thing that she could said
15 was, 'Well, I was in the salon, so they had to
16 know each other. And there was this one thing
17 when we were at the Octopus Gym' and they may
18 have been in the same room.

19 Do you believe that? Do you really
20 believe it? Based on the way that she acted on
21 the stand? The judge is going to tell you that
22 you can judge someone's credibility by viewing
23 their demeanor. Each of you watched as she
24 testified, listened to what she said, how she
25 was evasive, 'I don't understand, I don't

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1 *know.'*

2 The one thing that she knows is that
3 she got her hair done once or twice -- I think
4 she said maybe four times -- by Ms. Pollard.

5 Ladies and Gentlemen, I submit to you
6 that that doesn't mean anything with regard to
7 whether Ms. Pollard knew Joseph Dunbar. The
8 credible evidence suggests that she did not, or
9 else why would this have been done? Joseph
10 Dunbar becomes a suspect after this photo
11 lineup was done - not based on what she said,
12 not based on Ms. Pollard giving law enforcement
13 the name of Joseph Dunbar, but just the
14 opposite.

15 Law enforcement, investigating this
16 case and presenting the photo lineup to Ms.
17 Pollard, Ladies and Gentlemen, I submit to you
18 that the evidence -- credible evidence -- shows
19 that they didn't know each other.

20 The credible evidence -- photographs
21 -- corroborate exactly what these victims say
22 happened:

23 The glass door was kicked in.

24 Individuals came in looking for money.

25 Corroborated by the fact that Rakeem

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1 Dunbar came in looking for the owner, looking
2 for the person who had money. And who did
3 Joseph Dunbar go to? Mary Pollard, the owner.
4 He knew right where to go to, to where the
5 money would be. Over a thousand dollars in
6 money that she'd made from doing hair that day
7 and the day before.

8 The light-skinned black male with acne
9 on his face and hair that could be twisted. He
10 knew right where to go. Put a gun on Ms.
11 Pollard, steal her money, scare her enough that
12 it caused her to use the bathroom on herself.
13 Scared her enough to beg, "take everything,
14 that's all that we have, please don't shoot,
15 please don't shoot."

16 Ladies and Gentlemen, I submit to you
17 that that's the credible evidence in this case
18 -- not a family member with coming in, 'well,
19 they met one time' and 'I didn't know how to
20 tell anybody this, but I knew how to get here
21 today to testify' when it's convenient.

22 This case comes down to the truth. It
23 comes down to credibility. It's the jury's job
24 in the American criminal justice system, as the
25 finders of the facts, to determine the truth.

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1 That's all that we ask of you jurors here
2 today.

3 Remember what you heard from that
4 witness stand. Think about how these witnesses
5 testified. Think about how they testified they
6 were when all this went down, that Ms. Pollard
7 was at the front of the salon, up by the dryer,
8 and that the other adult witness, Libra
9 Johnson, -- remember what she said, *'I was back
10 here by this gate in the back of the salon.'*

11 Ladies and Gentlemen, I submit to you that it
12 is entirely reasonable that she wouldn't have
13 been able to identify the person who robbed Ms.
14 Pollard. She was in the back of the salon,
15 with a gun on her, trying to protect her
16 daughter. Ladies and Gentlemen, I submit to
17 you that it is entirely reasonable that she
18 would be focused on her own problems at that
19 moment in time, not the man that was across the
20 store -- across the salon with Ms. Pollard.
21 Credible evidence, believable.

22 Is what the defense presented to you
23 yesterday, yet unrebutted, I submit, any
24 credible evidence? Is it believable? That's
25 your job as jurors to determine.

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1 Now, we lawyers can make our
2 arguments, submit what we think that evidence
3 tends to show but ultimately it comes down to
4 you jurors.

5 Take the evidence, exhibits that have
6 been entered in this case, take those back with
7 you and look at them. The pictures
8 corroborate, they show anything that tends to
9 back up the witnesses' testimony. Judge the
10 demeanor of these witnesses, how they
11 testified, how certain they were of what
12 happened.

13 Now, Ladies and Gentlemen, just
14 determine what you think the truth is. Render
15 your verdict, seek the truth. Ladies and
16 Gentlemen, I submit to you that the State has
17 submitted to you, through evidence, testimony,
18 exhibits, the truth in this case. This man
19 (indicating Defendant), Joseph Dunbar, robbed
20 Mary Pollard at gunpoint, broke into her locked
21 business in the nighttime with the intent --
22 not just the intent, but committed the crime of
23 armed robbery while in that building. Ladies
24 and Gentlemen, I would submit to you that
25 that's the truth. That's what we ask you to

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1 find and render a Guilty verdict.

2 THE COURT: Thank you. Are you all
3 okay, can you all go a half hour or so?
4 (Affirmative nods from various jurors, (No
5 verbal response). Please secure the courtroom.

6 All right, Ladies and Gentlemen, all
7 of the testimony and other evidence that will
8 be presented in this case has now been
9 presented. Now it is the time in the case
10 where I will charge you on the law that is to
11 be applied to this case.

12 I remind you that during this trial
13 that you and I have certain duties to perform.
14 As the trial judge, it is my responsibility to
15 preside over the trial in this case and I also
16 have to rule on the admissibility of evidence
17 that has been offered during this trial. You
18 are to consider only the competent evidence
19 that has been presented here in court. If
20 there was any testimony ordered stricken from
21 the record during this trial, you are to
22 disregard that testimony. You are to consider
23 only the testimony which has been presented
24 from this witness stand and any exhibits which
25 have been made a part of the record in this

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1 case, and any stipulations of counsel.

2 I have the additional duty to charge
3 you on the law that is applicable to this case.
4 As the presiding judge, I am the sole judge of
5 the law. It is your duty as jurors to accept
6 and apply the law as I now state it to you. If
7 you have an idea as to what the law is or what
8 you think that the law ought to be and it does
9 not agree with what I tell you that the law is,
10 you must abandon that idea because, Ladies and
11 Gentlemen, you are to accept the law and apply
12 the law exactly as I state to you.

13 In every case that is tried before a
14 jury, the jury becomes the sole and exclusive
15 judges of the facts in the case. A trial judge
16 may not suggest, intimate, comment, make any
17 statement to a trial jury about the facts in
18 the case. You are the jury, you are the sole
19 judges of the facts. You are not to infer from
20 what I've said during the progress of this
21 trial, or by any ruling on the admissibility of
22 any evidence, or otherwise, anything that I
23 have said during the course of these
24 instructions to you that I have any opinion
25 about the facts in this case. The law does not

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1 allow me to have opinions about the facts in
2 this case. This is a matter solely for you,
3 the jury, to determine. It is your duty to
4 determine the effect, the value, the weight and
5 the truth of the evidence that has been
6 presented during this trial.

7 Now, Ladies and Gentlemen, the
8 indictment charges the defendant with various
9 things. I will remind you that the fact that
10 the defendant was arrested, charged and
11 indicted in this case is not evidence in this
12 case and cannot be considered by you as
13 evidence of guilt in this case. Nor does it
14 create any presumption or inference of guilt.
15 The indictment is simply a written instrument
16 that contains the charges made against the
17 defendant; that is, a document by which this
18 case is brought into court.

19 You, Ladies and Gentlemen, the
20 indictment in this case, Indictment 10-GS-42-
21 543 alleged two different offenses against the
22 defendant. The charges are robbery while armed
23 with a deadly weapon, more notably recognized
24 as armed robbery, and burglary in the second
25 degree. The indictment charges separate and

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1 distinct offenses and you must decide each
2 charge separately on the evidence and the law
3 applicable uninfluenced by your decision as to
4 the other charge.

5 The defendant may be convicted or
6 acquitted on any or both offenses that are
7 charged. You will be asked to write a separate
8 verdict of Guilty or Not Guilty for each
9 charge.

10 Now, Ladies and Gentlemen, the
11 defendant has pled not guilty to the charges
12 contained in the indictment. That places the
13 burden on the State to prove the Defendant
14 guilty. A person charged of a crime in South
15 Carolina is never required to prove themselves
16 innocent. This is an important rule of law.

17 A defendant in a criminal trial, no
18 matter how serious the crime may be, will
19 always be presumed to be innocent of the crime
20 for which an indictment was issued unless guilt
21 has been proven by evidence satisfying you of
22 that guilt beyond a reasonable doubt.

23 This presumption of innocence does not
24 end when you begin your deliberations but
25 accompanies the defendant throughout the trial

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1 until you reach a verdict of guilt beyond a
2 reasonable doubt. The presumption of innocence
3 is like a robe of righteousness that is placed
4 about the shoulders of a defendant and it
5 remains with the defendant until it has been
6 stripped from the defendant by evidence
7 satisfies you of the defendant's guilt beyond
8 any reasonable doubt.

9 The presumption of innocence is not
10 a mere legal theory, it is not a mere legal
11 phrase but it is a substantial right that every
12 defendant is entitled to unless you, the jury,
13 are satisfied by evidence of the defendant's
14 guilt beyond a reasonable doubt.

15 Now, that begs the question of what is
16 reasonable doubt. The State has the burden of
17 proving the defendant guilty beyond a
18 reasonable doubt. Now, some of you may have
19 served as jurors on civil cases where it was
20 only necessary to prove the facts were more
21 likely true than not, such as by the greater
22 weight or the preponderance of the evidence.
23 In criminal cases, however, the State's proof
24 must be more powerful than that. It must be
25 beyond a reasonable doubt. Now, truth beyond

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1 a reasonable doubt is proof that leaves you
2 firmly convinced of a defendant's guilt. There
3 are very few things in this world that we know
4 with absolute certainty. In criminal cases,
5 the law does not require proof that overcomes
6 every possible doubt.

7 If based upon the consideration of the
8 evidence you are firmly convinced that the
9 defendant is guilty of the crimes charged, then
10 you must find the defendant guilty.

11 If, on the other hand, you may think
12 that there is a real possibility the defendant
13 is not guilty, you must give the defendant the
14 benefit of the doubt and find the defendant not
15 guilty.

16 Now, Ladies and Gentlemen, there are
17 two types of evidence which is generally
18 presented during a trial: direct evidence and
19 circumstantial evidence.

20 Direct evidence is the testimony of a
21 person who claims to have actual knowledge of
22 the facts, such as an eyewitness. It is
23 evidence that immediately establishes the main
24 facts be proven.

25 Circumstantial evidence is proof of a

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1 chain of facts or circumstances indicating the
2 existence of a fact. It is evidence which
3 immediately establishes collateral facts which
4 -- from which the main facts may inferred.

5 Circumstantial evidence is based on inference
6 and not on personal knowledge or observation.

7 The law makes absolutely no difference
8 between the weight or value to be given to
9 either direct or to circumstantial evidence.
10 Nor is a greater degree of certainty required
11 for circumstantial evidence than that for
12 direct evidence.

13 Ladies and Gentlemen, you should weigh
14 all of the evidence in this case and if after
15 weighing all the evidence you are not convinced
16 of the guilt of the defendant beyond a
17 reasonable doubt, you must find the defendant
18 not guilty.

19 Now, Ladies and Gentlemen, I instruct
20 you and I emphasize the fact that the defendant
21 did not testify is not a fact to be considered
22 by you in any way in your deliberations or your
23 consideration of the guilt or innocence of the
24 defendant. It must not be considered by you in
25 any way whatsoever. A defendant has the

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1 Constitutional right to remain silent. The
2 assertion of this right must not be considered
3 by you in your deliberations. I repeat, under,
4 your oath, you are to draw no conclusion
5 whatsoever from the fact that the defendant did
6 not testify in this case. The fact that the
7 defendant did not testify should not even be
8 discussed in the jury room.

9 The burden, as I have stated, is on
10 the State to prove guilt and the defendant is
11 not required to prove his innocence. The
12 burden of proof remains on the State to prove
13 guilt beyond a reasonable doubt.

14 Now, Ladies and Gentlemen, you must
15 determine the credibility of witnesses who have
16 testified in this case. Credibility simply
17 means believability. It is your duty as jurors
18 to analyze and evaluate the evidence and
19 determine which evidence convinces you of its
20 truth. In determining the believability of
21 witnesses who have testified in this case, you
22 may believe one witness over several witnesses,
23 or several witnesses over one witness. You may
24 believe a part of the testimony of a witness
25 and reject the remaining part of the testimony

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1 of that same witness. You may believe the
2 testimony of a witness in its entirety or
3 reject the witness of a testimony of a witness
4 in its entirety. You may consider whether the
5 witness may have any interest or bias,
6 prejudice or other motive in this case. You
7 may also consider the appearance and manner of
8 a witness while on the witness stand.

9 Ladies and Gentlemen, the rules of
10 evidence ordinarily do not permit witnesses to
11 testify to opinions or to conclusions. An
12 exception to this rule exists for witnesses who
13 we call expert witnesses, a witness who by
14 education and experience has developed an
15 expertise in some art, science, profession or
16 calling, who may state an opinion to relevant
17 and material matters to which the witness
18 claims to be an expert. They may also state a
19 reason for the opinion.

20 You may consider any expert opinion(s)
21 received into evidence in this case just like
22 any other evidence and give it the weight that
23 you think that it deserves. If you think that
24 the opinion of an expert is not based on
25 sufficient education and experience, or if you

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1 conclude that the reasons given in support of
2 the testimony are not found, or that the
3 opinion is outweighed by other evidence, you
4 may disregard that opinion in its entirety.
5 And an expert witness' testimony is to be given
6 no greater weight than any other simply because
7 the witness is an expert. You are not required
8 to accept the expert's opinion, even though it
9 is not contradicted.

10 Now, Ladies and Gentlemen, an issue in
11 this case is the identification of the
12 defendant as the person who committed the
13 crimes as charged. The State has the burden of
14 proving identity beyond a reasonable doubt.
15 You must be satisfied beyond a reasonable doubt
16 of the accuracy of the identification of the
17 defendant before you may convict the defendant.

18 Identification testimony is an
19 expression of belief or impression by a witness
20 and you must determine the accuracy of the
21 identification of the defendant. You must
22 consider the believability of each identifica-
23 tion witness the same way as any other witness.
24 You may consider whether a witness had an
25 adequate opportunity to observe the defendant

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1 at the crime scene. That will include such
2 things as how long or how short a period of
3 time the witness had to observe, how far or how
4 close the witness was, the lighting conditions,
5 and whether the witness had a chance to see or
6 to know the person in the past.

7 Once again, I instruct you that the
8 burden of proof is on the State to prove every
9 element of the crimes charged. This
10 specifically includes the burden of proving
11 beyond a reasonable doubt the identification of
12 the Defendant as the person who committed the
13 crimes. If you have reasonable doubt as to the
14 accuracy of the identification, you must find
15 the defendant not guilty.

16 Ladies and Gentlemen, the defendant is
17 charged with robbery while armed with a deadly
18 weapon under Section 16-11-330(a) of the South
19 Carolina code of laws. In order to prove this
20 offense, the State must first prove beyond a
21 reasonable doubt that the defendant took
22 personal property from the person or presence
23 of another person. Property is the presence of
24 a person if it is in a person's reach,
25 inspection, observation or control such that

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1 the person could, if not overcome by violence
2 or by fear, keep possession of the property.

3 The State must also prove beyond a
4 reasonable doubt that the defendant took such
5 property away intending to permanently deprive
6 the owner of the property and keep the property
7 for the defendant's own use. The slightest
8 removal of the property by a defendant or the
9 complete possession of the property, even for
10 an instant, by the defendant is sufficient to
11 show the taking and carrying away of property.
12 The taking and carrying away of property must
13 have been done with violence or by putting the
14 owner in fear of violence.

15 The State must prove beyond a
16 reasonable doubt that the defendant was armed
17 with a deadly weapon during the robbery. A
18 deadly weapon is a weapon that is likely to
19 cause death or great bodily harm. Whether an
20 instrument is used as a deadly weapon depends
21 on the facts and circumstances of each case.
22 A pistol is an example of an instrument that
23 may be used as a deadly weapon. A gun may be
24 a deadly weapon, even if it is not operable.

25 Ladies and Gentlemen, the defendant is

1 also charged with burglary in the second degree
2 under Section 16-11-312(b) of the South
3 Carolina code of laws. The State must prove
4 beyond a reasonable doubt that the defendant
5 entered a building in the nighttime without the
6 consent, with the intent to commit a crime in
7 the building. Nighttime is time between sunset
8 and sunrise, during which there is not enough
9 daylight to recognize a person's face except by
10 artificial lighting. A building can be any
11 structure where people are assembled. The
12 State must prove beyond a reasonable doubt that
13 when entering, while in the building, the
14 defendant was armed with a deadly weapon,
15 threatened to use a deadly weapon, or displayed
16 a deadly weapon.

17 Again, a deadly weapon is a weapon
18 that is likely to cause great -- death or great
19 bodily harm. Whether an instrument has been
20 used as a deadly weapon depends on the facts
21 and circumstances in each case. As I said, a
22 pistol is an example of a deadly weapon. A gun
23 may be a deadly weapon even if it is not
24 operable.

25

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1 Now, Ladies and Gentlemen, there are
2 two possible verdicts that you may arrive at in
3 this case. One is for robbery while armed with
4 a deadly weapon and the other is for burglary
5 in the second degree.

6 Under indictment 10-GS-43-0543,
7 robbery while armed with a deadly weapon, your
8 verdict would have to be Not Guilty or Guilty.

9 As to the charge of burglary in the
10 second degree, Not Guilty or Guilty.

11 Now, Ladies and Gentlemen, there is no
12 significance whatsoever to the order in which I
13 stated guilty or not guilty as possible
14 verdict. It is simply that one must be stated
15 first.

16 Now, Ladies and Gentlemen, your
17 verdict must be a unanimous verdict. All
18 twelve of you must agree on the verdict. Your
19 decision must not be based on sympathy,
20 passion, prejudice, emotion, or any other
21 consideration. That is not evidence in this
22 case.

23 Mr. Foreman, when the jury has reached
24 a decision on the verdict, you would then check
25 the appropriate box here and then you will sign

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1 your name. Then please knock on the jury room
2 door and the bailiff will -- just let them know
3 that you have reached a verdict and they will
4 tell us, and then you will be received back
5 here in the courtroom for publication of your
6 verdict.

7 Now, Ladies and Gentlemen, I am going
8 to send you back with the verdict form and a
9 copy of everything that I have just stated to
10 you. Ladies and Gentlemen, go back to the jury
11 room but please do not begin your deliberations
12 until you are instructed to do so. There are
13 some matters that I need to take up with the
14 attorneys. Thank you, Ladies and Gentlemen.

15 (JURY EXITS COURTROOM)

16 THE COURT: Any objection from the
17 State to the jury charge?

18 SOLICITOR: No, sir.

19 THE COURT: From the defense?

20 MR. BRUNSON: None from the
21 defense.

22 THE COURT: All right. Here is the
23 verdict form, my charge and you can gather the
24 evidence and get it back to them.

25 BAILIFF: What about the

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1 alternate?

2 THE COURT: She needs to be
3 separated from the others. Just put her in
4 another room and I'll be in to talk with her.

5 (COUNSEL REVIEW/APPROVE EXHIBITS)

6 (JURY IN DELIBERATION)

7 (RECESS)

8 (NOTIFIED OF VERDICT)

9 (DEFENDANT PRESENT)

10 THE COURT: I understand that the
11 jury does have a verdict. Let me remind
12 everyone in the courtroom that the jury is
13 entitled to their decision and any uproar --
14 either way -- will not be tolerated by this
15 court.

16 If there is anyone who thinks that
17 they cannot keep their emotions in check when
18 the verdict is read, no matter how it goes,
19 needs to leave at this time. Otherwise, I will
20 hold anyone who expresses emotion in contempt
21 of court.

22 Bring in the alternate, I need to
23 release her.

24 (ALTERNATE JUROR ENTERS COURTROOM)

25 THE COURT: Ma'am, the jury has

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1 reached a verdict, so your job has been
2 completed. Thank you for your service. You're
3 welcome to sit in here and watch and see if
4 they did what you would have done. Then -- all
5 right? Thank you.

6 (ALTERNATE JUROR EXCUSED)

7 THE COURT: Now bring the jury in.

8 (JURY ENTERS COURTROOM)

9 THE COURT: Mister Foreman, I
10 understand that the jury has reached a verdict.

11 FOREMAN: Yes, sir, we have.

12 THE COURT: Is it unanimous?

13 FOREMAN: Yes, sir, it is.

14 THE COURT: Please pass the verdict
15 form.

16 FOREMAN: (Complies).

17 THE COURT: The Defendant will
18 please stand.

19 DEFENDANT: (Complies).

20 THE COURT: Publish the verdict.

21 CLERK: State of South Carolina,
22 County of Sumter, in the Court of General
23 Sessions, Docket Number 2010-GS-43-0543, the
24 State of South Carolina versus Joseph Waddell
25 Dunbar, Jr., as to the charge of robbery while

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1 armed with a deadly weapon, "We, the jury,
2 unanimously find the Defendant guilty."

3 As to the charge of burglary in the second
4 degree, "We, the jury, unanimously find the
5 Defendant guilty." Signed Robert Weaver,
6 Foreman, November 9th, 2011.

7 Ladies and Gentlemen of the jury, if
8 this is your verdict so say you all by raising
9 your right hand - (unanimous response by
10 jurors).

11 THE COURT: Does the State wish for
12 the jury to be polled?

13 SOLICITOR: No, sir, Your Honor.

14 THE COURT: Does the defense request
15 that the jury be polled?

16 MR. BRUNSON: The defense does
17 request that the jury be polled.

18 THE COURT: Please poll the jurors.

19 CLERK: Ladies and Gentlemen, when I
20 call your number, please stand.

21 Number 106, Dedria Mathis. Is this
22 your verdict and still your verdict?

23 JUROR NUMBER 106: Yes, sir.

24 CLERK: Number 166, Terence Squires,
25 is this your verdict and still your verdict?

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1 JUROR NUMBER 166: (Affirmative
2 nod).

3 CLERK: Thank you.

4 THE COURT: I need for you to say
5 out loud ---

6 JUROR NUMBER 166: Yes, sir. I'm
7 sorry.

8 THE COURT: The court reporter has
9 to be able to hear you.

10 JUROR NUMBER 166: Yes, ma'am.

11 THE COURT: Thank you.

12 CLERK: Number 120, Paris Mickens, is
13 this your verdict and still your verdict?

14 JUROR NUMBER 120: Yes.

15 CLERK: Number 8, William Bennett, is
16 this your verdict and still your verdict?

17 JUROR NUMBER 8: Yes.

18 CLERK: Number 68, Joseph Gober, is
19 this your verdict and still your verdict?

20 JUROR NUMBER 68: Yes, it is.

21 CLERK: Number 85, James Johnson, is
22 this your verdict and still your verdict?

23 JUROR NUMBER 85: Yes, it is.

24 CLERK: Number 145, Bobby Ray, is
25 this your verdict and still your verdict?

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1 JUROR NUMBER 145: Yes, sir.

2 CLERK: Number 28, Joe Carrington, is
3 this your verdict and still your verdict?

4 JUROR NUMBER 28: Yes.

5 CLERK: Number 179, Robert Weaver, is
6 this your verdict and still your verdict?

7 JUROR NUMBER 179: Yes, sir.

8 CLERK: Number 172, Susan Thibault,
9 is this your verdict and still your verdict?

10 JUROR NUMBER 172: Yes.

11 CLERK: Number 82, Eric Jackson, is
12 this your verdict and still your verdict?

13 JUROR NUMBER 82: It is.

14 CLERK: Number 21, Edward Buddin,
15 Jr., is this your verdict and still your
16 verdict?

17 JUROR NUMBER 21: Yes, it is.

18 CLERK: The jury has been polled and
19 the verdict stands, Your Honor.

20 THE COURT: Thank you. The verdict
21 does stand. Ladies and Gentlemen, let me take
22 this opportunity to thank you for your service
23 this week. You know, I know all of you all had
24 something better that you thought you wanted to
25 do rather than be here in court, but let me

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1 assure you that there is nothing more important
2 going on in this town than what is happening in
3 these courtrooms right now. We, as Americans,
4 come together and determine whether someone is
5 guilty or innocent in a criminal trial. It's
6 not like other places where they just appoint
7 somebody to determine that. We don't do that.
8 So please don't feel that your time has been
9 wasted up here. You did an important job for
10 the State and the County and I really
11 appreciate what you did. I would tell you that
12 no matter what your verdict would have been,
13 you came to the verdict as you swore that you
14 would.

15 Now, Ladies and Gentlemen, remember
16 every time that you walked out of here that I
17 told that you couldn't say anything to anybody.
18 That rule is now lifted. You may speak to
19 anybody that you want to for as long as what
20 to, or as little as you want to. So if
21 somebody persists in wanting to talk to you and
22 you don't want to speak to them, if you would
23 just let one of the bailiffs know, then I will
24 make sure that's not a problem for you.

25 Again, let me remind you that you're

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1 going to be paid, a very paltry amount but the
2 service that you gave to our county was great.

3 We are checking to see how many jurors
4 that we are going to have coming back this
5 afternoon. It looks like we have enough, so
6 you all will be dismissed. That includes the
7 alternate back there. So your service is
8 finished. Let me remind you again that this
9 satisfies your service on the jury, so if
10 you're picked within the next three years you
11 just let them know that you served this week.

12 Ladies and Gentlemen, let me have the
13 opportunity, if I can, to shake your hands as
14 you're leaving. Thank you for your service
15 here today.

16 Now, I'm going to sentence the
17 Defendant at 12:30. If you want to sit in the
18 courtroom and see what sentence that I impose
19 on him, you're welcome to do that. Those of
20 you who want to go ahead and leave, you're
21 welcome to do that as well. Thank you again,
22 Ladies and Gentlemen, for your service.

23 (JURY EXCUSED)

24 THE COURT: Court will be in recess
25 until 12:30 to give the attorneys an

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1 opportunity to get the sentencing sheets.

2 (BRIEF RECESS)

3 (DEFENDANT PRESENT)

4 THE COURT: Mr. Griffin, what is the
5 defendant's criminal history.

6 SOLICITOR: Your Honor, going back
7 to his juvenile record, he's got an assault on
8 a police officer while resisting arrest, a
9 shoplifting as a juvenile. Your Honor, he's
10 also got a resisting arrest as an adult for
11 which he received probation. Your Honor, those
12 are his prior criminal convictions.

13 THE COURT: Is that correct, Mr.
14 Brunson?

15 MR. BRUNSON: That's correct, Your
16 Honor.

17 THE COURT: Would any of the victims
18 like to say anything?

19 SOLICITOR: Your Honor, I believe
20 that Ms. Pollard would like to make a
21 statement.

22 THE COURT: Ms. Pollard?

23 SOLICITOR: Yes, Your Honor. For me
24 and my daughters and Ms. Libra, she asked me to
25 speak for her and also her daughter, we forgive

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1 him because that's who we are. I am very known
2 in the community, everybody knows me, everybody
3 knows my children. We're just sad that we're
4 here today, you know, on this occasion. But we
5 do want to let him know that we forgive him
6 because that's -- you know, not only what God
7 wants us to do but because that's who we are.
8 That's it. We are just sad right now.

9 THE COURT: Thank you. Mr. Dunbar,
10 you have been tried by a jury of your peers..
11 They listened to the evidence and they
12 unanimously found you guilty of robbery while
13 armed with a deadly weapon and burglary in the
14 second degree, violent. Would you or your
15 attorney like to say anything at this time
16 before I pass sentence upon you?

17 MR. BRUNSON: Your Honor, if it
18 please the court, I would like to say that
19 Joseph Dunbar, Jr., is twenty years of age.
20 Your Honor, he is relatively young.

21 He did not finish high school. He
22 went back and got his GED in 2008. Your Honor,
23 he enrolled in Central Carolina in 2009.

24 He only had one adult conviction,
25 although he hasn't had a long time to

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1 accumulate charges.

2 Your Honor, I believe that there is
3 hope for this young man in the future. I
4 understand that Your Honor is going to sentence
5 him. We'd ask the court to have mercy on him
6 upon sentencing.

7 Your Honor, on behalf of the
8 defendant, we would like to apologize to the
9 court -- and I think he would like to apologize
10 at the appropriate time.

11 THE COURT: Mr. Dunbar, would you
12 like to say anything to the court at this time?

13 DEFENDANT: Yes, sir. I'm sorry for
14 what happened, Your Honor. I don't know what
15 else to say. I'm just sorry that you all had
16 to go through a crime like that.

17 I just want to say that I got two --
18 two little girls at home. One of them I ain't
19 never meet.. I just wonder if you would just
20 let me get home in time before it's too late
21 for me to have a say-so in their life. That's
22 it.

23 THE COURT: You know, this was an
24 extremely cowardly act. Although this was not
25 a home that was invaded, this was an invasion

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1 of where these people worked and where they
2 felt secure. These guys came in, and you went
3 in there with them, with loaded gun or guns,
4 pointing them at women and children. I can't
5 think of a more cowardly act.

6 You were bad that night, yeah, you
7 were bad. You actually showed your face
8 because you were intimidating her as to whether
9 she should do anything.

10 I find you to be unrepentant. -I find
11 you to be a danger to our community and
12 therefore, although they give me the option of
13 sentencing you down to ten years up to thirty,
14 I am sentencing you to the maximum. I am
15 sentencing you to thirty (30) years on the
16 armed robbery charge. Yeah, you crashed into
17 these people's house -- not their house but
18 where they worked -- and where they carried on
19 their day to day life, so I am giving you
20 thirty years. On the burglary charge, I am
21 giving you fifteen (15) years.

22 So you can be bad when you want -- you
23 thought that you were bad that night, so you
24 can be bad -- you can find out how bad you are.

25 They will run concurrently since they

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1 happened at the same time. Thank you.

2 DEFENDANT: I been bad?

3 (DEFENDANT IN CUSTODY)

4 THE COURT: I would like to tell the
5 attorneys and everyone involved, thank you for
6 your professionalism. You've certainly upheld
7 your Civility Oath and I thank you.

8 (TRIAL CONCLUDED)

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State of South Carolina v. Joseph Waddell Dunbar, Jr.
Case No. 10-GS-43-0543
Hearing of November 7-9, 2011
Before The Honorable William J. Young

326

CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the hearing
held before The Honorable W. Jeffrey Young on
November 7-9, 2011, as prepared from the audio
notes of Margaret Sullivan;

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action.

Deborah Garrison

Deborah Garrison
Circuit Court Reporter
9th Judicial Circuit

Charleston, South Carolina

August 20, 2012

State of South Carolina)
)
County of Sumter)

The State of South Carolina, Testimony of Maqueda Duncan
Plaintiffs 2010-GS-43-543.

vs.

Joseph Dunbar,
Defendant

November 7-9, 2011
Sumter, S.C.

Before the Honorable W. Jeffrey Young, Judge.

A-P-P-E-A-R-A-N-C-E-S

Mr. R. Kirk Griffin,
Assistant Solicitor for the State

Mr. Willie H. Brunson,
Attorney for the defendant

Margaret T. Sullivan
Court Reporter

1 MR. GRIFFIN: the State calls Maqueda Duncan to
2 the stand.

3 Maqueda Duncan, Being first duly
4 sworn, testified as follows:

5 THE BAILIFF: State your full name and
6 spell your last name for the record.

7 A Maqueda Duncan. D-U-N-C-A-N.

8 DIRECT EXAMINATION by Mr. Griffin:

9 Q Maqueda, how old are you?

10 A 18.

11 Q And who is your mother?

12 A Mary Pollard.

13 Q Maqueda, on January 1st, 2010, where were
14 you?

15 A In my mother's shop, Untouchable Cuts, on
16 Lafayette on the south side.

17 Q And to your knowledge, is that within
18 Sumter County?

19 A Yes, sir.

20 Q What happened that day?

21 A My mother got robbed.

22 Q And as you stated, you were present at the
23 store?

24 A Yes, sir.

25 Q Where were you when this event happened?

1 A I was located in the barber shop part of
2 the shop. Doing Libra's daughter Taylor's hair.

3 Q Libra's daughter Taylor. About how old
4 was she at the time?

5 A 8.

6 Q Now the barber part of the shop, is that a
7 separate area?

8 A Yes, sir.

9 Q I am doing to show you State's Exhibit
10 No. 16, and ask you if you if you recognize that.

11 A Yes, sir.

12 Q What is that?

13 A The barber shop.

14 Q I am also going to show you State's
15 Exhibit No. 13. Do you recognize that portion?

16 A Yes.

17 Q And what is that?

18 A The barber shop.

19 Q And that's where you were?

20 A Yes, sir.

21 Q Now, Maqueda, what did you see or hear
22 that day?

23 A When I was -- my back was turned to the
24 door that you walk in to get to the barber shop
25 from the salon part. And I just heard a big like

1 blast. I just heard glass. So I peeked over to
2 see what like, what was going on. And I seen a
3 whole bunch dudes scattered around. And then I
4 went back in the shop. And the barber shop has
5 bars. Like bars to the windows and the door. So
6 the barber shop was locked. So I'm like, I can't
7 get out this way.

8 So I went back into the salon area. And I
9 walked in Libra's door to walk to the TV room, and
10 be hiding in the corner. And we sat there. And
11 then I heard somebody say well, somebody is still
12 around here. So I was like, oh, my gosh. So I
13 turned, like I was just -- I had looked behind me.
14 And I sat in front of her in the corner. And a
15 tall dude came in there with a little handgun.
16 And he said, he said, get up. And he had the gun
17 pointed in my face. He was like get up. And
18 Libra's daughter was crying.

19 And we got out of our spot or whatever,
20 and walked towards the salon. And he was like,
21 shut her the fuck up. Shut her the fuck up. And
22 I was like, I can't do that, she is scared. So we
23 stand -- we walked inside the salon. And we
24 walked inside the salon. So I told my mother,
25 there was a dude with a gun in my mother's face.

1 So I tell her, I said, mom, did you give him the
2 money. She said, yes, I gave him everything I
3 got. So then it just was like, slow. Like
4 everything was in slow motion to me after that. I
5 didn't hear anything. It was just so much slow
6 motion. And the dude, the boy that was in my
7 mother's face, he was like yelling. Where the
8 fuck is that. Where the fuck is that. Like and
9 I'm like mom what is he looking for.

10 Q Is before you mom gave him the money?

11 A Yes.

12 Q Now the guy asking her where it was, did
13 you notice anything particular about him?

14 A What I notice was his face after he took
15 his mask off. That's what I noticed.

16 Q Okay. What was his complexion?

17 A Light skin.

18 Q And the light skinned boy was the one your
19 mother gave the money to?

20 A Yes, sir.

21 Q After this happened, did the other
22 individuals take anything?

23 A Yes. They were standing around. So after
24 she gave him the money, they grabbed like our
25 purses off the counter, and they ran out the door.

1 And he was the only one in there. Like stayed in
2 there after everybody else left.

3 Q So they grabbed the items. Ran out. And
4 left the light skinned man---

5 A Yes.

6 Q ---in there?

7 A Yes.

8 Q Now did you see anybody in red socks and
9 flip-flops come in the store?

10 A No.

11 Q Why would that be?

12 A Because I was in the barber shop part.
13 My back was turned towards the door, so I couldn't
14 see nobody. I didn't see anybody.

15 Q Okay. And was it uncommon to have people
16 walk in the store just off the street?

17 A No.

18 Q Did you notice anyone come to the door.
19 And talk to your mother through the glass door?

20 A No.

21 Q Okay. Why is that?

22 A Because I was in barber shop. I didn't
23 know anything that was going on until I heard the
24 glass.

25 Q And, Maqueda, you -- did you ever go to

1 the law enforcement center after the incident?

2 A Yes, we went to the police station.

3 Q Okay. And when you got to the police
4 station, what did you do?

5 A We went to the back. We went to the back
6 with a lady. And we had to fill out a statement,
7 a report---

8 Q Okay.

9 A ---of what happened.

10 Q Now did you do that?

11 A Yes, sir.

12 Q And did you write it in your own
13 handwriting?

14 A Yes, sir.

15 Q How close in time was that statement to
16 when the robbery happened?

17 A It was not even -- it was like 30 minutes
18 after. Like 30 minutes we reported it to the
19 station after this incident.

20 Q Did you go anywhere between leaving the
21 salon and going to the police station?

22 A No. We went straight to the police
23 station.

24 Q And did any law enforcement officer tell
25 you what write?

1 A No.

2 Q Did they gave you any information that

3 they---

4 A No.

5 Q ---that you needed to put in the statement
6 statement.

7 A No.

8 Q So what you wrote that day is what you
9 remember.

10 A Yes.

11 MR. GRIFFIN: Maqueda, answer any
12 questions Mr. Brunson may have for you.

13 THE COURT: Mr. Brunson.

14 Cross Examination by Mr. Brunson:

15 Q Good morning.

16 A Good morning.

17 Q Did your mother ever work in a different
18 shop?

19 A Yes, sir.

20 Q What's the name of that shop?

21 A Main Attractions.

22 Q Did you work in there also?

23 A No.

24 Q Okay. Main Attractions. And what street
25 is that?

1 A Main and Hampton.

2 Q Pardon me?

3 A Main. North Main and Hampton. Main
4 Street.

5 Q You said that there was a guy that
6 participated in the robbery that took off his
7 mask.

8 A Uh-huh. (Affirmative.)

9 Q You said a light skinned man. Did you
10 ever -- well you said you wrote a statement. In
11 your statement, did you give the police a name?

12 A No.

13 Q In fact you just said a light skinned boy;
14 isn't that correct?

15 A Yes.

16 MR. BRUNSON: Nothing further.

17 MR. GRIFFIN: No redirect Your Honor?

18 THE COURT: Thank you. You may step down.

19 -----End of Requested Transcript of Record---o

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the General Sessions Court on November 8, 2011, in Sumter County, Sumter, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

7/2/13
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/21

William Lyons **Sumter Police Dept.**

ARREST WARRANT NUMBER

J296656 . . J296657

ACTION OF GRAND JURY

True Bill

 Foreperson of Grand Jury

Date: 5-22-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-43-0543

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

May TERM 2010

THE STATE

VS.

JOSEPH WADELL DUNBAR JR

Indictment for

**Burglary / Burglary (Violent) (After 06/20/85) - Second degree
Armed Robbery**

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Burglary / Burglary (Violent) (After 06/20/85) - Second degree
Armed Robbery

At a Court of General Sessions, convened on May 20, 2010 the Grand Jurors of
SUMTER County present upon their oath:

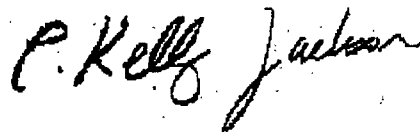
COUNT ONE - BURGLARY, SECOND DEGREE (VIOLENT)

That Joseph Wadell Dunbar Jr did in Sumter County on or about January 1, 2010, enter without consent and with the intent to commit a crime therein, a building of Untouchable Cuts, located at [REDACTED], and the defendant, Joseph Wadell Dunbar Jr, did enter the building in the nighttime, in violation of Section 16-11-0312(B), S. C. Code of Laws, 1976, as amended.

COUNT TWO - ARMED ROBBERY

That on or about January 1, 2010, in Sumter County, South Carolina, the Defendant, Joseph Wadell Dunbar Jr., at Untouchable Cuts, [REDACTED] by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Mary Pollard, with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made
and provided.



SOLICITOR

ARRO2.DOT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

10-30

COUNTY OF Sumter
STATE VS.
Joseph Wadell Dunbar Jr

AKA:

Race: 2 Sex: M Age: 20

DOB: 6 1 SS#:

Address:

City, State, Zip: Sumter, SC 29150

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Robbery / Armed Robbery.

INDICTMENT/CASE#: 2010-GS-43-0543

A/W#: J296657

Date of Offense: 1/1/2010

S.C. Code §: 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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:

Griffin, R. Kirk

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 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

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,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Sumter
STATE VS.

Joseph Wadell Dunbar Jr

AKA:

Race: 2 Sex: M Age: 20

DOB: SS#

Address:

City, State, Zip: Sumter, SC 29150

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree

INDICTMENT/CASE#: 2010-GS-43-0543

A/W#: J296656

Date of Offense: 1/1/2010

S.C. Code § : 16-11-0312(B)

CDR Code #: 0086

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Griffin, R. Kirk

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 15 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: To Count 1 of 2010 GS-43-543
☐ 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 (Criminal
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 Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
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§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

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,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

SUMTER POLICE DEPARTMENT
SUMTER, SOUTH CAROLINA

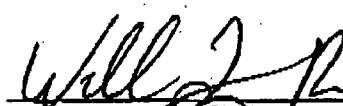
WITNESS' LINE-UP IDENTIFICATION FORM

TO WITNESS:

Mary Pollard
PRINT NAMETHE POSITIONS OF THE PERSONS IN THE LINE-UP WILL BE NUMBERED LEFT TO RIGHT,
BEGINNING WITH ONE (1) ON YOUR LEFT.

1. IF YOU HAVE PREVIOUSLY SEEN ONE OR MORE OF THE PERSONS IN THE LINE-UP,
PLACE AN "X" IN THE APPROPRIATE SQUARE CORRESPONDING TO THE NUMBER OF
THE PERSON IN THE LINE-UP.
2. WHEN FINISHED, SIGN YOUR NAME AND THEN FILL IN THE DATE AND TIME.
3. WHEN COMPLETED, GIVE THIS SHEET TO THE OFFICER.

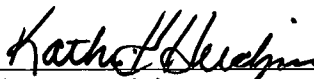
1	2	3	4	5 MP X	6


SIGNATURE1/2/2010 0852
DATE AND TIME
SIGNATURE OF OFFICER
SIGNATURE OF WITNESS

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

August 2nd 2013



Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

William Jeffrey Young, Circuit Court Judge

RECEIVED

AUG 02 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH WADELL DUNBAR,

APPELLANT

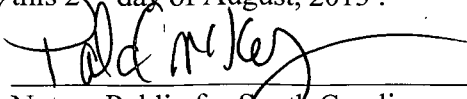
APPELLATE CASE NO. 2011-203386

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Joseph Wadell Dunbar, #348569 at Lee Correctional Institution, this 2ND day of August, 2013.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 2nd day of August, 2013.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.